



Appeal Decision

Site visit made on 22 September 2020

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2020

Appeal Ref: APP/Y5420/W/20/3247219

19 Malvern Road, Tottenham, London N17 9HH

- 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 Zaheer Altaf against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2019/2987, dated 28 October 2019, was refused by notice dated 23 December 2019.
 - The development proposed is described as: construction of a detached building, 1x1 bed live-work unit at rear of 19 Malvern Road, A.K.A 19A Malvern Road with a separate land title.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the living conditions of occupiers of the existing neighbouring properties numbers 19 and 18 Malvern Road, with particular regard to whether the proposal would be overbearing and its effect on outlook;
 - whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to outlook and privacy, and
 - the effect of the proposed development on the character and appearance of the area, having particular regard to design, size and massing.

Reasons

Effect on the living conditions of occupiers of existing neighbouring properties

3. The site comprises a piece of vacant, overgrown land located immediately beyond the rear boundary of the rear garden of No 19 and adjacent to a side boundary of the rear garden of No 18.
4. The form of the proposed building would basically be an oblong-shaped block with a flat roof. Based on the evidence before me, the roof height would be around 3.9 m above ground level. The eastern facing end elevation would be very close to the rear garden of No 19 and close to the staggered rear

elevations of this property, which incorporate several windows. Due to the height and proximity of the proposed building I consider that it would have a detrimental effect on the outlook from rooms at the rear of No 19. I also consider it would also be overbearing on the property, particularly when experienced from the rear garden.

5. As noted, the proposed building would be sited adjacent to a side boundary of the rear garden of No 18. Given the proposed height, the property would extend around 2 m above the boundary treatment for a distance of around 8.2 m along the boundary. Although the wall of the proposal would be rendered a light, milk-white colour, this would not mitigate against the large expanse of building that would dominate the side boundary. I consider the proposal would therefore have an overbearing effect on No 18, particularly when viewed from its rear garden.
6. Bearing the above factors in mind, I conclude that the proposal would have a detrimental effect on the living conditions of the existing occupiers of neighbouring properties Nos 19 and 18, due to its effect on outlook and overbearing presence. Consequently, the proposal would not accord with policies DM1 of the Development Management DPD (2017), (DPD), and 7.6 of The London Plan (March 2016), (the LP). Collectively, and among other things, these policies seek to ensure developments achieve a high standard of amenity for occupiers of existing neighbouring properties.

Whether the proposal would provide satisfactory living conditions for future occupiers

7. The proposal would involve excavating the land in order to create what would be an open-plan lower ground floor level for living, eating and cooking. Around half the height of this level would be below ground level. The space would have glazed bi-fold doors opening onto an excavated outdoor amenity area, at the end that would face the rear elevation of No 19. The opposite end of the building would have 2 small high level, fixed, frosted glass windows in it. Therefore, the only outlook from this main habitable area would be through the glazed bi-fold doors. This outlook would be onto a retaining wall with boundary fence or wall above, the combined height of which would be around 3 m, at a distance less than 3 m from the opening. I therefore consider the outlook from the lower floor level would not be of a satisfactory standard.
8. The upper floor floor-level would be around 1.2 m above the surrounding ground level and incorporate a bedroom, office, shower room and storage area. The bedroom would have a glazed double door on the side elevation fronting Mitchley Road with a rail/frosted glass Juliette balcony, and a glazed double door with rail/glass Juliette balcony on its western facing end elevation. This end elevation would be adjacent to an alleyway that passes between the rear gardens of properties on Malvern and Dawlish Roads, which I observed was used for parking vehicles. Consequently, it appears that someone could park a vehicle, of any height, directly in front of the bedroom glazed doors on the end elevation, which would result in a poor outlook. However, as the bedroom would also have an outlook onto the adjacent street, I consider the outlook from the bedroom would be of a satisfactory standard.
9. The base of the glazed double doors on the northern facing side elevation and western facing end elevation would be positioned around head height. People walking along Mitchley Road and using the alleyway would pass directly by the

glazed doors. As such, where frosted glass would not be used, ie on the rear end elevation, people would be able to look directly into the bedroom. Even with frosted glass, as proposed on the side glass Juliette balconies, although passers-by would not be able to view into the bedroom or study due to the frosted glass, they would still be passing these rooms at a proximity which I consider would unsettle many potential future occupants. In these circumstances I consider the privacy levels, particularly in the bedroom, would not be of a satisfactory standard.

