



Appeal Decision

Site visit made on 7 September 2023

by P Storey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2023

Appeal Ref: APP/B5480/W/23/3317870

Land between 132 and 138 Roseberry Gardens, Upminster RM14 1NE

- 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 NKBR Limited against the decision of the Council of the London Borough of Havering.
 - The application Ref P1691.22, dated 14 October 2022, was refused by notice dated 13 January 2023.
 - The development proposed is erection of a pair of semi-detached houses with parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with specific regard to floor-to-ceiling heights;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on the living conditions of neighbouring occupiers, with specific regard to privacy, outlook and overbearing.

Reasons

3. It is agreed that the Council is unable to demonstrate a deliverable 5-year supply of housing sites as required by the National Planning Policy Framework (the Framework). In these circumstances, the Framework states that 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. I return to this matter in my Planning Balance and Conclusion, below.

Living conditions of future occupiers

4. Policy D6 of the London Plan – March 2021 (the LP) sets out that housing developments are required to meet specified minimum standards, among which is a requirement for the minimum floor to ceiling height to be 2.5m for at least 75 per cent of the gross internal area of each dwelling. There appears no

dispute between the main parties that the proposed development would not meet this requirement.

5. The appellant states that approximately 50 per cent of the proposed floorspace would meet the minimum 2.5m target, which falls below the policy standard by 25 percentage points. This could not be described as a very slight shortfall. I acknowledge the proposed development appears to comply with several other policy criteria, including the Nationally Described Space Standard. However, this would be expected for any good quality development and does not weigh in favour of the proposals. Furthermore, Policy D6 is clear that the standard applies to all tenures and all residential accommodation that is self-contained.
6. The appellant has suggested that a condition could be imposed to alter the internal levels to achieve the requisite ceiling heights. However, I am provided with no substantive evidence as to how this could be achieved without altering the external elements of the scheme. As such, this approach would not be reasonable and would not meet the tests for imposing conditions outlined at paragraph 56 of the Framework.
7. For the above reasons, I conclude that the proposed development would fail to provide acceptable living conditions for future occupiers by way of inadequate floor to ceiling heights, which would conflict with Policy 7 of the Havering Local Plan 2016-2031 – Adopted November 2021 (the HLP) and Policy D6 of the LP. Together these policies seek, among other objectives, to ensure a high-quality living environment for residents of new developments that meet specific standards, including those relating to floor to ceiling heights.

Character and appearance

8. The site is in an established residential area and is bound to both sides and to the rear by residential development, with a direct frontage on to the street. Although I am provided with limited substantive details regarding any previous development that may have occupied the site, the appellant refers to it as a vacant cleared plot. To all intents and purposes, it has the appearance of a vacant residential plot.
9. When viewed from the street, the immediate neighbouring properties to either side are 2-storey buildings. The building containing flats to the left at Nos 138 and 140 has a pitched roof with a side-facing gable. The detached house to the right at No 132 has a pitched roof with a front-facing gable and a hipped roof to the rear. The front building line of No 132 is set slightly further forward than that of the flats. Although the shape and massing of the neighbouring buildings is different, they appear to be of similar heights to both the eaves and ridge.
10. The proposed development has been designed from the outset to be a 3-storey property. Whilst other 3-storey properties exist in the street, these appear predominantly to be the result of converting the attic space of 2-storey properties. Accordingly, whilst I acknowledge the efforts to meet the necessary internal height requirements have influenced the design, the result is a development that is notably taller than many neighbouring dwellings with a dominant roofscape.
11. The flat roof section on top of the roof would be surrounded by tiled pitched elements to the edges. However, it would still be perceptible as an uncharacteristic flat roof form when viewed from ground level and neighbouring

properties. Furthermore, the presence of automatic opening vent windows projecting above the flat roof would exacerbate this effect. Whilst these projections may not be visible from ground level close to the property, they would be visible in longer distance views, further increasing the visual bulk of the roof. Cumulatively, the roof shape, its height and additional projections would appear uncharacteristic and incongruous in the surrounding streetscape.

