



Appeal Decision

Site Visit made on 13 April 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal Ref: APP/Y5420/W/20/3262759

105 Boundary Road, Tottenham, London N22 6AR

- 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 Ross Walker-Love against the decision of London Borough of Haringey.
 - The application Ref HGY/2020/1287, dated 21 May 2020, was refused by notice dated 7 July 2020.
 - The development proposed is demolition of existing outbuildings and the erection of a 2 storey house, 3 bedroom house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was lodged The London Plan (2021) (the New London Plan) has been published by the Mayor of London and is now part of the development plan. The policies within the London Plan (2016) are therefore no longer extant. The parties have had an opportunity to comment on the New London Plan in relation to the case during the appeal process.
3. I have taken this into account in my determination of the appeal. In so doing, I am satisfied that the appellant has had the opportunity to consider the provisions of the New London Plan and no-one's case is prejudiced by my taking them into account.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the site and the surrounding area;
 - The effect of the proposed development on the living conditions of neighbours with particular reference to outlook and enclosure; and
 - Whether the proposed development would provide acceptable living conditions for future occupiers of the proposed development with regard to availability of natural light and ventilation, outlook, and layout of accommodation.

Reasons

Character and appearance

5. 105 Boundary Road is an end of terrace house on a corner plot with frontages onto Boundary Road and Rusper Road. The appeal site lies within the rear garden of No 105. The site lies in an established residential area, predominated by two-storey terraced houses of traditional design. Whilst of varying design the roofs of the existing dwellings have ridges running parallel to the street. These dwellings face onto streets laid out in a rectilinear pattern, with the houses set back off the street behind modest front gardens. To the rear of the terraces, substantial gardens provide a verdant open space between buildings. Together this provides a feeling of space within the urban built form and this is a positive and distinctive feature of the area.
6. There are occasional detached and semi-detached dwellings facing onto side roads, including a pair of semi-detached dwellings directly opposite the site across Rusper Road. However, where these occur, they are set back off the street behind modest front gardens, maintaining the sense of spaciousness.
7. No 105 has an extant permission for a two-storey extension and conversion into three apartments.
8. The built form of the proposed dwelling, whilst of two storeys and of a similar scale to surrounding dwellings, would occupy virtually the entirety of the site. It would be positioned directly at the back of the footway and on the boundary with 107 Boundary Road, with no intervening garden space. The substantial built form would occupy a significant part of the rear garden of No 105, significantly reducing the space between the terraces and reducing the open space between them.
9. Further, the fenestration positioning and proportioning of windows and the form of roof, with a relatively gentle slope and ridge running at right angles to the street have little correlation to the traditional design features evident in the existing buildings around the site.
10. Whilst the dwellings at the ends of the terraces result in situations where the building lies at the back of the footway, this is in the context of a stop end to a terrace, and the side of the dwelling. This differs significantly in context from the proposal, which has its front elevation and entrance at the back of the footway. My attention has been particularly drawn to 152 Sirdar Road, which lies on the corner of Rusper Road and has its access on the side elevation facing onto Rusper Road. The building also has an additional frontage to a street. However, this arrangement is very much exceptional in the area and does not establish any significant overall pattern.
11. My attention has been particularly drawn to the pair of dwellings opposite the site on Rusper Road, where an additional dwelling has been developed. This dwelling is a semi-detached house, set back off the back of the footway by a front garden. The setting back of the dwelling and its design is reflective of both the dwelling to which it is attached and the form of development typified by the distinctive characteristics which I have identified above as contributing positively to the character of the area and therefore does not form a comparable development to that which is before me.

12. Bringing these matters together the proposal would present a cramped form of development: its lack of external garden would reduce the sense of space which I have identified above as a positive and distinctive feature of the area. Its design would be out-of-keeping with the existing, traditional proportions and design features of nearby dwellings and thus the development would be an incongruous addition to the street scene, evident to those passing along the street and to observers looking out of windows in surrounding houses. Whilst the National Planning Policy Framework -2019- (the Framework) encourages innovative design, in this particular case this incongruity would constitute material harm to the character and appearance of the site and the surrounding area.
13. My attention has been drawn to Policies GG1, GG2, D3, H1 and H2 of the New London Plan. These policies seek, amongst other things, to maximise sustainable development and increase housing supply by making best use of land. Policies H1 and H2, in particular, emphasise the importance of appropriate windfall and small sites in increasing housing supply. However, the New London Plan also seeks to deliver good design and enhance local context by delivering buildings and spaces that positively respond to local distinctiveness and so seeks to achieve a balanced approach to potentially conflicting issues.
14. I therefore find that the proposal would result in harm to the character and appearance of the site and the surrounding area. It would thus be contrary to Policy D3 of the New London Plan, Policy SP11 of the Haringey Local Plan Strategic Policies 2013-2026 -2013, consolidated with alteration 2017- (the Local Plan) and Policies DM1 and DM7 of the Haringey Development Management DPD -2017- (the DMDPD) in as much as these policies seek to ensure that development enhances and contributes to local context by delivering buildings that positively respond to local distinctiveness and presume against development in gardens unless it fulfils subsequent criteria including, amongst other things, relating appropriately and sensitively to the surrounding area as well as the established street scene.
15. The aims of the above Local Plan and DMDPD policies are similar to those of policies within the New London Plan which are intended to produce a design-led approach to development, including, where appropriate, developments in gardens and in backland. There is no conflict between the New London Plan and the Council's development plan documents in this case.

