



Appeal Decision

Site visit made on 7 October 2020

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 06 November 2020

Appeal Ref: APP/G5750/W/20/3248069

66 Field Road, London E7 9DL

- 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 Ms Jelena Oblikova against the decision of the London Borough of Newham.
 - The application Ref 19/02465/FUL, dated 4 September 2019, was refused by notice dated 30 October 2019.
 - The development proposed is a part 1 and part 2 storey rear extension at 1st and 2nd floor levels and a single storey roof addition at 2nd floor level to enable the alteration of an existing residential dwelling into 2 self contained residential dwellings
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development upon:
 - the living conditions of the future occupants in terms of internal living space; and
 - the living conditions of surrounding residents with regard to noise, disturbance, outlook, enclosure and privacy.

Preliminary Matters

3. As part of the appeal documents the applicant has submitted amended plans¹ and has sought that I consider these as part of the appeal. The main differences from the refused application to the amended plans are the removal of a sunken terrace; extending the second floor rear projection, changes to the proposed balcony/terrace; and deletion of landscaped strip at second floor level. Whilst I acknowledge comments that the amended plans were submitted to the Council just before determination, there is no evidence that the amended plans have been subject to any form of public consultation. In accordance with the 'Wheatcroft Principles,' it would not be appropriate to consider these amended plans within my decision as the acceptance of such would deprive those who should have been consulted on the changed

¹ 'Proposed Ground Floor Plan' Drawing No2040.P-10 Revision A; 'Proposed First Floor Plan' Drawing No2040.P-11 Revision A; 'Proposed Second Floor Plan' Drawing No.2040.P-12 Revision A; 'Proposed Roof Plan' Drawing No2040.P-13 Revision A; 'Proposed Elevation AA – Field Road (Front)' Drawing No2040.P-14 Revision A; 'Proposed Elevation BB – Rear Drawing No.2040P-15 Revision A; 'Proposed Section/Elevation CC – Rear' Drawing No.2040.P-16 Revision A; 'Proposed Elevation DD Side (South) Drawing No.2040.P-17 Revision A; Proposed Elevation EE – Side (North)' Drawing No.2040.P18 Revision A; 'Proposed Elevation/Section FF – Side Drawing No.2040.P-19 Revision A. All plans dated 10.07.19.

development or the opportunity of such consultation. As such, I will base my decision solely upon the plans that were assessed by the Council during the original planning determination.

Reasons

Living conditions of future occupants

4. There is disagreement between the parties over the Nationally Described Space Standards (NDSS) and the interpretation of what should be included in the Gross Internal Area (GIA). For the proposed Flat B which is a 1 bedroom 2 person apartment, the minimum standard is set at 50Sqm, with the calculations provided by the applicant being a total of 51.4Sqm. The Council disagree with this calculation and have omitted the entrance stairwell from the first to second floor which is within the confines of the apartment.
5. The NDSS at paragraph 8 states that the GIA includes '*partitions, structural elements, cupboards, ducts, flights of stairs and voids above stairs.*' I appreciate that the standards do not appear to be specific to this particular scenario with an entrance stairwell, however, to me, it would appear logical to suggest that the stairs do form part of the apartment as they are completely enclosed within the apartment. On this basis, I agree with the applicant that the apartment would meet the NDSS in relation to GIA.
6. The Housing Supplementary Planning Document² supports the London Plan 2016 and suggests that with regards to private amenity space, for a 1-2 person dwelling, a minimum area of 5Sqm should be provided with a minimum depth and width of 1.5m. The proposed Flat B has a private amenity space of approximately 1.5m x 3.1m measured internally gives an overall useable space of 4.65Sqm. The private amenity space would be undersized when considering the overall floorspace. Whilst I note comments from the applicant with regards to the availability of public open space nearby, this provision would not compensate for the lack of provision of acceptable private amenity space.
7. Considering the proposed scheme as a whole, Flat B would fail to accommodate sufficient provision for private amenity space. In turn, the proposed apartment would not provide sufficient living conditions for future occupants and would therefore be contrary to Policies S1 and SP2 of the Newham Local Plan (LP) (which seeks to encourage health and mixed communities); and Policy SP8 (xiv) of the LP which seeks developments to provide appropriate amenity space; and Policy H1 of the Local Plan which seeks that development meet minimum space standards as per the London Plan (Policies 3.5 and 7.1) and the Housing SPD. The scheme would therefore be contrary to the London Plan 2016 which supported by the Housing Supplementary Planning Document³ (SPD) which seeks to achieve lifetime neighbourhoods and meet space standards as per Policies 3.5 and 7.1 of the London Plan.
8. The Council have indicated that the scheme would fail emerging draft London Plan policies, however the document has yet to be adopted and is subject to further modification as per the Secretary of State's recommendation. I afford

² Published by the Greater London Authority

³ Published by the Greater London Authority, Published March 2016, updated August 2017

policies GG4, D1 and D4 moderate weight⁴ within this decision with regards to their intent that dwellings be designed so they adhere to high quality design and meet design standards with regards to amenity provision. The Council has not demonstrated in the decision notice which components of the National Planning Policy Framework (the Framework) that they believe the proposal would be contrary to. Given the non-compliance with the development plan, it is not necessary to consider the Framework in further detail in relation to this matter.

9. Policies S6, SP1, SP3 of the LP are referenced in the Reason for Refusal relating to the living conditions of the proposed scheme, however these policies relate to strategic principles regarding overarching design of the borough, and are not relevant to the consideration of living conditions as per this particular proposal.

Living conditions of the existing neighbouring occupiers.

10. The proposed scheme would provide two balconies/terraces; a sunken terrace at first floor level which infills the side of the rear wing as part of existing Flat A, and another to the rear of the second floor of proposed Flat B. Both terraces would have screens constructed up to 1.5m around the perimeter of the terraces.
11. No.64 is part of the terrace of buildings with the appeal site and adjoins the southern boundary. At first floor level an apartment is also located and contains a habitable window to the rear wing. The proposed sunken terrace would gain direct views at close proximity to the rear window of No.64 and it is not disputed by either party that the terrace would breach the 45 degree angle, and already currently does so with the length of the existing rear wing. I disagree with comments that a terrace in this location would be imperceptible as there is a clear difference in the perception of overlooking, noise and disturbance and loss of privacy from persons sitting or standing on the balcony/terrace for long periods. Given the close-knit suburban environment and the lack of this type of balcony/terraced development to these terraces, the introduction of a balcony/terrace of this nature would have a significant impact to the living conditions of No.64.
12. To the opposite side boundary is No.68 which also contains an apartment at first floor level. The rear wing to this neighbouring property and the appeal site are symmetrical in that they each share the half of the gable ended rear wing. No.68 contains a kitchen to the rear, where a terrace of the appeal site would project from the rear façade, but at a taller level to the windows of No.68. The proposed terrace would introduce a type of development which would be uncommon for this particular group of terraced buildings, and whilst I agree that there would be some elements of increased noise, disturbance and perception of loss of privacy and light, this would not be of a substantial level if assessed in isolation.
13. Taking the above into account and in conclusion on this matter, the scheme would cause significant harm to the living conditions of surrounding occupiers, particularly towards N.64 Field Road as a result of overlooking and loss of privacy. Consequently, the scheme would be contrary to Policy SP8 of the Local

⁴ Paragraph 48 of the Framework states that Local planning authorities may give weight to relevant policies in emerging plans according to: a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

Plan (which amongst others, seeks that development protects the amenities of those within the area); and Policy 7.6 of the London Plan which seeks to support good quality architecture which does not harm living conditions.

14. Policies H1, SP1, SP2 and SP3 of the Local Plan are referenced in the Reason for Refusal however do not relate to living conditions as a result of loss of privacy, outlook and sense of enclosure. As such, these policies are not relevant to the consideration of this particular matter. Policies GG1, and D1 of the Draft London Plan are also referred to and deal with public realm improvements, implementing design policies into local plans and building inclusive communities, they too are not relevant to the consideration of this particular matter concerning living conditions. Policies of the London Plan 2016 referenced in the Reason for Refusal including 3.5 (Quality and Design of Housing Developments), Policy 7.1 (Lifetime Neighbourhoods) are not relevant to the determination of this matter.

Conclusion

15. For the reasons given above, I conclude that the appeal be dismissed.

J Somers

INSPECTOR