



Appeal Decision

Site visit made on 7 November 2024

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2024

Appeal Ref: APP/B5480/W/24/3346442

58 Burlington Avenue, Romford RM7 9JL

- 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 Dayalan against the decision of the Council of the London Borough of Havering.
 - The application Ref is P0049.24.
 - The development proposed is a ground floor rear and first floor part rear extension, two storey side extension and conversion of the existing dwelling house in to two self-contained flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are 1) whether or not, having regard to development plan policy, the proposed development would result in the loss of a protected dwelling type, 2) whether or not the proposed development would provide acceptable living conditions for its future occupants, and 3) the effect of the proposed development on the living conditions of the occupants of 60 Burlington Avenue with regard to noise and disturbance.

Reasons

Supply of housing

3. The appeal property is an extended semi-detached dwellinghouse. It is located in a predominantly residential area where properties are of a similar size and design. In addition to extending the property, the proposed development involves the conversion of the property to two self-contained flats.
4. Policy 9 of the Havering Local Plan (2021) relates to proposals for sub-division of existing residential properties to self-contained homes. Criteria ii) and iii) of the policy outline that the conversion will be supported where it can be demonstrated that the existing house being subdivided has no less than 120 sqm of original floor space, including internal circulation, and the subdivision would provide a minimum of one family unit of 3 or more bedrooms; and the new family unit is preferably on the ground floor with direct access to private, good quality, usable amenity space.
5. The supporting text to the policy outlines that the threshold of 120 sqm for the subdivision of houses has been set to enable the retention of smaller dwellings for smaller households of single persons and young couples on moderate

income, while permitting houses with greater floor space to be subdivided to provide a range of dwelling sizes and types. The subdivision of existing small houses consisting of floor space below 120 sqm into two smaller units will therefore not be supported.

6. The Council's evidence states that the original dwelling had a floor space of approximately 80 sqm. Therefore, although the property has subsequently been extended, the policy explicitly relates to the 'original' floor space and as such the proposed development would be contrary to this element of the policy.
7. The development would provide a 'family unit' as is required however it would be primarily over the first and second floors of the property and this would also be contrary to the aim of the policy. This is despite the fact that the unit would be accessed via the ground floor.
8. I note representations suggest that allowing the appeal could be used in support of similar schemes. Whilst each application and appeal must be considered on its individual merits, I consider that in this case, this is not a generalised fear of precedent, but a realistic and specific concern given the shared characteristics with similar properties in the street. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would contribute to the significant loss of housing which the policy is designed to protect.
9. The proposed development would therefore result in the loss of a smaller dwelling, that being identified as a unit with the original floorspace being below 120sqm. It would also involve the provision of a 'family unit' which would not be located on the ground floor. The proposed development would therefore be contrary to Policy 9 of the Havering Local Plan (2021) as set out above.

Living conditions – future occupants

10. The proposed development involves the provision of two areas of amenity space to the rear. The Council, although not objecting to the size of the spaces, consider that the space proposed to serve the family unit would be unpractical and lacking functionality.
11. Having regard to the highlighted lack of delineation, I am satisfied that were the appeal to have been allowed, appropriate means of boundary treatment to the amenity area could have been secured by planning condition.
12. I acknowledge that the access to the space whereby future residents would go a long a corridor and past the amenity space for the ground floor unit is not conventional and less preferable to having direct access onto the amenity space. It is, however, nevertheless a private space and is of a size and shape that would provide a useable space for relaxing, playing and gardening.
13. It therefore follows that, in terms of amenity space provision, the proposed development would provide acceptable living conditions for its future occupants, in accordance with Policy 9 of the Havering Local Plan (2021).

Living conditions – existing occupants

14. The appeal property is attached to 60 Burlington Avenue which is a traditional semi-detached property with a opposite mirrored layout to the appeal property.

15. The Council comment that in the proposed upper floor unit, the living room would abut a bedroom of the adjoining property. Policy 9 of the local plan requires that in the conversion of existing residential properties, the living areas of new properties do not abut the bedrooms of adjoining properties. The Council suggest that this is to protect the amenity of the occupants of the adjoining property in terms of noise and disturbance.
16. In joined residential properties, it is not uncommon and, in some respects, generally accepted that there will be an element of audibility in relation to the activities of each unit. This can, however, be mitigated in ensuring like rooms abut each other and that the more intensively used rooms in a property are positioned away from the rooms of the neighbour where a reasonable level of peace and quiet can be expected.
17. In the appeal property it would be reasonable to assume that the living room would be one of, if not the, most intensively used rooms in the property. It would be where occupants would converse, listen to music, watch television and entertain guests. Where these activities would be undertaken adjacent to a neighbour's bedroom there is a clear likelihood that these activities would be audible and cause disturbance. This would be exacerbated when such activities would occur at times when the occupants of the adjoining property may reasonably expect to sleep undisturbed.
18. I therefore find that due to its proposed layout, the development would have a high likelihood to cause noise and disturbance that would result in an unacceptable impact on the living conditions of the occupants of 60 Burlington Avenue. The proposed development would be contrary to the requirement of Policy 9 of the Havering Local Plan (2021) that in residential conversions, the living areas of new properties do not abut the bedrooms of adjoining properties.

Other Matters

19. The proposal would result in a net increase of one dwelling. This would be a minor increase in the Council's overall housing number. It would also bring a small number of additional residents to the area who would contribute to the local economy. These are benefits that weigh in favour of the appeal.
20. I have nevertheless identified that it would conflict with the development plan policy designed to ensure that certain dwellings are protected from conversion and that development does not harm the living conditions of occupants of existing residential properties. This policy is consistent with the aims of the National Planning Policy Framework (2023) (the Framework) in terms of ensuring housing of an identified need is catered for, and that developments provide a high standard of amenity for existing users. This alignment increases the weight given to the policy conflict. Therefore, the conflict with this policy results in the development conflicting with the development plan when taken as a whole.
21. Paragraph 11 d) of the Framework requires that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, developments should be granted planning permission 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.

22. This applies to applications involving the provision of housing in situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Council are unable to demonstrate a five-year supply of deliverable housing sites. It therefore follows that paragraph 11 d) of the Framework is engaged.
23. In terms of the proposed development, the starting point is therefore that permission should be granted unless the adverse impacts would significantly and demonstrably outweigh the benefits.
24. In this case the adverse impacts of the proposal in terms of the harm to the housing mix and the living conditions of occupants of the adjacent residential property, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development given by paragraph 11 of the Framework.
25. The appellant has referred to the fact that other London Boroughs such as Barking do not have such restrictive policies. Given that the appeal site is not within one such Borough, I give this factor limited weight and have determined this appeal in accordance with the development plan for the area in which it is located.

Conclusion

26. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
27. The outcome of the Framework paragraph 11 d) process above indicates that the decision should be taken in accordance with the development plan.
28. The proposed development would result in a minor increase in the Council's overall housing number and would also bring a small number of additional residents to the area who would contribute to the local economy. When combined with the Council being unable to demonstrate a five-year housing land supply, collectively, I give these matters significant weight in favour of the proposed development.
29. However, the harm that would be caused to the housing mix and the living conditions of occupants of the adjacent residential property, attracts greater significant weight that outweighs the benefits associated with the proposed development.
30. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
31. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR