
Appeal Decision

Site visit made on 21 January 2020

by Jillian Rann BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2020

Appeal Ref: APP/G5750/W/19/3239357

91 Forest Lane, Stratford, London E15 1RW

- 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 Dick Whittington (Dick Whittington Design & Build) against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/01940/FUL, dated 13 June 2019, was refused by notice dated 5 September 2019.
 - The development proposed is conversion of existing terrace house into 2no. 2-bed flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my visit, various works had been carried out. Notwithstanding any works which have taken place to date, I have considered the appeal on the basis of the proposal as shown on the submitted drawings: Proposed Space Plan drawing number A03-A06 revision 3; Proposed Elevations drawing number A43-A45 revision 3; and Proposed Roof Plan drawing number A47 revision 3.
3. The Council's fourth reason for refusal, relating to access arrangements, refers to Flat 2. However, the Council has subsequently confirmed that reason for refusal should refer to Flat 1, not Flat 2. It is evident from the Council's submissions that its concerns in that regard relate to Flat 1 (the ground floor flat). The appellant's statement draws attention to the apparent error, and addresses the access arrangements for both Flat 1 and Flat 2. The appellant also had further opportunity to provide final comments on the matter after receipt of clarification in the Council's statement. Therefore, and as interested parties had the opportunity to comment on access arrangements during the course of the application, I have considered the appeal on the basis that the fourth reason for refusal refers to Flat 1, and am satisfied that no party would be prejudiced by my having done so.

Main Issues

4. The main issues are:
 - whether the proposed development would provide satisfactory living conditions for future occupants of Flat 2 (the first floor flat) with regard to private amenity space;

- the effect of the proposed development on the supply of housing suitable for family occupation in the area;
- the effect of the proposed development on the living conditions of the occupants of nearby residential properties with regard to noise and disturbance; and
- whether the development would provide a clear, safe and accessible entrance for the future occupiers of Flat 1 (the ground floor flat).

Reasons

Living conditions of Flat 2: private amenity space

5. The appellant's submissions refer to private amenity space for Flat 2, and a flat-roofed area adjoining Flat 2 is labelled as 'Balcony' on the submitted Proposed Space Plan. However, both that drawing and the Proposed Elevations drawing indicate that a guard rail feature with solid panels would be fitted across the bottom half of the dining room door adjoining that area. Therefore, on the basis of the proposal as shown on the submitted drawings, there would be no apparent means of access onto the adjacent flat-roofed area from Flat 2, and the flat would thus have no access to any private outdoor amenity space.
6. The Mayor of London Housing Supplementary Planning Guidance (the Housing SPG) states that in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings, a proportion of dwellings may instead be provided with internal living space equivalent to the area of the private open space requirement.
7. The site is in an area identified in the Newham Local Plan 2018 (the Local Plan) as deficient in local parks, open spaces and access to nature, a matter which has not been disputed with reference to any substantive evidence. The property would be refurbished and Flat 2 would have marginally more floorspace than the required minimum. However, in the context of those identified open space deficiencies, and in the absence of substantive evidence to indicate that site constraints would prevent the provision of private open space to Flat 2, I consider that exceptional circumstances do not exist to justify the absence of such provision in this case.
8. Accordingly, I conclude that the proposed development would not provide satisfactory living conditions for future occupants of Flat 2 with regard to private amenity space. The proposal would therefore conflict with Policy 3.5 of The London Plan: The Spatial Development Strategy for London Consolidated with Alterations since 2011, March 2016 (the London Plan 2016) and Policies S1, SP2 and H1 of the Local Plan which, amongst other things, require housing to be of the highest quality and provide adequate external private open space. The proposal would also conflict with the aims of the Housing SPG, and with the Framework, which requires developments to create places with a high standard of amenity for future users.
9. In reaching my decision I have also had regard to emerging Draft London Plan Policy D10, the aims of which are similar to those of the development plan policies referred to, in identifying minimum requirements for private outside space as part of high quality housing design.

The supply of housing suitable for family occupation

10. Local Plan Policy S1 seeks to sustain mixed and balanced communities, and to provide and protect family housing. Local Plan Policy H4 also seeks to protect existing housing supply, specifically including 3 bed and 4+ bed family housing. The supporting text sets those strategic principles in the context of an historic loss in family housing as a result of dwelling conversions to flats or houses in multiple occupation, and sets out that Newham will fail to provide enough family housing if it does not both increase the rate of new provision (as set out in Local Plan Policy H1) and hold onto existing family stock. Further support in that regard is provided by policies 3.14 and 3.3 of the London Plan 2016 which, amongst other things, seek to ensure that identified housing need is met, and to resist the loss of existing housing.
11. Those policies are consistent with the Framework, which states that the housing needed for different groups, including families with children, should be assessed and reflected in planning policies.
12. There is some disagreement between the main parties regarding the internal layout of the property before the current works commenced, including as to whether it had 2 or 3 bedrooms, although the appellant nonetheless acknowledges that the development would result in the loss of a family home. In any event, it is evident from the submissions before me and my own observations that the pre-existing building was of a size and layout suitable for accommodation by a family, having multiple ground floor reception rooms and the capacity to provide 2 or 3 bedrooms on the first floor, and thus allowing some flexibility of use, including by larger families. The property also had a long rear garden, consistent with its suitability for use as a family dwelling. Drawing those threads together, I consider it appropriate to consider the appeal property as a family-sized dwelling which contributed to existing family housing stock.
13. The development would extend and refurbish the property, and the proposed 2-bedroom flats would each be slightly larger than the minimum internal space standards for such accommodation, and may be capable of accommodating smaller families. However, neither would contribute to meeting the specific need for family homes of 3 or more bedrooms identified in the Local Plan, as the existing single dwelling could. Flat 1 would have a small garden which would provide some limited space for outdoor seating and the drying of clothes, and which may suffice for the proposed 2-bedroom flat. However, that area would be of limited capacity and quality as an amenity space for a family, and certainly would not provide the same quality of outdoor amenity space as exists in the property's much larger rear garden at present. Furthermore, as set out above, Flat 2 would not have any accessible private outdoor space.
14. Consequently, whilst the proposal would create an additional dwelling, it would not maintain an equivalent quantity or quality of family accommodation sufficient to compensate for the loss of the existing family dwelling. Nor would the existing single dwelling meet the criteria in Local Plan Policy H4 2.a, which identify circumstances in which the conversion of 3+ bed family housing may be appropriate. Therefore, and in the context of the identified shortage of family housing in the borough, the modest contribution to overall housing supply and the refurbishment of the property would not outweigh the harm which would arise from the loss of the existing family home, or justify a

departure from development plan policy which seeks to protect the supply of such housing in this instance.

15. Therefore, I conclude that the proposed development would have an adverse effect on the supply of housing suitable for family occupation in the area. The proposal would therefore conflict with the development plan policies set out above, which seek to protect and maintain the supply of family housing, and with the Framework in that regard.
16. Policy H10 of the Draft London Plan refers to the loss of existing housing being acceptable only where it is replaced as existing or higher densities with at least the equivalent level of overall floorspace. However, I have found conflict with current development plan policies, including those specific to the particular housing circumstances of the borough in which the site is located, and which seek to protect family housing in that context, and any technical compliance with that emerging policy does not outweigh that conflict.

Living conditions of nearby residential properties: noise and disturbance

17. The development would increase the overall floor area of the appeal building. However, the change of use of an existing family dwelling into two smaller flats would not result in a significant increase in the amount of comings and goings to and from the premises, or in the use of its remaining garden area by one of those two flats, compared to the levels of such activity which could arise in association with its lawful use as a dwelling by a larger single family at present.
18. The entrance to Flat 1 would be on St James' Road. However, the submitted drawings indicate that the property's garden had an entrance gate from St James' Road previously, which could have been used by residents and visitors to access the dwelling's rear door. The development would therefore not introduce such activity into an area where none existed previously. Consequently, and given the degree of separation between neighbouring dwellings and the proposed flats' entrances and remaining rear garden, the development would not result in a significant increase in the level of noise or disturbance experienced by the occupants of those neighbouring properties.
19. Therefore, I conclude that the proposed development would not have an adverse effect on the living conditions of the occupants of nearby residential properties with regard to noise or disturbance. The proposal would therefore not conflict with Policies 7.1 or 7.15 of the London Plan 2016, or Policies SP1, SP2, SP3, SP8 or H1 of the Local Plan which, amongst other things, refer to quality neighbourhoods, and require development to achieve good neighbourliness and avoid unacceptable exposure to environmental impacts such as noise. Nor would it conflict with the aims of the Housing SPG in that regard, or with the Framework, which requires developments to create places with a high standard of amenity for future users.
20. In reaching my decision I have also had regard to emerging Draft London Plan Policies D1, D4 and D13, the aims of which are similar to those of the development plan policies referred to above, in requiring development to deliver appropriate amenity and avoid significant adverse noise impacts.

Flat 1 entrance

21. Although the entrance to Flat 1 would be on St James' Road, to the side of the building, the property's main front door on Forest Lane would remain to serve

- Flat 2. An appropriate access would thus be provided for Flat 2, and a sense of entrance to, and arrival at the building from that main street frontage would be maintained, despite it having a further side entrance door on St James' Road. I see no reason why the entrance to Flat 1 could not be clearly marked with suitable numbering to indicate the property which it served, despite not being on Forest Lane, or to conclude that it would result in a degree of confusion or inconvenience sufficient to justify withholding permission on that basis.
22. Flat 1 would have no ground floor windows facing St James' Road. However, Flat 2 would have a first floor kitchen window facing St James' Road, and the terrace of houses opposite fronts onto St James' Road, with their front doors and main windows facing that street frontage, towards Flat 1's entrance door. There is therefore a sense of activity and natural surveillance in that part of the street scene at present, despite the absence of ground floor windows in the side elevation of the appeal property. In that context, I consider that sufficient overlooking of the entrance to Flat 1 would be provided to create a sense of safety and security for people arriving at that property.
23. Flat 1 would have no side windows to allow its occupants to see anyone arriving at their entrance door. However, I consider that the matter could be satisfactorily addressed via other means, by incorporating a viewing hole in the door for example, and that such measures could be considered and secured via a condition.
24. The entrance door into Flat 1 would open directly into its kitchen, dining and living area, with no intervening porch or hallway. However, that internal area would be a relatively large, open plan space. On the basis of the details before me and my own observations, I consider that it would be possible to configure the layout of that space to achieve an accessible entrance to the property and allow people to open and close the door and move around within the adjacent area whilst putting on or taking off shoes, coats etc, without significantly obstructing or compromising the use of that wider area overall.
25. Drawing those threads together, I conclude that the development would provide a clear, safe and accessible entrance for the future occupiers of Flat 1. The proposal would therefore not conflict with Policies 7.1, 7.2 or 7.3 of the London Plan 2016 which, amongst other things, require development to contribute to people's sense of place, safety and security, reduce opportunities for criminal behaviour and create safe, secure and appropriately accessible environments. Nor would the proposal conflict with the aims of the Housing SPG in that regard, or with the Framework, which requires developments to create places that are safe, inclusive and accessible.
26. In reaching my decision I have also had regard to emerging Draft London Plan Policies D1, D3 and D10, the aims of which are similar to those of the development plan policies referred to above, in requiring places to achieve safe and secure environments, and that developments can be entered and used safely by all.

Other Matters

27. The site is within the Zone of Influence for the Epping Forest Special Area of Conservation (SAC). The Council considers that the development, when considered alone or in combination with other residential developments, is likely to have a significant effect on the sensitive interest features of the SAC

as a result of increased recreational pressure. However, as I have found the development unacceptable for other reasons, I have not needed to consider the matter further in this instance.

Planning Balance and Conclusion

28. The proposal would not provide satisfactory living conditions for the occupants of Flat 2 with regard to private outdoor space, and would result in the loss of a family dwelling which, for the reasons given, would not be outweighed by the provision of the two 2-bedroom flats proposed. The development would not result in a significant increase in the level of noise or disturbance experienced by neighbouring residents, and the entrance to Flat 1 would be suitable. However, the absence of harm in those regards is neutral, and does not outweigh the harm to the supply of family housing or to future occupants' living conditions that I have identified. I therefore find that the development would conflict with the development plan when taken as a whole, and that conflict would not be outweighed by other material considerations.
29. Therefore, for the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Jillian Rann
INSPECTOR