



Appeal Decision

Site visit made on 20 April 2023

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 June 2023

Appeal Ref: APP/B5480/W/22/3303036

163/163A St Marys Lane, Upminster RM14 3BL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by M Rafiee against the decision of the Council of the London Borough of Havering.
 - The application Ref P2056.21, dated 25 October 2021, was refused by notice dated 28 April 2022.
 - The development proposed is described in the decision notice as proposed single and two storey rear extensions, rear dormer window, external alterations, new shop front and creation of one, one bedroom self-contained flat and internal alterations to existing first floor flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. In the banner heading above, I have referred to the description of the development from the Council's decision notice. This aligns with the description in the appellant's appeal form and describes the proposal before me more precisely than the description contained within the application form.
3. The evidence before me indicates that the address given on the appeal form features a typographical error. I have therefore taken the site address from the planning application form. This also matches the address in the decision notice.
4. Planning permission has already been granted for a ground floor extension and new shopfront and entrance to upper floor (ref P1454.20). I could see during my site visit that works had commenced on site.

Main Issues

5. The main issues are:
 - Whether the development would provide satisfactory living conditions for its future occupiers, with particular regard to the provision of dual aspect accommodation and private outside space;
 - The effect of the development on the living conditions of the occupiers of neighbouring properties, with particular regard to outlook;
 - Whether the development would provide adequate refuse and recycling storage facilities;

- Whether the development would provide an acceptable level of cycle parking; and
- The effect of the development on car parking provision.

Reasons

Living conditions of future occupiers

6. The appeal property is an existing mid-terrace building located along St Mary's Lane. It features a dental surgery at ground floor and a one-bedroom flat above set across the first and second floors. The proposal includes alterations to change the existing flat to two-bedrooms and create an additional one-bedroom flat at first floor, including a rear extension and rear dormer window.
7. The appeal site is somewhat long and narrow. It is flanked along its full length to the west by a large 2-storey rear offshoot at 161 St Mary's Lane, and to the east by a single storey rear offshoot at 165 St Mary's Lane. Immediately beyond the rear boundary of the site is a narrow alleyway, with the side elevation of a large 3-storey residential building beyond.
8. Policy D6 of The London Plan March 2021 (the London Plan) stipulates that housing development should normally avoid the provision of single aspect dwellings. A single aspect dwelling should only be provided where it is considered a more appropriate design solution and it can be demonstrated that it will have adequate passive ventilation, daylight and privacy, and avoid overheating. Likewise, Policy 7 of the Havering Local Plan 2016-2031 adopted November 2021 (the Local Plan) indicates that, to ensure a high quality living environment, residential development should maximise the provision of dual aspect accommodation unless exceptional circumstances are demonstrated.
9. The proposed flat would be single aspect with an open plan lounge / dining and kitchen area and separate bedroom. Both rooms would feature windows looking east across No 165 and the rear of other neighbouring properties in the terrace. The lounge / dining and kitchen area would be served by three evenly spaced windows. Given the proposed flat's elevated position, the outlook from these windows would be largely unobstructed. Direct sunlight would be limited due to its orientation, though the amount of glazing would afford this room a good amount of natural light. The distance and oblique relationship between these windows and those within neighbouring properties would protect the privacy of future occupiers. The proposed number of windows within this room would also ensure it would be adequately ventilated.
10. With respect to the proposed bedroom, this would be served by a single large window and would be situated closer to the rear elevation of No 165. The proximity between this window and the existing first floor window in the rear elevation of No 165 would increase opportunities for mutual overlooking, detrimental to the privacy of future occupiers. The outlook from this window would also feel somewhat enclosed due to its set back position and its proximity to the terrace and the first-floor rear offshoot of No 165. Additionally, it would have more limited access to natural light and ventilation.
11. While I recognise the location of the appeal site presents several constraints to development, I am not persuaded that the appeal proposal is the most appropriate design solution. I also do not find that exceptional circumstances

have been demonstrated to justify a single aspect unit, particularly given the harm identified.

