



Appeal Decision

Site visit made on 24 September 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd October 2019

Appeal Ref: APP/H5390/W/19/3232696 113-135 Lillie Road, London SW6 7SX

- 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 R U Linked Limited against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/00040, dated 4 January 2019, was refused by notice dated 11 March 2019.
 - The development proposed is described as 'redevelopment of 113-135 Lillie Road comprising a first floor rear extension and a second floor roof extension to facilitate the creation of 10 residential and refurbishment of ground floor shops and shop fronts'.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The site address on the application form refers to 113 Lillie Road only, while the Council decision notice also refers, among others, to 137 Lillie Road. However, as detailed on the appeal form and the submitted plans, it is clear that the proposal relates to 113-135 Lillie Road. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - i. the effect of the proposal on the living conditions of future occupiers of the proposed development, with particular regard to daylight, sunlight, outlook and overshadowing;
 - ii. the effect of the proposal on the living conditions of future occupiers of the Clem Attlee development with particular regard to light and overshadowing, privacy and outlook; and
 - iii. whether the proposal would represent an appropriate housing output and mix and whether any level of affordable housing provision is required.

Reasons

4. The appeal proposal relates to part of a terrace of properties and includes the provision of residential accommodation above the ground floor retail units along with an extension at first and second floor level. The Clem Attlee development scheme, which was granted planning permission by the Council

on 6 November 2018, is directly to the rear of the site. This development involves a 3/5 storey building hosting residential accommodation within its upper floors (Ref: 2017/03700/FUL) which would be built close to the rear boundary of the appeal site. At the time of my site visit, the housing office which previously occupied the site had, in the main, been demolished. The appellant's assessments consider the proposal against the Clem Attlee development and I have no reason to take a different approach.

Living conditions (future occupiers of appeal scheme)

5. The rear first floor bedrooms within the appeal scheme would be most affected as they would be in very close proximity to the Clem Attlee development. These would be habitable rooms. Although they act as guidance only, the evidence suggests that the building would breach the BRE 25 and 43 degree tests and the 45 degree test within Key Principle HS6 of the Hammersmith & Fulham Planning Guidance Supplementary Planning Document (SPD) (2018) in relation to many of the windows serving these bedrooms.
6. Some uncertainty is caused by the Internal Average Daylight Study (IADS) as the Average Daylight Factor (ADF) is shown as being calculated against bedroom 1 of units 1, 2 and 7, despite bedroom 1 on these flats being labelled as the front bedroom. However, I am satisfied this may have been the result of a mis-labelling of a table on page 6 of the report and the study does in fact appear to relate to the rear bedrooms of units 1, 2, 7, 9 and 10.
7. The IADS concludes that the ADF would be acceptable in relation to the rear bedrooms of the above units, which have been identified for testing on a 'worst case' basis. Along with unit 7, the focus is on units 1, 2, 9 and 10 which are towards the eastern and western ends of the terrace respectively. These windows may benefit from daylight received around the sides of the Clem Attlee building.
8. The IADS excludes units 3-6 which would sit behind the middle section of the five-storey element of the Clem Attlee scheme. As a result of their positioning, the rear bedroom on these units would be likely to suffer a serious restriction in daylight due to the significant height, length and proximity of this development. For the same reasons, these bedroom windows would also suffer from a significant sense of enclosure which would lead to a harmful loss of outlook from them.
9. Given the relationship described above and the orientation of the Clem Attlee building to the south east of the appeal site, it is likely that the rear bedrooms to many of the units would receive very limited levels of sunlight despite the inclusion of rooflights.
10. Without any substantive evidence to demonstrate otherwise, the height, length and proximity of the Clem Attlee development to the rear bedroom windows of the proposal would be likely to give rise to a harmful restriction of daylight and sunlight to many of these windows, particularly units 3-6. Levels of daylight would only be restricted further by the proposed louvres. The result would be an unacceptably poor outlook from, and overshadowing to these bedrooms. This would lead to significant harm to the living conditions of future occupiers of the appeal scheme which would have an adverse impact on the enjoyment of their homes. Whilst other windows to the flats would have a good outlook across Lillie Road, the significant harm identified above would remain.

11. I conclude, on this issue, that the proposal would be contrary to Policies HO4 and HO11 of the Hammersmith & Fulham Local Plan (HFLP) (2018) and Policy 7.6 of the London Plan (LP) (2016) which jointly seek to ensure the provision of acceptable living conditions for future occupiers. The proposal would also be contrary to guidance within Key Principle HS6 of the SPD. Other planning policy and guidance drawn to my attention by the Council does not have direct relevance to this issue and in the main they cover broader design points.

Living conditions (future occupiers of the Clem Attlee development scheme)

12. Although some upward and rearward extension is proposed, the appeal scheme would remain relatively modest in height in comparison to the Clem Attlee development.
13. Key Principle HS7 of the SPD advises that any new windows should be positioned at least 18 metres from existing habitable room windows. However, it acknowledges that if this standard cannot be met then windows should be designed to ensure that no loss of privacy will occur, without referring to any specific separation distance. The proposed rear bedroom windows would be in much closer proximity to those on the north west facing elevation of the Clem Attlee building than the guidance allows for. However, it does allow for site specific interpretation and therefore a reduction of the separation distance. As a result, I afford this guidance limited weight.
14. Habitable windows on the north west elevation of the Clem Attlee development would serve a kitchen/living room area and would be recessed behind an access walkway. The bedrooms on the appeal scheme which would look towards this development would be fitted with louvres. Whilst these would add to the harm to living conditions for occupiers of the appeal scheme, they, along with other facets of the Clem Attlee development would mean that there would be no significant detrimental impact on the privacy and outlook of future occupiers of that development.
15. The rooms would share a dual aspect with the front of the Clem Attlee development and it is these larger windows on the south east elevation that would supply the majority of light.
16. Further, the External Daylight Study (EDS) focusses its analysis on the five lowest kitchen/living room windows facing the appeal site within the Clem Attlee development. The EDS concludes that these windows would retain 80% or more of their original daylighting and that this would satisfy BRE guidelines. From my analysis of the evidence, I have no reason to disagree.
17. Therefore, I conclude that the proposal would not have an unacceptable adverse impact on the living conditions of future occupiers of the Clem Attlee development with regard to light and overshadowing, privacy and outlook and would therefore not conflict with Policies HO11 of the HFLP and 7.4 of the LP; which jointly seek to ensure the provision of acceptable living conditions for future occupiers.

Housing output and mix and affordable housing provision

18. The National Planning Policy Framework at paragraph 122 states planning decisions should support development that makes efficient use of land.

19. The Council are concerned about the omission of No 137 from the scheme on the basis it had been included in earlier proposals and the implications of its omission for affordable housing.
20. Policy HO3 of the HFLP requires affordable housing on schemes of 11 or more dwellings, or where the capacity exists for this number of units.
21. Although within the same ownership, the evidence indicates that No 137 is currently for sale and the red line plan excludes it from the application site. Regardless of its previous inclusion, there is nothing within the evidence to suggest that the housing potential of the appeal site represents an under optimisation of its potential in relation to the housing densities required within Policy 3.4 of the LP.
22. Therefore, the proposal cannot be considered to fail to optimise housing output and would not be required to offer any level of affordable housing provision as the number of proposed units would fall below the threshold in the Local Plan.
23. Notwithstanding the harmful effect in relation to the living conditions of future occupiers of the appeal scheme identified above, the development proposes a logical arrangement of accommodation, aligned above each retail unit. There is inevitably going to be constraint on the layout on this type of conversion scheme. There would appear to be limited scope for additional bedrooms on the basis of the submitted floor plans. However, even if the number of units were to be reduced to provide a larger unit, this would still not lead to any significant mix of unit size across the scheme. I also note that the Council do not raise any concerns about the minimum space standards or the amount of amenity space that would be provided for each unit.
24. Although Policy HO5 of the HFLP seeks a mix of unit sizes including larger family accommodation within schemes, it does enable schemes to be considered on a site by site basis having regard to their constraints and local characteristics.
25. Therefore, I conclude on this issue, that the appeal proposal would not conflict with policies HO1, HO3 or HO5 of the HFLP or policies 3.13 and 3.4 of the LP which relate to housing output, mix and affordable housing.

Conclusion

26. Notwithstanding the absence of harm in relation to some of the main issues set out above, and the benefits of the proposal in terms of its contribution towards the supply of housing in an accessible location in the borough as well as the improvements to the existing commercial units, I conclude that these matters are outweighed by the significant harm that I have identified in relation to the living conditions of future occupiers of the proposed development.
27. For these reasons, I conclude the appeal should be dismissed.

T J Burnham

INSPECTOR