
Appeal Decision

Site visit made on 8 February 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 03 March 2017

Appeal Ref: APP/W5780/W/16/3163994

Land rear of 591 New North Road, Hainault, Ilford, London IG6 3TE

- 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 Richard Rains, London City Properties Plc, against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 3985/16, dated 18 August 2016, was refused by notice dated 26 October 2016.
 - The development proposed is 6 no. 2 bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant's case made significant reference to a previous planning permission granted for the development of four flats on the site¹. This permission was dated 31 January 2014 with a condition requiring commencement not later than three years from that date.
3. I asked the Council and appellant whether they regarded the permission to be extant. The appellant is firmly of the view that the permission is extant having been implemented within the required period. The Council has expressed the view that the legal status of the permission would need to be verified by an application for Certificate of Lawfulness. The status of this permission is therefore uncertain. Notwithstanding this, for the avoidance of doubt, I have based my decision on the assumption that the previous planning permission remains extant.

Main Issues

4. The main issues are the effect of the development on i) the living conditions of the residents No 15 Newton Road with particular regard to privacy; ii) the living conditions of future occupiers with particular regard to external amenity space and iii) the character and appearance of the area.

¹ Council reference 2642/12

Reasons

Living Conditions –existing residents

5. The appeal site is a roughly square shaped parcel of land surrounded by the rear gardens of existing residential dwellings. The site slopes markedly from north-east to south- west but the ground level is higher than that associated with the adjacent dwellings at Nos 13 / 14 and 15 Newton Road.
6. The rear elevation of the proposed building would be situated in very close proximity to the rear garden boundary of No 15 Newton Road. Within this rear elevation there would be several windows serving habitable rooms including kitchens, bedrooms and living areas at first and second floor levels. The proximity of these windows, would allow for significant overlooking of the rear garden area of No 15 which would be compounded by the change in levels between the plots.
7. I acknowledge that the Council previously granted planning permission for a development which has a similar footprint to the proposed scheme, but which would have incorporated fewer flats². The appellant argues that that proposal could be built out and accordingly constitutes a substantial fallback position in support of the current proposal.
8. However from the information before me I note that the previously approved building, being for fewer flats, did not incorporate a second floor level and that furthermore the north-east wing of the approved building would have been marginally more recessed in relation to the No 15 boundary. Consequently, in the new proposal there would be more windows in close proximity to the No 15 boundary from which it would be possible to overlook the rear garden of that property. Notwithstanding the lack of objection from the Council in this regard, I conclude that this intensification of overlooking would result in an unacceptable loss of privacy and therefore more oppressive living conditions for the residents of No 15 Newton Road.
9. The development would therefore be in conflict with Policy 7.4 of the London Plan 2015 (LP); Policy BD1 of the London Borough of Redbridge Borough Wide Primary Policies Development Plan Document 2008 (DPD) and Policy SP3 of the London Borough of Redbridge Core Strategy 2008 (CS) insofar as they seek to ensure that development does not prejudice the amenity of neighbouring occupiers by unreasonably restricting privacy and that people feel comfortable with their surroundings.

Living Conditions – future occupiers

10. The proposal would incorporate a communal area of external amenity space at the front of the proposed building. In terms of quantity, the appellant states that the amount of useable external space that would be provided would be around 240 square metres which, though not objecting to the scheme on this ground, is disputed by the Council.
11. Notwithstanding this, even if the appellant's figure is accepted, the parties do not dispute that it would fall short of the Council's standards for amenity space provision by some 120 square metres. Put another way, there would be a deficiency in the provision of amenity open space by around a third of the

² Council reference 2642/12

required standard. This seems to me to amount to a substantial under provision. Furthermore the space would primarily be below the canopy of a mature Willow tree which is subject to a Tree Preservation Order.

Consequently this part of the site would be substantially shaded at times of the year when residents might wish to spend time outside. Neither would the space be particularly conducive to the drying of washing.

12. Although the appellant makes the point that the space would benefit residents in terms of being regularly shaped, I am not persuaded that it would provide a particularly attractive or convenient space for residents to enjoy. I conclude that the proposal would not result in acceptable living conditions for future occupiers of the development from this perspective. In arriving at this conclusion I have, again, had regard to the fallback position that the smaller scheme could potentially still be developed on this site. However, because that scheme involves the provision of fewer flats it would consequently not result in the same level of pressure for use of the external space area.
13. The proposal would therefore conflict with Policy BD1 of the DPD and with the National Planning Policy Framework (the Framework) insofar as they seek for development to secure a good standard of amenity for all existing and future occupants of land and buildings.

Character and Appearance

14. The proposed building would incorporate a mansard style roof which is not a characteristic feature of the immediate local area, with the surrounding dwellings generally incorporating traditional pitched roofs. However, the appeal site is significantly recessed from the New North Road frontage, being accessible from there via a long driveway. It would therefore be significantly screened from public viewpoints on New North Road, away from the site entrance, so that visibility of the building would take the form of fleeting glimpses.
15. Whilst the building would be more visible from Newton Road between the gap separating Nos 13 / 14 and 15 Newton Road, again it would only be viewed fleetingly and against the backdrop of dwellings on Hannards Way, positioned at higher ground level, which would tend to draw attention away from the form of the proposed structure. It is also undisputed by the main parties that the building would be shorter by more than a metre than the approved scheme.
16. Taking the above factors into account, I do not concur with the Council that the proposed building would appear obtrusive or incongruous. Accordingly it would not conflict with Policy 7.4 of the LP; Policy SP3 of the CS or Policy BD1 of the DPD insofar as they seek to promote good design and protect the character of the area.

Conclusion

17. I have not found harm in terms of the character and appearance of the area. However this is outweighed by my negative findings in terms of the living conditions for existing residents and future occupiers. Whilst I appreciate that these were not grounds for the Council refusing planning permission, they were nevertheless identified as matters of concern by third parties.
18. Taking into account the above, I am firmly of the view that providing additional housing in a time of need would not outweigh the design shortcomings of the

scheme. Accordingly, the proposal in this case does not amount to sustainable development and the presumption in favour of such, as set out in the Framework, does not apply.

19. For the above reasons and having had regard to all other matters raised, I therefore conclude that the appeal should not succeed.

Roy Merrett

INSPECTOR