



Appeal Decision

Site visit made on 6 November 2024

by H Miles BA (hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2024

Appeal Ref: APP/B5480/W/24/3343779

Emerson Park Court, Billet Lane, Hornchurch, Havering RM11 1UX

- 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 M Crane of Upward Airspace Limited against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1734.23.
 - The development proposed is addition of a single-storey upward extension comprising 3no. units on a detached block of flats, car parking, associated storage, landscaping, and external alterations.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on the character and appearance of the area, and whether the proposed development would provide an acceptable housing mix with particular regard to unit sizes.

Reasons

Character and Appearance

3. Emmerson Park Court is a four storey, flat roofed block of flats. It is in brick with pebbledash panels, in common with the adjoining residential properties. It is close to a local centre and public transport. The appeal site is located on a one way system around The Chequers pub. As a result its surroundings are quite open and the building is highly visible from Billet Lane and North Street. It is also seen in views along North Road when approaching from the south.
4. There are a mix of properties in the surrounding area. There are three storey blocks of flats. These include Seymour Place which is mainly three storey, partly with dormers serving the third floor accommodation and a limited four storey element, set back from the main road. There are also two storey properties, in both commercial and residential uses some with dormer windows to roof level accommodation. The prevailing height is clearly of two and three storey development. The buildings are generally traditional in their appearance many with pitched roofs and a prevalent use of brick. The consistent and modest height and traditional character are therefore important features of this area. There is a block of flats at Winterberry Court which has a five storey element, however this is located further along North Street and does not form part of the immediate setting of the appeal site.

5. The proposed development would introduce an additional storey to this building which would be set back and constructed in lightweight cladding. The appeal scheme also includes the refurbishment of the existing building. The main changes to its external appearance would include the renewal of windows, zinc cladding to replace the pebbledash panels, cleaning and repointing brickwork along with new doors, lighting, signage and landscaping. New bin stores and cycle stores would also be provided.
6. The proposed development would result in a five storey building, which would be markedly taller than the 2-3 storey height of the surrounding area. The increase in massing would be clearly visible in views from Billet Lane and North Street. This would be the case even though the extension would be set in from all sides. This would result in a harmfully dominant building which would erode the consistency of the modest height of the surroundings. It would be visually jarring in this context and unacceptably harmful to the character and appearance of the area.
7. The works to the lower floors would give the building a more modern and refreshed appearance and I note that these are welcomed by some occupiers. However, detailed evidence as to why such works could not be undertaken without the upper floor addition has not been provided. Furthermore, such changes are limited in scale. As such these limited benefits would not outweigh the unacceptable harm identified above.
8. Paragraph 124 of the National Planning Policy Framework (2023) (Framework) is supportive of opportunities to use the airspace above existing residential properties for new homes. It states that in particular upward extensions should be allowed where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, and is well-designed (including complying with any local design policies and standards), amongst other things. It can be seen above that I do not find that the proposed extension satisfies these criteria. Therefore, the Framework does not provide strong support in this case, and in these particular circumstances this does not outweigh the conflict with the development plan.
9. Therefore, the proposed development would be harmful to the character and appearance of the area. Consequently, in this regard, it would be contrary to policies 26 of the Havering Local Plan 2021 (Local Plan) and policies D3 and D4 of The London Plan (2021) (London Plan). Together these seek high quality design and set criteria that should be addressed to deliver and maintain this.
10. Policy D1 of the London Plan mainly relates to defining an areas character to understand and plan for its capacity for growth. As such, the policies set out above are more relevant to this main issue.

Housing Mix

11. The proposed development would provide three one-bedroom flats. Each would have a terrace of up to 6qm and they would not be served by a lift. Policy 5 of the Local Plan requires that for schemes proposing market housing, 64% should be provided as 3 bed units, with 16% as 4+ bed units, unless individual site circumstances can demonstrate that a variation to this mix would be justified.

12. Whilst the site circumstances may not be preferable for families with children or those with mobility issues, nevertheless, a lack of lift and provision of private amenity space as terraces would not exclude all families who require a larger unit. The appellant also states that the provision of a larger unit would make the scheme unviable as the unit would be substandard for the reasons above. However, in the absence of detailed viability evidence and given my findings that family-sized units would be suitable in this location a variation from the mix set out in Policy 5 is not supported for this reason. As such I am not satisfied that the provision of only 1-bed units is justified in this case.
13. Therefore the proposed development would not provide an acceptable housing mix with particular regard to unit sizes. Consequently, in this respect the proposed development would be contrary to Policy 5 of the Local Plan, the aims of which are set out above and Policy H10 of the London Plan which seek an appropriate mix of units sizes having regard to local evidence of need amongst other things.

Other Matters

Fallback

14. New dwellinghouses on detached blocks of flats are permitted by virtue of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) subject to compliance with all relevant limitations and conditions. One of these conditions is that prior approval must be sought for matters including the external appearance of the building. I have no evidence to suggest such an application has been made.
15. It is not my role as a S78 Inspector to conclude on matters of lawfulness. Nevertheless, for the purposes of this appeal, I have taken into account my findings relating to character and appearance above, and the absence of alternative persuasive detail that it would be likely that this development would be carried out under the GPDO. Therefore, on the basis of the submitted evidence, I am not satisfied that the development proposed would be permitted development (PD), however, this is not a decision in relation to lawfulness. Nevertheless, this leads me to conclude that there is not a real prospect of the proposed development occurring under PD. Furthermore, even if the proposed development were PD, the degree of harm would be similar to the development before me now and therefore it would not justify the proposed development.

Benefits

16. In addition to the refurbishment affecting character and appearance, internal works including a new fire alarm, security system and internal redecoration are also proposed. However, as stated above I am not satisfied that the proposed harmful extension would be required for such work to take place. As such limited weight is afforded to these as benefits of this appeal scheme.
17. The proposed development would provide three new homes in an accessible location. There is an ongoing undersupply of housing in this borough, and this has contributed to high house prices and the appeal scheme would make a positive contribution to the supply of homes. The Framework requires that decisions should avoid homes being built at low densities and ensure that development make the optimal use of the potential of each site. The proposed

development would increase the density of housing in this location. Also, the dwellings would be on a small site where Havering has a target of delivering 25% of new homes set by the London Plan. The appeal scheme would also result in economic benefits including the spend from future residents and temporary economic benefits during construction. These are particularly relevant in this case where I understand that the Council has declared a funding crisis. These are important benefits of the proposed development. However, given the scale of the proposal, taking all the above into account including the limited benefits associated with refurbishment, overall the benefits would be modest.

Planning Balance

18. The appellant states that the Council cannot demonstrate a five year supply of deliverable housing sites, and the Council states that its position with regard to housing supply is uncertain. Furthermore the 2022 Housing Delivery Test results indicate that Havering has delivered 55% of its housing requirement over the past 3 years. Therefore, in any case, the presumption in favour of sustainable development contained within paragraph 11 d) would be engaged. It requires that planning permission be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of the development, when assessed against the policies within the Framework taken as a whole.
19. The proposed development would result in the benefits set out above including social and economic benefits of the provision of three new homes on a small site in an accessible location. This would promote sustainable transport, and would support the Government's aims to boost the supply of homes. This is further emphasised by the Written Ministerial Statement Building the homes we need (2024) and the proposed reforms to the NPPF and other changes to the planning system, and the National Planning Policy Framework: draft text for consultation. Albeit in the case of the latter, this document is in draft and therefore it is unclear as to whether it will be adopted in the form proposed and as such, I afford it limited weight. Nevertheless, for the reasons above the development results in important but modest benefits.
20. On the other hand, as set out above the proposed development would not create a high quality building or place, which is fundamental to what the planning process should achieve. In addition, it would not address the needs of groups with specific housing requirements. Together, these multiple harms would be significant.
21. Therefore, these significant adverse effects would therefore significantly and demonstrably outweigh the modest benefits set out above. As such, the presumption in favour of sustainable development would not apply in this case.

Conclusion

22. 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, for the reasons given above the appeal should be dismissed.

H Miles INSPECTOR