



Appeal Decision

Site visit made on 20 November 2019

by Diane Cragg DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/G5750/W/19/3237821

53 Johnstone Road, East Ham, London E6 6JB

- 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 Rhodium Capital Investments Ltd against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/01440/FUL, dated 16 May 2019, was refused by notice dated 16 July 2019.
 - The development proposed is reconfigure the existing residential single dwelling house to create two self-contained family flats, construction of front and rear extensions to ground floor, loft conversion with rear dormer including front skylights and proposed front porch.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council have cited a number of policies from the emerging Draft London Plan within the reasons for refusal. At the time of my decision, this remains as an emerging plan and not formally part of the Development Plan; I have therefore afforded it limited weight.
3. There are inconsistencies in the description of the existing property within the evidence. There are references within the appellant's statement to the property's use as a House in Multiple Occupation (HMO), providing accommodation for the homeless and for the private sector as well as its use as a single dwelling. I have had regard to the details in the application form which confirms the current use of the property as a dwelling. In addition, the description on the application form as set out in the banner heading refers to 'existing single dwelling house'. In reaching my decision I have taken the appeal property to be a single dwelling house.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) the loss of a family sized dwelling on the wider need for family housing;
 - b) the character and appearance of the area;
 - c) the living conditions of the future occupiers of the proposed development with regard to the standard of accommodation; and

- d) the living conditions of the neighbouring properties with regard to noise and disturbance.

Reasons

Loss of a family sized dwelling

5. Policy H4 of the London Borough of Newham Local Plan 2018 (the Local Plan) establishes the need to protect family housing, specifically defined as those dwellings with three bedrooms and four or more bedrooms. The policy justification identifies that there has been a previous reduction in the availability of such housing in the Borough.
6. The appeal property is a two-storey terraced dwelling with side extension laid out as a seven bedroomed property and, therefore, is defined as family housing for the purposes of Policy H4. The proposed layout, once extended in the way shown on the appeal plans, would be sub-divided into a ground floor 5-bedroomed flat and a 3-bedroomed upper flat formed from the first floor and a loft conversion.
7. Policy H4 of the Local Plan establishes two exception scenarios which could justify the sub-division of a family house. It is agreed that the exception in Policy H4 2a is not pertinent to the appeal site.
8. Policy H4 2b states that the subdivision or conversion of large family dwelling houses (4 bedroomed plus) may be appropriate where all resulting new units are 4 bedroomed plus family dwelling units and are accompanied by at least 45 sqm of private amenity space with a minimum width of 4m. The text to the policy advises that underutilised or substandard accommodation in locations that have historical issues with housing quality, and where intensification is appropriate, may be a justification for supporting this exception.
9. The ground floor flat would provide the required number of bedrooms and amenity space to comply with the requirements of Policy H4 2b. However, the upper floor flat would provide three bedrooms and would not have access to private amenity space and therefore does not meet the criteria set out in policy H4 2b.
10. The appellant refers to the site being underutilised and in need of upgrading. However, this is not supported by any specific information about the dwelling's recent occupants or the quality of the accommodation. Therefore, there is no evidence before me that the proposed development is necessary to support underutilised or substandard accommodation.
11. Advice has been provided by a number of property professionals that the property would not be suitable for the rental market at its current size. The advice provided is that the need in the Borough is for 1 and 2 bedroomed properties; there is small demand for three bedroomed properties and no demand for four bedroomed properties. I note these views, and the anecdotal evidence that the appellant has been unable to rent the property despite providing accommodation for the lower paid and homeless, however, there is no evidence before me that the property has been marketed for rent as a family house, or for owner occupation, in its current layout.
12. Further, if the demand is for 1 and 2 bedroomed units it is unclear from the evidence before me why the conversion of the property into one 5 and one 3

bedroomed flat would provide for the perceived demand. Therefore, I do not find the exceptional case put forward by the appellant compelling or sufficient to justify the proposed development.

13. For these reasons, I conclude that the loss of the family sized house would harm the wider need for family housing contrary to Policies 3.3, 3.5, 3.8 and 3.14 of the London Plan (2016) (London Plan). Taken together these policies seek, among other things, a supply of housing to meet local need, development that refers to local character, density and land use mix, meets the needs of communities with larger families and maintains the existing housing stock. Within the Local Plan the relevant policies include Policy H1 which specifically deals with the need for family housing, Policy H4 which establishes the protection of family housing together with the exception principles, Policy S1 which establishes the Council's Spatial Strategy, Policy S6 which outlines the need to provide family housing, Policy SP1 which supports the enhancement of the positive elements and distinctive features of the borough and Policy SP3 in so far as it seeks mixed and balanced communities.
14. In addition, the development conflicts with Housing Supplementary Planning Guidance (August 2017) (the Housing SPG) which provides guidance on London Plan policy, including meeting local housing needs for family-sized housing and the standards of accommodation. Finally, the National Planning Policy Framework (the Framework) establishes the importance of ensuring there is adequate housing to meet local needs.

Character and appearance

15. The appeal site is an end of terraced property located on the corner of Johnstone Road and Manbrough Avenue. The property's existing two-storey side extension abuts the footpath with Manbrough Avenue. Johnstone Road consists of blocks of similarly designed terraced houses each with a bay window to the front elevation and some with porch additions of various designs. Lean-to pitched roof canopies over the bay window and entrance door are a feature of the design of the properties. There are similarly designed terraced properties along Manbrough Avenue adjacent to the site.
16. The proposed development includes a new entrance porch to accommodate the two door entrances required and a ground floor extension to the front of the garage to support the proposed internal layout. These extensions would project forward of the current front canopy so that the line of the eaves would be set forward of the existing eaves line.
17. The canopy design is a strong element of the street scene. It defines the extent of the forward projection of the ground floor of the properties and is a cohesive feature of the street. The front extensions would introduce a more prominent mass into the street scene which would disrupt the rhythm of the front elevations and detract from the appearance of the property and the area.
18. For these reasons, I find that the proposed front extensions would detract from the character and appearance of the area. In this respect the scheme would conflict with Policies 7.4 and 7.6 of the London Plan and Policies SP1, SP3, and S6 of the Local Plan which collectively high-quality design. The policies are consistent with the design objectives of the Framework with which the proposal also conflicts.

19. The strategic principles, spatial strategy and design and technical criteria of Policy H1 of the local plan has limited relevance to the detailed design considerations of the front extensions.
20. The Council do not raise any objections to the proposed rear and roof extensions in the context of the character and appearance of the area and I see no reason to disagree.

Living conditions of future occupiers

21. Policy 3.5 of the London Plan requires housing developments to be of the highest quality and applies the Nationally Described Space Standards (NDSS) to all new housing, including conversions. Further guidance on the policy is provided in the London Plan Housing SPG. Policy H1 of the Local Plan also supports the application of the NDSS.
22. The submitted drawings give floor areas for each of the proposed flats and these figures show that assessed against the NDSS the ground floor flat would have a deficiency in floor space of 9 sqm. Although the individual bedrooms, storage and amenity space standards are met the overall gross internal area (GIA) is not.
23. The entrance into the ground floor flat would be directly into the lounge/dining area. Access to all the rooms within the flat, including bathrooms and toilets, would also be from this living area. Based on the NDSS the flat could be occupied by up to seven people. The layout restricts the usable area of the lounge/dining area because of the need to retain walkways through to the other rooms and because of the number of doors that open onto the space. In addition, windows to two of the bedrooms would be vulnerable to lack of privacy because of their placement on the side elevation of the building immediately adjacent to Manbrough Avenue. The poor layout amplifies the harm caused by the inadequate floor space and I find that the proposed layout would compromise the living conditions of its future occupiers.
24. It is considered that the upper floor flat would meet the space standard requirements. However, the lack of private amenity space is contrary to the housing SPG which advises that upper flats should have level access to terraces or balconies or another amenity space. Whilst it is not unusual for upper flats in some locations to be without private amenity space normally this is where there is a short walk to other green space. I have not been advised of the location of local outdoor space, and in this typically dense, predominantly residential area, the lack of private amenity space, without clear evidence of access to local outdoor amenity facilities, would result in inadequate living conditions for its future occupiers.
25. Accordingly, I find that the inadequate layout of the ground floor flat, and the lack of private amenity space to the upper flat, would harm the living conditions of the future occupiers of the proposed development with regard to the standard of accommodation and would conflict with Policy 3.5 of the London Plan and Policies S1, S6, SP1, SP2, SP3, SP8 and H1 of the Local Plan all of which support the objective of providing high quality living accommodation.
26. The Housing SPG is also relevant in respect of providing guidance on London Plan policy, including meeting local housing needs and the standards of

accommodation, and finally, the Framework insofar as it seeks to ensure that housing and its detailed design meets the needs of occupiers.

