

Appeal Decision

Site visit made on 24 April 2017

by Janet Wilson BA (Hons) BTP MRTPI DMS

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

Decision date: 31st May 2017

Appeal Ref: APP/G5750/W/17/3169198

62 Windsor Road, Forest Gate, LONDON E7 0QY

- 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 & Mrs G Singh against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/03350/FUL, dated 17 October 2016, was refused by notice dated 13 January 2017.
 - The development proposed is subdivision of existing 2 storey, 5 bedroom single family dwelling to provide 1no, 2 storey, 3 bedroom family dwelling and 1no, 2 storey 1 bedroom dwelling.
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Decision

1. The appeal is dismissed

Procedural Matters

2. The application description does not include reference to a single storey extension however it is included in the plans, the Council are aware of it and I am considering the appeal on the basis that it forms part of the proposal.

Main Issues

3. The main issues in this appeal are:
 - The effect of the development on the supply of family houses in the area;
 - The quality of the proposed accommodation;
 - The effect of the development on the living conditions of the occupants of neighbouring properties;
 - The effect of the proposed extension on the host property and whether it would preserve or enhance the character or appearance of the Woodgrange Estate Conservation Area.

Reasons

Effect on family houses

4. Two units of accommodation would result from the changes proposed which include the enlargement of the ground floor accommodation to create space for the smaller of the two units. It is a policy ambition of the Council to maintain its stock of larger houses and to this end Policy H4 of the London Borough of Newham's Local Plan - The Core Strategy 2012 (Core Strategy) states "*the*
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Council will specifically seek to protect family housing and will resist the loss of all family dwelling houses through subdivision or conversion to flats or HMOs unless exceptional circumstances prevail". The rationale being that unless larger units are protected the Council will fail to provide enough family homes to meet the needs of the Borough.

5. Policies S1 and H4 of the Core Strategy support improved access to homes, and the retention of family homes by resisting any subdivision of larger units. This is underpinned by the Newham Strategic Market Assessment (2016) (SHMA) which outlines a need for 5 bedroom housing and to which I give weight as the latest indication of housing need in the area. The appellant emphasises that the larger of the two units to be created would be three bedroomed and therefore a family unit.
6. Whilst a 3 bed family unit would remain, the provision of larger units continues to be a requirement in the borough and the retention of the appeal property as a large family house would help to meet that need. The loss of the family dwelling, albeit replaced with two smaller units (collectively amounting to a larger floor area than exists now), would undermine Policy H4 and subdivision would be in direct conflict with, and cause harm to, the housing strategy.
7. The appellant asserts that no weight has been given by the Council to the fact that this conversion would be achieved through vertical subdivision and the Council erroneously refer to a number of appeal decisions which focus on conversions to flats to support its case. It is clear to me, from the wording of policy H4 that it relates to any subdivision of a family house and not just to the conversion to flats or Houses in Multiple Occupation. In this regard the appeal decisions are relevant in so far as they focus on the issue of the loss of family housing.
8. Correspondence from an estate agent has been provided in support of the appeal that suggests no demand for 5 bed properties in contrast to a significant demand for three bed units. However no evidence has been provided to demonstrate that the appellant has tried unsuccessfully to market the property at a reasonable price over a period of time and in the absence of substantive evidence this limits the weight I can give to this.
9. The appellant has also made reference to 71 Windsor Road which relates to subdivision of a family house and for which planning permission was granted in February 2016. The Council in considering that application did not refer to Policy H4, whether they should have, or intended to, it is a matter of fact that they did not. In this case they have referred to Policy H4 and I consider that this policy is both material and relevant. I do not question that the conversion referred to has been approved by the Council however the evidence outlined in this appeal raises legitimate policy considerations and the approval of this previous development by the Council is not of sufficient weight for me to set those considerations aside.
10. Policy H1 of the CS seeks to ensure that in new developments 39% of new homes are to be 3 bedroomed. Explanatory text makes it clear that larger units will not be sought under Policy H1 and that policies protecting existing family housing are contained in Policy H4. As one of the two units proposed would be a 3 bed family house, I find no substantive conflict with Policy H1. The absence of conflict with H1 does not however outweigh the direct conflict with Policy H4 of the Core Strategy.

