
Appeal Decision

Site visit made on 28 January 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th March 2020

Appeal Ref: APP/G5750/W/19/3241612

128 Barking Road, Canning Town, London E16 1EN

- 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 N Aziz, Nector UK Ltd, against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/02530/FUL, dated 9 September 2019, was refused by notice dated 11 November 2019.
 - The development proposed is construction of a first-floor rear extension, proposed new windows to front elevation and the conversion of upper floors into 3 No studio flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development on the application form is "conversion of upper floors into 3no studio flat units". The description on the Council's decision notice differs to that provided on the application form. I have been informed that the appellant agreed to the change of description provided in the header above, though I have omitted the phrase "application site affects the setting of a Grade II Listed Building" (LB) as this does not describe any part of the development proposed. The Council later inserted the phrase "first-floor roof terrace" into the description, without the agreement of the appellant. Although the proposal does include a roof terrace, I am satisfied that the description of proposed development agreed by the parties along with the information provided on the plans adequately describe and illustrate the proposal.
3. The Council refer to the proposal being contrary to various policies in the Draft London Plan-consolidated suggested changes version, published July 2019 (DLP). Although the policies referred to (which relate broadly to character and appearance, living conditions and sustainable transport) include some proposed changes, the broad aims and objectives of the policies are consistent with the National Planning Policy Framework (the Framework). Given the stage at which the emerging London Plan is at, in accordance with paragraph 48 of the Framework, I afford the policies referred to substantial weight.

Main Issues

4. The main issues are:

- the effect of the proposed development on the host property, street scene and character and appearance of the area, with particular regard to the window alignment on the front elevation;
- the effect of the proposed development on the living conditions of future occupiers, with particular regard to room sizes and layout, and
- whether the proposal promotes sustainable modes of transport, with particular regard to the siting of cycle storage.

Reasons

Character and appearance

5. In terms of local planning policy, the site is located within the Canning Town District Centre, on the southern side of a main road. The buildings within the vicinity of the site have commercial units on the ground floor and many appear to have residential accommodation above. A Grade II LB, a former public hall and library, is located on the opposite side of the road to the site, though not directly opposite. There are a range of services and facilities close to the site that would meet the day to day needs of residents; and public transport options, both buses and trains, are within walking distance.
6. The appeal building is a three-storey terrace building comprising a shop on the ground-floor, storage and office space on a lower-first-floor and residential accommodation over the first and second floors, which the Council believe is being used as a 5-bedroom House in Multiple Occupation (HMO). There is currently no cycle storage facilities associated with the accommodation.
7. The appellant suggests that the adjoining buildings are of different heights and that their windows are not all uniform. I accept that there is some variation in the heights of buildings along the road, and that the window openings in some buildings differ to those of their neighbours. However, in respect of the appeal building, the building adjoining its south-western elevation is of the same height and, except for some minor variations in shop-front design, the window openings on the frontage elevation are identical to those of the host property. Additionally, although the building adjoining the other side of the appeal property is of a different height, its window openings on the frontage elevation have a uniformity to them. They are all the same height and as such the tops and bottoms of the openings are all in line with each other.
8. The proposal includes inserting an additional window at what would be the first-floor level. In order to fit the window into the location proposed, the existing height of the fascia sign at ground-floor level would be reduced. The bottom of the window opening would sit directly above the fascia sign and it would be lower than the tops of the fascia signs on the shops of the adjoining properties either side of the site. Neither the top nor the bottom of the new window opening would be in line with any of the window lines of either of the immediate neighbouring buildings. Furthermore, the 2 existing window openings on the front elevation would also be altered, resulting in their top and bottom lines not matching those of the adjoining three-storey building, as they currently do.
9. Bearing the above factors in mind, I consider that the proposed new window would have the appearance of having been squeezed into the frontage elevation. Altering the existing windows would also disrupt the existing

symmetry of the front elevation of the host building and its 2 neighbouring three-storey terrace properties to the south-west. The siting of the proposed window would therefore disrupt and jar with the uniform lines of existing windows in the host property and those of the immediate neighbouring properties. For these reasons I conclude that the proposed development would harm the appearance of the host property, which would be harmful to the street scene and the character and appearance of the area.

10. As such, the proposal does not accord with policies S1, S4, SP1, SP3 and SP8 of the Newham Local Plan 2018: A 15 year plan looking ahead to 2033 (2018) (NLP), policies 7.1, 7.4 and 7.6 of The London Plan: The Spatial Development Strategy for London, Consolidated with Alterations since 2011 (2016) (LP), Policy D2 of the DLP or paragraph 127 of the Framework¹. Collectively, and among other things, these policies seek to revitalise Canning Town and require developments to be well designed, of the highest architectural quality, visually attractive and sympathetic to and/or reinforce or enhance local character.
11. Under s66(1) of The Planning (Listed Building and Conservation Areas) Act 1990 I have a duty to give considerable importance and weight to the desirability of preserving the setting of a LB. In addition, the Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation². LBs are designated heritage assets.
12. Given that the LB is on the opposite side of the road to the appeal site, and not directly opposite, I consider the harm to the front elevation of the host property would not disrupt the uniform window lines of buildings on the opposite side of the road and therefore would not interfere with how the LB would be perceived. As such, I consider that the proposal would not harm the setting of the Grade II LB.

Living conditions – future occupiers

13. The appellant suggests that the proposed residential units would provide adequate accommodation for students and first-time occupiers. However, the policies and standards against which the proposed accommodation is appraised apply to all dwellings regardless of the status of future occupants.
14. With reference to the space standards specified within the Nationally Described Space Standards (NDSS), which have been adopted within the LP, which forms part of the development plan for Newham, the intention is that the size of the bedroom determines how occupancy is defined. Hence, a bedroom that exceeds 11.5 sqm for a double or twin bedroom is counted as a 2-person bedroom.
15. With reference to the proposed internal space figures provided by the Council, which the appellant has not questioned, and I have no reason to do so either, the bedroom sizes in all 3 proposed units exceed 11.5 sqm (at 16.5, 18 and 18 sqm respectively). Therefore, I have assessed the proposed flats as being

¹ In respect of character and appearance, the Council also consider that the proposal does not accord with policies SP5 of the NLP, 7.5 of the LP and D1 of the DLP. Respectively, these policies broadly relate to protecting or enhancing heritage assets, development of the public realm and preparing character assessments to assist in planning for growth. I consider these policies are not relevant to my assessment of the matter of character and appearance.

² Paragraph 193 of the Framework.

- 1-bedroom, 2-person units. Given these bedroom sizes I conclude that each unit meets the required space standard in respect of bedroom size.
16. However, all 3 proposed units fall significantly below the standard of Gross Internal Area (GIA) for 1-bedroom, 2-person dwellings, which is 50 sqm (the 3 units having GIAs of 34, 38 and 40 sqm respectively). Furthermore, the proposed internal storage area for all 3 units also falls below the required standard of 1.5 sqm (at 0.4, 0.5 and 0.5 sqm)³. Consequently, I consider the extent of GIA and storage space that would be provided in each unit would not be adequate, and as such the living conditions of future occupiers would not be of a satisfactory standard with regard to internal space.
17. The Council has raised concerns about the layout of the proposed units, suggesting that the layout in each is restrictive and would not provide an adequate means of escape. I consider that an assessment of the adequacy of a means of escape is primarily a building regulations matter, and I am not qualified to make such an assessment. In planning terms alone, I consider the layout to be acceptable.
18. Notwithstanding my conclusion regarding layout, I have concluded that the proposed development would not provide a satisfactory amount of internal floor space in respect of GIA or storage space. Consequently, the proposal does not accord with policies S1, SP1, SP2, SP3 and H1 of the NLP, policies 3.5, 7.1 and 7.6 of the LP, policies GG4 and D4 of the DLP, guidance in the Housing Supplementary Planning Guidance (2016) (SPG), the space standards specified in the NDSS or paragraph 127 of the Framework⁴. Collectively, these policies and guidance seek, among other things, to ensure the development of high-quality places, improved housing quality and the creation of healthy communities. Residential developments are required to meet minimum space standards, internally and externally, and provide a high standard of amenity for future occupiers.

Sustainable transport

19. Given that the proposed cycle storage would be sited on a first-floor roof terrace, requiring users to carry bicycles up and down a flight of stairs, I acknowledge that the siting of the proposed cycle storage would not readily encourage future occupiers to use bicycles as a regular mode of transport. In this regard, the proposal would not accord with section (1)(a)(iv) of Policy INF2 of the NLP, Policy 6.9 of the LP or Policy T5 of the DLP, which collectively support developments that, among other things, provide safe, secure and high quality measures to encourage and facilitate cycling as an increasingly popular mode of transport, including, as appropriate, the provision of high quality, dedicated, accessible parking facilities and other infrastructure.
20. However, Paragraph 108 of the Framework states that when assessing specific applications for development, it should be ensured that appropriate

³ I note that the Council refer to the storage areas falling below 1 sqm. However, Table 1 in the NDSS and Table 3.3 in the LP show the required built-in storage area for 1-bedroom, 2-person units as 1.5 sqm, not 1 sqm. I have therefore assessed the proposed units against this figure.

⁴ In respect of internal space standards/living conditions, the Council also consider that the proposal does not accord with policies S4 and SP8 of the NLP, 7.4 of the LP and D1 and D2 of the DLP. Respectively, these policies broadly relate to the strategic and spatial development of Canning Town, impact of development on neighbours, local character and design. I consider these policies are not relevant to my assessment of the matter of internal space standards/living conditions.

opportunities to promote sustainable transport modes can be, or have been, taken up, given the type of development and its location.

21. Given that the current accommodation does not have any cycle parking facilities and that the site is located in a sustainable location, providing access to a range of services and facilities that would meet the day to day needs of future occupants, with access to a range of public transport options, the proposal ensures that appropriate opportunities to promote sustainable transport modes would have been taken up. For these reasons I consider that permission to convert and alter the existing 5 person HMO to 3 No 2-person flats should not be withheld on the basis of the siting of the proposed cycle storage.

Conclusion

22. Notwithstanding my conclusions regarding layout and the proposed siting of cycle storage, I have concluded that the proposal would harm the appearance of the host property and the character and appearance of the area, and that the proposed flats would not provide satisfactory living conditions for future occupants in respect of internal space. Therefore, the proposal would not accord with the development plan as a whole and for the reasons outlined, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR