

Appeal Decision

Site visit made on 7 February 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 20th February 2017

Appeal Ref: APP/U5360/W/16/3163939
86 Bayston Road, Hackney, London N16 7LT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Nick Grant, Cobstar Ltd against the Council of the London Borough of Hackney.
 - The application Ref 2016/0611, is dated 18 February 2016.
 - The development proposed is conversion of a single dwelling house to four self-contained dwellings, consisting of 1x one-bedroom maisonette, 2x two-bedroom flats and 1x three-bedroom maisonette, along with construction of a part single-storey and part two-storey rear extension, creation of front and side light wells, rear courtyard garden and associated landscaping, cycle storage and refuse and recycling storage.
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Decision

1. The appeal is dismissed and planning permission is refused.

Procedural Matters

2. The Council clarify that had it had the opportunity to determine the application, planning permission would have been refused on the grounds of character and appearance, living conditions of future occupiers and traffic and transportation matters.
3. The scheme was subject to several iterations and amendments and an initial consultation was undertaken in March 2016. The Council confirm that another consultation was undertaken in June 2016 following receipt of additional arboricultural information and amendments.
4. Subsequent amended plans were submitted after this in October 2016 and November 2016 which have not been the subject of consultation. I consider that these subsequent amended plans show relatively minor alterations to the scheme which are referred to in my reasoning. Consequently, I do not consider that the parties would be prejudiced by accepting the plans and I have determined the appeal on this basis.

Main Issues

5. Taking the above into account the main issues in this case are:
 - The effect of the proposal on the character and appearance of the area; and
 - The effect of the proposal on the living conditions of future occupiers with specific reference to privacy, daylight, outlook and noise and disturbance; and
 - The effect of the proposal on highway safety, with specific regards to parking and whether appropriate provision is made for cyclists.
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Reasons

Character and appearance

6. The appeal site is a two-storey, double fronted end of terrace house with single storey front bays. The eastern side of Bayston Road has continuous two-storey traditional properties constructed of brick with London Butterfly roofs. The strong rhythm of the road is emphasised by the houses set on a consistent building line behind short front gardens typically with low brick walls, the use of string courses and an almost continuous parapet concealing the Butterfly roofs.
7. The appeal property is an attractive and substantial building with an interesting Butterfly roof. It has single storey symmetrical bays to the front, decorative parapet and cornicing and attractive architectural detailing. Unlike adjacent properties, it does not have a two storey rear outrigger; instead it comprises of a variety of rear additions. Whilst there have been some alterations, the architectural features and detailing are still clearly legible. The property, therefore, contributes to the character and appearance of the area.
8. The Council do not raise concerns regarding the proposed rear extension or rear light wells and on the basis of the submissions and observations on my site visit I have no reason to disagree.
9. The design of the proposed light well to the south would be consistent with other light wells along Bayston Road. The original plans showed the corner of the northern basement bay window and light well with a chamfered edge in order to accommodate the bin stores at ground floor level and with only two windows. It was also proposed to include a mesh walkway over the side elevation light well in order to allow access and egress to the cycle stores to the rear. Amendments have been made to the northern light well to take account of concerns raised by the Council. The light wells have been reduced in scale to allow for the retention of approximately 50% of the front garden in compliance with the Hackney Residential Extensions and Alterations Supplementary Planning Guidance (SPG) 2009. The light well has been increased in width and an additional window added to the flank elevation. The mesh walkway has also been removed to the side elevation lightwell. I consider that these amendments would considerably improve the appearance of the front light well and bay window at basement and ground floor level.
10. Although there would be refuse stores to the front of the site, I noticed on my site visit that the storage of bins to the front of properties is a regular feature within the street scene and there was also a cycle store situated outside one of the properties. I note the appellant's suggested arrangements to minimise waste storage and I consider that these could have been secured by a condition requiring details of a refuse and recycling scheme to be submitted to the local planning authority, had I decided to allow the appeal. Consequently, I consider that, on balance, the proposal would not have a materially harmful effect on the street scene.
11. For the reasons stated, I conclude that the proposal would not have a harmful effect on the character and appearance of the area. The proposal would not, therefore, be contrary to Policy DM1 of the Council's Development Management Local Plan (DMLP) 2015 which requires all developments including alterations and extensions to be of high quality design. Furthermore, no conflict would arise with Policy DM23 of the DMLP which states that conversions from houses to flats will be permitted subject to criteria including, amongst other things, that the distinctive character of the building/area would not be adversely affected by development.

