The Planning Inspectorate

Appeal Decision

Site visit made on 17 September 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2019

Appeal Ref: APP/G5750/W/19/3221203
26-26A Sprowston Road, Forest Gate, London E7 9AD

- 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 Yahya Khan against the decision of the Council of the London Borough of Newham.
- The application Ref: 18/01771/FUL, dated 19 June 2018, was refused by notice dated 31 July 2018.
- The development proposed is demolition of the existing buildings on site and construction of 6 no. 2 bedroom (4 persons) flats.

Decision

1. The appeal is dismissed.

Procedural matter

2. After the application was determined, the Council adopted the Newham Local Plan in December 2018 (hereinafter, the Local Plan). This superseded the policies in the Newham Core Strategy that are referred to in the decision notice. The decision notice refers to Policies in the then Draft Local Plan. There is no evidence that these draft policies altered between the time the application was determined and the adoption of the Local Plan. In addition, reference in the decision notice is made to policies in the draft replacement London Plan. Whilst the replacement London Plan has reached an advanced stage, it has not yet been adopted. As such only limited weight can be given to these policies. The Local Plan is now part of the development plan for the area alongside the London Plan 2016 (the London Plan). I have, therefore, determined the appeal based on the policies in these plans.

Main Issues

3. The main issues in this appeal are:

   - The effect of the proposed development on the character and appearance of the area;
   - Whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to internal living space and daylight;
   - Whether the proposed development would prejudice the development of a strategic site; and

- Whether the proposed development should make a contribution to the provision of affordable housing.

Reasons

Character and appearance

4. The appeal site extends to approximately 392m^2 in area and comprises an extended two storey dwelling house, together with its associated curtilage which is presently used a yard and garden area. Sprowston Road is primarily made up of late 19th and early 20th Century houses. These are for the most part two storey, semi-detached and detached houses. At its junction with Earlham Grove there is a modern block of three storey flats with a pitched roof. The land immediately to the north of, and adjoining, the appeal site is occupied by a Community Garden. To the southern end of the road there is a block of modern three storey flats and a cluster of automotive uses. Earlham Grove, to the north also consists largely of two storey, traditionally built, properties of a similar age to those in Sprowston Road, with a three storey block of modern flats opposite the junction with this street, and a small group of commercial buildings at its eastern end close to the junction with Woodgrange Road. To the rear of the appeal site, construction activity is underway on a parcel of land between Sprowston Road and Woodgrange Road.

5. The proposed building would be comparable in height to the existing flats at the junction of Sprowston Road and Earlham Grove. It would not be perceived as unduly higher than the older properties in the street, which have larger storey heights. It would also be constructed in brick which is the predominant building material in the area. However, the proposed projecting glazed balconies, "Juliet" balconies and the glazed barriers to the light wells at ground level are features that are not present on other buildings in the area and would be wholly inconsistent with the area's architectural character. Similarly, the set back in the front façade to accommodate the terrace for the second floor flats would be inconsistent with the approach taken to massing on buildings in the surrounding area. Also, at second floor level on the front elevation, the window openings would be irregularly arranged and would not align with those below, unlike other buildings in the area. This combined with an unexplained set back in front façade which appears to be only to accommodate cycle storage, and a flat roofed, single storey, side addition on the opposite gable to accommodate bins, would result in a disjointed, cluttered, and visually incoherent principal façade facing Sprowston Road. This would not sit comfortably alongside the more balanced and proportioned elevations of the existing buildings. As a result, the development would detract from the generally attractive appearance of the area derived from the well detailed and visually consistent existing buildings.

6. I conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policies 3.5, 7.1, 7.4, 7.5 and 7.6 of the London Plan and Policies S1, S6, SP1, SP2, SP3, SP8 and H1 of the Local Plan which, when read together, expect new development to be of a high standard of design, that has regard to its context, reinforces local character and is integrated with its surroundings.

Living conditions of the future occupiers

7. Policy 3.5 of the London Plan, which echoes the requirements of the Technical housing standards – nationally described space standard (the Standard), sets out minimum gross internal areas for new dwellings. From the submitted drawings, the appeal proposal would provide six, 2 bedroom, 4 person, dwellings set over two floors. In these circumstances, Policy 3.5 and the Standard require that a minimum gross internal area of 79m^2 is provided. With the exception of one unit (Flat 6) which would have a gross internal area of 75.52m^2, all the units would exceed the requirements of Policy 3.5 and the Standard.

8. The Mayor of London's Housing Supplementary Planning Document 2016 (the SPD) states that the requirements of Policy 3.5 of the London Plan and the Standard are to ensure that all new homes are functional and fit for purpose and offer the potential to be occupied over time by households of all tenures. Flat 6 does not meet the minimum gross internal area required by Policy 3.5 and falls short by approximately 2.5m^2. The appellant suggests that this shortfall is minimal. Although the bedrooms of Flat 6 would meet the minimum floorspace requirement of the Standard, Policy 3.5 and the Standard both require 2m^2 of built in storage to be provided which is not shown on the submitted drawings. Whilst built in storage areas are included within the overall gross internal areas set out in the Standard and the configuration of the flat would allow for this to be incorporated it would, nonetheless, reduce the useable floorspace within the unit which already falls short of the minimum requirement.

9. The Standard requires that new dwellings provide at least the gross internal floor area and the built in storage areas specified within it. The supporting text to Policy 3.5, which sets out how the policy will be interpreted and implemented, states that the floorspace standards are minimum standards which developers are encouraged to exceed. Although it makes allowance for single person homes of exemplary design that fall below the required minimum gross internal area, it makes no other exceptions to the policy. All other new dwellings are therefore expected to meet the minimum gross internal area. No evidence has been submitted that would indicate that there are exceptional circumstances for allowing a dwelling which does not meet the minimum floorspace requirements. The proposed development, therefore, does not comply with Policy 3.5 in this respect.

10. Three of the proposed flats, occupying the lower part of the proposed building, would have their principal living accommodation at ground floor level with the bedroom accommodation within a basement level. From the submitted drawings, the windows to these basement rooms would be wholly below ground level and lit by narrow lightwells less than one metre across. The lightwells to the front of the building would also be partially overhung by projecting balconies belonging to the flats on the first floor of the building. A document entitled 'Daylight and Sunlight Assessment' was submitted with the proposal. However, whilst this very briefly assesses the proposal in terms of its potential impact on the existing adjacent dwellings and identifies when sunlight may be received at the facades of the new building, it does not contain any detailed calculations or technical assessment of the daylight or sunlight that would be received by rooms within the proposed new building.

11. In the absence of any technical evidence to the contrary, due to the small size, configuration and depth of the proposed lightwells, the levels of daylight and sunlight received by the rooms within the basement would, in my view, be extremely low. In addition, due to the depth of the lightwells and their shallow width, with less than one metre from the window to the far wall of the lightwell, the outlook from these basement rooms would be particularly poor. Whilst the principal living room of these flats would be at ground level, bedrooms are, nonetheless, habitable rooms in which a substantial period of time is spent. In a dwelling with an open plan living room/kitchen/diner, they provide the only private space. The lack of light to and outlook from these rooms would not make the lower floor flats a pleasant place to live notwithstanding the accommodation at ground level. The appellant suggests that this is to be expected of basement flats and is no different to other basement flats. No specific examples are given to support this and both the development plan and the National Planning Policy Framework (the Framework) expect new residential development to be of a high quality and provide a high standard of amenity.

12. The proposed development would provide outside amenity space for all the proposed units, by way gardens for the lower flats and by terraces and balconies for the upper flats. This exceeds the minimum requirements set out in the London Plan and the Mayor of London's Housing Supplementary Planning Guidance 2016. However, this does not overcome the other issues in respect of internal space and lack of light, and outlook, that I have found.

13. I therefore conclude that the proposed development would not provide suitable living conditions for the future occupiers with particular regard to internal living space and daylight. It would not comply with the relevant requirements of Policies 3.5, 3.8 and 7.2 of the London Plan and Policies S1, SP1, SP2, SP3, SP8 and H1 of the Local Plan which, when read together, expect among other matters, that new residential development is of a high quality, fit for purpose, provides a healthy living environment, is convenient and welcoming, and has adequate access to daylight and sunlight.

Whether the proposal prejudices the development of a strategic site

14. The Council advise that the appeal site is located within a larger site that is designated as a Strategic Site for development in the Local Plan. The Council states that it resists the development of strategic sites in a piecemeal way, particularly where this would prejudice the realisation of the overall vision for the area.

15. No evidence has been put to me that the Council have sought to acquire the appeal site or that there have been negotiations, or discussions, with the appellant regarding including his site within a comprehensive development. There is also no evidence before me of any kind of masterplan or development brief for the larger strategic site. I saw when I visited the site that development was underway on part of the wider site, adjoining the appeal site, but that there are still buildings standing on the part of the site fronting Woodgrange Road, although these were vacant and surrounded by a hoarding at the time of my site visit. I also saw that the land immediately to the north of the appeal site was still occupied by a community garden. The is no evidence of any proposals to develop that site either in isolation, as part of the development currently being carried out, or in conjunction with the appeal site.

16. The Council officer's report notes that two planning permissions have been granted on parts of the wider site. Whilst I recognise that, from the descriptions, these are larger developments than the appeal proposal, permission has nonetheless been granted at two different times for developments on parts of the site within the same policy context as the current appeal. The appeal site represents only a very small portion of the wider strategic site. Based on the evidence before me and the lack of any wider masterplan or development brief, there is nothing that would indicate that the appeal proposal would prevent development on the remaining parts of the site or would significantly reduce the quantum of development that might ultimately be delivered.

17. I therefore conclude that the appeal proposal would not prejudice the development of a strategic site. It would not conflict with Policies S1 and S6 of the Local Plan, which seek to deliver a substantial number of new dwellings within the plan period, deliver mixed use development on strategic sites and expect that sites should be designed and developed comprehensively.

Affordable housing

18. Policy H2 of the Local Plan expects new developments with a capacity of 10 dwellings or more to provide 35-50% affordable housing as part of the scheme. Local Plan Policy H1 seeks to ensure that new housing sites comprise a mixture of housing sizes and/or types or tenure. The Council suggest that as the site lies within a larger strategic site, the appeal proposal would result in that larger site not providing the maximum number of affordable units. I have found that the proposed development would not prejudice development of the wider strategic site. There is no evidence before me in respect of either the anticipated number of dwellings that the strategic site is expected to yield or the anticipated number of affordable dwellings. Nor is there any evidence regarding the number and proportion of affordable units that are included in the schemes that have been permitted on the wider site. In this context, it is not possible to conclude that the development of the appeal site would prevent maximising affordable housing on the wider, strategic site.

19. The Planning Practice Guidance sets out that planning obligations for affordable housing should only be sought for residential developments that are major developments. Major residential development is defined as development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. The appeal proposal is for 6 maisonettes and at 392m^2 the appeal site does not exceed 0.5 hectares in area.

20. I therefore conclude that the proposed development is not required to make a contribution towards the provision of affordable housing. It would not conflict with the requirements of Policy H2 of the Local Plan or the Framework. Nor would it conflict with the relevant requirements of Policies 3.8, 3.11 and 3.12 of the London Plan and Policies H1 and S1 of the Local Plan which seek to ensure, amongst other matters, that provision of affordable housing is maximised, and new development helps create mixed and balanced communities. The reason for refusal also refers to Local Pan Policies S6 and SP1. However, these policies contain no reference to affordable housing and, consequently, I do not consider that they are relevant to this issue.

Conclusion

21. I have found that the proposed development would cause harm to the character and appearance of the area and would not provide suitable living conditions for the future occupiers. In these respects, it does not comply with the relevant requirements of the development plan for the area. Although I have found that the appeal proposal would not prejudice the development of an identified strategic site and that it falls below the threshold where it would be required to provide a contribution towards affordable housing, this does not indicate that dwellings of a poor design, of which four out of six would not provide suitable living conditions for the future occupiers are acceptable. Whilst the proposed development would increase the supply of dwellings within the Borough, which is in line with the Council's strategic objectives and the guidance in the Framework, this would not outweigh the harm that I have found which, due to the permanent nature of the development, would be significant and lasting.

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. No material considerations have been identified that would warrant granting planning permission for a development which conflicts with the requirements of the development plan.

23. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR