
Appeal Decision

Site visit made on 10 October 2016

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th November 2016

Appeal Ref: APP/G5750/W/16/3151613

65 Second Avenue, Manor Park, London E12 6EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Timothy Smith against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/00299/FUL, dated 3 February 2016, was refused by notice dated 5 May 2016.
 - The development proposed is "conversion of single dwelling house into 1 x 3 bed flat on the ground floor and first floor and 1 x 2 bed flat on the first and second floor, incorporating a ground floor rear extension and loft conversion with rear dormer and 1 velux window to front elevation".
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Decision

1. The appeal is allowed and planning permission is granted for conversion of single dwelling house into 1 x 3 bed flat on the ground floor and first floor and 1 x 2 bed flat on the first and second floor, incorporating a ground floor rear extension and loft conversion with rear dormer and 1 velux window to front elevation at 65 Second Avenue, Manor Park, London E12 6EJ in accordance with the terms of the application 16/00299/FUL, dated 3 February 2016, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development provided by the application form has been amended by subsequent documents. The description of development included in the appeal form is accurate and I therefore adopt it accordingly.
 3. At the time of my visit, a loft conversion including a rear dormer and velux window to the front elevation was close to completion, including roof alterations to a rear outrigger. The appellant's evidence indicates that a rear dormer and roof alterations were granted a separate Certificate of Lawfulness by the Council in 2015. Whilst I do not have the full details of the Certificate of Lawfulness before me, the internal layout of the property was different to the submitted plans and related to use of the property as a single dwelling house.
 4. Newham's Local Plan Detailed Sites and Policies Development Plan Document (DS&P) was adopted on the 20 October 2016. All parties have had the opportunity to comment on the change in status of this document in terms of the relevance to their case. The Council confirmed that upon adoption of the DS&P, Policies H17 and EQ45 of the London Borough of Newham Unitary Development Plan, adopted June 2001, have been replaced and are no longer
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part of the development plan. I, therefore, give no weight to those policies in determining this appeal.

Main Issues

5. The main issues of this appeal are:

- the effect upon the supply and choice of housing suitable for family occupation in the area;
- the effect on the character and appearance of the host property and the surrounding area;
- whether the development would provide for a satisfactory living environment for its future occupiers, with particular regard to amenity space; and;
- the effect on the living conditions of occupiers of neighbouring properties, with particular regard to noise and disturbance.

Reasons

Dwellings which are suitable for family occupation

6. The appeal site consists of a two storey mid terraced property located on the eastern side of Second Avenue in a residential area of similar character. The property currently is a four bedroom house that is in the process of being extended through a loft conversion to provide additional accommodation.
7. Policy S1 of Newham's Local Plan – the Core Strategy (CS), adopted January 2012, prioritises quality new family housing over smaller residential units to rebalance the borough's housing stock. In this regard, Policies S6 and H4 of the CS, when taken together specifically seek to increase family housing and resist the loss of all family houses through subdivision or conversion to flats unless exceptional circumstances prevail. The Council have indicated that the approach is based on a Housing Needs Study prepared to support the CS which identified a housing shortage of family dwellings in Newham, with family sized dwellings being defined by the explanatory text of Policy H1 as having 3 bedrooms or more.
8. The proposal would subdivide the existing house into a three bedroom duplex flat at ground and first floor level (No 65a) and a two bedroom duplex flat at first floor level and within the converted loft space (No 65b). The proposal would, therefore, result in the loss of an existing family house consisting of at least four bedrooms.
9. The duplex three bedroom flat identified as No 65a given its size and layout would appear capable of occupation by families in a similar manner to a family house and could be considered to be a family sized dwelling. Consequently, the development would not result in a net loss of supply of residential accommodation that would be suitable for family occupation. Furthermore, the proposal would result in a net addition of residential floorspace and an increase in housing supply arising from the provision of an additional two bedroom flat. To my mind, the retention of a duplex flat suitable for family accommodation would not, therefore, conflict with Policies S1 and S6 of the CS. In any case, when taken together with the limited contribution to boosting the supply of housing in accordance with the National Planning Policy Framework (the Framework), I consider it would constitute exceptional circumstances in the context of Policy H4 of the CS.

