



Appeal Decision

Site visit made on 30 September 2024

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 November 2024

Appeal Ref: APP/B5480/W/24/3339517

36 Collier Row Lane, Romford, Havering RM5 3BH

- 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 Pern Dhani on behalf of Dhani Properties Limited against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1620.23.
 - The development proposed is construction of two new dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The name of the appellant is not that given as the applicant on the planning application form. Accordingly, I have sought clarification from the appellant and have proceeded on the basis that the appeal is valid.

Main Issues

3. The main issues are:
 - the effect of the proposal upon the character and appearance of the area, including its effect upon existing trees;
 - the effect of the proposal upon biodiversity, and;
 - the effect of the proposal on the living conditions of occupiers of nearby properties, with particular regard to outlook and light.

Reasons

Character and appearance

4. The appeal site forms part of a wider site within which 5 dwellings are currently under construction to the rear of Collier Row Lane, Wainfleet Avenue and Thameshill Avenue. This wider site is adjoined on all sides by rear gardens. Specifically, the appeal site comprises the north-western corner of the site and is an undeveloped area, albeit parts have been accessed and used for storage in relation to the wider construction works.
5. I acknowledge that due to construction work, that the character of the appeal site is likely to have changed from when it was visited by a previous Inspector¹. Nevertheless, an area of mixed scrub and trees is found at the

¹ APP/B5480/W/21/3272154

north-western corner of the appeal site and contains a number of trees of varying species, quality and size. This area contributes positively to the character of the area in terms of the verdancy that it provides as a backdrop to rear gardens of properties on Thameshill Avenue and Wainfleet Avenue.

6. The proposal would introduce two dwellings into the appeal site, bringing the wider development to 7 dwellings in total. The dwelling labelled Plot 7 would be located close to the northern boundary of the site. Rear gardens would extend towards the north-western site boundary. The design and scale of the dwellings themselves would be reflective of others within the wider construction site.
7. The previous Inspector² identified that the wider development is focused towards the centre of the site, with rear gardens extending towards existing development. This was evident at my visit. In contrast, the proposal would introduce further dwellings close to the site boundaries. This location in the corner of the wider site and their proximity to boundaries, would lead to them as well as the wider development, having a cramped appearance, with its sense of spaciousness being eroded.
8. An arboricultural method statement has been provided which identifies 19 individual trees and two groups which would have the potential to be affected by the proposal. Of these, three are identified as being of moderate quality along with one of the groups, 11 trees are identified as being of low quality, and 6 are identified as being unsuitable for retention.
9. Two of the moderate quality trees, one of which lies outside of the appeal site are indicated as being retained, along with a single low-quality specimen which also lies outside of the appeal site. The remainder would be removed in order to facilitate the development.
10. This being the case, and despite the relatively low quality of the individual specimens, the existing verdancy that the collective group provides to this area would be significantly eroded, even taking account of the landscaping scheme associated with the wider development. As a result, the proposed dwellings would have little screening and would appear as stark structures close to the boundaries of the appeal site.
11. The evidence before me does not include a detailed landscaping scheme. There is an indicative plan within the provided biodiversity net gain ('BNG') document which indicates that 10 medium and 10 small trees would be provided within the appeal site. However, given the areas of hardstanding and garden accesses shown on the provided plans, along with the size of the plots relative to the dwellings, it has not been shown that this level of planting, or any other area of landscaping of comparable value to that which would be lost, could be achieved in the areas that would remain. Moreover, there is also the risk that any such trees would themselves come under pressure for pruning works once mature, given their likely proximity to the dwellings.
12. The location of the proposal at the corner of the site means that several dwellings on nearby streets would have direct views towards the proposed dwellings. Combined with the lack of meaningful landscaping and proximity to shared boundaries, this arrangement would lead to the proposal appearing as

² APP/B5480/W/21/3272154

harmfully prominent and stark when viewed from these locations. Although a number of neighbouring properties have sheds or outbuildings close to the shared boundary, the proposed dwellings would nevertheless be of a significantly higher height and would be clearly visible above them. The fact that the proposed dwellings would reflect the scale and design of other dwellings within the wider site would not reduce this harm, as they would be located closer to the shared boundary and would not benefit from screening from existing vegetation or proposed landscaping.

13. I acknowledge that another previous Inspector³ found that 5 dwellings within the site would be no more prominent or dominant than any other house which surrounds the site. However, only limited details of this scheme are before me, and it is not clear whether it would be comparable in terms of the proximity of dwellings to the boundaries of the wider site. Furthermore, the proposal before me would result in a greater number of dwellings within the wider site than were proposed in that scheme. Together, these factors do not indicate that my own conclusions would be inconsistent with those reached by that Inspector.
14. For these reasons, the proposal would harm the character and appearance of the area. It would conflict with Policies D4 and G7 of the London Plan ('LP') and Policies 7, 10, 26 and 27 of the Havering Borough Plan ('HBP'). Together and amongst other factors, these policies state that existing trees of value should be retained, that development should deliver high quality design, and that proposals should incorporate detailed and high quality landscape schemes.
15. The Council has cited conflict with HBP Policy 10 with regard to this main issue, however this policy makes no specific reference to the effect of a proposal upon the character or appearance of the area. I therefore find no conflict with it in relation to this main issue.