Living conditions-future occupiers

12. The principle concerns of the Council relate to basement Flat 2 which is wholly contained at basement level. In response to concerns raised by the Council regarding the quality of the basement level accommodation, the appellant submitted a Daylight and Sunlight Survey (the 'Survey') carried out to meet the BRE Guidance which demonstrates that the proposed accommodation would receive adequate light. Subsequent amendments together with an updated Survey were submitted to take account of further advice by the Council.
13. The layout of the flat has been amended to contain the principle living accommodation to the rear and bedrooms at the side and front. In addition, the front light well to Flat 2 has also been increased in width and an additional window added to the left flank of the bay. The basement windows to the flank elevation are now more conventional openings rather than relying upon a light well overlain by metal mesh.
14. The SPG states that a habitable basement room should receive adequate daylight. As a guide it suggests that a line drawn from the centre of the window at 30° above the horizontal should pass over any obstruction. Light wells should also be a minimum of 1m from window pane to the retaining wall. Even with the amendments, the proposed front bay windows at basement level would fail these tests. Notwithstanding the failure of the proposal to meet the requirements of the SPG, the Survey indicates that the front bay windows which would serve bedroom 1 of flat 2 would receive sufficient daylight. The window which would serve bedroom 2 of Flat 2 would also receive sufficient daylight. On the basis of this evidence I am satisfied that the basement flat would receive sufficient daylight.
15. Both basement bay windows would have an outlook towards a retaining wall within close proximity of the window. I note that the front bay window of flat 1 would serve a secondary bedroom. Furthermore, Flat 1 is over two floors and thus there is the possibility of recourse to accommodation at higher levels. However, the light well serving bedroom 1 of Flat 2 is stepped and in spite of the amendments would still pinch in at the corner as a consequence of accommodating the refuse bins. Consequently, outlook from the main bedroom would be very poor. Furthermore, whilst I recognise that bedroom 2 of Flat 2 is a secondary bedroom, due to the limited light well and boundary fence I, nevertheless, consider that outlook from the window of bedroom 2 would be very poor. Unlike Flat 1, Flat 2 is wholly contained in the basement and occupiers would not, therefore, have recourse to accommodation at higher levels.
16. Whilst I note the presence of other similar bay windows in the area, the Council has clarified that these sites are single dwellinghouses and the basement accommodation is not primary habitable accommodation. These cases are not, therefore, directly comparable to the appeal proposal which limits the weight which I can attach to them in my Decision.
17. The passageway which runs to the north of the building would be the primary route to the secure bike store to be situated in the rear garden. The occupiers of units 2 and 3 would be subject to foot traffic back and forth adjacent to the openings on the north and front elevations. I note that although the access has been reconfigured and that cycle ramps have been introduced it would, nevertheless, require the passing and repassing of persons and bicycles in close proximity to windows to habitable rooms. I consider that this would affect the privacy of occupiers of flats 2 and 3 and also result in noise and disturbance.

18. The appellant suggests that the maximum number of 'walk bys' would be 7 walk-bys without cycles (5 if units 1 and 2 use the rear access) and 7 walk-bys with cycles in the morning and again in the evening. The number of trips without cycles could be reduced further as 4 of the units have direct access to the garden. Nevertheless, this is still a reasonable number of trips and the appellant's calculations do not take account that such movements may be undertaken late at night or early in the morning in the event that occupants work unsociable hours. Consequently, disturbance could occur at a time when occupiers would reasonably expect peace and quiet. I, therefore, consider that this arrangement would lead to noise and disturbance of future occupiers. Notwithstanding the suggested use of double glazing or insulation there is no substantive evidence before me that the noise and disturbance could be attenuated. Taking these factors in combination I consider that the proposal would overall result in a poor standard of accommodation for future occupiers.
19. For the reasons set out above, I conclude that the proposal would result in poor living conditions for future occupiers with specific regards to privacy, outlook, noise and disturbance. The proposal would, therefore, be contrary to Policy DM1 of the DMLP which requires all new development to be of a high quality design. Furthermore, conflict arises with Policy DM2 of the DMLP which states that development proposals should be appropriate to their locations and should be designed to ensure that they will not result in significant adverse impact on the amenity of occupiers and neighbours.

Highway safety and cycle provision

20. Provision has been made for sheltered and secure storage of up to 9 bicycles which weighs in favour of the scheme. However, the Council considers that the means of accessing this would be a contrived route along a narrow passage no more than 900mm wide for much of its length which has two ramps at inclines of 17 degrees and a pinch point of 700mm and also limited room for manoeuvring of the bikes and the doors of the storage lockers. Consequently, it considers that the proposal fails to meet the Transport for London Cycling Design Standards (LCDS).
21. Table 6.3 of the parking addendum to chapter 6 London Plan 2016 sets out cycle parking standards. Paragraph 6A.13 sets out additional cycle parking specifications including that all cycle parking should be consistent with the LCDS. The LCDS sets out design outcomes including that routes must be logical and continuous without unnecessary obstacles, delays and diversions (1) and that cycling infrastructure should be designed to accommodate users of all types of cycle (6). Paragraph 8.2.3 and figure 8.1 sets out recommended cycle parking space requirements based on the Sheffield type stands in a parallel arrangement which recommends a minimum access aisle width of 1.8m.
22. I recognise that amendments have been made to the scheme which would result in a clear width of at least 90cm along the route accept between the refuse bin store and the front corner of the building which would be approximately 743mm. However, the access would, nevertheless, fall significantly below the recommended access aisle width in the LCSD. Although these standards are recommendations and this particular standard applies to the Sheffield type of stand they nevertheless serve to demonstrate the substandard width of the proposed access. I recognise that the proposal relates to the conversion of an existing house, and that a degree of flexibility is required. However, notwithstanding proposed amendments, together with further suggested amendments which are not before me, it is clear to me that the route would not be easy, particularly at the front pinch point and the narrow

passage would block the passage of some types of bicycle, especially those used by disabled cyclists.

23. I consider that this would reduce the attractiveness of the cycle storage for future occupiers which in light of the proposed car-free nature of the development weighs significantly against the proposal. Consequently, I do not consider that it has been satisfactorily demonstrated that the proposal would make adequate provision for cyclists.
24. The appeal site is situated in an area with a Public Transport Accessibility Level (PTAL) of 6a and is, therefore, recognised as having excellent public transport links. It is also situated within a Controlled Parking Zone. A car-free development has been proposed, however, no means of securing this has been put forward by way of a section 106 obligation. The Council considers that the intensification in use of the house would result in increased pressure for on-street parking and reliance on unsustainable means of parking. However, limited evidence has been provided by both parties on this matter and consequently, I find the evidence inconclusive. However, had I decided to allow the appeal I would have gone back to parties for further information on this issue.
25. For the reasons stated I conclude that it has not been demonstrated that the proposal would make adequate provision for cyclists and consequently would conflict with Policy 6 of the CS which states that the Council will encourage patterns of development that reduce the need to travel, particularly by car and will ensure that development results in the highest standard of design quality, environment and facilities for pedestrians and cyclists. Furthermore, conflict would arise with Policy 33 of the CS which seeks to promote sustainable transport.
26. In addition, conflict would arise with Policy DM45 of the DMLP which requires proposals to have regard to maximising safe, convenient and inclusive movement and accessibility to, from and within the site for pedestrians, cyclists and public transport users and make suitable provision for encouraging the use of public transport, walking and cycling including the provision of new cycle parking areas and facilities. Conflict also arises with Policy DM46 which requires all development proposals to take full account of the needs of pedestrians, cyclists and other users including those with disabilities, meeting mobility requirements as appropriate.
27. Moreover, conflict would arise with the Parking addendum to chapter 6 of the London Plan 2016 and the LCDS.

Conclusion

28. The proposal would make a contribution, albeit limited, to housing supply in a sustainable location. Although I have found the proposal to be acceptable in terms of character and appearance, it would cause harm in terms of the living conditions of future occupiers and the inadequate provision for cyclists. I have also had regard to the appellants concerns regarding the Council's handling of the application and other matters raised by third parties, none of which would alter my overall conclusion. Notwithstanding the benefits which would accrue from the scheme these would not outweigh the significant harm which I have identified. Accordingly, for the reasons given above, the appeal should be dismissed.

Caroline Mulloy

Inspector