10. In reaching the above findings, I have taken into account that Policy H1 of the CS prioritises the delivery of new homes of 3 bedrooms for families and that there is no substantiated evidence before me relating to unmet demand for family houses of four bedrooms or more in the local area.
11. I conclude that the proposal would not result in a harmful loss of housing suitable for family occupation in the area. The proposal would not, therefore, conflict with Policies S1, S6, H1 and H4 of the CS in that respect. The proposal is also consistent with the Framework in so far as it seeks to boost significantly the supply of housing and that local planning authorities plan for a wide choice of high quality homes and a mix of housing based on the needs of different groups in the community.

Character and appearance

12. The rear elevations of properties along Second Avenue and Third Avenue have characteristic two storey shared rear outriggers. However, there is some variety to the character and appearance of the properties due to a range of existing extensions and roof alterations. These examples include an existing flat roofed rear dormer nearby at 71 Second Avenue (No 71) and examples of other dormer extensions, including above two storey shared outriggers in the wider area.
13. The appeal proposal includes a rear dormer consisting of a box style flat roof design located on the main roof slope of the dwelling and above an altered flat roof section of the shared two storey rear outrigger with No 67. The rear dormer encompasses almost the entire roofslope of the main roof similar to the example at No 71, with a lowered section above the outrigger. The resultant visual effect is a dominant addition of significant bulk and massing with a design and proportions that are at odds with the character of the host property. The roof alterations also introduce an unbalanced appearance to the two storey shared outrigger.
14. Notwithstanding the above, the rear dormer and associated roof alterations would not result in a substantially different form or appearance to existing dormers in the wider area given the flat roof design and similar proportions. As a consequence, the proposal would not appear out of place relative to the character of its wider setting. The visibility of the rear dormer and roof alterations is also well screened from both Second Avenue and Third Avenue street scenes due to its siting and the position of surrounding properties. Nevertheless, the roof extension and its harmful relationship to the host building is visible from nearby dwellings and rear gardens. In this respect, the harmful scale and form associated with the appeal proposal fails to build upon the positive elements of the host property and the shared outrigger.
15. The harmful effect is particularly worsened by the contrasting roof form with the pitched roof of the rear gable design of surrounding outriggers. Although there are examples of other flat roof rear dormers and flat roof extensions above shared outriggers in the wider area, this does not mitigate the detrimental effect on the host property and those immediately surrounding.
16. When considering the above, the rear dormer and roof alterations to the rear outrigger are in conflict with Policy S6, SP1, SP3 and H1 of the CS and Policies 7.1, 7.4 and 7.6 of The London Plan 2011 (as amended), together with the guidance in the Newham Supplementary Planning Guidance: Altering and

Extending Your Home, in so far as the policies seek high quality design that respects the character of the property and those surrounding. However, at the time of my visit, the dormer extension, front rooflight and alteration to the first floor of the two storey rear outrigger had been undertaken utilising permitted development rights under a Certificate of Lawfulness previously granted by the Council. In such circumstances, there is a fallback position which I attribute considerable weight that the dormer and roof alteration would remain irrespective of the outcome of this appeal.