Living conditions of neighbouring properties

27. The appeal site is a corner plot, wherein the opportunity exists to configure the layout of the proposed flats in a way that would minimise disturbance to the attached residential dwelling. The accommodation in the upper flat would be partially separated from the adjoining dwelling by the staircase. Although the kitchen and one of the bathrooms on this upper level are adjacent to the party wall, the kitchen area is small and would not provide the opportunity to be used as a social or living space. At ground floor the existing kitchen on the joint wall would be replaced by a bedroom and shower room. Overall, I consider that the internal arrangement of the ground and first floor accommodation would not give rise to unacceptable living conditions for the adjacent occupier.
28. The occupation of the property by an increased number of residents in two independent units, is likely to give rise to a wider variation in movement patterns. Furthermore, it is likely that there would be additional visitors, associated with the occupiers of two flats as opposed to one house.
29. In this case the corner location of the house provides separation from adjacent properties. There is space on the road away from neighbours for short term parking and for deliveries. The secondary access to the garden area from Manbrough Avenue could serve to reduce the numbers of occupants using the front entrance, particularly given the intention to locate cycle storage and parking within the rear garden. I consider that the corner location and the entrance arrangements would ensure that neighbouring properties would not be unduly affected by the proposed development.
30. Overall, I find that the neighbours would not be unduly disturbed by the comings and goings from the proposed development or the internal arrangement of the flats. Consequently, I consider that there would be no harm to the living conditions of the neighbouring properties with regard to noise and disturbance. In this respect the development would accord with Policies 7.1 and 7.15 of the London Plan and Policies SP1, SP2, SP8, S6 and H1 of the Local Plan. Amongst other things these policies seek to avoid noise impacts, promote good neighbourliness and development appropriate to its local context. These policies are consistent with the objectives of the Framework with which, in this respect, the proposal also accords.
31. The Council is satisfied that the proposed rear extensions would not detract from the living conditions of the adjacent property. From my observations on site I see no reason to disagree.

Other Matters

32. Policy SC4 of the Local Plan requires applications, where one or more dwellings are to be created, to be supported by a biodiversity statement. In this case no statement was submitted with the application. However, no site-specific concerns have been brought to my attention that would prevent a range of features to support biodiversity, proportionate to the nature and scale of the development, being sought through an appropriately worded planning condition. With a suitably worded condition the development would meet the requirements of Policy 7.19 of the London Plan and Policies SC1, SC2, SC3,

SC4 and SC5 of the Local Plan which collectively seek, among other things, net gains in biodiversity.

33. References in the appeal submissions are made to Flood Risk, lack of information in relation to the proposed garage and the effect of the development on the tree in the adjacent garden. Given that I am dismissing the appeal based on the main issues, I have not considered these matters further.
34. The appellant states that the Council has a five-year housing land supply with a 7% buffer for an historic under delivery of housing. The appellant questions whether the buffer is too conservative to deal with the historic under delivery of housing, but I have not been provided with any up-to-date figures in relation to housing delivery by either party. Even if I were to conclude that there was a shortfall in housing provision as the appellant suggests, the contribution of the proposed accommodation to the housing supply would be small and would carry limited weight. Further, given my findings above the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Conclusion

35. I have found no harm with respect to the living conditions of neighbouring properties. However, the harmful effects of losing a family sized dwelling, upon the character and appearance of the area and the living conditions of future occupiers of the proposed development are significant and overriding. I find that the proposal would conflict with the development plan, when read as a whole. There are no other material considerations that indicate that the appeal should be determined other than in accordance with the development plan.
36. Therefore, for the reasons given above, the appeal is dismissed.

Diane Cragg

INSPECTOR