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# Appeal Decision

Site visit made on 9 April 2024

**by A Hickey MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> May 2024**

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**Appeal Ref: APP/B5480/W/23/3325880**

**The Parade, Store Rear Of 19, Colchester Road, Romford RM3 0AQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mr Jack Green against the decision of the Council of the London Borough of Havering.
  - The application Ref is P0712.23.
  - The development proposed is described as retention of 1 door on the east elevation (part retrospective); installation of 1 windows on the east elevation; change of a door to a window on the west elevation; and installation of one window to the west elevation.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr Jack Green against the Council of the London Borough of Havering. This is the subject of a separate Decision.

## Preliminary and Procedural Matters

3. The address in the banner heading above has been taken from the Council's decision notice albeit I have included the postcode from the application and appeal forms.
4. Since the application was determined a revised National Planning Policy Framework (the Framework) has been published. However, the relevant parts have not materially changed therefore I have not sought further comments from the parties. I am satisfied that no party's interests have been prejudiced by my taking this approach.
5. The Council determined the planning application on a part-retrospective basis and amended the description of development to refer to "*Change of use from office use to residential use with the retention of 1 door on the east elevation (part retrospective); Proposed installation of 1 window on the east elevation; change of door to a window on the west elevation; and installation of additional window to the west elevation*". The evidence before me indicates that this change of description was not agreed with the appellant.
6. The description of development used on the planning application form does not refer to a change of use. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the building has lawful use for C3 Dwellinghouses for permanent residential accommodation as claimed by the appellant and disputed by the Council. I have therefore

proceeded on the basis of the description of development as contained on the application form.

## **Main Issues**

7. The main issues are the effect of the development on the living conditions of existing and future occupiers of the newly created flats and on the living conditions of neighbouring occupiers at 17 and 19a The Parade, with particular regard to privacy and overlooking.

## **Reasons**

8. The appeal site comprises a detached single-storey building (appeal building) and associated outside space situated to the rear of the host property, 19 The Parade (No 19). No 19 forms part of a pair of two-storey semi-detached properties. As with many other properties along The Parade, the ground floor units are largely in commercial use and appear to have residential accommodation above. The appeal site is accessed via the ground floor shared hallway of No 19.
9. Next to the large extension to the rear of No 19a, the separating boundary treatment is a low-level wall allowing for high levels of intervisibility between the rears of the sites. The rear and opposite boundary of the appeal site are more restricted, with fencing and vegetation at a higher level.
10. A window is proposed to serve the kitchen/dinner area of flat 2 on the east elevation allowing additional light into the flat that would provide some additional outlook. However, given its location close to the boundary of No 19a, it would overlook the garden/yard, harming the privacy of users of this space. Similarly, the high levels of intervisibility would allow users of the garden/yard at No 19a direct views into flat 2. Given its close spatial relationship with the boundary the new window opening would result in unacceptable levels of overlooking harming the privacy of the occupiers of these properties.
11. In reaching this conclusion, there is no substantive evidence before me to demonstrate that residential occupiers at No 19a do not have access to the garden/yard area. Even if they do not, it is clear that this area at No 19a is in use, such that the harms identified above would still occur.
12. At the time of my visit, I observed the door to flat 2 had been inserted. The door had a small number of openings to the top which restricted views into the flat and so this alteration does not give rise to any privacy or overlooking effects.
13. Subject to appropriately worded conditions on obscurity details and boundary treatments the proposed window alterations to the bathrooms of flats 1 and 3 would not give rise to any unacceptable impact on the living conditions of occupiers of these flats.
14. These latter matters aside, for the above reasons and taken as a whole, the proposed development would have an unacceptable impact on the living conditions of occupiers of flat 2 and on the occupiers of No 19a with particular regard to privacy and overlooking. Accordingly, it would conflict with Policy D6 of the London Plan and Policy 7 of the Havering Local Plan. Amongst other things, these seek development to provide good levels of privacy. There is also

conflict with the Framework which seeks to ensure developments maintain a high standard of amenity for existing and future users.

### **Other Matters**

15. My attention has been drawn to a previous appeal at the site<sup>1</sup>. However, based on the limited information provided, this was for a change of use to the building and is therefore materially different to the development before me. In any event, the Inspector found harm would arise to future occupiers, given the need to provide privacy mitigation.
16. The appellant has provided a number of examples of case law relevant to implementation and occupation. However, for the reason set out, it is not before me to determine the lawful use of the building, and I have not considered these matters further.

### **Conclusion**

17. The proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
18. Therefore, I conclude the appeal should be dismissed.

*A Hickey*

INSPECTOR

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<sup>1</sup> Ref: APP/B5480/W/21/3268824