The Planning Inspectorate

Appeal Decision

Site visit made on 2 July 2020

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2020

Appeal Ref: APP/U5360/W/20/3246795
508A Kingsland Road, Hackney, London E8 4AE

- 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 Pearlman & Samuels against the decision of the Council of the London Borough of Hackney.
- The application Ref 2019/4092, dated 15 November 2019, was refused by notice dated 21 January 2020.
- The development proposed is erection of a single-storey roof extension to provide self-contained dwellings (use class C3) comprising 3 x 1 bedroom flats.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Two revised plans[1] have been submitted at appeal stage, which supersede originally submitted plans[2]. The revised sections plan sets out slight amendments to ensure full consistency with other plans, whilst the updated third floor plan depicts indicative overlaid internal furniture arrangements and revised bedroom area notations that reflect internal heights. The revisions do not represent material changes to the scheme originally considered by the Council. I am content that no party with an interest in this appeal is prejudiced by me accepting the revised plans for consideration.

3. The Mayor of London released, in December 2019, a version of the emerging London Plan (the ELP) that he intends to publish. Nevertheless, it is the case that modifications could still be made before the ELP is published. The ELP is thus at a stage that attracts limited weight in decision-making, and I shall determine the appeal accordingly.

4. The Council's emerging Local Plan 2033 (LP33) has been examined and the examining Inspector's report was released on 10 June 2020. This report concludes that LP33 provides an appropriate basis for the planning of the Borough subject to a number of main modifications being made to it. It is my understanding that LP33 is scheduled for adoption by the Council on 22 July 2020. Whilst it does not yet form part of the development plan, LP33 is at a stage that attracts considerable weight. The main parties to this appeal have had the opportunity to provide observations as regards the relevance of LP33's progression and I have considered the responses received accordingly.

[1] 3848/PA10A (existing and proposed sections) and 3848/PA20B (consented and proposed third floor plan)
[2] 3848/PA10 and 3848/PA20A

Main Issues

5. The main issues are:

   - The effect upon the living conditions of future residential occupiers, having particular regard to the configuration of internal space; and
   - Whether or not the proposal suitably responds to local housing needs, having particular regard to the intended mix of dwellings.

Reasons

Living conditions

6. Planning permission has already been granted at the site, most recently under reference 2017/3404 (the permitted scheme), for a single-storey roof extension to provide 2 two-bedroom flats. The extension has not yet been constructed. By way of comparison, the proposal before me would provide 3 one-bedroom flats within a roof extension of the same physical extent.

7. The internal configuration that is intended would mean that the proposed centrally positioned unit (Unit 3) would be afforded merely a single aspect. Nevertheless, each of Unit 3's rooms situated to the eastern elevation of the proposed extension (consisting of a bedroom and an open plan living/dining area) would be served by significant extents of glazing including opening double-doors. These features would provide daylight, outlook and ventilation opportunities and represent an appropriate design solution that would promote suitable living arrangements being provided for the future occupiers of Unit 3.

8. Units 1 and 2 would each be served by a living room of sizeable depth and relatively narrow width. However, I do not consider that such arrangements would make for inefficient or awkward internal layouts. Indeed, the widths that are proposed are not unduly narrow and would not realistically be expected to prejudice functional living arrangements. I am also satisfied that appropriate levels of headroom would be achieved in each of the bedrooms serving these units. Indeed, only a part of each bedroom would be impacted upon by the intended slope of the extension's roof. It is also relevant that very similar arrangements have already been approved under the permitted scheme.

9. For the above reasons, the proposal would not cause harm to the living conditions of future residential occupiers, having particular regard to the configuration of internal space. The proposal accords with Policy DM2 of the Development Management Local Plan (July 2015) (the DMLP), Policy 3.5 of the London Plan (2016) and emerging Policy LP2 of LP33 in so far as these policies require that new homes should have adequately sized rooms and convenient and efficient room layouts which are functional and fit for purpose.

10. The proposal also accords with the guidance contained within the Housing Supplementary Planning Guidance (March 2016) (the SPG) in so far as it confirms that good single aspect one and two bedroom homes are possible. Whilst National Technical Housing Standards are referenced in the Council's reason for refusing planning permission, I have not been provided with clear or persuasive evidence to demonstrate that the proposal would be unacceptable when considered against such standards.

Mix of dwelling types

11. Policy DM22 of the DMLP sets out that all residential proposals should provide a mix of dwellings in accordance with the Council's preferred dwelling mix. The preferred mix for market dwellings includes a lower percentage of one-bedroom units when compared to two-bedroom units. The same policy confirms that variations to the preferred mix of dwelling sizes will be considered, dependent in-part on the particular location and characteristics of the site/area in question. As also set out in Policy DM22, one person flats may be permissible where a larger unit is not possible and where, if part of a multiple dwelling scheme, an appropriate dwelling mix is incorporated.

12. Emerging Policy LP14 of LP33 exhibits consistency with Policy DM22 in the sense that it too sets out that, with respect to market dwellings, a lower percentage of one-bedroom units should be provided in comparison to two-bedroom units. Furthermore, Policy LP14 details that variations to the dwelling size mix sought can be justified based on factors including the tenure and type of housing, design constraints, the site's location and the area's characteristics.

13. The proposed units would be situated at third floor level within a building that is accessed via a narrow passageway and situated behind a commercial frontage. The building does not contain lift access and is not served by on-site communal amenity/play space. Also, the extent of the proposed extension allows for the associated provision of balcony areas of only limited size. I thus acknowledge that the proposed units would not be expected to conveniently lend themselves to family occupation.

14. However, two-bedroom units, as granted permission under the permitted scheme, are not classified as family units under the terms of either the DMLP or LP33. It is also important to note that the Council's reason for refusing planning permission references the proposal's failure to reflect housing need in the Borough, rather than the site's specific suitability for providing family accommodation. The supporting text to Policy DM22 confirms that two-bedroom units offer greater flexibility of accommodation and that one of the most pressing identified shortages in the Borough is for two-bedroom (3 person) homes. It is the case that a two-bedroom unit could quite easily not be occupied by a family.

15. The SPG sets out that development proposals should demonstrate how the mix of dwelling types and sizes and the mix of tenures meet strategic and local need and are appropriate to the location. As set out in the SPG, certain locations and types of buildings may be particularly suitable for smaller households. Nevertheless, it is not the case that smaller households are necessarily confined to one-bedroom units.

16. A previous appeal decision[3] at the site has been provided in the evidence before me, where it was resolved that planning permission be granted to convert the appeal building, which previously contained a total of 6 three and four bedroom units, into 12 one-bedroom flats. The Inspector in that case found that the appeal premises were unsuitable for family accommodation and that there was no evidence to indicate that there was a greater need for three and four bedroom units when compared to one-bed dwellings.

[3] APP/U5360/A/12/2169013

17. It is important to note that the previous appeal decision was made in 2012 and therefore in advance of when the DMLP was adopted. Policy DM22, which is one of the most important policies for determining this appeal, refers to the Council's current preferred dwelling mix and sets out circumstances when one person flats may be permissible. The previous appeal Inspector was not guided by Policy DM22 and, in the context of this appeal, I attribute limited relevance to his findings.

18. Various delegated Council officer reports relating to nearby sites are before me, which relate to schemes involving the creation of one-bedroom flats. A 2016 scheme at 502 Kingsland Road[4] for 3 units involved a two-bedroom unit and thus a mix of dwelling types. Whilst that mix did not achieve full compliance with the Council's preferred mix, it still better related to the Borough's identified needs when compared to the appeal proposal under consideration here. A 2015 scheme at 508B Kingsland Road[5] for 2 one-bedroom flats involved the retention of an existing three-bedroom flat at the property, which evidently factored into the officer's considerations when recommending approval. These schemes (at 502 and 508B Kingsland Road) and are thus of limited relevance in the context of this appeal.

19. It is apparent that 3 one-bedroom units were permitted at 500 Kingsland Road[6] in 2016. However, as the approved plans have not been provided, the precise composition and size of each approved unit is unclear. I note that site constraints are referenced in the relevant officer report and an obvious opportunity to provide a mix of dwelling sizes may not have applied. With respect to the appeal proposal before me, an alternative scheme for 2 two-bedroom units has planning permission, which is a relevant material consideration. Indeed, a scheme comprised of larger units that would achieve an appropriate dwelling mix can evidently be provided at the appeal site.

20. The proposal's failure to accord with the Council's preferred dwelling mix has not, in my view, been robustly justified. The proposal would cause harm by not suitably responding to local housing needs having particular regard to the intended mix of dwellings. The proposal conflicts with Policy 19 of the Hackney Core Strategy (November 2010), Policies 3.3 and 3.8 of the London Plan (2016), Policies DM19 and DM22 of the DMLG and emerging Policy LP14 of LP33 in so far as these policies seek to ensure that new residential development incorporates a mix of dwelling types and sizes that reflect and respond to Hackney's current and future housing needs.

Other Matters

21. The site is located within the Kingsland Road Conservation Area (the CA). When considering the limited scale of proposed development, and whilst noting that planning permission for a single-storey roof extension is already in place, I am satisfied that the proposal would preserve the character and appearance of the CA. I note that neither has the Council raised concerns in this context.

22. The Council has highlighted emerging Policy LP13 of LP33 to be relevant, it relates to the delivery of affordable housing. The emerging policy indicates that small housing schemes can be eligible to provide a level of on-site

[4] 2016/3083
[5] 2015/0465
[6] 2016/0834

provision or an equivalent payment in lieu. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to further explore the relevance of any potential conflict with this emerging policy.

23. The proposal would deliver an additional housing unit and the National Planning Policy Framework (February 2019) reaffirms the Government's objective of significantly boosting the supply of homes. However, whilst the London Plan (2016) seeks to optimise housing potential and an uplift in strategic housing requirements can realistically be anticipated once the ELP is published, the benefit offered by only one additional flat (when compared to the permitted scheme) would be modest. The benefits of the proposal would not outweigh the policy conflict and harm that I have identified.

24. The proposed development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

25. Whilst I have found no harm in relation to the effect upon future living conditions, the proposal would result in harm by virtue of its failure to suitably respond to local housing needs. That harm is the overriding consideration in this case. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR