
Appeal Decision

Site visit made on 14 February, 2017

by G. Rollings, BA(Hons) MA(UD) MRTPI

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

Decision date: 19th April, 2017

Appeal Ref: APP/G5750/W/16/3162318

260 Barking Road, East Ham, London, E6 3BA

- 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 Mrs Patience Lomotey against the decision of the Council of the London Borough of Newham.
 - The application Ref: 15/02599/FUL dated 10 March, 2016 was refused by notice dated 6 July, 2016.
 - The development proposed is the change of use and conversion of the current HMO use dwelling to form a ground floor retail unit (Class A1) and self-contained two-bedroom flat at first-floor level, and alterations to front elevation (shop front).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council adopted its *Newham 2027 Detailed Sites and Policies Development Plan Document* (DPD) in October 2016, following its refusal of the appeal proposal, but prior to lodgement of the appeal. The Council included the relevant draft policies in its reasons for refusal. All parties have had the opportunity to comment on the policies that are relevant to this appeal, which now form part of the adopted development plan for the area, and therefore carry significant weight in my decision. The Unitary Development Plan policies referred to by the Council have been superseded by the DPD and I will make no further reference to them.

Main issues

3. The main issues are:
 - The effect of the proposed shop use on the retail function of the Borough's town and local centres;
 - The effect of the proposed development on the supply of family housing within the area;
 - Whether the proposed living accommodation would provide satisfactory living conditions for future occupiers, with particular regard to internal and external space provision;
 - The effect of the proposed shopfront on the character and appearance of the area; and
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- The appropriateness of the proposed development's bicycle and waste storage provision.

Reasons

Effect of the proposed retail use on town and local centres

4. The appeal site accommodates a two-storey, mid-terraced building with a residential use presently occupying both floors. The proposed development incorporates a shop that would occupy the ground floor of the building, with the exception of a self-contained entrance for the proposed first-floor flat.
5. The *Newham 2027 Core Strategy* (2012) sets out a clear hierarchy applying to the location of retail, employment and community uses, encouraging these to locate within the area's established town centres, which is consistent with the strategic policies of *The London Plan* (2015). In particular, Core Strategy Policy SP7 seeks to discourage 'ribbon' residential development on arterial roads such as Barking Road. The appeal site is not within a designated town or local centre.
6. The appeal property was previously the subject of an appeal for a change of use of the ground floor from residential to retail, with the retention of the residential use on the upper floor¹. The Inspector in that instance noted that although only a small-scale retail use was proposed, the proposal was in conflict with the policies of the Core Strategy. The same policies are still in place and are a material consideration in my decision. Additionally, he considered that allowing the proposal would, in combination with existing non-residential development, set a precedent for similar development and undermines the vitality and viability of the borough's town and local centres.
7. The appellant states that the Council has not provided a land-use survey demonstrating an over-concentration of non-retail uses on the road. The Council's Core Strategy policies are still recent and were tested as part of the Core Strategy examination process, and provide a robust analysis of retail issues in the area; as such, a survey is unnecessary. Indeed, given the evidence set out within the Core Strategy and the existing high concentration of non-retail uses along this part of Barking Road, I consider that the Council's concerns, as set out within its development plan policies, are justified. The onus therefore falls upon the appellant to demonstrate that the proposed use would not be harmful to existing town centres, or lead to an intensification of ribbon development. My own observations are that the scheme would convert one of the few remaining residential frontages on this part of the street. It would thereby contribute to an intensification of non-residential ribbon development along the road. This would be detrimental to the primacy of the borough's town centres is preferred retail locations.
8. I therefore conclude that the proposed development would have a harmful effect on the retail function of the Borough's town and local centres. It would conflict with Core Strategy Policies S1, S6, SP1, SP3, SP6, SP7, J1 and INF5, as well as London Plan Policies 2.15, 4.7 and 4.8, for the reasons set out above. These policies are consistent with the *National Planning Policy Framework* (the Framework), which seeks to preserve the vitality of town centres (paragraphs 23, 24, 26 and 27).

¹ Appeal ref: APP/G5750/A/13/2192433; date of decision: 19 November, 2013.

Effect on the supply of family housing within the area

9. In the previous appeal decision, the Inspector found that although the property was operating as a house in multiple occupation (HMO) at that time, it is likely to have previously been used as a family home, and the proposed development would have resulted in the loss of the family unit of accommodation. The Council has since recognised the HMO as the lawful use of the property². Council policies seek the retention of larger units of residential accommodation, which are capable of housing families, and Core Strategy Policy H4 encourages proposals for the de-conversion of flats back into family homes. The Council states that there has been a large decline in the number of larger homes within the borough within previous years, due to their conversion into flats and HMOs, and that the property should revert to its former use.
10. Although reversion of the current lawful HMO use would comply with the borough's objectives of increasing the local supply of family housing, this is not part of the proposal before me. Indeed, this development would not result in the loss of an existing family dwelling, given that the building is now lawfully recognised as an HMO, and the appeal property has not been used as a family dwelling for several years. The proposal would, however, result in the loss of an HMO, and despite the encouragement of Policy H4, there are to my knowledge no development plan policies discouraging the change of use of an HMO in this area to an alternative residential use.
11. I therefore conclude that the proposed development would not have a harmful effect on the supply of family housing within the area. It would not conflict with Core Strategy Policies H1, H4, S1, S6, SP1, SP2, or SP3, for the reasons given above. These policies are consistent the broader advice provided in the London Plan and the Framework.

Living conditions

12. The Council has stated that as the appellant did not provide it with the proposed internal size of the upper floor flat, it arrived at its own scaling calculation of a total floor space of 62m². The appellant has not refuted this figure, and as such, I have used the Council's calculation to inform my decision.
13. The appellant advised that the flat was designed to accommodate three persons within its two bedrooms. Development within London is subject to the unit sizes and standards set by the *Technical Housing Standards - Nationally Described Space Standard* (NDSS), as applied to London by Policy 3.5 of the London Plan. The NDSS requires two-bedroom, three-person, one-storey dwellings to have a minimum floor area of 61m². Although the Council considers that the proposed accommodation would have a cramped layout, the proposal complies with the NDSS.
14. Future occupants of the proposed flat would not have access to the existing rear garden area at ground floor level, but the appellant states that there would be access to an area of outdoor space measuring 5m². This is not shown on the plan referred to me by the appellant, and the appeal plans do not indicate any obvious access or outdoor space allocation for future residents. Although there is a small and narrow external area in front of the proposed shopfront, this would be the sole access from the busy highway for shop

² Council ref: 14/00302/CLE.

visitors and would not be suitable for use by residents. The Mayor of London's *Housing Supplementary Planning Guidance* (2012) (SPG) suggests that a minimum of 5m² private outdoor space should be provided for 1 to 2 person dwellings and an extra 1m² should be provided for each additional occupant.

15. Although these measurements are provided as guidance, compliance is an indicator of housing quality. I have taken this into account, in conjunction with the concerns of the Council regarding the location of the appeal site in relation to a shortage of recreational facilities and outdoor space in the area, and the condition of the surrounding environment. As such, the failure to provide an appropriate amount of good-quality outdoor space means that the proposed development does not achieve the appropriate high standards of design sought by the Mayor of London or the Council.
16. I therefore conclude that the proposed development would provide a satisfactory amount of internal space, but would not provide an appropriate amount or quality of external space, which would result in substandard living conditions for future residents. It would conflict with London Plan Policy 3.5, Core Strategy Policies S1, S6, SP1, SP2, SP3 and H1, and DPD Policy S8, which together require residential development to be designed to a high standard and incorporate an appropriate amount of outdoor space.

Character and appearance

17. The development would incorporate a shopfront with a fascia sign above its door and windows, which the Council observes would be comparable with similar properties in the vicinity. Whilst I acknowledge the Council's concerns that it would contribute to an increase in visual clutter along Barking Road, and return to this matter within the following main issue, there is no specific evidence to suggest that it would represent poor design on its own terms. The shopfront would provide strong legibility for its use and entrance, would not be overbearing on the front elevation of the property, and would appear appropriate in relation to the shopfronts on surrounding properties. As such, it would not appear obtrusive or out of character with its surroundings.
18. I therefore conclude that the proposed development would not have a harmful impact on the character and appearance of the area. It would not conflict with Core Strategy Policies S1, S6, SP1, S3 or SP7; DPD Policy SP8; or London Plan Policies 7.1, 7.4, 7.5 or 7.6. These policies together require development to achieve a high standard of design and be appropriate within its visual context, which is consistent with the relevant core planning principle of the Framework (paragraph 17).

Cycle parking and waste storage provision

19. The proposal makes no provision for cycle or waste storage areas for either proposed use. I acknowledge the appellant's assertion that the use of conditions could overcome the Council's objections, were the appeal to be allowed, and that the appellant would not object to the provision of these facilities. However, given that the proposed development allocates no external space to the proposed residential use, and has only a limited amount of space in front of the proposed shop use, there would be a lack of available, convenient space to accommodate the required storage. Furthermore, if the facilities were provided on the small outdoor area at the front of the site, it is

likely that they would contribute to a visually cluttered street side environment, as was the concern of the Council.

20. The appellant has supplied previous appeal decisions in which off-site waste provision was considered appropriate³, thereby avoiding a need to provide on-site waste storage areas. However, these relate to fast food uses, which have a different pattern of operation and custom to the shop and residential uses proposed in this instance. As such, I do not consider them to be directly relevant to this case.
21. I therefore conclude that the proposed development would not make appropriate provision for waste and cycle storage facilities, and would conflict with the relevant policies requiring their provision, which are: London Plan Policies 3.5, 5.3, 6.9, 7.1, 7.4 and 7.5; Core Strategy Policies S1, H1, SP2, SP3 and INF3; and DPD policies SP8 and SC5.

Other issues

22. The appellant has commented on the likely absence of harm that the proposed development would have with regard to parking in the area, as well as potential benefits that could arise from the provision of upgraded residential accommodation. I have given these due regard within my overall decision, but do not consider that they sufficiently outweigh the harm that I have identified within the main issues.

Conclusion

23. The proposed development would not conflict with adopted Development Plan policies with regard to internal space provision, character and appearance of the proposed shopfront, or the supply of family housing within the area. However, the proposal would have a harmful impact on the Council's town and local centre retail hierarchy, and the living conditions of future residents due to an under-provision of external space. It would also harm the living and working conditions of shop users and residents, as well as the appearance of the site, through the non-provision of cycle and waste storage provision. The harm arising from these latter considerations significantly outweighs the former and, as such, the proposal is neither sustainable development, nor is it compliant with the adopted Development Plan for the area.
24. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

G Rollings

INSPECTOR

³ Appeal refs: APP/E5900/A/10/2141935; decision date 30 March 2011, and APP/E2001/A/11/2152252; decision date 25 August 2011.