



Appeal Decision

Site visit made on 7 July 2023

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Appeal Ref: APP/B5480/W/22/3310299

Land to the rear of 269 and 275 Rainham Road, Stanley Road North, Rainham RM13 7SH

- 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 Mr P Hillman against the decision of the Council of the London Borough of Havering.
 - The application Ref P2104.21, dated 2 November 2021, was refused by notice dated 7 September 2022.
 - The development proposed is the erection of a pair of identical (but mirrored) semi-detached dwellings with associated access, parking and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was refused for three reasons. Two of the reasons related to the absence of a legal agreement to secure the cost of removing a street tree and planting two smaller replacement trees elsewhere in Stanley Road North and to prevent future occupants from applying for or obtaining a residents parking permit. The appellant has since submitted a signed unilateral undertaking and the Council has confirmed that this overcomes these reasons for refusal. Therefore, my decision is based on the outstanding issue in the remaining reason for refusal.
3. Although no letters of representation were received by the Council on the original planning application, some interested parties have made comments in response to the appeal. I have determined the proposal on its merits on the basis of the plans and all the evidence before me.

Main Issue

4. The main issue is the effect of the development on the living conditions of the occupiers of dwellings in Rainham Road, with particular regard to outlook and privacy.

Reasons

5. The L-shaped appeal site lies within a residential area fronting Stanley Road North. It is largely surrounded by the rear gardens of houses on Rainham Road and was previously part of the rear garden of 269 and 275 Rainham Road (No 269 and No 275). The largely overgrown site contains some trees and outbuildings.

6. At my site visit I observed an open relationship between the appeal site and the good-sized rear garden at No 269, with a close boarded fence separating them and no shed or mature trees visible at the end of the neighbouring garden. The proposed dwellings would be very close to the boundary of No 269, which, irrespective of how the neighbouring land is used, would result in direct overlooking of a significant part of the rear garden from some upper floor bedrooms, causing a harmful loss of privacy to the occupiers of that property. Due to the proximity of the proposed building to the curtilage of No 269, its scale and its two-storey height, the proposed development would dominate the outlook from much of the neighbouring garden and have an overbearing and visually intrusive effect, harming the living conditions of the occupiers of No 269 when using their garden.
7. The garden of No 275 is located some distance from the proposed building, and the garden of 277 Rainham Road (No 277) would be separated from the proposed structure by the parking area. The distances between the proposed houses and the gardens at Nos 275 and 277, the angle of the proposed building relative to the neighbouring gardens and the absence of first floor flank windows mean that the development would not cause harmful loss of privacy or outlook from the gardens of those properties.
8. The proposed dwellings would be sited at a different angle to the existing ones on Rainham Road and located at a reasonable distance from them. The juxtaposition and distance between the existing and proposed structures would ensure no harmful loss of privacy and outlook from the rear rooms of the neighbouring houses.
9. Overall, I conclude that the proposed development would harm the living conditions of the occupiers of dwellings in Rainham Road, with particular regard to outlook and privacy. Whilst the reason for refusal does not refer to any policies, Policies 7 and 10 of the Havering Local Plan 2021 (the Local Plan) are referred to in the Council's Officer Report. For the above reasons, I find conflict with Policies 7 and 10 of the Local Plan which require residential development to not adversely impact on the amenity of existing residents, including through unacceptable overlooking, loss of privacy or outlook. It would also be contrary to the National Planning Policy Framework (the Framework) which requires decisions to provide a high standard of amenity for existing users.

Other Matters

10. The proposal would make a modest contribution of two dwellings to the supply of housing in a sustainable location within an established urban area. This benefit of the proposed development is considered in the overall planning balance below.
11. There are historic permissions for residential development of the site, with one dating from 1954 which it may still be possible to construct. Despite the time that has lapsed, there is still a prospect that it could be implemented. Only limited information has been provided but the position of the previously approved bungalow relative to the neighbouring gardens and the different arrangement of gardens at that time indicate that it would not have the drawbacks of the current proposal. Therefore, the 1954 permission does not weigh in favour of the proposed development.

12. The appellant notes that the Council did not object to several matters, including the principle of residential development of the site, impact on sunlight and daylight to adjoining dwellings, density, layout, design, internal and external space, and parking and access arrangements. There is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. However, these are only neutral factors in the planning balance.
13. The appellant's general concerns about their interactions with the Council during the pre-application and subsequent application process is a matter between those parties and it cannot have any bearing on my determination of this appeal.

Planning Balance

14. The Council accepts that it is currently unable to demonstrate a five year supply of deliverable housing sites. Paragraph 11(d) of the Framework states that, where the policies which are most important for determining an application are out-of-date (which includes situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites), 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. The Framework is a material consideration of great weight.
15. Given the harm to living conditions I have identified, I conclude that the proposal conflicts with policies in the development plan. This harm also results in a conflict with the Framework for the reasons given above. I attribute moderate weight to the benefits of the proposed development set out in the other matters. However, I consider the adverse impacts of the proposal arising from the harm to living conditions would significantly and demonstrably outweigh these benefits, when assessed against the policies in the Framework taken as a whole.

Conclusion

16. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, that would outweigh that conflict. Therefore, the appeal is dismissed.

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INSPECTOR