



Appeal Decision

Site visit made on 12 August 2024

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2024

Appeal Ref: APP/W5780/W/23/3333942

152A Maybank Road, South Woodford, Redbridge, London E18 1EL

- 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 David Evans against the decision of the Council of the London Borough of Redbridge.
 - The application Ref is 2149/23.
 - The development proposed is the demolition of existing triple garage block and shed and erection of 1 no. bedroom unit with associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. For the avoidance of doubt the site address and description of development above is taken from the planning application form.

Procedural Matter

3. The appellant provided an amended proposed site plan with the appeal which seeks to address the Council's concerns. The differences between the originally submitted and amended site plan include an increased external space to the proposed dwelling, a reduction in the size of the hardstanding/access area, the introduction of fencing to the boundary of the proposed dwelling as well as 152/152A Maybank Road, an amended position and layout of the bin store for the appeal unit and the bike stores for Nos 152 and 152A and an amended site boundary of the rear garden of No 152/152A.
4. Applying the tests in the Holborn Studios¹ judgment, which refined the long-standing Wheatcroft² principles, taking the above incremental amendments together would result in a fundamental change to the proposed scheme. To consider this plan would therefore cause unlawful procedural unfairness through depriving those who were entitled to be consulted of the opportunity to make any representations on the proposal as amended.
5. Furthermore, the originally submitted proposed sections and elevations drawing has not been updated to reflect the proposed alterations in the amended plan thus I cannot make a thorough assessment of the amended proposal.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Main Issue

6. The effect of the proposal on the living conditions of existing occupiers at 152 and 152A Maybank Road and the future occupiers of the appeal dwelling, with particular regard to outlook and privacy.

Reasons

7. The appeal site is located to the rear of Nos 152/152A and includes a row of single storey garages which are in a dilapidated condition. The site is within a residential area which includes a mix of property types.
8. The dedicated external space to the front of the proposed dwelling would be of a narrow configuration and adjacent to a large area of hardstanding which could be accessed and used by others. It would also occupy a sunken position. This area would not be of a high quality, useable space for future occupiers as it would not be private due to passers-by being within very close proximity and the ability for them to have clear views into this space.
9. The external space would also be close to the garden area of Nos 152/152A. I observed that the garden currently lacks boundary treatment and none is proposed through this appeal. The proposed wall to the external space and the presence of cycle/bin stores would not be sufficient to prevent all opportunities for overlooking between the properties.
10. I am not convinced that a level of planting could be introduced to the external space of the proposed dwelling which would overcome the above concerns whilst also ensuring it does not harm the outlook from and levels of light to the property.
11. Despite the sunken positioning of the proposed dwelling which would provide a degree of separation, the outlook from the habitable room windows would be of the large expanse of hardstanding along with the positioning of the cycle/bin stores which would be used by other residents. It would not provide future occupiers with a pleasing outlook but rather it would be poor and oppressive.
12. Whilst the proposed dwelling would be within close proximity to the rear windows and garden of Nos 152/152A and there would be no formal boundary treatment between the properties, I consider that the outlook from Nos 152/152A would not be diminished to the extent that it would be of poor quality. The dwelling would replace an existing, unsightly garage block and the Council has not raised any concerns with the proposed design.
13. Nevertheless, for the reasons given above the proposed development would result in significant harm to the living conditions of existing and future occupiers and therefore fails to comply with Policy D3 of The London Plan: The Spatial Development Strategy for Greater London (March 2021) (the London Plan) and Policies LP26 and LP29 of the Redbridge Local Plan 2015-2030 (March 2018). Together, whilst varying slightly in their wording, these policies aim to protect existing residential amenity and ensure that satisfactory living conditions are provided for future residents. These aims are reflected within the Housing Design Supplementary Planning Document (September 2019).
14. Policy H2 of the London Plan is relied upon in the Council's reason for refusal however it is not directly relevant to the main issue.

Planning Balance

15. The National Planning Policy Framework (the Framework) does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the development plan, with the associated conflict reflecting that the proposal would harm the living conditions of existing and future occupiers. The proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
16. Paragraph 11 d) of the Framework requires that, due to the Council's Housing Delivery Test results, 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.
17. The proposal contributes to the Government's objective of significantly boosting the supply of homes and would also reflect the aim in the Framework for the effective use of land, particularly brownfield land. Economic and social benefits would also arise during construction and on subsequent occupation. However, even in the context of the Council's housing delivery issues, the benefits are limited due to the small scale of the development.
18. The proposal would improve the dilapidated appearance of the site. As acknowledged by the appellant however, the proposal would not be visible or prominent in the street scene thus the positive weight I afford to the removal of the garages and any subsequent improvement to landscaping, which similarly are/would not be readily apparent, is limited. The detail regarding biodiversity enhancements is lacking thus I can afford no positive weight to this matter in favour of the proposal.
19. In relation to the adverse impacts, the proposal would harm the living conditions of existing and future occupiers. The Framework seeks to ensure that developments create places with a high standard of amenity for existing and future users. I afford this harm significant weight. Therefore, the adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

20. The proposal conflicts with the development plan as a whole and material considerations do not indicate that a decision should be made other than in accordance with the development plan. For the reasons given above, the appeal should be dismissed.

H Ellison
INSPECTOR