10. Therefore, for the above reasons I conclude that the proposal would not provide satisfactory living conditions for future occupants, with particular regard to outlook and privacy. As such the proposal does not accord with policies DM1 of the DPD and 7.4 and 7.6 of the LP. Collectively, and among other things, these policies seek to ensure developments achieve a high standard of amenity for future occupiers of new development.

The effect of the proposed development on the character and appearance of the area

11. I have been provided with conflicting evidence regarding the use of the site. The land registry title shows that a piece of land adjoining No 19 was registered as a freehold piece of land in 1947. Although a plan identifying the piece of land referred to in the land registry title has not been provided, I understand it to be the appeal site. As the site has been separated from the rear garden of No 19 for over 50 years, I have made my assessment on the basis that the land in question is not garden land.
12. No 19 is a two-story, end of terrace dwelling constructed of buff coloured brick under a dual-pitched slate roof. Although there are several three-storey blocks of flats in the area along with properties of varying architectural styles, the predominant character of the area is of two-storey terraced dwellings with dual-pitched roofs and modest sized gardens to the rear.
13. As noted, the form of the proposal would basically be an oblong shaped block with a flat roof, the height of which would be much lower than surrounding properties. The proposed building would be positioned adjacent to 3 of its 4 boundaries. The design, positioning and size of the fenestration openings that would be on the side elevation facing Mitchley Road, ie glazed double doors and glass Juliette balconies, would be alien within the street scene. Due to its siting the building would be in a very prominent, highly visible position. I note the appellant's view that the design of the proposed building is contemporary. However, the building's form, fenestration and detailing would not reflect the form, fenestration or detailing of the buildings that give the area its predominant character. As such, it would appear incongruous in its proposed location. Furthermore, the sizes of the plot and the outdoor amenity space would be significantly smaller than those of other properties in the area.
14. For the above reasons I conclude that the proposal would disrupt the street scene, which would have a significant detrimental effect on the character and appearance of the area. Consequently, the proposal does not accord with policies DM1 of the DPD, SP2 and SP11 of the HLP, and 7.4 and 7.6 of the LP. Collectively, and among other things, these policies seek to ensure developments achieve a high standard of design and respect and relate positively to the context and character of the area.

Other considerations and planning balance

15. The appellant's primary justification for the proposal is the existence of a similar type of building sited in a position that virtually mirrors the appeal site at the opposite end of the terrace, ie 1A Malvern Road. This building has evidently been granted planning permission. I appreciate the appellant's frustration when it appears to them that the Council has acted inconsistently.
16. However, firstly, I do not know the full details of the building referred to. I cannot be certain that the circumstances of the site were directly comparable to the appeal site. Nor do I know which policies the proposal was assessed against and whether such policies do or do not still exist. Notwithstanding this, I consider the development to be of poor design, incongruous in the street scene and out of keeping with the character and appearance of the area. As such, I consider that this development should not be used as justification for the current proposal.
17. I note that the proposal would provide a small live/work unit (residential accommodation with a home office) which would contribute to the housing stock of the area; there would also be some minor economic benefits stemming from the construction phase. However, these considerations do not outweigh the significant harm I have identified in respect of living conditions of existing and future occupiers and the character and appearance of the area.

Conclusion

18. For the reasons outlined above, I conclude that the appeal is dismissed.

J Williamson

INSPECTOR