12. The appeal scheme would provide the minimum level of internal space, and no private outside space for use by future occupiers, as required by both Policy D6 of the London Plan and Policy 7 of the Local Plan. While there may be a local park within walking distance of the site, this is a public space and does not serve the same purpose as private amenity space. The proposed flat would also be suitable for a young couple, however this does not negate the requirement to provide adequate private outside space. Though some existing flats may have no private outside space, each new proposal must be considered on its own merits in the context of up-to-date planning policies. This therefore would not overcome the identified conflict with the development plan in this instance.
13. I conclude that the development would fail to provide satisfactory living conditions for its future occupiers, with particular regard to the provision of dual aspect accommodation and private outside space. It would therefore be contrary to Policy D6 of the London Plan and Policy 7 of the Local Plan. These policies, among other provisions, seek to ensure residential development is of a high design quality that provides an attractive living environment for new residents.

Living conditions of neighbouring occupiers

14. Adjoining the site, No 165 features two windows in its rear elevation at first floor and a single dormer window at second floor in the rear roof slope. The evidence before me and my own observations lead me to believe the upper floors are in residential use. The proposed rear extension would project a considerable distance beyond the rear elevation of this neighbouring property at first floor, with only a limited set back from the shared boundary. Its mass would be somewhat tempered by the modest flat roof design though it would still have a harmful enclosing effect on the outlook from first-floor windows at No 165, and particularly the window closest to the shared boundary.
15. A similar relationship already exists between the existing first floor rear window at the appeal site and the blank side elevation of the extension at No 161. The full circumstances with respect to the approval of this neighbouring extension are not before me, though I am advised it pre-dates current planning policy. I did not observe any other similar examples of large first floor rear extensions along this terrace and this type of relationship does not otherwise appear to be characteristic of the area. This does not therefore lead me to a different conclusion on this matter.
16. The adjacent residential building to the rear features windows at ground and first floor, and roof lights at second floor, indirectly facing the appeal site. I could see that the ground and first floor windows are obscurely glazed, and the Council indicate that these serve open plan kitchen / living rooms and en-suite bathrooms. While the development would project towards these windows, given they are obscurely glazed and in some cases appear to be secondary windows, I do not consider that the development would appear unduly overbearing or otherwise unacceptably harm the outlook from these neighbouring properties.
17. Similarly, I did not observe any domestic gardens immediately adjacent to the appeal site from which outlook would be unduly harmed due to a sense of

overbearing or visual intrusion / dominance from the proposed rear extension. Due to its position on the roof slope and distance from neighbouring windows, the proposed dormer window would also not unduly harm the outlook from any neighbouring properties.

18. Overall, I conclude that the development would harm the living conditions of the occupiers of neighbouring properties, namely No 165, with particular regard to outlook. It would therefore be contrary to Policy 7 of the Local Plan which, among other provisions, seeks to protect the amenity of existing residents and ensure development does not result in an unacceptable loss of outlook.

Refuse and recycling

19. The plans before me indicate that waste collection would be via bag collection at the front of the shop as per the current arrangement for the existing first floor flat. It is not clear however where the appellant anticipates waste to be stored between collections.
20. Policy 35 of the Local Plan indicates that development proposals should provide adequate internal storage space within the premises to enable occupiers to separate, store and recycle their waste and allow for convenient and safe access to manage waste, including for older persons or persons with disabilities.
21. Given the proposed flat provides the minimum level of internal space and no private outside space, I cannot be sure based on the evidence before me that it would provide adequate storage for refuse and recycling. As waste would potentially need to be transported through the flat, including through several doors and down a flight of stairs, I also cannot conclude that such an arrangement would be convenient or safe for future occupiers.
22. I therefore conclude that the development would fail to provide adequate refuse and recycling storage facilities. It would therefore be contrary to Policy 35 of the Local Plan which seeks to ensure all developments provide adequate facilities for the separation of waste and recyclables and for its satisfactory storage prior to collection.

Cycle parking

23. I am advised that bicycles would be stored securely within the dwelling, which the appellant contends is a normal arrangement for flats. The plans before me do not otherwise formally allocate any space for cycle parking.
24. As with refuse and recycling, it is not clear from the evidence where bicycles could reasonably be stored on site given the internal and external space constraints. Likewise, storage of a bicycle within the flat would require it to be transported internally, including through several doors and down a flight of stairs. This is unlikely to encourage future occupiers to cycle.
25. Notwithstanding this, Policy 24 of the Local Plan, referred to in the Council's reason for refusal, does not clearly set out minimum requirements or standards for cycle parking. Furthermore, the appeal site has a good Public Transport Access Level (PTAL) of 5 and is situated close to various local shops and services. Future occupiers would therefore have good access to public transport and other options for sustainable travel. I therefore conclude that the

development would provide an acceptable level of cycle parking and I do not find any conflict with Policy 24 of the Local Plan in this respect.

Car parking provision

26. The appeal site has a PTAL of 5 and is situated close to local shops and services. I could see that the area is subject to various parking restrictions with double yellow lines and controlled on-street parking provision along St Mary's Lane and elsewhere in the vicinity of the site.
27. Policy 24 of the Local Plan seeks to ensure development strikes an appropriate balance between meeting the essential parking needs of the site whilst neither acting as a discouragement to using public transport nor adding to demand for on-street parking. Policy T6 of the London Plan states that car-free development should be the starting point for all development proposals in places that are well-connected to public transport, and the maximum parking standards set out in Policy T6.1 should be applied. Policy T6.1 of the London Plan indicates that residential developments in areas of PTAL 5-6 should be car free. Representations from the local highway authority suggest a planning condition be used to preclude future occupiers from purchasing parking permits, and this approach is supported by Policy 24 of the Local Plan.
28. The appeal site is in a location where the development plan encourages car free development, and the scheme does not propose any on site car parking. It is therefore compliant in this respect. There is no compelling evidence before me to demonstrate that the proposal would have an unacceptable impact on highway safety, the residual cumulative impacts on the road network would be severe, or that there would be increased parking stress or inconvenience to the wider neighbourhood were occupiers of the dwelling entitled to parking permits. However, even if there were, the appellant has indicated they would be willing to accept a planning condition that would effectively prevent future occupiers obtaining parking permits, and I am satisfied this would have been sufficient to address this matter.
29. I therefore find that the development would not have a harmful effect on car parking provision. It would be in accordance with Policy 24 of the Local Plan and Policy T6.1 of the London Plan. These policies, among other provisions, seek to manage essential parking needs, minimise the need for car-based access and set out parking standards based on access to public transport.

Other Matters

30. Paragraph 11(d) of the National Planning Policy Framework (the Framework) dictates that the presumption in favour of sustainable development is engaged where the policies which are most important for determining the application are deemed out-of-date. This includes, for proposals involving the provision of housing, situations where the local planning authority cannot demonstrate a 5-year housing land supply (5YHLS) or where the Housing Delivery Test (HDT) indicates that the delivery of housing was substantially below the housing requirement over the previous 3 years.
31. The Council acknowledge that, while updated HDT figures indicate the delivery of housing is not substantially below the housing requirement, Havering cannot currently demonstrate a 5YHLS. In accordance with paragraph 11(d), in such cases permission should be granted unless any adverse impacts of doing so

would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

32. The Framework seeks to significantly boost housing supply. It highlights that small sites can make important contributions to housing requirements and encourages the optimal use of underutilised land. The development would provide a temporary boost in employment during construction, reuse previously developed land, and contribute to housing delivery in the Borough. Additional residents may also contribute to the local economy and vitality of the community. However, these benefits would be very modest given the small scale and context of the development.
33. Furthermore, the Framework also advocates that developments create places with a high standard of amenity for existing and future users. This is consistent with the intentions of Policy D6 of the London Plan and Policy 7 of the Local Plan, in so far as they seek to protect the amenity of existing residents and ensure residential development provides an attractive living environment for new residents. I thus attribute significant weight to the harm that would be caused by virtue of the effect of the development on the living conditions of future occupiers and neighbouring occupiers. I have also identified conflict with Policy 35 of the Local Plan, which is consistent with the Framework in respect of its aims of minimising waste, making sufficient provision for waste management, and ensuring development will function well and add to the overall quality of the area. In this context, I also attribute significant weight to the harm that would be caused through the lack of adequate refuse and recycling storage facilities. The identified harm cumulatively attracts substantial weight.
34. It is therefore my view that the proposal's adverse impacts would significantly and demonstrably outweigh its benefits when assessed against the policies in the Framework taken as a whole. The presumption in favour of sustainable development therefore does not apply.
35. While the proposal may be compliant with various other provisions of the development plan, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.

Conclusion

36. The proposed development conflicts with the development plan, taken as a whole. There are no material considerations that indicate the proposal should be determined other than in accordance with the development plan. Consequently, I conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR