



Appeal Decision

Site visit made on 16 July 2019

by S Shapland BSc (Hons) MSc MILT

an Inspector appointed by the Secretary of State

Decision date: 12 August 2019

Appeal Ref: APP/G5750/W/19/3227660

91 Derby Road, Forest Gate, London, E7 8NH

- 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 Dipak Hindocha against the decision of the Council of the London Borough of Newham.
 - The application Ref 18/03432/FUL, dated 26 November 2018, was refused by notice dated 31 January 2019.
 - The development proposed is proposed rear garden annex as an ancillary accommodation to the main house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council has included policies from the Draft London Plan within their decision notice. In accordance with paragraph 48 of the National Planning Policy Framework (The Framework), weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan, the extent of unresolved objections and the degree of consistency of relevant policies to the Framework. I have not been provided with any substantive details of the status of this emerging plan, and therefore I attribute them very limited weight.

Main Issues

3. The main issues are the effect of the proposal on the character and appearance of the surrounding area, and the effect on the living conditions of neighbouring occupiers with particular regard to noise.

Reasons

Character and Appearance

4. The appeal site is a two-storey building split into two flats located within a residential area of Derby Road. The site includes a rear garden and large rear outbuilding which extends beyond the gardens of neighbouring properties Nos 89-83 Derby Road and Nos 82-92 Stratford Road. The area is characterised as being urban in nature with quiet residential gardens at the rear of the properties.

5. The appeal proposal is for alterations to this outbuilding to provide sizeable ancillary accommodation to the main property, and includes two ensuite double bedrooms, lounge and kitchenette. The proposal would be slightly higher than the existing outbuilding, and would be of brickwork construction with a render finish.
6. The proposal would be located some distance away from the main property and would represent a large building of residential nature within a garden setting. The proposal would extend approximately 20 metres along the boundaries with properties Nos 89-93 Derby Road. The proposal represents a sizeable backland development located approximately 9 metres from the existing residential property. Given this level of separation from the existing property, the proposal appears as a new isolated, piecemeal, residential development in a garden. Its inclusion within this garden setting conflicts with the existing nature of these gardens. Whilst it is not introducing significantly more new built form into this environment, there is a marked difference between an outbuilding for storage use and new residential accommodation. Regardless of whether the development is ancillary to the main property, introducing a residential use in this setting negatively impacts the character of the existing residential gardens.
7. The existing outbuilding is in a poor state of repair, and I find that the alterations proposed would be more visually pleasing than the current building. However, this does not outweigh the harm I have identified above to the character of the area.
8. Consequently, I find conflict with policies S1, S6, H1, SP1, SP2, SP3 and SP8 of the London Borough of Newham Local Plan 2018 (NLP) and Policies 7.1, 7.4 and 7.6 of the London Plan 2016 (LP). Collectively these policies seek to ensure development is of a high standard, located appropriately and protect the existing character and appearance of the surrounding areas. The Council's first reason for refusal also makes reference to the Framework. Whilst I have not been directed to specific areas of conflict, I find that it would fail to accord with its design objectives.

Living Conditions

9. The conversion to residential accommodation at the appeal site would result in an intensification of activity to the rear of the garden. There would be increased noise generation from people arriving at and leaving the property, as well as increases in general noise from persons living there. The appeal site abuts a number of gardens on Derby Road, and consequently there are a number of properties which are likely to be impacted by an increase in noise in this location. It is likely that the timing of this increased noise generation would be outside of office hours when residents are more likely to be at home, thus impacted by increases in noise.
10. The appellant has cited a number of examples of other developments locally which generate noise. This includes a school and office with conference rooms. The appellant has not provided any substantive evidence of any noise issues relating to those developments. The cited examples are likely to generate noise and disturbance during school and working hours, and this differs from that of a residential dwelling. Furthermore, the appellant has stated that the outbuilding's existing use as a storage shed could generate more noise than the proposed residential use. Whilst activities taking place within the storage shed could potentially generate noise, this would not be as regular or for as

long a duration as a residential use. If items and materials are being moved from the outbuilding, this is likely to be a short term disturbance and not comparable to the noise which is generated by someone living in the property. I can therefore only afford these comparisons limited weight.

11. Consequently, I find that the proposals would harm the living conditions of neighbouring occupiers with particular regard to noise. This is in conflict with policies SP1, SP2, SP3, SP8 and H1 of the NLP and policies 7.1, 7.4, 7.6 and 7.15 of the LP. Collectively these policies seek, amongst other things, that new development should be of a high design quality and protect the amenity of existing and future residents. It would also fail to accord with the objectives of the Framework, which seek to protect residential amenity. t.

Other Matters

12. I have carefully considered the reasons why the appellant has applied for planning permission to provide ancillary accommodation to the main property. This includes documentation from health workers. Due to existing health conditions, a member of the family would benefit from having their own accommodation space with improved bathroom facilities this accommodation would offer. Having considered the health documentation, I agree that the proposed ancillary accommodation would make this family members life easier.
13. Given the sensitive nature of the health information supplied to me as part of the appeal, it would not be appropriate for me to explain the specific health conditions of the individual concerned. However, on the evidence that is before me, I am satisfied that the proposal would be of benefit for the appellant and his family. These are personal circumstances to which I afford weight in favour of the appeal.
14. However, when considering the personal circumstance there is a need to balance this against the harm identified above to both the character and appearance of the area and the living conditions of occupiers of neighbouring properties.
15. I have had due regard to the Public Sector Equality Duty contained in section 149 of the Equality Act 2010. This sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. I have also had regard to rights conveyed within the Human Rights Act.
16. In respect of the above, a refusal of planning permission is a proportionate and necessary approach to the legitimate aim of ensuring that the character and appearance of the surrounding area, and the living conditions of neighbouring occupiers can be reasonably safeguarded. Furthermore, the protection of the public interest cannot be achieved by means that are less interfering of the appellant's and his families human rights. Therefore, whilst I acknowledge the personal circumstances of the appellant and his family, I conclude that these are not matters which outweigh the harm that would be caused by the proposal in respect of my aforementioned conclusions on the other main issues.

Conclusions

17. On balance, and for the reasons outlined above, I conclude that the appeal should be dismissed.

S Shapland

INSPECTOR