Biodiversity

16. Although the evidence includes a BNG assessment and an arboricultural method statement, these documents are not ecological appraisals of the site in terms of the likelihood of protected species or habitats being present. Given the character of the appeal site as predominantly forming trees and undergrowth, I consider that there is the possibility that it could provide habitat for protected or priority species including badgers and bats.
17. The BNG report provides a broad baseline assessment of the habitat types within the appeal site and indicates that net gain could be achieved through the implementation of an appropriate landscaping scheme. However, having regard to my reasoning above in relation to the feasibility of the level of tree planting proposed within any landscaping scheme, there is doubt as to whether the level of BNG claimed could realistically be achieved.
18. Therefore, with no substantive evidence before me to demonstrate otherwise, I cannot be certain that the proposal would not adversely affect protected or priority species. Nor can I be certain that the proposed biodiversity net gain measures would provide adequate mitigation for the effects of the proposal. The fact that the Council may not have shared its concerns in relation to this matter during its consideration of the application does not diminish this issue.

³ APP/B5480/W/16/3158788

19. The proposal would be contrary to HBP Policies 10 and 27. Amongst other factors, these policy state that residential development on backland sites should not result in significant adverse impacts upon biodiversity, and that proposed landscape schemes should support opportunities for ecological enhancement. It would also be contrary to Chapter 15 of the Framework which states that biodiversity should be protected and enhanced.

Living conditions

20. The appellant has stated that gardens on Thameshill Avenue and Wainfleet Avenue are around 17 or 18 metres ('m') in length, and that the side elevation of Plot 7 is 1.4m from the shared boundary at its closest point. It therefore follows that houses on Thameshill Avenue are around 18m from the side elevation of Plot 7. The Council has not disputed this.
21. Although the evidence before me in relation to properties on Wainfleet Avenue is less detailed, I saw that both streets have broadly similar relationships with the appeal site in that they comprise two-storey properties facing the appeal site across relatively long and slender rear gardens.
22. Given the level of separation, and the generally otherwise open aspect of the area of adjoined rear gardens, the proposal, while visible and prominent, would not appear as unacceptably overbearing, dominant or lead to an excessively enclosed atmosphere.
23. Furthermore, while the proposed dwellings would potentially affect the levels of light reaching some gardens, the height of the dwellings and the length of these gardens means that any such effects would not be unacceptably harmful, as extensive areas unaffected by the proposal would be likely to remain.
24. It has been brought to my attention that a previous Inspector⁴ considered another proposal in this location to appear as 'prominent and imposing'. However, only limited details of this previous proposal are before me, and in any event the Council acknowledges that the building subject to that appeal was in a slightly different location, albeit it was of a lower height. Furthermore, the previous Inspector reached this conclusion in considering the effect of that proposal upon the character and appearance of the area, rather than its affect upon the living conditions of occupiers of existing properties. Therefore, my own conclusions would not be inconsistent with this previous decision.
25. In relation to this main issue, I conclude that the proposal would not harm the living conditions of occupiers of existing properties. It would accord with HBP Policies 7 and 10. Together, and amongst other factors, these policies state that new development should protect the amenity of existing and future residents.

Other Matters

26. Even if I were to agree that the proposal would not result in harm to highway safety, this is a neutral factor that does not weigh in favour of the proposal.

⁴ APP/B5480/W/21/3194999

Planning Balance and Conclusion

27. The Council has stated that it cannot currently demonstrate a five-year supply of housing sites. I am therefore taken to Paragraph 11 d) ii) of the Framework. This states that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.
28. I have found that the proposal would lead to harm to the character and appearance of the area, and it has not been shown that it would not have an adverse effect upon protected habitats and species. It would be contrary to the aims of the Framework which recognise the importance of well-designed places, and the importance of protecting the natural environment. I ascribe this harm substantial weight.
29. The provision of two dwellings would make a positive, albeit modest, contribution towards boosting housing supply, which forming part of a wider ongoing development would be likely to be delivered quickly. This would, in turn, have temporary economic benefits during construction, and thereafter following occupation. I afford moderate weight to these benefits.
30. With this in mind, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits that I have identified. Therefore, the proposal would not benefit from the presumption in favour of sustainable development set out at Paragraph 11 of the Framework.
31. The proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, worthy of sufficient weight such that they would indicate taking a decision other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR