



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: 8th January 2024

Appeal Ref: APP/B5480/W/22/3307144

12 Ayloffs Walk, Hornchurch RM11 2RJ

- 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 & Mrs Micheal against the decision of the Council of the London Borough of Havering.
 - The application Ref P1735.21, dated 20 August 2021, was refused by notice dated 8 September 2022.
 - The development proposed is described on the planning application form as “proposed demolition of existing house replacing with new dwelling – renewal of lapsed planning approval P0804.14.”
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Decision

1. The appeal is allowed and planning permission is granted for development described as “proposed demolition of existing house replacing with new dwelling – renewal of lapsed planning approval P0804.14”, at 12 Ayloffs Walk, Hornchurch RM11 2RJ, in accordance with the terms of the application, Ref P1735.21, dated 20 August 2021, subject to the following conditions listed in the attached schedule.

Preliminary Matters

2. The submitted evidence of both main parties refers to previous planning consents at the site. Although both parties acknowledge that the proposals are similar to planning permission Ref P0804.14, I have determined the appeal based on the specific details relevant to the scheme before me.
3. An update to the National Planning Policy Framework (the Framework) was published on 19 December 2023 but there are no material changes relevant to the substance of the appeal.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, with specific regard to:
 - i) the effects relating to outlook, daylight and sunlight on the closest first-floor rear-facing window at No 10b Ayloffs Walk; and
 - ii) the effects relating to overbearing and outlook on the closest first-floor rear-facing window at No 14 Ayloffs Walk.

Reasons

5. The appeal site is a detached house within a residential street formed predominantly of other detached houses of varying character and appearance.

It is bound to both sides by detached dwellings at Nos 10b and 14 Ayloffs Walk. The proposal would replace the existing house with a larger dwelling.

Effects relating to No 10b Ayloffs Walk

6. The proposed dwelling would have the same footprint at ground and first floor, with both extending further to the rear than the corresponding first floor rear elevation of No 10b.
7. No 10b features a rear-facing window on its first-floor rear elevation. Due to the relative position of the proposed dwelling, it would, in all likelihood, be visible from the first-floor window of No 10b. Although the proposed dwelling would sit close to the shared boundary with No 10b, the first-floor window is noticeably set away from the boundary. As such, the proposed dwelling would not appear excessively deep when viewed from this window. An acceptable degree of outlook would be retained and it would not appear overbearing.
8. No technical assessments have been provided relating to daylight or sunlight. However, the window would continue to enjoy a good level of outlook and the proposal would not significantly impede visibility of the sky. I therefore have no evidence to suggest daylight would be unacceptably reduced.
9. Due to the relative position of the new dwelling to the south of the first-floor window, it is likely that some loss of sunlight to this window would occur. However, because the window faces southwest, it would continue to enjoy good levels of sunlight that would not be impacted by the proposed dwelling. Accordingly, based on the submitted evidence, the proposal would not unacceptably reduce the sunlight afforded to this window.

Effects relating to No 14 Ayloffs Walk

10. The Council's officer report notes that a side/rear extension was under construction at the adjoining property of No 14 when the planning application was determined. At the time of my visit this appeared to have been completed, featuring a ground floor rear extension extending to the rear of the main 2-storey rear elevation. The 2-storey part of the dwelling also extended close to the shared side boundary with No 12, with a rear-facing first-floor window visible from the garden of No 12.
11. The side elevation of the proposed dwelling adjacent to the boundary with No 14 would be staggered, although the roof would not be, meaning the rearmost part of the roof would have a greater overhang than that at the front.
12. The closest first-floor window is slightly set in from the side elevation. Due to the side elevation of the proposed new dwelling being set in from the shared boundary, there would be a reasonable separation between this and the window. Even considering that the overhanging roof would project slightly closer to the boundary, the arrangement would retain an acceptable level of outlook and would not appear overbearing.

Conclusion on main issue

13. For the reasons given above, the proposal would retain acceptable living conditions for the occupiers of neighbouring properties and would accord with Policies 7 and 26 of the Havering Local Plan 2016-2031 – Adopted November 2021, which together seek, among other objectives, to ensure that residential

development ensures the amenity and quality of life of existing and future residents is not adversely impacted, and that development proposals contribute to the creation of successful places.

Other Matters

14. In addition to the concerns raised by the Council, the neighbouring occupier at No 10b raises concerns that the proposal would adversely affect the outlook and light afforded to the ground floor windows to the rear of their property, and the effects on the privacy of first-floor windows.
15. No 10b has a single-storey rear projection with a chamfered rear corner elevation featuring windows facing diagonally to the rear and side, towards the appeal property. Although the proposed dwelling would be visible from the rear corner windows, the proposed dwelling would not extend beyond the rear ground floor elevation of No 10b. As such, the effects on outlook from the ground floor windows of No 10b would not be significant.
16. The effects of the proposal on the daylight and sunlight to the ground floor windows of No 10b would be similar to those previously assessed in relation to the first floor. Having identified no harm in relation to the first floor, I have no reason to reach an alternative conclusion in relation to the ground floor. Effects on the privacy of neighbouring windows could be controlled through conditions to secure the use of obscure glazing for certain windows.

Conditions

17. The Council has provided a list of suggested conditions that I have considered against the provisions of paragraph 56 of the Framework and the Planning Practice Guidance (the PPG). To ensure compliance with these provisions I have amended, and in some cases omitted, certain conditions.
18. Conditions relating to the statutory time limit and a list of approved plans are necessary in the interests of certainty. Conditions requiring details of external materials and boundary treatments are necessary to protect the character and appearance of the area and the living conditions of neighbouring occupiers.
19. A condition requiring the first-floor windows in the side elevations to be obscure glazed and non-opening below a certain height is necessary to protect the living conditions of neighbouring occupiers.
20. Conditions requiring the development to meet optional requirements of the Building Regulations are necessary to ensure compliance with the development plan.
21. Conditions have been suggested to remove certain permitted development rights. The PPG advises that the removal of freedoms to carry out small scale domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity. In this case, given the scale of development and the limited justification provided for the imposition of such conditions, I do not find their imposition would be reasonable or necessary.
22. A suggested condition to limit construction hours is not necessary as unreasonable levels of disturbance could be addressed through other regulatory regimes. I am provided with limited justification for the imposition of

suggested conditions relating to land contamination and boiler specifications, and accordingly I do not find these conditions to be necessary or reasonable. It is also not necessary to secure Community Infrastructure Levy payments by condition.

Conclusion

23. For the reasons given above I conclude that the appeal should be allowed subject to the conditions listed in the attached schedule.

P Storey

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Block Plan & Site Plan – 2119-7
Proposed Plans – 2119-1
- 3) No above ground works shall take place until details / samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details / samples.
- 4) The development hereby permitted shall not be occupied until details of all proposed walls, fences and boundary treatment have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed prior to the first occupation of the development and retained thereafter.
- 5) The development hereby permitted shall not be occupied until the first-floor windows in the side elevations have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which they are installed shall be capable of being opened. The windows shall be retained as such thereafter.
- 6) The approved dwelling shall not be occupied until the Building Regulations Optional Requirement Part M4(2) (Accessible and adaptable dwellings) has been complied with.
- 7) The approved dwelling shall not be occupied until the Building Regulations Optional Requirement Part G2 (Water efficiency) has been complied with.

**** End of conditions ****