
Appeal Decision

Site visit made on 18 December 2019

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Appeal Ref: APP/G5750/W/19/3236093

129 Greengate Street, Plaistow, London E13 0BG

- 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 Mohammed Rahman against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/1757/FUL, dated 22 June 2019, was refused by notice dated 16 August 2019.
 - The development proposed is Conversion of a single dwelling house into two self-contained flats (1x 2bed & 1x 3 bed) with garden, cycle shed and bin storages.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. There are considerable differences between the roof and rear extensions shown on the application plans and the as built structures I saw on the site visit. For the avoidance of doubt, my decision is based on the scheme shown in the application plans as determined by the Council.

Main Issues

3. The main issues are:
 - the effect of the proposal on the stock of family housing in the area;
 - whether the proposal would provide satisfactory living conditions for future occupiers with regard to privacy, outlook, noise and disturbance and the size of the accommodation;
 - the effects of the proposed external staircase on the living conditions of neighbouring occupiers with regard to noise and disturbance, privacy and outlook;
 - the effect of the proposed rear external staircase on the character and appearance of the existing building and the surrounding area.

Reasons

Stock of housing

4. As shown on the application plans, the appeal property is a three storey, six bedroom dwelling. It has a front entrance onto Greengate Street via a small
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courtyard and a private external amenity area to the rear. Policy H4 of the Newham Local Plan 2018 (NP) seeks to specifically protect 4+ bedroom family housing (part 1b). The policy is intended to respond to the need to retain family housing so that the NP's housing strategy meets the identified needs of the Borough and to stabilise neighbourhoods which have previously experienced a high level of conversions of family housing.

5. Nevertheless, part 2a of the policy allows for the conversion or subdivision of 3+ bedroom housing subject to criteria, including that the property is located above an existing commercial unit, does not have access to external private amenity and has a poorly defined entrance. None of those criteria apply to the appeal property.
6. Part 2b of the policy sets out additional requirements for the conversion of family houses of 4+ bedrooms. They are required to result in the new units having 4+ bedrooms with at least 45sqm of private amenity space. Neither of the proposed units would have 4 bedrooms. The application plans do not show any sub-division of the external area and, as such, it is presumed to be shared by occupiers of both proposed units. Therefore, the proposal would not meet the requirements of part 2b of the policy.
7. The proposal would result in the loss of a family housing unit. The two bedroom ground floor replacement unit would not be large enough to offer comparable family accommodation. The three bedroom first/second floor unit would be of a reasonable size, but would provide a constrained access to the external amenity area. In any event, that area would be shared with the ground floor unit. Consequently, I consider that the proposal would have a harmful effect on the stock of family housing and, therefore, would conflict with NP Policy H4. It would also conflict with London Plan 2016 (LP) Policy 3.8, draft London Plan 2018 (dLP)¹ Policy H12 and NP Policies H1, S1 and S6 to the extent that they seek to achieve a choice of different sizes and types of dwellings which respond to local need, including the protection of family housing. Nor would it accord with the National Planning Policy Framework (the Framework) paragraph 61 which has similar aims.
8. The appellant contends in its Design and Access Statement (DAS) that exceptional circumstances apply to the appeal property. In essence, it is argued that the property is too big and there is little demand for dwellings of its size. However, the property has relatively recently been extended (application reference 18/02294/HH), albeit that the scheme as built appears to be different from the plan submitted with that application as well as with the application plans which are the subject of this appeal. Amongst other things, the DAS states that the property has 'around 7-8 bedrooms' (paragraph 2.8) whereas the application scheme shows 6 bedrooms.
9. In any event, the appellant has chosen to make the property larger in apparent contradiction to its understanding of the local housing market. Moreover, the appellant's understanding of the local housing market is at odds with the position set out in the adopted NP. Notwithstanding the brief and uncorroborated quotes from Newham and Tower Hamlets Council officers (nor

¹ The examining Panel's report into the dLP has been published. It is therefore at an advanced stage in the preparation process. I have not been made aware of any unresolved objections to the policies cited in the reasons for refusal. Nor is there anything to suggest that they are inconsistent with the National Planning Policy Framework (the Framework). Therefore, in accordance with Framework paragraph 48, they can be given considerable weight in the determination of this appeal.

is their position in the Councils given) and a valuer from Homewise, there is no substantive evidence to demonstrate that the local market, including the need to retain family housing, has materially changed since the NP was adopted. Furthermore, the appellant's housing market evidence is based on renting the property. There is no firm evidence that the property has been offered for sale. The appellant also refers to the difficulties in letting the property as a house in multiple occupation. However, the property is not currently in that use and there is nothing to suggest that planning permission has been sought for that use.

10. Overall therefore, I consider that the appellant's evidence does not provide a robust justification for concluding on this issue otherwise than in accordance with the development plan.
11. The first reason for refusal refers to LP Policies 3.3 and 3.14 and dLP Policies GG4 and H10. These policies seek to boost the supply of housing and protect the existing stock (unless it is replaced at higher density). To the extent the proposal would increase the number of housing units, it would derive some support from these policies. I deal with the contribution of the proposal to the number of housing units in the Planning Balance below.
12. The first reason for refusal also cites LP Policy 3.5 and NP Policies SP1 and SP3. However, these policies are primarily concerned with the standard of housing and quality place-making and urban design. They are, therefore, of little assistance in my consideration of this issue.

Living conditions of future occupiers

13. The proposed external staircase gives access to a proposed door in the first floor rear wall of the property and runs parallel and close to the rear extension and side boundary fence with No 131. Occupiers of the first floor unit using the staircase would, therefore, have close range views into the window serving the reception room of the ground floor unit. At ground level occupiers of the first floor unit using the shared external area would have direct views into the side door and rear window of the kitchen of the ground floor unit. The proposal would not, therefore, provide a satisfactory level of privacy for the occupiers of the ground floor unit.
14. The external staircase would be positioned directly above the only window serving bedroom 2 of the ground floor unit. Even without the staircase, the outlook from this window is constrained by the flank wall of the rear extension on one side and the side boundary fence on the other side. The introduction of the staircase above the window would have a severely overbearing effect on the outlook from the window.
15. Given the proximity of the staircase and shared external area to the windows and door of the ground floor flat, occupiers of that unit would also be likely to experience undue noise and disturbance from the comings and goings of the occupiers of the first floor unit.
16. The London Housing Supplementary Planning Guidance 2017 (SPG) adopts the Nationally Described Space Standards for new dwellings. Similar standards are also set out in Policy D4 of the dLP. The application plans do not provide sizes for any of the proposed accommodation. However, the Council has measured the room sizes and its findings have not been disputed by the appellant. The

Council finds that bedroom 2 of the ground floor unit would be slightly smaller than the required standard for a single bedroom and that the unit would not provide any built-in storage, whereas the SPG requires the provision of 2sqm of storage. The overall size of the unit would also be marginally smaller than the requirement for a three person dwelling.

17. Of themselves, the shortfalls would be relatively modest. However, taken with the concerns set out above regarding privacy and outlook. I consider that the proposal would not provide satisfactory living conditions for future occupiers with regard to privacy, outlook, noise and disturbance and the size of the accommodation. Consequently, it would conflict with Policies 3.5, 7.1, 7.6 and 7.15 of the LP, Policies SP2, SP8 and H1 of the NP and Policies D1, D4 and D13 of the dLP. Together, these policies require proposals to achieve a high standard of design which respects the living conditions of surrounding occupiers in terms of matters including privacy, outlook and noise. Nor would it accord with Framework paragraph 127 or the SPG insofar as it has similar aims.
18. The fourth reason for refusal also refers to dLP Policy GG4. However, this policy is primarily concerned with the delivery of new housing. Similarly, NP Policies SP1 and S6 deal with strategic and spatial considerations and Policy SP3 with the public realm. These policies add little to my consideration of this issue.

Living conditions of neighbouring occupiers

19. I have already referred to the proximity of the proposed external staircase to the common boundary with No 131. The rear wall of the neighbouring property has a window close to the boundary and users of the staircase would have close range views into that window as well as into the rear garden. Furthermore, given the height of the staircase above the boundary fence, comings and goings would also lead to noise and disturbance and have an overbearing effect on neighbouring occupiers. Consequently, I find that the proposed external staircase would have a harmful effect on the living conditions of neighbouring occupiers with regard to noise and disturbance, privacy and outlook. As such, it would conflict with Policies 7.1, 7.6 and 7.15 of LP, Policies SP2, SP8 and H1 of the NP and Policies D1, D4 and D13 of the dLP. Together, these policies require proposals to achieve a high standard of design which respects the living conditions of surrounding occupiers in terms of matters including privacy, outlook and noise. Nor would the proposal accord with Framework paragraph 127 insofar as its objectives are similar.
20. The third reason for refusal also refers to NP Policies SP1, SP3 and S6. As with my consideration of the previous issue, these policies provide limited assistance.

Character and appearance

21. Rear staircases are not characteristic of the area. However, the proposed external staircase would sit within the gap between the rear extensions of Nos 129 and 131. It would not, therefore, be visible in public views and, apart from the specific impacts identified above, would be fairly inconspicuous in most private views. Had I been minded to allow the appeal, a condition could have been used to ensure that the staircase's appearance and materials were appropriate to its surroundings.

22. With this in mind and having regard to its discreet siting, I consider that the staircase would not have a harmful effect on the character and appearance of the existing building or the surrounding area. As such, it would not conflict with LP Policies 7.4 or 7.6, dLP Policy D1 or NP Policies SP3 or SP8. Amongst other things, these policies require proposals to be of a high design quality which responds to local distinctiveness.
23. The second reason for refusal also refers to NP Policies SP1 and S6. As with my consideration of the previous issues, these policies provide limited assistance.

Other Matters

24. The appellant has suggested that the external staircase could be omitted from the scheme. However, that would leave the occupiers of the proposed first floor flat without access to the external space and would, therefore, raise a further conflict with NP Policy H4 as well as LP Policy 3.5. Moreover, it would not overcome my concerns regarding the effects of the proposal on the stock of family housing or the size of the accommodation in the ground floor flat. As such, the omission of the staircase would not make the proposal acceptable.
25. The appeal site is within the Zone of Influence of the Epping Forest Special Area of Conservation (SAC). The Council has carried out an Appropriate Assessment in accordance with the Conservation of Habitats and Species Regulations 2017 and found that, collectively with other projects, the proposal would be likely to have a significant effect on the sensitive interest features of the SAC. However, it has also determined that the proposal would put in place adequate measures to mitigate those effects. I see no reason to doubt the Council's Assessment or the mitigation measures proposed. Consequently, the likely effect of the proposal on the SAC does not weigh against it in this appeal.

Planning Balance and Conclusion

26. The Framework and the policies of the LP, dLP and NP seek to boost the supply of housing. The appeal proposal would make a very modest addition to that supply. However, it would do so at the expense of an existing family housing unit for which the NP identifies a strong need. The proposal would also provide inadequate living conditions for future and neighbouring occupiers. Even if the living conditions concerns were partially addressed by the omission of the staircase, overall, my concerns would still outweigh the limited benefits of the proposal. Consequently, I find that the proposal would conflict with the relevant policies of the development plan when read as a whole, as well as with the Framework. Therefore, it would not amount to sustainable development.
27. For these reasons, the appeal should be dismissed.

Simon Warder

INSPECTOR