



Appeal Decision

Site visit made on 23 October 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2024

Appeal Ref: APP/B5480/W/24/3343937

46 Penrith Road, Romford, Havering RM3 9NJ

- 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 Abdul Gahfar against the decision of the Council of the London Borough of Havering.
 - The application Ref is P0101.24.
 - The development is a proposed new dwelling adjacent to 46 Penrith Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On the 30 July 2024 the Deputy Prime Minister and Secretary of State for Housing, Communities, and Local Government issued a Written Ministerial Statement "Building the homes we need" regarding changes to the planning system, and consultation was started on "Proposed reforms to the National Planning Policy Framework and other changes to the planning system". The main parties have had the opportunity to make submissions regarding both documents in the context of the appeal proposal.
3. There have been representations from interested parties saying that the appeal site (land within the red line on the site location plan) is not all owned by the appellant. The ownership certificate provided with the application form states that all the land within the red line is owned by the appellant. As I have no substantive evidence provided to prove otherwise, I have determined the appeal based on the submitted ownership certificate and site location plan.

Main Issues

4. The main issues are the effect of the proposed development upon:
 - the character and appearance of the area, with particular regard to its scale and design; and,
 - the living conditions of the existing occupiers at No.5 Retford Path, with particular regard to outlook, privacy, and noise and disturbance.

Reasons

Character and appearance

5. The appeal site relates to an end terraced hipped roof property located near to the corner between Penrith Road and Retford Path, it has a side garden and

includes a garage at a diagonal angle abutting the adjoining property, No. 5 Retford Path. The area is characterised by similar brick built mainly terraced or semi-detached properties with either a hip or gable roof form, interspersed by grassed areas, particularly on corner locations, such as in this case.

6. There is a strong rhythm and pattern to the arrangement of housing in the immediate area, particularly on some of the corner locations where a reasonable space above low level structures such as garages, has been retained, which positively contributes to the character and appearance of the area. On the opposite side of the junction is a very similar arrangement to that between the appeal site and No.5, with space between 6 Retford Path and 44 Penrith Road. The properties in the area generally have front gardens and much longer rear gardens, apart from those properties on corner locations, such as the appeal site, that have a smaller rear garden, often having tapered diagonal boundaries, but with many having additional space at the sides of the properties.
7. The removal of the existing single storey garages, which have limited architectural merit and are visible from the surrounding roads would be a benefit, I note the Council has not objected to this aspect. There is also no dispute between the main parties regarding the proposed roof change from hip to gable, and in view of the variation in the area, I see no reason to disagree.
8. The proposal would create a new dwelling to the side of no.46, with the proposed dwelling having a narrow plot and very limited rear garden in comparison to others nearby. This is also exacerbated by its diagonal boundary to No.5 and made worse by no.46's already restricted rear garden size and shape. The plot size would be substantially smaller in size and at odds with the character and form of most of the properties nearby. I could not be certain that there is a precedent for such a change on the opposite side of the road that the appellant referred to, whilst I saw that no.45 had a side extension, it did not appear to me to be split into two separate dwellings.
9. The proposed dwelling would be similar to no.46 in terms of its width, roof pitch, and from it having front and rear aspect. Although most of its depth would be like other properties in the terrace, due to the limited width of the appeal site and the position of no.5 Retford Path, part of its depth is reduced giving a staggered rear elevation, and a gable end featuring part of the building significantly set in from the outside wall. This would not be reflective of the mainly uniform appearance and form of other end terraced or semi-detached properties nearby.
10. Moreover, the set-in on the gable end would introduce a discordant feature, highly visible from the surrounding roads that would be alien in this immrfistr area. Further harm would be created by the development of this space between the two properties, harmfully infilling the space, and compromising the distinctive and largely symmetrical arrangement of properties on either side of the junction between Retford Path and Penrith Road. Although it would not interrupt the building line on Retford Path, and notwithstanding the greenspace nearby, it would be harmful to the character and appearance of the area.

11. It is noted that planning permission¹ was granted for a two-storey side extension to the appeal property in 2021, which could be implemented. However, I have not been provided with a copy of the approved plans, so it is unclear how its design and scale would compare to the appeal proposal. Furthermore, as an extension to the existing property it would not separate the plot into two separate dwellings, like the appeal proposal. As such I did not regard this argument to be sufficient to outweigh the above identified harm.
12. I therefore conclude that the proposed development would be harmful to the character and appearance of the terrace of dwellings and the area, and it would conflict with Policy D3 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (LP) and Policies 7 and 26 of the Havering Local Plan 2016-2031, adopted November 2021 (HLP), that amongst other things, expect high quality development that positively responds to the distinctive qualities and character, including the rhythm, form and pattern of buildings and their physical context. In addition, the proposal would conflict with paragraph 135 of the National Planning Policy Framework (the Framework) insofar as it requires development to add to the overall quality of the area, be visually attractive, and sympathetic to local character. In addition, paragraph 139 of the Framework would support the dismissal of the appeal as it says development that is not well designed should be refused.
13. The Council has referred to LP Policy D4 in its reason for refusal. Policy D4 is concerned with strategic design review and analysis, I did not find it to be directly determinative on this main issue.

Living conditions – No. 5 Retford Path

14. The proposed dwelling is said to be some 1 metre or so from the boundary to No. 5, which is positioned at 90 degrees to no.46, and contains a side extension and rear conservatory. As a result, its rear garden, which also has a diagonal alignment is already very close to no.46, and the appeal proposal would be even closer to No.5's side and rear garden.
15. The introduction of the proposed dwelling, particularly its two-storey mass including its long side elevation, and rear elevation, would be a very prominent feature from the garden of no.5. It would introduce a significant increased bulk and mass much closer to it, that would dominate its rear garden and create an unacceptable sense of enclosure, particularly from within its garden and as a result, harm the outlook for occupiers of that property.
16. It is noted that no.46 has a rear first floor bedroom window on the side closest to no.5, along with windows in its rear dormer extension. These would to an extent face part of the rear garden of no.5. Whilst there is some degree of mutual overlooking at present there is still a reasonable separation between the properties, which means such direct overlooking would most likely be away from the rear elevations of the properties themselves. Even considering the proposed obscure glazing for the rear first floor landing and bathroom windows, there would still be potential overlooking from the rear first floor bedroom window and the second-floor bedroom window. With these windows being closer to no.5, there would be a much greater loss of privacy for the occupiers of that property from direct views into their rear garden and property, including their conservatory, from these windows than currently

¹ Ref. P1952.21

exists. As such there would be harmful privacy impacts arising from the proposal.

17. In terms of the approved two-storey side extension to the appeal property, again without a copy of the approved plans, I cannot assess how its arrangement of first floor windows on its rear elevation or how its size and scale would compare to the appeal scheme before me.
18. The use of the area proposed to be the garden for the new dwelling is also currently garden for no. 46. Although this space could be used more intensely than at present, its use as outdoor residential space for its occupiers would not be expected to cause any significant change in potential noise and disturbance than at present. Moreover, its use as a domestic garden would be reflective of the many other gardens nearby. Providing there was adequate boundary treatment there should be no unacceptable noise and disturbance or loss of privacy from the use of the proposed outdoor space that would be harmful for the occupiers at no. 5.
19. I therefore conclude that although the proposed development would be unlikely to create unacceptable noise and disturbance for the occupiers of no.5 Retford Path, it would have unacceptable effects on the outlook and privacy of the occupiers of no. 5 and be harmful to their living conditions. In doing so, I find the proposal would conflict with LP Policy D3 and HLP Policies 7 and 10, which amongst other things, require the quality of life of existing residents is not adversely impacted, and development avoids unacceptable loss of outlook and privacy, and that the development of garden sites does not have significant adverse effects upon the amenity of existing occupants. In addition, there would also be conflict with paragraph 135 of the Framework, insofar as it requires a high standard of amenity for existing and future users.
20. The Council referred to the proposal conflicting with LP Policy D4 and HLP Policy 26 on this main issue. Again, as Policy D4 is focussed on strategic design review and analysis, and as Policy 26 is concerned with urban design, I did not find these policies to be directly determinative on this main issue.

Other Matters

21. The appellants have stated that the appeal site is not listed or within a conservation area; that 2 no. off street parking space along with secure cycle parking would be provided; that sustainable design features would be used; the proposal would include security fittings such as to windows and the post box; and that the proposal would meet minimum size requirements. These points are noted, but they are mostly requirements for any well-designed development, and they are neutral factors that neither weigh in favour or against the proposal.
22. Both main parties have made me aware of the planning history at the appeal site, and I have had regard to this insofar as it is relevant to the appeal scheme before me.
23. I have had regard to objections received from residents, raising issues in addition to the above main issues including, but not limited to the following; parking stress; the effect on water pipes; the existing rear dormer extension to no. 46; property values; and the effects of any noise, disturbance, and anti-social behaviour. However, I note that these matters were considered where

relevant by the Council when it determined the planning application. Whilst I can understand the concerns of the interested parties, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters. There is also no substantive evidence that the application has not been properly publicised by the Council.

Planning Balance and Conclusion

24. The Council has advised it has a 3.4 year supply of housing and its Housing Delivery Test for 2022 was 55%. Therefore, it is accepted by the Council that the presumption in favour of sustainable development as set out in paragraph 11 of the Framework applies.
25. As no identified conflict with policies referred to in footnote 7 of paragraph 11 of the Framework applies in this case, paragraph 11 d) ii is engaged, which states permission should be granted unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. The benefits of the proposal include the provision of an additional property within a sustainable location, that would add to Havering's overall supply of housing, and contribute towards the objective of significantly boosting housing supply. In addition, the loss of the existing garages would be a public benefit as they do not positively contribute to the character and appearance of the area. In addition, there would be some economic benefits from the construction of the proposed dwelling, and there would likely be economic and social benefits from future occupiers contributing to local services and facilities. However, given that the proposal relates to one additional dwelling, even taking all of these benefits collectively I attach limited weight to them.
27. Against this is the harm identified to the character and appearance of the area, the Framework makes it clear that developments should be sympathetic to local character and history. It also states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Furthermore, it states that good design is a key aspect of sustainable development, to create better places in which to live and work and helps make development acceptable to communities, and that development that is not well designed should be refused. The Framework also requires new development provides a high standard of amenity for existing and future users, which in this case the proposal would not achieve in respect of its effect on the outlook and privacy for the occupiers of an adjoining property. I give this harm significant weight.
28. Accordingly, when assessed against the policies in the Framework taken as a whole, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.
29. The proposed development conflicts with the development plan when considered as a whole, and there are no material considerations, including the Framework's presumption of sustainable development, that would outweigh the conflict. Therefore, the appeal should be dismissed.

A Hunter

INSPECTOR