



Appeal Decision

Site visit made on 27 June 2019

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2019

Appeal Ref: APP/G5750/W/19/3226713

85 Second Avenue, Manor Park, London, E12 6EN.

- 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 Timothy Smith against the decision of the Council to the London Borough of Newham.
 - The application Ref 18/03678/FUL, dated 30 December 2018, was refused by notice dated 25 February 2019.
 - The development proposed is described as a 'ground floor extension, attic conversion and subdivision of house into a 3 bedroom family sized flat at ground and first floor, and a 2 bedroom flat at first and second floor.'
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Since the appeal application was refused the National Planning Policy Framework 2018 has been replaced by the National Planning Policy Framework February 2019 (the Framework). Both the Appellant and the Council have had the opportunity to comment on the above changes during the processing of the appeal. For the avoidance of any doubt I confirm that the appeal has been determined on this basis.
3. The appellant submitted various revised drawings and an additional drawing at the Appeal stage which show the basement and include room height dimensions. As they do not make any material changes to the proposed scheme, I have taken them into account and confirm that this decision is based upon Drawing Nos. P01.A, P02.A, P03.C, P04.C, P05.A, P06.C, P07, P08.A, P09, P10 and P11.
4. At the application stage the drawings submitted by the appellant showed the existing dwelling as a four bedroom house. The revised plans show the dwelling as having three bedrooms and a box room. I consider that both descriptions are correct as, despite their modest size, such rooms can be used for bedrooms for babies and young children, home offices, play rooms, etc. Accordingly, I find that the existing dwelling can reasonably be described as a three/four bedroom dwelling.
5. The appellant has referred to a recent refusal for the conversion of the appeal dwelling into two flats. I am only able to take into consideration the merits

current appeal proposal and so, whilst I note that another scheme has been refused, I am unable to comment on it.

Main Issue

6. The first main issue is the effect of the proposal on the supply of family sized dwellings within the Borough. The second main issue is whether proposed flat B would provide satisfactory living conditions for its occupiers, with particular regard to internal living space and private garden area. The third main issue is the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance.

Reasons

Supply of family homes

7. The Appeal site is located within an established residential area that is characterised by traditional family sized terraced two storey houses with generally modest sized front and rear gardens. Currently, the Appeal property comprises a three/four bedroom dwelling arranged over two floors and is set back from the street behind an enclosed front garden. To facilitate the proposed conversion the property would be extended to the rear at ground floor and roof levels and the existing garden would be reduced in size and depth.
8. Policies GG4 and H10 of The Draft London Plan - The Spatial Development Strategy for London (Draft for public consultation December 2017 with minor suggested changes July 2018) (The Draft London Plan), seek to ensure that more homes are delivered to meet the identified housing needs of each borough. Account should be taken of the aim to optimise the housing potential of sites and prevent the loss of existing housing unless it is replaced with the same or higher densities with at least the equivalent floorspace. The Framework similarly seeks to boost the supply of homes to meet objectively assessed housing needs, relating to the size, type and tenure of housing needed for different groups in the community.
9. Collectively and amongst other things Policies SP1, SP3, S1, S6 and H1 of the Newham Local Plan 2018 (Local Plan) and policies 3.3, 3.5 and 3.8 of The London Plan – The Spatial Development Strategy for London (GLA, consolidated with alterations since 2011 and published March 2016) (The London Plan), encourage high quality developments where homes are not created at the expense of environmental and housing quality. Development, including that at higher densities, which create and sustain inclusive, stable, healthy, mixed and balanced communities are encouraged. There should be a mix and balance of housing types as well as a significant increase in family housing, to replace that lost through conversions. There should be a greater focus on protecting and increasing family housing, encouraging the 'de-conversion' of family sized Victorian and Edwardian homes and restricting new conversions.
10. Consistent with this Policy H4 of the Local Plan states that existing three and four bedroom family housing will specifically be protected and the 'de-conversion' of flats back to family dwelling houses will be supported. The subdivision of three or more bedroom houses may be appropriate where the proposal complies with various stated criteria and subject to the satisfaction of other policies.

11. The supporting text to Policy H4 of the Local Plan explains that Newham will fail to provide enough family housing if it does not both increase the rate of new provision and hold onto the existing stock of family housing. Conversely, the Council considers that Newham has sufficient capacity for flats through purpose-built new build and conversions of non-residential uses and the reuse of redundant premises above shops in town centres.
12. It is clear from the above policies that there is a specific identified and up-to-date need to provide additional family housing and to protect existing three or more bedroom houses, to meet the identified need for them within the Borough. Whilst the conversion of existing larger homes is permitted where it meets certain criteria, the proposal does not comply with all of the criteria set out in Policy H4 of the Local Plan.
13. Neither of the proposed flats would have a floor area of at least 127 m², which the appellant has confirmed is the floor area of the existing dwelling. As such the proposal would result in the loss of family sized floorspace and the amount of living space for the proposed three bedroom duplex flat (Flat A) would be significantly less than that of the existing family home. Although Flat A would be capable of being occupied by a family, the proposed internal living space and garden area would be materially smaller than that of the existing family dwelling. In addition, the main kitchen/living area of the upper floor flat (Flat B) would be directly above Flat A and the intensity of the proposed development would be quite distinct to that of the existing dwelling house. For these reasons I do not consider that the proposed three bedroom duplex flat would be equivalent or similar to the existing dwelling.
14. In reaching this conclusion I have taken into consideration the modern layout of the proposed rear extension and its outlook over and access into the rear garden. However, against this Flat A's living accommodation would be in a single room, rather than several; the outlook from the second bedroom would be into a small and enclosed courtyard; bedrooms 1 and 2 would be located directly under the living area to Flat B and Bedroom 1 would be overlooked from the entrance to the property.
15. For these reasons I find that the proposal would add to the unbalanced supply of housing in the Borough and would undermine the Council's objectives and policies that seek to meet the identified housing needs of the Borough. The harm resulting from this would clearly outweigh the benefits of providing two duplex flats on the site.
16. It is acknowledged that a very similar conversion scheme was allowed at 65 Second Avenue. However, that appeal was determined in October 2016 and thus prior to the adoption of the Framework and the Newham Local Plan 2018, as well as The Draft London Plan. Their up-to-date policies reinforce the need and reasons for protecting the existing family housing stock.
17. I conclude on the first main issue that the proposal would have an adverse impact on the supply of family sized dwellings within the Borough. It would therefore conflict with Policies SP1, SP3, S1, S6, H1 and H4 of the Local Plan, Policies 3.3, 3.5 and 3.8 of The London Plan and Policies GG4 and H10 of The Draft London Plan. It would similarly conflict with paragraphs 59 and 60 of the Framework.

