

Appeal Decision

Site visit made on 3 January 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 16 January 2017

Appeal Ref: APP/G5750/W/16/3157951

68A Prince Regent Lane, Plaistow, London E13 8QQ

- 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 Alan Yarwood against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/00293/FUL, dated 2 February 2016, was refused by notice dated 1 June 2016.
 - The development proposed is new development of 5 No contemporary apartments arranged over three storeys.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Council has confirmed that it adopted the Newham's Local Plan - Development Plan Document in 2016 (the DPD) following the determination of the planning application the subject of this appeal. As a result saved Policies H17 and EQ45 of the London Borough of Newham Unitary Development Plan 2001 referred to in the Council's decision notice have been deleted and no longer form part of the development plan. I have determined the appeal accordingly.

Main Issues

3. The main issues are:
 - i) the effect of the proposal on the provision of family housing and creation of mixed and balanced communities in the Borough;
 - ii) the effect of the proposal on the living conditions of occupiers of adjoining properties and whether the proposal would provide acceptable living conditions for future occupiers with particular regard to privacy, outlook and garden space; and
 - iii) the effect of the proposal on the character and appearance of the surrounding area.
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Reasons

Family housing

4. Policy H1 of the Newham's Local Plan- Core Strategy 2012 (the Core Strategy) supports sustainable communities through the mix of housing types, size and tenures. In particular it seeks to provide 39% of the number of new homes to be 3 bedroom for families subject to mix and tenure considerations. Two of the considerations would be the viability of the scheme and the individual site characteristics.
5. The scheme proposes the provision of 5 apartments only one of which would be three bedroom. However, Policy H1 which would require that 2 of the 5 apartments would be three bedroom.
6. The appellant points out that the site is small and consequently it would not be possible to provide a further 3 bedroom flat together with the required garden space. Furthermore the area is mixed in character and owing to the sites location close to the town centre it would expect to attract demand from single person and smaller households.
7. While the area has a slight mixture of uses, I saw that there is also a substantial amount of housing and I observed nothing to suggest that the area would not be attractive to families. I acknowledge the size of the site. Nonetheless, even if the provision of a further three bedroom home would not be a realistic proposition on this site, the explanatory text to Policy H1 states that there should be measures to secure such provision off-site. No off-site provision is proposed. Moreover, I have not been advised that the viability of the scheme would be at risk if a further 3 bed flat was provided.
8. For the reasons above, I conclude that the proposal would not contribute to the provision of family housing and creation of mixed and balanced communities in the Borough. It would therefore be contrary to Policy 3.8 of the London Plan: Spatial Development Strategy for Greater London (consolidated with alterations since 2011 and published March 2016) (the London Plan), Policy H1 of the Core Strategy and the National Planning Policy Framework (the Framework). These require, amongst other things, that development offers a range of housing choices.
9. Both parties refer to appeal decisions APP/G5750/W/15/3129165 and APP/G5750/W/15/3129024 with respect to this issue. However, I have no further details of the exact circumstances relating to these two decisions and therefore cannot be sure that they form a direct parallel to the appeal proposal. I have in any case determined the appeal on its own merits.

Living conditions

10. To the rear of the site is 106 Wanlip Road which is an end terraced residential property with a rear garden sharing the boundary with the appeal site. The boundary is formed by a high brick and timber wall. The Council state that the rear elevation of the proposal would be about 2.7 metres from the boundary with No 106. This has not been disputed by the appellant. The rear elevation would contain a window at the first and second floor serving a habitable room.
11. The appellant states that the windows would be recessed to avoid overlooking to windows in the rear elevation of No 106. This is not though clear on the

- submitted plans which show that they would be flush with the walls. Even if they were to be recessed, their proximity to the neighbouring property would not prevent overlooking from them into the rear garden of No 106.
12. The rear garden space is the only private area available to the occupiers of No 106. As it would be overlooked it would detract considerably from the occupier's ability to use and enjoy the garden area. The appellant states that trees within the curtilage of the college overhang the boundary of the neighbouring property. He considers that these together with an outbuilding in the rear garden of No 106 would restrict views. However I noted at my site visit that the outbuilding was small and only marginally higher than the existing boundary wall. Moreover the trees were not in leaf and the view towards the garden of No 106 was not restricted.
 13. The rear windows of No 106 currently have an uninterrupted outlook in all directions apart from the trees in the adjacent college site. The set back of the proposed building from the boundary, although minimal, when considered in conjunction with its limited width would ensure that it would not have an unacceptable overbearing impact on the outlook from the rear windows of No 106.
 14. I have given some consideration as to whether the rear garden of 104 Wanlip Road would also be subject to overlooking. However I consider that the intervening distance would be sufficient to ensure that the occupiers of No 104 would retain a reasonable amount of privacy.
 15. Windows to habitable rooms in the elevation of the proposal facing the college would be high level. This would ensure that there would not be an unacceptable level of overlooking in this direction.
 16. The adjoining residential property to the north, No 68, has a two storey off shoot which contains a window facing the appeal site at first floor but which is obscure glazed. At ground floor it has a large bay window and within the first floor of the main rear elevation of the property a clear glazed window.
 17. The proposed building would have two linear windows in its southern elevation serving a study and a living/dining/kitchen area. They are though located beyond the end of the two storey off shoot to No 68. As a consequence any overlooking to the windows of No 68 would be at an oblique angle from a narrow window and therefore unlikely to be significantly harmful. Nonetheless the windows would directly overlook the garden area of No 68 causing a similar harmful impact on that space as I have identified to the occupiers of No 106.
 18. The first floor window in the main rear elevation of No 68 has an open outlook over the appeal site. The ground floor bay window has a more limited outlook towards the boundary wall. The proposed building would be predominantly three storeys high and extend most of the length of the plot in close proximity to the boundaries of No 68. As a result it would create a large, bulky development, substantially higher than the existing boundary treatment which would lead to a significantly overbearing effect to both windows. Moreover, it would also have an enclosing effect on the first floor window when considered in conjunction with the existing two storey offshoot at No 68.
 19. The Council raise concerns regarding the provision of garden space for the new dwellings when considered against standard 26 of the Mayor of London's

Housing Supplementary Planning Guidance 2016 (the SPG) regarding the provision of private amenity space. They draw attention particularly to flat 3 which is undersized by 0.8 metres and flat 5 which has no garden space.

20. Although future occupants of the dwelling proposed may be at various stages in their lives (whether elderly, family or single, young professionals) it is likely that they would still desire a private area to sit out in and relax. The garden space for flats 1, 3 and 4 are all to the front of the site and would be visible from the public realm and therefore have little privacy. Furthermore, due to its narrow width the balcony space for plot 4 would be difficult for people to use. The garden space for flat 2 would be overlooked by the bedroom window of flat 5. As a result the garden space that would be provided with the proposed flats 1-4 would therefore not be of sufficient quality to accommodate the need I have outlined above. Moreover the occupiers of flat 5 would have no private outdoor space.
21. The appellant states that there would be a large amount of quality public open space within walking distance of the appeal site which would meet the needs of the future occupiers. However such provision would not be private. Moreover the SPG does not allow for off-site provision.
22. The Council also makes reference to the inadequacy of storage spaces in flats 4 and 5 with regard to the Department of Communities and Local Government publication Technical Housing Standards – Nationally Described Space Standards 2015. The appellant seeks to overcome this shortfall through amended plans which are referred to but have not been submitted. Given my findings above, on other matters relating to living conditions, I have not pursued this matter further.
23. For the reasons above therefore I conclude that the proposal would be harmful to the living conditions of the occupiers of 106 Wanlip Road and 69 Prince Regents Lane with regard to outlook and privacy. Furthermore the proposed new flats and their garden areas would provide poor quality living conditions for future occupiers. The proposal would therefore be contrary to Policies 3.5, 3.8, 7.1 and 7.4 of the London Plan, Policies S1, S6, SP1, SP2, SP3 and H1 of the Core Strategy, Policy SP8 of the DPD, Standard 22 of the SPG and the Framework. These seek to provide high standards of design and quality residential accommodation where people feel comfortable in their surroundings and achieve neighbourliness, and that development always seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

24. The appeal site is located between a pair of two storey semi-detached Edwardian houses and a sixth form college which is currently being developed and extended. The surrounding area is mainly residential with a mixture of Edwardian and modern terraces. There are some commercial properties interspersed with the houses.
25. The proposal is for a three storey building, albeit of a similar height to the adjacent Edwardian housing. The sixth form college extension is four stories high. As a result the height of the proposal would sit comfortably between the two existing buildings.

26. I acknowledge that the design of the proposal would be different to the adjacent Edwardian housing and the Council has concerns regarding the relationship between the existing and proposed building. However, I note that while 68 Prince Regent Lane is relatively intact, No 66 has been substantially altered through the introduction of a shop unit at ground floor. Moreover the Edwardian housing on the street is not the only form of architecture within the surrounding area. In this respect the proposed building would form a box like structure not unlike the extension to the college.
27. I note the comment of the Council's urban design officer that the proposals lack quality and detail but no further commentary is provided in explanation. While the building would be of a modern design the fenestration and detailing would have a vertical emphasis which would match the windows on both the neighbouring house and the extension to the college. Furthermore while the flat roof of the proposal would be seen in views from the north beyond the pitched roof of No 68, only a small amount would be visible and would in any case be seen in the context of the large four storey flat roofed extension to the college.
28. The southern elevation of the proposal would be more visible. Development would extend the length of the plot at a height of three storeys creating a large mass of building. Nonetheless much would be screened by the extension to the college. In addition the side elevation would contain articulation, detailing and a range of materials which would add interest to the building, sufficient to ensure it would not be particularly dominant within the street scene.
29. The party wall between the proposed building and No 68 is proposed in contrasting brick and while I note the concerns of the Council, it would provide a break between the two styles of architecture. If the proposal were otherwise acceptable, concerns relating to the front recess and fly tipping could be overcome by the imposition of a condition requiring some form of enclosure. Indeed the appellant states that the entrance would be gated.
30. The Council has also objected to the use of render on the building. However, I saw that there were examples of render on other dwellings in the locality and in this respect the proposal would not be unique or unacceptable. A condition requiring the submission of the colour of the render could have been imposed to overcome any concerns regarding discolouration due to traffic.
31. For the reasons above I conclude that the proposal would not be harmful to the character and appearance of the area. It would therefore be in accordance with Policies 7.1, 7.4 and 7.6 of the London Plan, Policies S6, SP1, SP3 and H1 of the Core Strategy, Policy SP8 of the DPD and the Framework. These require that development has a high quality design response that reinforces or enhances the characteristics of neighbourhoods and local distinctiveness.

Balancing and conclusion

32. The proposal would deliver social and economic benefits by providing 5 new flats. In this respect, the development would make a modest contribution to meeting housing requirements in the Borough whilst supporting local services and businesses. There would also be temporary economic benefits arising from the construction activity required to deliver the development. Nonetheless this would be limited given the development is for only five flats. Furthermore, I have found that the proposal would not contribute to the provision of family

housing and creation of mixed and balanced communities in the Borough which would be contrary to the development plan and limit the social contribution the housing would make.

33. The lack of harm to the character and appearance of the area is not a benefit justifying the development, but are a pre requisite of good design. This therefore has a neutral impact.
34. The proposal would conflict with the approach to the protection of the living conditions of existing and future occupiers and in this respect would not be in accordance with the development plan.
35. In such circumstances, paragraph 11 of the Framework indicates that planning permission should not be granted unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. In this case, the appeal proposal would be contrary to the development plan policies I have referred to, and the considerable resultant harm would not be outweighed by other material considerations.
36. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Zoe Raygen

INSPECTOR