17. The appeal proposal also includes a single storey rear extension. The proposed extension would consist of a flat roof design across the full width of the rear of the property. In this regard, I observed that single storey rear extensions of similar scale, bulk, massing, depth and flat roof design are a common feature of properties in the surrounding area, including a range of materials. Consequently, the single storey rear extension would not be viewed as an incongruous addition and would not harm the character of the host property or those surrounding. In reaching this view, I have also taken into account that the replacement of an existing lean-to that is in poor condition would have positive benefits in terms of the character and appearance of the property.
18. The proposed materials for the single storey rear extension are stock brick walls with concrete block lower courses and central section, together with a concrete lintel, with fibre cement cladding to the dormer. The Council have expressed concern with respect to the use of concrete blocks. However, given the limited prominence of the rear extension and the variety of materials visible in the surrounding area, the proposed materials would not have a significant adverse effect on the character and appearance of the host property and the surrounding area.
19. The proposal involves the installation of timber/aluminium framed windows and doors to the property, including those existing in the front elevation. In this regard, the Council's Urban Design and Conservation advisors indicated that sash windows would be more appropriate. However, I observed a significant diversity of window types in the local area and therefore, consider that the proposed windows would not harm the character and appearance of the host property or its surroundings.
20. The Council have expressed additional concerns with respect to cycle and bin storage being proposed in the front garden of the property. The front garden of the property is visible from the road, albeit partially screened by a low brick wall, supplementary hedging and an existing tree. The only changes to this area would be the location of cycle racks to the front of the property and a storage area for refuse bins, features that could reasonably be present if the property were used as a family house. The existing tree would be unaffected. I observed that a significant proportion of front garden areas in the surrounding area are currently unenclosed and in use for bin storage and parking with a resultant disordered appearance. As a consequence, the proposed installation of cycle racks and the storage of refuse bins would not harm the existing character and appearance of the immediate street scene.
21. Having taken all of the above into account, I conclude that the development would not have an adverse impact on the character and appearance of the host property and the surrounding area. In reaching this conclusion, a harmful effect of the rear dormer and associated roof alterations was identified in

conflict with Policies H1, S6, SP1 and SP3 of the CS and Policies 7.1, 7.4 and 7.6 of The London Plan, together with the guidance in the Newham Supplementary Planning Guidance: Altering and Extending Your Home. However, in the particular circumstances of the development I attribute considerable weight to the material consideration that the existing dormer and roof alterations could be retained irrespective of the outcome of the appeal and without the need for planning permission. In this case, such circumstances, justify making a decision which is not in accordance with the development plan as the identified harm would occur in any case.

22. In the interest of clarity with respect to the above, although Policy S1 of the CS was also identified by the Council's reason for refusal, I find no specific conflict with that policy relating to this matter.

Living environment – future residents

23. No 65a would comprise a flat consisting of 2 storey 3 bedroom 5 person accommodation. It is common ground between the main parties that the flat would exceed the minimum requirements for internal floor areas of 93 sq.m Gross Internal Area (GIA), with appropriate bedroom sizes and built in storage for this type of accommodation, as set out in the nationally described space standard¹. Based on the evidence before me, No 65a would accord with Policy 3.5 of The London Plan and would have direct access to the rear garden which would provide private amenity space in accordance with the London Plan Housing Supplementary Planning Guidance - March 2016 (Housing SPG).
24. There is dispute regarding the internal dimensions of No 65b and built in storage. Based on the evidence before me, including the submitted plans which relate to an identified scale and detailed dimensions provided in the design and access statement, I have no reason to consider that the measurements identified by the appellant for No 65b are incorrect. On this basis, the 77.2 sq.m GIA of No 65b would exceed the minimum requirement of 70 sq.m for 2 storey 2 bedroom 3 person accommodation, with appropriate bedroom sizes. Furthermore, the minimum of 2 sq.m of built in storage would be provided in accordance with the nationally described space standard. I consider that, based on the evidence before me, No 65b would accord with Policy 3.5 of The London Plan.
25. The Council have expressed concern relating to No 65b with regard to a failure to make adequate provision for open amenity space relative to the Housing SPG. The internal layout of the property precludes direct access from No 65b to the rear garden. Furthermore, the communal amenity space to the front garden would be limited due to the provision of cycle and bin storage for both flats. Although level access to the sedum roof above the first floor bedroom of No 65b could be provided, this does not form part of the proposal before me and has not been subject to consultation with the Council or interested parties. In such circumstances, the proposal would not provide the minimum of 6 sq.m of private amenity space for No 65b calculated on the basis of 5 sq.m for 1-2 person dwellings with an extra 1 sq.m provided for each additional occupant, as recommended by the Housing SPG.
26. Notwithstanding the above, the Housing SPG at paragraph 2.3.32 states that in exceptional circumstances, where site constraints make it impossible to provide

¹ Technical housing standards – nationally described space standard, DCLG 2015

private open space for all dwellings, a proportion of dwellings may instead be provided with additional internal living space equivalent to the area of the private open space requirement. In this regard, I consider that the additional 7.2 sq.m of GIA within No 65b above the minimum requirements in the nationally described space standard would be sufficient to address the shortfall of private amenity space required by the Housing SPG.

27. In reaching the above findings, I am also satisfied that all habitable rooms of Nos. 65a and 65b would have suitable light provision and outlook. Furthermore, the respective internal layouts would minimise the potential for noise transfer between the sensitive rooms of each flat.
28. I conclude that the development would provide for a satisfactory standard of living conditions for its future occupiers. The proposal, therefore, would not conflict with Policies H1, SP1, SP2 and SP3 of the CS, Policy SP8 of the DS&P and Policies 3.5 and 7.1 of The London Plan (as amended), together with the guidance in the Housing SPG. These policies when taken together seek healthy neighbourhoods, including that all new homes meet internal space standards, provide appropriate amenity space, avoid unacceptable exposure to noise and ensure adequate access to daylight and sunlight. These policy aims are consistent with the Framework which seeks to ensure a good standard of amenity for all existing and future occupants of land and buildings.

Living conditions – neighbouring properties

29. The appeal property has a shared two storey rear outrigger with No 67 which appears original, together with an existing single storey lean to at the side of the outrigger that encloses the space to the common boundary with No 63. The surrounding properties in the terraced row have a similar rear building line and two storey shared outriggers, together with some examples of single storey rear extensions beyond the outriggers.
30. The proposal includes a rear dormer, velux rooflight to front and a single storey extension at the rear to replace the existing lean to and extend beyond the outrigger. Although not included with the reason for refusal, the Council expressed concern with respect to the effect of the single storey extension on neighbouring properties in terms of an overbearing and a sense of enclosure.
31. The proposed single storey extension due to its side return would enclose the gap between the existing outrigger of the appeal property and the common boundary with No 63 for a greater distance at the rear than the existing lean to. However, the extension would be flat roofed, no greater than 3m in height and would introduce a small courtyard area adjacent to the ground floor window in the rear elevation of the main property to provide some relief from the overall depth of built form. When taking these factors into consideration, the siting and limited height, bulk and massing of the extension would not result in an unreasonable overbearing impact, sense of enclosure or loss of light to the ground floor windows of No 63 and its infill rear garden area. There would also be adequate separation distance from the extension to the ground floor window within the rear elevation of the outrigger of No 63 to ensure no adverse effect in terms of overbearing or overshadowing.
32. In reaching the above findings, I have taken into account that the cumulative effect of the existing lean to and the respective two storey outriggers already

limits the light provision to existing ground floor windows in the rear elevation of the main property and to the side of the outrigger at No 63.

33. The single storey rear extension beyond the existing outrigger would have a similar depth to other examples of similar extensions along the terraced row. This includes an extension at No 69. Consequently, the ground floor window of No 67 within its rear outrigger would be enclosed by built form to either side that would be visible above the existing boundary fences. However, given that the limited height, bulk and massing of the extension proposed it would not have a harmful effect in terms of overbearing, sense of enclosure or overshadowing. In reaching this view, I have taken into account that the depth of the extension adjoining the boundary with No 67 would be less than could be erected without the need for planning permission, including an extension recently granted prior approval by the Council.
34. There is no dispute between the parties with respect to matters of privacy. Although there are windows proposed in the side elevation facing No 63, these are indicated as obscure glazed which can be secured by condition. The rear dormer has a similar outlook across the rear gardens of surrounding properties as existing first floor windows and there is adequate separation distance to properties at the rear to prevent any adverse overlooking.
35. The occupation of flats has the potential to increase general levels of activity associated to a building above that of a typical dwelling occupied by a single household. However, the scale of development relates to conversion of an existing dwelling to two flats with no extra floorspace proposed when compared to the fallback position of permitted development rights for a single storey rear extension and loft conversion. Consequently, any increase in activity and associated noise would be insignificant. The proposal, therefore, would not result in additional noise and disturbance to an extent that would be harmful to the living conditions of occupiers of neighbouring properties.
36. I conclude that the proposed development would not result in an unacceptable impact upon the living conditions of the occupiers of neighbouring properties. The proposal would not, therefore, conflict with Policies H1, SP1, SP2 and SP3 of the CS, Policy SP8 of the DS&P and Policy 7.15 of The London Plan, together with the guidance in the Housing SPG. These policies when taken together seek healthy neighbourhoods, including avoiding problems including bad neighbour uses, such as unacceptable generation of noise. These policy aims are consistent with the Framework which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

37. The appeal site is located in an area with a PTAL rating of 3 which reflects moderate accessibility to public transport provision. The proposal does not include provision for off-street parking and in such circumstances the Council consider that a condition could be imposed to secure 'car free' housing given the site is within a controlled Residential Parking Zone. However, the Government's Planning Practice Guidance (PPG) makes it clear that it is rarely appropriate to require a planning obligation by way of condition. I am not satisfied that such a condition would meet the tests prescribed by the PPG and in the absence of a planning obligation accompanying this appeal, I cannot consider that there is a reasonable prospect that the development would be maintained as 'car free' housing.

38. Notwithstanding the above, during my site visit undertaken in the late morning, I observed low levels of traffic along Second Avenue, together with significant availability of on-street parking in close proximity to the property and in the surrounding area. It is reasonable to consider that demand at peak times (i.e. early mornings, evenings and overnight) is likely to be higher. Furthermore, I accept that small, cumulative increases in parking demand can become significant in areas with relatively limited capacity. However, I have no substantive evidence before me which would indicate that the local area is subject to significant parking pressure. I, therefore, consider that the modest increase in car parking demand arising from the development could be adequately accommodated without causing harm to highway and pedestrian safety. In these particular circumstances and taking account of the levels of car ownership in the local area, I consider that it is not necessary to pursue a car free development to make the development acceptable having regard to Policy INF2 of the CS and Policies 6.3 and 6.13 of The London Plan.
39. I am also satisfied that the cycle racks could be suitably designed to ensure that the cycle storage would be safe and secure in accordance with Policy 6.9 of The London Plan and Policy INF2 of the CS. In the particular circumstances of the development, a covered facility would not be appropriate given the potential effect on the outlook from Bedroom 1 of No 65a. The installation of the cycle racks can be secured by condition.
40. The Council did not provide a list of suggested conditions. Nevertheless, to provide certainty in terms of the planning permission granted, a condition is required to reflect the time limit for the development proposed and to ensure that the development is carried out in accordance with the approved plans. These conditions are necessary, given the difference of the development for which permission is sought relative to the fallback position of the use of the property as an existing dwellinghouse with alterations undertaken under permitted development rights.
41. The Council's evidence refers to the need for an additional condition relating to further details of the proposed bin storage areas. I consider such a condition is necessary to ensure sufficient space is available prior to the first occupation of the development. As previously mentioned, a condition is also required to secure obscure glazing in the side elevation of the first and second floor windows in the interest of the privacy of No 63 and the installation of cycle racks. The proposed materials are indicated on the approved plans and therefore, a condition in that regard is not necessary.

Conclusion

42. For the reasons given above, I conclude that the proposal would accord with the development plan and the Framework as a whole. Accordingly, the appeal should be allowed and planning permission granted.

Gareth Wildgoose

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P11 (Location plan), P12 (Block plans), P13 (Existing plans), P14 (Proposed plans), P15 (Existing sections), P16 (Proposed sections).
- 3) Notwithstanding condition 2, prior to the first occupation of the development hereby approved, full details of the bin storage areas indicated on drawing no. P14, shall be submitted and approved in writing by the local planning authority. The approved details shall be implemented prior to the first occupation of the development and retained thereafter.
- 4) The development hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing no. P14 for 4 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.
- 5) The development hereby permitted shall not be occupied until the ground floor and first floor windows identified on Section AA of drawing no. P16 have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.