12. The general design concept and fenestration has a more contemporary appearance than many neighbouring properties. However, given the lack of uniformity in the area and the various architectural styles on display, such an approach would be acceptable. Furthermore, the scheme would include elements to reflect the surrounding character, including the use of materials commonly found in the surrounding area.
13. Although I find no specific harm in terms of the general design concept or fenestration, the proposed development, by virtue of its height, bulk, mass and uncharacteristic and incongruous roof design, would result in harm to the character and appearance of the area, which would conflict with Policy 26 of the HLP and Policy D4 of the LP. Together these policies seek, among other objectives, to promote high quality design and place-making that respects and complements the character of the area. It would also conflict with the provisions of the Framework, which has similar aims.

Living conditions of neighbouring occupiers

14. The adjacent property at No 132 has a side-facing first floor window. I understand this was added at a later stage in connection with a rear extension to the house and provides the only light and outlook for a first-floor bedroom. Whilst I am provided with no plans to corroborate this, the parties do not appear to dispute this matter.
15. I note that the distance from the side elevation of the proposed development to the boundary is greater than the corresponding distance between the boundary and side elevation at No 132. However, by virtue of its proximity to the neighbouring window and the height of the side elevation wall, which includes higher eaves than those at the front and rear, the proposed development would have an adverse effect on outlook and an overbearing effect on the side-facing first-floor window at No 132.
16. Because it would result in a similar side-to-side arrangement to that found in many other parts of the street, I do have some sympathy for the proposed development in this regard. Furthermore, I understand the appellant's statement that the outlook from No 132 is currently enjoyed predominantly over the appeal site. However, I must have regard to the living conditions that all neighbouring occupiers currently enjoy, irrespective of what those living conditions are or how they came to enjoy them in the first place. In this case, due to the individual characteristics of the neighbouring dwelling, the proposed development would result in some harm to the living conditions of neighbouring occupiers.
17. The appeal site sits on ground that is very slightly raised above that of the adjacent flats at Nos 138 and 140. At present, views from the appeal site into the adjacent gardens and towards the rear windows of the flats are possible above the existing boundary fence. The proposed development seeks to raise the boundary treatment to a height of 2 metres, which would reduce the

potential for overlooking from the proposed windows/doors on the flank elevation to an acceptable degree. Accordingly, I find no harm to the living conditions of neighbouring occupiers in this regard.

18. The rear building line of the 2-storey element of the development would step beyond that of the adjacent flats. However, there would be a reasonable separation between the buildings, and a wide angle of outlook from the rear-facing windows would be retained. Even acknowledging the slightly raised ground level of the appeal site and that the building would be taller than the adjacent flats, an acceptable standard of outlook would be retained for the adjacent flats, including for those using the gardens.
19. For the above reasons, whilst I find no harm with regard to privacy, outlook and overbearing in relation to the adjacent flats, the proposed development would have a harmful effect in terms of loss of outlook and an overbearing impact on the first-floor side window of No 132. As such, the proposed development would conflict with Policies 7 and 26 of the HLP, which together seek, among other objectives, for development to avoid unacceptable overlooking, loss of privacy and outlook, and to fully integrate with neighbouring developments. The proposed development would also conflict with the provisions of the Residential Extensions and Alterations Supplementary Planning Document – Adopted 2011, which has similar aims.

Planning Balance and Conclusion

20. As set out above, the proposed development would create harmful living conditions for neighbouring and future occupiers and would harm the character and appearance of the area. It would be contrary to the development plan in these respects. For the same reasons, the proposed development would conflict with Paragraph 130 of the Framework, which seeks, among other objectives, for developments to function well and add to the overall quality of the area, to be visually attractive, to be sympathetic to local character and the surrounding built environment, and to create places with a high standard of amenity for existing and future users. These conflicts carry significant weight.
21. Set against this, the development would provide a new dwelling on a sustainably located and under-utilised site in an established residential area, thereby making a small contribution to the government's objective to significantly boost the supply of housing, as set out in the Framework. It would also generate community infrastructure levy (CIL) contributions. In view of the current shortfall in housing delivery, these considerations carry some weight in favour of the development. However, because the development would only deliver a single dwelling, this weight is limited.
22. On balance, and taking all matters into consideration, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits. The material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
23. For the reasons given above I conclude that the appeal should be dismissed.

P Storey

INSPECTOR