Living conditions of the proposed occupiers of the development

18. The Technical Housing Standards – nationally described space standard, published by the Department for Communities and Local Government (THS), sets out minimum floor areas for dwellings and advises that stairs, voids, cupboards, etc. are all included in the gross internal floor area of a dwelling. The appellant has confirmed that Flat A would have a gross floor area of 107.5 m² including the basement area. The minimum floor area for a three storey dwelling with three double bedrooms is 108m². In accordance with the sizes given on Drawing P10, Flat B would have a gross floor area of 77.1 m², which would fall slightly below the THS minimum size of 79 m². This is on the basis that the storage area in bedroom 2 would comprise wardrobes.
19. These shortfalls are very modest and in themselves would not amount to a reason for dismissing this appeal. However, collectively, Policies SP1, SP2, SP3 and H1 of the Local Plan, Policy 3.5 of the London Plan and Policies D4 and GG4 of the Draft London Plan and The London Plan Housing Supplementary Planning Guidance 2016, SPG, seek to improve the quality of housing. This includes the provision of adequate access to daylight and sunlight; comfortable and functional layouts, minimising overlooking, overshadowing and overbearing impacts; and making appropriate and adequate provision for private open space in multi user buildings.
20. Flat B would have no outside private garden area and the front garden would not provide any private open space. It would be used to accommodate two enclosed refuse storage areas, cycles stands and the access to the dwelling and storage areas. The SPG advises that dwellings on upper floors should all have access to a terrace, roof garden, winter garden, courtyard garden or balcony. In exceptional circumstances, where it is not possible to provide private open space, additional internal living space equivalent to the area of private open space requirement can be provided instead. As a three person dwelling Flat B would require access to a minimum of 6 square metres of private outdoor space and this would increase to 7 square metres if used for a four person flat. This adds to the shortfall in gross internal floorspace.
21. Within Flat B, bedroom 1 would be served by a single small roof light and the living area would be reliant on secondary light from the kitchen diner. In addition, to access Flat B and the cycle stands would entail walking past/close to the window to bedroom 1 of Flat A. This would have the potential to generate noise and result in a loss of privacy for the occupiers of Flat A.
22. Taken together these factors highlight the intensive nature of the proposal and that the proposal would fail to meet with the requirements and expectations of the policies and guidelines set out above. These concerns are not a matter that could be satisfactorily dealt with by condition.
23. For these reasons I conclude on the second main issue that the proposal would fail to provide satisfactory living conditions for its occupants, contrary to Policies SP1, SP2, SP3 and H1 of the Local Plan, Policy 3.5 of the London Plan and Policies D4 and GG4 of the Draft London Plan, the SPG and the THS. It would also conflict with paragraph 127 of the Framework which seeks to create places with a high standard of amenity for existing and future users.

Living conditions of the occupiers of neighbouring dwellings

24. The proposed roof extension would be partially screened by the existing two storey rear projecting wing and the proposed windows within this extension would serve bedrooms, rather than living areas. The windows serving the proposed kitchen/dining area to Flat B would face towards the street and not into the rear garden area and the proposed single storey rear extension would have a flat roof and would not exceed three metres in height. As a result of these factors the proposed extensions and the occupation of the proposed flats would not be visually overbearing or result in a material loss of privacy or daylight for the occupiers of the adjoining and adjacent dwellings.
25. The comings and goings of the occupiers of the proposed flats would likely be noticeable by immediate neighbours. However, having regard to the modest scale of the proposal this would be unlikely to have a materially adverse impact on the living conditions of local residents.
26. The kitchen/living area to Flat B would likely adjoin bedrooms in the dwellings on either side and their use would have the potential to result in some noise, vibration and disturbance for the occupiers of the adjoining dwellings, as well as the occupiers of Flat A below, particularly during the late evenings. Whilst appropriate noise insulation would minimise this, it would not address the noise generated when the kitchen/dining room windows were open. As a result, the proposal has the potential to unacceptably harm the living conditions of the occupiers of the adjoining dwellings, due to noise and disturbance.
27. I conclude on the third main issue that the proposal would materially harm the living conditions of the occupiers of the adjoining dwellings with particular regard to noise and disturbance. It would therefore conflict with Policies 7.1 & 7.15 of The London Plan, Policies D1 & D4 of the Draft Local Plan, Policies SP1, SP2, SP3, SP8, S6 & H1 of the Local Plan and the SPG. Together and amongst other things they seek to avoid significant noise impacts on health and quality of life and achieve good neighbourliness.

Other matters

28. The proposed retention of the enclosed front garden and tree, together with the sensitive design and appearance of the entrance area, would all help to retain the original appearance of the property. Although the purpose built refuse storage areas would be utilitarian in appearance and would appear awkward where they project above the front boundary wall, they would nonetheless provide a neat and tidy storage area for refuse bins. Similarly, the upgrading of the glazing has the potential to improve the condition and appearance of the property. Whilst these features would respect the character and appearance of the street scene, they fail to outweigh the harm identified in relation to the main issues.
29. The repair and upgrading of the property in general and the provision of modern bathrooms and shower rooms are all positive aspects. However, no reasons have been stated as to why such improvements could not be made to the existing dwelling.

Conclusion

30. The conclusions on all three main issues represent compelling reasons for dismissing this appeal.

Elizabeth Lawrence

INSPECTOR