



Appeal Decision

Site visit made on 7 March 2024

by L Reid BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 July 2024

Appeal Ref: APP/B5480/W/23/3324551

Judith Anne Court, Westbury Terrace, Upminster RM14 3ND

- 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 Martin Gibbon, Bandsite Properties against the decision of the Council of the London Borough of Havering.
 - The application Ref is P0179.23.
 - The development proposed is the demolition of existing single-storey garage block and the erection of a new three-storey building consisting of 3 residential units (1 X 1-bed, 2 X 2-bed) and associated parking spaces and landscaping works at ground floor level.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A previous appeal at the site for the demolition of the existing single-storey garage block and the erection of a three-storey building consisting of 4 residential units with associated parking and landscaping was dismissed in November 2022 (the previous appeal scheme)¹.
3. The proposal sought to address the Inspector's reasoning for dismissing the previous appeal.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupants of 1 Westbury Terrace, with particular regard to outlook.

Reasons

5. Judith Anne Court is a residential site consisting of two blocks of flats, parking and a single-storey garage block. The appeal relates to the garage block which is adjacent to 1 Westbury Terrace (No 1). The orientation of No 1 means that it is slightly angled away from the appeal site and is separated by an access drive, creating a gap between the two neighbouring sites. With this gap and the single-storey nature of the garage block, there is a relatively open aspect, despite the built-up context. However, this would be curtailed by the presence of the proposed building.
6. The height of part of the proposed building has been reduced with the second floor and pitched roof removed and is instead proposed to be two storeys with a flat roof. There appear to be no changes to the proposed length of the building from the previous scheme.

¹ APP/B5480/W/22/3295214

7. Because of its length, the proposed building would project well beyond the rear elevation of No 1, extending nearly the full depth of its rear garden. Although the building is not proposed on the boundary line of No 1, it would be highly visible from their rear garden. Even with the reduction in height, the proposed building would rise above the side boundary fence of No 1. Whilst the ground level of the appeal site is lower than that of No 1, the proposed building would not be screened from No 1 in any meaningful way because of its height. There would therefore be no visual relief from the proposed built form.
8. Although the height of the proposed building would vary, when combined with the proposed length, and scale, this would result in a building that dominates the outlook from the rear garden. When viewed from the rear garden of No 1, this would create a significant feeling of enclosure for these occupants and would tangibly diminish the enjoyment of their rear garden to the detriment of their living conditions.
9. The proposed privacy screening would be lower in height than the eaves of the building. However, the east elevation would present as one continuous long block. The elongated nature of the proposed building would exacerbate the overbearing presence of the built form near the garden of No 1, despite the intervening distance. I have had regard to the addition of a built-in planter along the privacy screening to create a 'green façade'. However, this would do little to reduce the overbearingness of the proposed building and would therefore not adequately mitigate the loss of outlook to the rear garden of No 1.
10. The existing blocks of flats are visible from No 1. However, there is a greater degree of separation. As such, this existing relationship is not directly comparable to the relationship that the proposed building would have with the rear garden of No 1. The building would not reduce the sky views from the rear garden; however, this would not elevate the substantial sense of enclosure that would be experienced.
11. Even if the proposed building would fall under the vertical 45-degree plane, this measurement is primarily used to assess light, and this is not a contested matter in this case. Furthermore, my attention has not been drawn to any reference to this measurement in the Council's policies or guidelines as a test for outlook or sense of enclosure impacts. This therefore does not weigh in support of the scheme.
12. The previous Inspector found that the development would result in undue harm to the outlook from the nearest habitable room windows of No 1. I am not party to the evidence that was before the previous Inspector. The evidence before me demonstrates that only a small part of the building would be visible from the ground floor rear elevation windows of No 1. Given this and on account of the angled orientation of No 1, the proposed building would not significantly block the outlook from these rooms. This however would not overcome my concerns regarding the loss of outlook from the rear garden, as described above.
13. For the above reasons, I conclude that the proposal would cause adverse harm to the living conditions of the occupants of 1 Westbury Terrace, with particular regard to outlook. Accordingly, the proposal is contrary to Policy 7 of the Havering Local Plan 2021 (the Local Plan) and the National Planning Policy Framework (the Framework) which amongst other things, requires

development not to result in an unacceptable loss of outlook and provide a high standard of amenity for existing and future users.

Planning Balance and Conclusion

14. The Council is currently unable to demonstrate a five year supply of deliverable housing sites. It also failed its 2022 Housing Delivery Test. As such, in accordance with the provisions of paragraph 11 d) ii. and footnote 8 of the Framework, planning 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.
15. As I have identified conflict with Policy 7 of the Local Plan, the proposal conflicts with the development plan as a whole. This policy is consistent with the Framework in seeking to ensure development provides a high standard of amenity for existing users. I apportion significant weight to the conflict with this policy and to the associated harm.
16. The proposal would align with the objectives of the Framework, which seek to significantly boost housing supply and promote the effective use of land. It would provide a net gain of three residential units and the additional housing would make a minor contribution to the overall supply of housing. There would also be social and economic benefits arising from the construction phase and future occupiers would bring some trade to nearby shops and services. However, these benefits attract limited weight in the overall balance, given the quantum of development under consideration.
17. When assessed against the policies in the Framework taken as a whole, the significant adverse impacts on the living conditions of 1 Westbury Terrace would significantly and demonstrably outweigh the scheme's benefits. As a result, the presumption in favour of sustainable development does not apply.
18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

L Reid

INSPECTOR