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## Appeal Decision

Site visit made on 7 January 2021

**by Martin H Seddon BSc MPhil DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 February 2021**

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**Appeal Ref: APP/U5360/W/20/3255161**  
**75 Ridley Road, Hackney, London E8 2NP**

- 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 A Majeed against the decision of the Council of the London Borough of Hackney.
  - The application Ref: 2020/0639, dated 21 February 2020, was refused by notice dated 1 June 2020.
  - The development proposed is change of use into one 3-bedroom maisonette, two 1-bedroom flat on first floor and one 1-bedroom flat on the proposed added second floor.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council's reasons for refusal relate to policies in the Hackney Core Strategy and the Hackney Development Management Local Plan. The Council adopted its new Hackney Local Plan 2033 on 22 July 2020 (LP33). This Plan superseded the Core Strategy and Development Management Local Plan. The appellant was provided with the opportunity to comment on the Council's final statement which referred to relevant policies in LP33.

### Main Issues

3. The main issues are:
  - whether the proposed housing mix would be detrimental to the choice of housing within the Borough;
  - whether the proposal would be harmful to any protected species;
  - the effect on the character and appearance of the building and wider row of terraces;
  - whether the proposal would provide acceptable living conditions for future occupants in respect of floorspace, ceiling heights and access to amenity space, and
  - whether there would be adequate provision of waste and recycling storage areas and cycle storage areas.

## Reasons

4. The appeal site is a vacant two and a half storey end of terrace building which was used as a single dwellinghouse. Permission was granted for redevelopment of the building in 2014 and 2018. These permissions have not been implemented. Both proposals involved the erection of a six storey building with 5 residential units and A1/A3 uses at ground and basement levels. The appeal proposal involves retention of the existing building and converting it to provide a maisonette and 2 flats.
5. Ridley Road is the site of a street market. The site is within allocation D6-Ridley Road, Dalston in LP33. The allocation is for retail/market uses.

### *Housing mix*

6. Policy DM22 of the previous Local Plan has been carried over as policy LP14 of LP33. This requires as a preferred dwelling mix for market housing that 1 bed units be a lower % than 2 bed units; 2 bed units be a higher % than 1 bed units and 3+ bed units be 33%. The proposal would not have a 2 bed unit and would not comply with the policy requirement.
7. The policy adds that the Council will consider variations to the dwelling mix sought if that can be justified. However, the appellant has offered to amalgamate the two 1 bed units to address the reason for refusal regarding housing mix. Although this would be an acceptable way of resolving the conflict with LP33 policy LP14 it would require revised plans and I agree with the Council that it would have to be the subject of a new planning application. I find that the proposal would be detrimental to the choice of housing within the Borough because of the proposed housing mix. Therefore, it would conflict with LP33 policy LP14 and policy 3.8 of the London Plan.

### *Protected species*

8. The Council has advised that protected species have been recorded at the site. No ecology survey has been submitted by the appellant. The fact that a survey was not required for the previously approved schemes is not a reason that would negate the need for a survey. Changes to the roof could affect bat species. It is normal practice that surveys be undertaken prior to any grant of permission so that if any protected species are found to be present a scheme may be re-designed or other mitigation measures put in place. It is not a matter which may be resolved through the imposition of a planning condition, because of the potential presence of protected species. I find that the proposal would conflict with LP33 policy LP47 which requires that all development should protect and where possible enhance biodiversity leading to a net gain. It would also conflict with policy 7.19 of the London Plan regarding biodiversity and access to nature.

### *Character and appearance*

9. The windows in buildings adjacent to the appeal building vary in size, form, and position with no consistent pattern overall. The proposed windows in the building would be at three levels and would match the proportions of the existing windows. They would not align with windows at the adjoining building of 'Rachel and Gregory House'. However, there would be no significant harm to the character and appearance of the building or the wider row of terraces from the design of the proposed front elevation. That is because of the variation in

fenestration for terraced buildings at this side of Ridley Road, and taking into consideration that the existing front elevation of the appeal building is of no particular architectural merit. I note also that the Council had allowed other forms of fenestration for the previously approved schemes, albeit involving redevelopment rather than conversion of the existing building. I find that the proposal would not conflict with LP33 policy LP1 and London Plan policies 7.4 and 7.6 regarding design quality and local character.

*Living conditions for future occupants*

10. The building has a rear garden which could provide sufficient amenity space for the proposed maisonette and flats.
11. The Council advises that the proposal, with gross internal floorspace quoted for each unit, is as follows:
  - Flat A: Maisonette at lower and upper ground floor, 3 bed 4 person unit (112m<sup>2</sup>)
  - Flat B: 1 bed 1 person unit at first floor level (48.3 m<sup>2</sup>)
  - Flat C: 1 bed 2 person unit at second floor level (39.4 m<sup>2</sup>)
12. The minimum gross internal floor area requirement set by national Technical Housing Standards, as in table 3.3 of the London Plan, for a one person 2 bed flat is 50 m<sup>2</sup>. Flat C would have a total floorspace of around 39.4 m<sup>2</sup> and would therefore fail to meet the standard unless it was a 1 bed 1 person unit. However, even if that were the case, the proposal would still conflict with the required housing mix, as indicated above. The minimum floor to ceiling height set by policy 3.5 of the London Plan is 2.5 m. Although three of the floors would meet this standard, flat B would only have a ceiling height of 2.4 m.
13. I find that the maisonette and flat B would meet the floor area requirement and flat C would be capable of meeting the requirement. However, the proposed ceiling height of flat B would be sub-standard and would fail to provide satisfactory living conditions for future occupants, contrary to London Plan policy 3.5 and LP33 policy LP17 regarding housing design.

*Waste and cycle storage*

14. The appellant advises that a drawing indicating the on-site location of waste and cycle storage areas was submitted to the Council before the application was refused. The Council considered that the proposal was deficient in meeting minimum storage requirements for three residential units. However, I consider that waste and cycle storage are matters which could be resolved through a planning condition requiring details of the storage space and its screening. Subject to an appropriate condition, the proposal would comply with London Plan policy 6.9 and LP33 policy LP42 regarding cycling and LP33 policy LP57 concerning waste facilities.

**Other Matters**

15. In its statement the Council indicated that, following adoption of LP33, policies and legal agreements concerning affordable housing and carbon reduction were relevant. However, these matters were not raised in the Council's decision notice.

## Conclusion

16. I conclude that the design of the proposed development would not harm the character and appearance of the building or wider row of terraces and could provide sufficient amenity space for future occupants as well as adequate waste and cycle storage space. The proposed redevelopment would make better use of a vacant building and provide additional housing accommodation. Although the housing mix does not meet the Council's development plan requirements it could be amended to comply, but only through a new planning application.
17. There is no ecological survey for protected species to inform the development and ceiling height standards would not be met for one of the units. The appeal proposal would conflict with LP33 policies LP14, LP17, LP47 and policies 3.5, 3.8 and 7.19 of the London Plan. Overall, the benefits from the proposal would be outweighed by the resultant harm, including potential harm should protected species be present.
18. I have taken all other matters raised into account. For the reasons given above I conclude that the appeal should be dismissed.

*Martin H Seddon*

INSPECTOR