
Appeal Decision

Site visit made on 24 November 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2020

Appeal Ref: APP/G5750/W/20/3247218

90 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 D Whittington, Dick Whittington Design and Build Ltd against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/01941/FUL, dated 13 June 2019, was refused by notice dated 26 November 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.

Procedural Matters

2. The description of development in the banner heading is taken from the application form. At Part E of the appeal form, it is stated that the description of development has not changed. Nevertheless, a different wording has been entered which describes the development as 'proposed conversion of existing terrace house, construction of a mansard loft extension and single storey rear extension to form 2no. 2-bed flats'. This reflects the description stated on the Council's decision notice, but neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. At my visit, I observed that development had commenced on the site including alteration to the roof. Nevertheless, I have dealt with the appeal on the basis of the submitted plans.
4. Since the Council determined the application, the Mayor of London submitted the 'Intend to Publish' version of the emerging London Plan to the Secretary of State for consideration. This alters the numbering of some of the policies of the draft London Plan which were referred to on the Council's decision notice, although changes to the content of the affected policies are limited. While I have had regard to these policies, there is no certainty that they will be adopted in their current form which limits the weight that I attribute to them.
5. The Council has drawn my attention to a dismissed appeal for conversion of the adjacent dwelling, 91 Forest Lane, to 2 flats. I have noted the Inspector's findings in that decision, but have reached my own conclusions on the appeal before me on the basis of the evidence and particular circumstances of the case.

Main Issues

6. The main issues are:

- i) whether or not living conditions for occupiers of Flat 2 would be acceptable with particular regard to the provision of amenity space;
- ii) whether or not there would be suitable access to Flat 1;
- iii) the effect of the proposal on the provision of family housing; and
- iv) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to noise and disturbance.

Reasons

Living Conditions for Occupiers of Flat 2

7. Policy H1 of the Newham Local Plan 2018 (NLP) requires adequate external private space for dwellings in accordance with standards within the Mayor of London's Housing Supplementary Planning Guidance 2016 (Housing SPG) which seeks a minimum of 5sqm private outdoor space per 1-2 person dwelling.
8. Flat 1, proposed within the ground and basement levels of the appeal building, would have access to a rear patio garden. However, no access to private external space is shown for Flat 2 on the upper floors of the building. The absence of required private outdoor space as sought by the NLP and SPG would be detrimental to the quality of life of occupiers of Flat 2, with the impact heightened by the location of the site within an area identified within the NLP as deficient in local parks, open spaces and access to nature.
9. I note the SPG guidance that in exceptional circumstances, where site constraints make it impossible to provide private open space for all dwellings proposed, a proportion may instead be provided with additional internal living space of equivalent area. The internal area of Flat 2 would exceed relevant standards, but there is no firm evidence to demonstrate that such exceptional circumstances apply here. Nor do I find that the information before me provides a compelling case that the internal space within the dwelling would be of such a level or quality to offset the lack of outdoor space.
10. I therefore conclude on this main issue that the failure to provide private external amenity space would unacceptably harm living conditions for occupiers of Flat 2. As a consequence, there would be conflict with Policies S1, SP2, H1 and H4 of the NLP as well as Policy 3.5 of the London Plan - The Spatial Development Strategy for London Consolidated with Alterations Since 2011 (LP) which, amongst other things, broadly seek housing of the highest quality including through provision of adequate external space. There would also be conflict with Policy D6 of the emerging London Plan which requires housing of high quality design including through provision of private outside space.

Entrance to Flat 1

11. Access to Flat 1 would be across the rear of 91 Forest Lane from St James' Road. Although this may be an existing point of access, it is additional to the main entrance to No 90 from Forest Lane. The existing situation is not therefore comparable to the proposed use of this route as the sole access to Flat 1.
12. While fairly short, the access route from St James' Road would be narrow and would terminate at the patio garden with no clear line of sight to the dwelling.

The lack of a clear street presence for the Flat on St James' Road would be incongruous, and I find that it would be likely to result in a blurring of the boundaries between public and private space. Moreover, there would be very limited potential for surveillance of the access by the appeal or neighbouring properties. In combination, I find that these factors would give rise to safety and security concerns, both actual and perceived, for residents and visitors to the flat. In my view, the access arrangements would therefore be intimidating and uninviting, particularly at night.

13. The unsatisfactory nature of the access would be further exacerbated by the entrance to the flat itself which would be via the glazed patio doors at the rear of the building. This would open directly onto the flat's open plan living/dining room and kitchen, and in my view would result in an unwelcome and potentially disruptive intrusion to use of its main living accommodation.
14. For these reasons, I conclude on this main issue that the development would fail to provide a suitable access to Flat 1 and it would conflict with Policies 7.1, 7.2 and 7.3 of the LP. These policies include requirements that development is inclusive, provides legible routes and spaces and contributes to people's sense of place, safety and security. It would also be contrary to similar requirements within Policies D5 and D11 of the emerging London Plan, as well as guidance within the Housing SPG that entrances to development should be clearly identifiable and directly accessible from the public realm.

Provision of Family Housing

15. Policy H1 of the NLP seeks a mix and balance of housing types, including a significant increase in family housing in the borough. Policy H4 further states that all housing will be protected unless replaced with at least equivalent floorspace. It also specifically protects 3 bed and 4+ bed family housing.
16. The appeal would replace the existing dwelling with 2 flats. The 'existing layout' plan indicates that the property had 2 bedrooms. Even so, these were of generous size and the dwelling also included large reception rooms at ground floor level. Together with the layout and overall size of the property as well as the provision of a fairly long rear garden, it seems to me that it would be suitable for occupation by families irrespective of the number of bedrooms labelled on the drawings. I further note that the appellant's evidence acknowledges that the proposal would result in the loss of a family home.
17. There is little before me to indicate that the appeal building is of poor quality or unsuitable for occupation as a dwelling by families. The proposal would deliver 2 two-bedroom flats and would add to the total supply of housing locally. However, I have already found that the lack of access to external garden space would be harmful to the living conditions of future occupiers of Flat 2, and that access to Flat 1 would be poor. In my view, these dwellings would not therefore be well-suited to occupation by families with children, and do not represent a good quality design. As a result, I do not find that the flats offer suitable mitigation for the loss of family housing on the site which the NLP identifies as in highest demand, or that the modest contribution to the overall supply of housing would outweigh this loss.
18. For these reasons, I conclude on this main issue that the proposal would harmfully reduce the provision of family housing within the borough. It would therefore conflict with Policies S1, H1 and H4 of the NLP and Policies 3.3 and

3.14 of the LP which together broadly resist the loss of existing housing, and seek a mix of homes to meet requirements for homes of different sizes and types, including family housing.

Living Conditions for Neighbouring Occupiers

19. Occupation of the appeal property as 2 independent dwellings may result in some uplift in comings and goings to the site. However, any increase would be fairly modest given the size of the flats and the number of people who could occupy the building as a single dwelling. Moreover, access to the front of the building and use of the outdoor space to the rear of the dwelling would each be by only one of the flats, and so would result in little difference in activity from a single dwelling on the site. The access to Flat 2 would pass between the rear of 91 Forest Lane and the neighbouring property on St James' Road. However, it seems to me that usage to serve a single flat would be fairly infrequent, and given that access would be pedestrian only I see no reason that this would result in levels of noise or disturbance that would impact to any meaningful degree on quality of life for the occupiers of neighbouring properties.
20. I therefore conclude on this main issue that the proposal would not harm the living conditions of neighbouring occupiers with regard to noise or disturbance. Accordingly, I find no conflict with Policies 7.1 or 7.15 of the LP or Policies SP1, SP2, SP3 or SP8 of the NLP which broadly seek good quality environments and development that avoids negative impacts on neighbours. Nor do I find conflict with similar objectives within Policies D6 and Policy D14 of the emerging London Plan, or with the Housing SPG or the National Planning Policy Framework which generally seek to manage noise from development.

Other Matters

21. The site is within 6.2km of the Epping Forest Special Area of Conservation (SAC) where the Council considers that the development, either alone or in combination with other residential developments, is likely to have a significant effect on the SAC through recreational pressure. Had I found the proposal to be otherwise acceptable, I would need to consider further its effect on the integrity of the SAC and the potential for mitigation within the framework of an Appropriate Assessment in accordance with the requirements of the Conservation of Habitats and Species Regulations 2017. However, as I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter any further as it could not alter my decision.

Planning Balance and Conclusion

22. The appellant suggests that the development would improve the quality of accommodation, but I have no firm information that the building would be unsuited to occupation as a single dwelling, nor that improvements could not also be delivered without conversion of the building to flats. The proposal would deliver an additional dwelling to the supply of housing, but the contribution would be limited by the small scale of the development. Even taken together, I find that the benefits of the proposal would not outweigh the harm that I have identified to the provision for family housing in the borough, to the living conditions for occupiers of Flat 2, and through the unsuitable access to Flat 1.

23. The proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR