



Appeal Decision

Site visit made on 8 July 2025

by J Heppell BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2025

Appeal Ref: APP/B5480/W/25/3362712

43-47a St. Marys Lane, Upminster, Havering RM14 2QU

- 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 Chick of St Marys Lane Residents Association against the decision of the Council of the London Borough of Havering.
 - The application Ref is P1187.24.
 - The development proposed is demolition of existing garages/stores and erection of new 2 bedroom dwelling to the east side of the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The submitted plans show differing roof forms for the proposed development, with the Block Plan and Site Plan showing a partially hipped roof whilst the Proposed South Elevation shows a fully hipped roof. The difference between the two proposed roof forms is minor and has not affected the outcome of the appeal.

Main Issues

3. The main issues in this appeal are the effect of the development on:
 - the living conditions of 49 St Mary's Lane with particular reference to light, outlook and sense of enclosure; and
 - the character and appearance of the host property and the surrounding area.

Reasons

Living conditions

4. The appeal site is located in a residential area comprising a mix of one and two storey dwellings and three storey flat roofed blocks of flats. The proposal is to replace a pair of lock-up garages at the eastern end of a block of flats with a two storey dwelling, with its own access, car parking and private garden.
5. The adjacent property to the east, 49 St Mary's Lane, is a chalet bungalow which occupies a narrow plot on higher ground. It has a walled recessed courtyard on its western elevation, which provides internal light to rooms on the ground and first floors.

6. The proposed dwelling would be sited next to the central section of No 49 where the courtyard is located. At ground floor, the courtyard provides light to a hall and a kitchen/dining room and lounge (the latter two rooms possessing secondary sources of light from the east and south respectively) and at first floor to a dressing room and an ensuite and bedroom (the latter having a window at the front). The ensuite and front bedroom, along with the rear bedroom and stairwell, have rooflights facing towards the appeal site.
7. Whilst the boundary wall which encloses the courtyard of No 49 limits the light and outlook that the dwelling gains from the west, the courtyard plays an important role in ensuring that the rooms in the central section of the dwelling benefit from adequate light, notwithstanding that the dining room and lounge have secondary sources of light. The consequence of erecting the proposed dwelling would be to reduce the amount of light reaching these rooms, and because the proposed dwelling would be located to the west of No 49, potentially reducing sunlight to these rooms in the afternoons. The result would be a reduction in the outlook from these rooms and an increase in the sense of enclosure.
8. At first floor, according to the Proposed Section prepared by the appellant, the eaves of the proposed dwelling would be approximately level with the top of the dressing room window of No 49, resulting in a moderate loss of outlook from the dressing room and an increased sense of enclosure. The secondary windows to the front bedroom and ensuite are very small and consequently the loss of outlook from these rooms would be minimal. The rooflights are at a similar level to the dressing room window but angled upwards, such that the loss of outlook resulting from the proposal would be small. The rear garden of No 49 would not be overshadowed since the proposed dwelling would be set forward of its garden.
9. The appellant did not undertake a daylight and sunlight report, arguing that as No 49 is situated on higher ground, the proposed development's position and slight increase in height would not result in a significant loss of light. However, as my analysis shows, even when the change in levels is accounted for, the living conditions of No 49 would be adversely impacted. The appellant considers that the side boundary wall of No 49 acts as a visual and physical barrier which mitigates any potential impact which the new dwelling might have; whilst the wall reduces the light and outlook of these rooms, the courtyard has been designed to augment the amount of light reaching the central portion of the house. The appellant argues that the existing side windows on No 49 would not be granted planning permission under current planning policies, but this does not lessen the impact which the proposal would have on these windows.
10. For the reasons set out above, I consider that the proposal would harm the living conditions of 49 St Mary's Lane as a result of a loss of light and outlook, with a consequent increase in the sense of enclosure. The proposal would therefore conflict with Policy 7 of the Havering Local Plan 2016-2031 Adopted November 2021 (HLP), which seeks a high quality of residential amenity which does not result in unacceptable loss of outlook, daylight or sunlight. I do not find conflict with policies 26 and 24 of the HLP, which deal respectively with urban design and pollution.

Character and appearance

11. By adding a two storey house onto the side of a three storey block of flats, the proposal would remain subordinate to the host building. Although 49 St Mary's Road is a bungalow, it is on higher ground, meaning that its eaves would sit approximately midway between the flat roofed ground floor projection and first floor eaves of the proposed dwelling. In this way, the proposed dwelling would step up from No 49 whilst remaining below the height of the host property. Moreover, the proposed pitched roof of the dwelling would respond to the pitched roofs of the dwellings to the east of the appeal site, including No 49. In summary, the proposal would respond to the character and appearance of the area without harming it.
12. The physical gap between the host property and 49 St Mary's Lane would not change, although the introduction of an additional storey on the side of the host property would narrow the visual separation between the buildings. I saw that in the immediate vicinity of the site, gaps between adjacent properties are typically small, even where three storey blocks of flats are located next to two storey houses. Consequently, the narrowing of the visual gap between the host property and No 49 would not be out of character with, or cause harm to, the appearance of the area.
13. The Council has indicated that a previous application to extend No 49 upwards was refused on the basis that it would create an uncomfortable relationship with the flats on the appeal site¹. However, the concern in that case related to the roof form of the proposed extension to No 49 rather than an increase in height per se, and therefore is of limited relevance to the current proposal.
14. I conclude that the proposal would be in keeping with the character and appearance of the area and would therefore comply with Policy D3 of the London Plan March 2021 and Policy 26 of the HLP, which together promote high quality places via a design-led approach which optimises the capacity of sites by responding to a site's context and capacity for growth. By responding positively to the character and appearance of the area, the proposal would achieve good design in accordance with the aims of the National Planning Policy Framework.

Planning Balance

15. The Council has confirmed that it cannot currently demonstrate a five year supply of housing, and consequently paragraph 11(d) of the National Planning Policy Framework should be applied. The policies most important for determining the application are deemed to be out of date and consequently permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
16. The appellant has highlighted that the proposal would make use of previously developed land in a built-up area, thereby minimising the impact on the environment, and avoiding the use of undeveloped land. The delivery of a small home in a sustainable location would be a social benefit, whilst economic benefits would accrue from the construction phase. Positively contributing to the Council's housing land supply is also a benefit, albeit in a modest manner for one dwelling. I therefore attach limited weight to the benefits that the scheme delivers.

¹ LPA reference P1412.150

17. The harm I have identified as arising from the proposal relates to its failure to adequately protect the living conditions of 49 St Mary's Lane. The proposal conflicts with Policy 7 of the HLP.
18. The Framework advises that planning decisions should ensure that developments create places with a high standard of amenity for existing users. The harm to the living conditions of the occupiers of No 49, contrary to the aims of Policy 7 of the HLP, would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Other Matters

19. Interested parties have raised a concern that the proposal would result in a loss of privacy for existing residents. However, as the proposal does not include side facing windows, it would not give rise to overlooking of neighbouring dwellings.
20. The future stability of the eastern boundary wall is the responsibility of the developer and does not fall within the scope of this appeal. As I am dismissing the appeal, the matter does not need to be addressed further.

Conclusion

21. The proposal would conflict with the development plan as a whole, and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Accordingly, the appeal should be dismissed.

J Heppell

INSPECTOR