11. The appellant has sought support from the National Planning Policy Framework (The Framework) stating that the presumption of sustainable development should be considered and that the proposal would result in social benefits in terms of providing a mix of housing type. That may be so, but the specific policies in place to protect larger family houses in the Borough would be fundamentally compromised by further subdivisions.
12. I conclude that the proposal would have an unacceptable effect on the supply of family dwelling houses in the Borough and would conflict with Policies H4, S1, S6, SP1, SP2, SP3, SP5 of the Core Strategy; to objectives 3.3, 3.4, 3.8, 3.14, 7.1, 7.2, 7.4, 7.5, 7.8 and 7.15 of the London Plan – The Spatial Development Strategy for London Consolidated with alterations since 2011 (2016) (the London Plan) and to Policy H5 of the Newham 2027 Local Plan: Detailed Sites and Policies Development Plan Document (2016) (DS&PDPD) which together support the Council's housing strategy and help to build stable, mixed and sustainable communities and maintain a good mix of housing provision.

Effect on living conditions

13. The proposed division of the house would result in the splitting of the garden area which would be achieved by planting a hedge. Even if the hedge were to be of sufficient height to provide an effective screen the introduction of a separate garden space to serve the new household would result in an unacceptable intensification of use in a small area resulting in a negative impact on the living conditions of the occupants of both new units.
14. It would take a significant period of time for the proposed hedge to reach a height where it would provide a satisfactory screen and in the meantime it would afford very limited privacy between the two areas. Furthermore there is a recreation/play room at the rear of the garden which would remain part of the larger unit. The access to it would be immediately behind the private garden of the smaller unit which would not secure a satisfactory arrangement between the two. It would result in a contrived division of the garden which would be likely to lead to conflict between the users of the two garden areas.
15. Whilst there are no external physical changes to the front of the building the subdivision of the property into two dwellings would mean that there would be competing demands on the access and parking space. The proposal does not make clear which new property the parking area would serve. If it is to serve the main dwelling, the close proximity of the parking area to living accommodation would be likely to lead to disturbance to the occupiers of the 1 bedroomed dwelling. If it were to serve the smaller unit the main house would not have parking and this would be likely to cause additional pressure for on street parking. If both properties were to use the same parking space this would lead to an unacceptable intensification of use exposing the occupants to greater levels of noise, disturbance, and nuisance in close proximity to living space.
16. The appellant points out that the site is a sustainable location and will not increase car ownership, whilst the area is served by good public transport links, I saw on my visit that the street had many parked cars and this was during the daytime and would be more so during the evening. I also saw the impact of other similar subdivisions elsewhere in the street where parking provision is under strain due to more vehicles than parking spaces available.

17. The appellant comments that no evidence has been provided by the Council's Environmental Health department to substantiate that the conversion of the property to two dwellings would result in noise and disturbance. This is noted but it does not preclude me from coming to a different view and it does not outweigh the harm I have identified due to the proposed division of the garden area and the issues relating to the use of the garden.
18. The proposed extension would span the full width of the ancillary wing, and would have a flat roof. It would be screened from the neighbour by a marginal increase in the height and configuration of the existing boundary wall and the walls would be constructed from matching materials. In view of this configuration I do not find that the bulk or massing of the structure would have a negative effect on the living conditions of the occupants of neighbouring properties.
19. Nevertheless, for the above reasons I conclude that there would be harm caused to the living conditions of the occupiers of the new units in conflict with Policies 3.5, 3.8, 7.1, 7.2, 7.5 and 7.15 of the London Plan, Policies S1, S6, SP1, SP2, SP3, SP5 and H1 of the Core Strategy and Policies SP8, SP9 and SP10 of the DS&PDPD which together seek to ensure that development is compatible with its neighbours and creates healthy neighbourhoods and places.

Effect on the Conservation Area

20. The appeal site is a two storey double fronted Victorian property with a smaller attached wing. It forms part of a residential estate within the Woodgrange Conservation Area (CA). This derives its special character from the scale and detailed design of the buildings and where the continuous frontages create a strong sense of enclosure. The houses appear as a series of detached villas linked together with smaller service wings. Many of the buildings, including the appeal site are unchanged and display many original characteristics; this contributes to the significance of the area. The Woodgrange Estate Conservation Area Design Guide (the Design Guide) sets clear expectations in order to protect the quality of the CA including restricting the width of new extensions to a maximum of two thirds of the house ensuring that additions are proportionate and of high quality design.
21. The rear of the appeal property is simpler in form; it has already been extended across the whole of the main part of the house with a single storey addition incorporating a shallow pitched roof. The proposed flat roofed addition, although itself only extending the rear of the annexe, would result in an extension across the whole of the back of the building and the attached annexe. Whilst it would not be visible from beyond the adjacent properties, due to vegetation and screening, it would introduce inappropriate design with a feature which would be at odds with the existing dwelling and out of keeping with the host building leading to harmful erosion of the character and the appearance of the CA and diminishing its significance.
22. The appellant argues that the extension would be contained to the rear of the building and be of modest size and scale, finished in a palette of materials to complement the host building such that it would allow the original form of the building to be easily read. It is correct that the extension in itself is small in size however the cumulative impact is far in excess of that which the design guide advocates and its form in detailing a flat roof is an inappropriate feature in the CA.

23. The appellant also points to precedent in that a number of successful rear extensions have been constructed in the locality including one almost identical at No 71 Windsor Road. Whilst that application was considered against the same design criteria I do not apply the same interpretation and consider that the cumulative impact of the single storey extensions within the CA would undermine the policies aimed at preserving and enhancing the CA and the statutory duty to give special consideration to that aim.
24. Whilst it would cause, in the words of the Framework, less than substantial harm to the significance of the heritage asset, that harm would conflict with the Council's Policy which seek to protect the character of the CA. Importantly, it would not meet the statutory test of preserving or enhancing the character or appearance of the Conservation Area, a matter to which I must give considerable importance and weight. Where less than substantial harm is caused consideration should be given to the public benefits of the proposal. The creation of an additional housing unit is insufficient in itself to outweigh the harm I have identified particularly given the substantial conflict with the Councils housing strategy.
25. For these reasons the proposal would be in conflict with Policies 7.1, 7.4, 7.6 and 7.8 of the London Plan; Policies S6, SP1, SP3, SP5 and H1 of the Core Strategy; Policy SP8 of the DS&PDPD and the objectives of the Design Guide.

Quality of accommodation

26. It is common ground between the appellant and the Council that the DCLG technical space standards would be met for both the units as they are proposed. The Council argue that space standards would only be met once the extension is constructed, they stress that subdivision of the existing floor space would be substandard and the house as it is now is not suited to sub division. I have to judge the proposal before me and must consider the scheme as submitted to the Council including the proposed extension.
27. The Council state that internal configuration would not secure adequate fire protection nor would the bathroom have space for a bath. Matters covered by building regulations may result in the need for adjustments to the internal configuration in the future but they are not determinative to my conclusions. As both dwellings would meet required space standards I find no conflict with policies in the London Plan, the Core Strategy or the DSPDP in respect of the quality of accommodation.

Conclusion

28. I have concluded that the proposal would be compliant with Policy H1 in that it would include a three bedroomed unit and that both units would meet the required space standards. However it would undermine a primary objective of Policy H4 to protect family housing and this significantly limits the weight to be given to the contribution that an additional dwelling might make to the mix of housing stock in the Borough. It does not outweigh the harm I have identified to the housing strategy. The proposal would also cause harm to the living conditions of future occupiers of the dwellings.
29. The proposal would cause less than substantial harm to the character, appearance and significance of the CA and the provision of one additional dwelling would not outweigh that harm. Whilst the appellant has referred to

paragraph 49 and 14 of the Framework, paragraph 14 (footnote 9) makes it clear that the second bullet point does not apply where there is harm to a designated heritage asset. The proposal would fail to comply with the development plan for all of the reasons set out and would therefore not be sustainable development.

30. For the reasons set out above, and having regard to all other matters raised the appeal should be dismissed.

Janet Wilson

INSPECTOR