Living conditions of neighbours

16. The proposal lies between two terraces of houses and the rear elevations of these houses have windows which would face towards the proposed dwelling. The existing buildings between the terraces fronting Boundary Road and Sirdar Road are single storey and the gardens are enclosed by boundary walls and fences. These rear gardens currently enjoy a sense of spaciousness to the rear of the terraces.
17. The dwelling would occupy a substantial part of the garden of No 105 and would be two storeys in height with limited separation between the properties. No 105 has windows on both floors and anyone standing at these windows would experience a loss of outlook. Similarly anyone standing within the limited space of the garden of No 105 would experience an increased sense of enclosure.

18. Although to a lesser degree, the erection of the building on the boundary between Nos 105 and 107 would, by virtue of its size and proximity, be visually intrusive to anyone within the garden of No 107.
19. The appellant has produced a Daylight and Sunlight report in support of the proposal. This concludes that the development would adhere to the BRE Guide for surrounding properties. I have no reason to doubt these findings and I note that the Council has not raised concerns in regard to daylight and sunlight reaching neighbouring properties. I note that the appellant produced a design working within the constraints of the site and its surroundings to minimise overlooking. However, any absence of harm in regard to daylight/sunlight or overlooking does not offset the harm that I have found above in regard to outlook and enclosure.
20. I therefore find that the proposal would result in material harm to the living conditions of neighbours at 105 and 107 Boundary Road, with particular reference to outlook and enclosure and would therefore be contrary to Policy D3 of the New London Plan, Policy DM1 of Haringey's DM DPD and Policy SP11 of the Local Plan. This is because these policies seek to ensure that development provides a high standard of amenity.

Living conditions of future occupiers

21. The proposed dwelling would be built on the boundaries of the appeal site. The dwelling would feature an internal courtyard and this, together with a terrace at first floor level, would provide the principal outdoor amenity space for future occupiers of the dwelling.
22. Whilst there is no dispute between the parties that the dwelling would meet the minimum standards required by the London Housing Design Guide for internal floor space, the parties disagree as to whether the proposal would provide an appropriate living environment within the dwelling or make adequate provision for outdoor amenity space.
23. The ground floor of the proposal, which contains the bedrooms and bathrooms for the dwelling, has openings to the outside of the building only on the front façade, and only one bedroom has a window to the outside. One bedroom has a rooflight giving access to natural light and the other bedroom has no external windows. The two rear bedrooms, however, are served by windows facing onto the indoor courtyard, as is the hallway. Neither bathroom has an external window, although one is served by rooflights.
24. The internal courtyard would be bounded by two-storey walls on three sides. The remaining side, which faces north-east, would be single storey. Thus, the outlook from the bedrooms would be very limited, and, whilst no numerical assessment has been made for future internal levels of natural light, it is likely that the amount of natural daylight reaching the bedrooms or the courtyard itself would be restricted by the enclosing walls.
25. In regard to the front bedroom, the window would be located directly on the street. In these circumstances it is unlikely that the future occupiers would open the window, allowing ingress of street noise and fumes, and would seek to restrict opportunities for passers-by to look in. This would create a sense of internal enclosure and oppression for residents of the new dwelling.

26. Whilst the Council mentions a window on the street frontage associated with one of the bathrooms, none is shown on the plans. The principal source of light for this bathroom would be the rooflights. The other bathroom would have no source of natural light.
27. The majority of habitable rooms within the proposed dwelling, and the external terrace would have their outlooks limited by measures to manage the potential for overlooking. The limitations in outlook from habitable rooms, taken together, would result in an outlook of poor visual quality for future residents. Further, the limitations on openings are likely to result in poor air circulation on the ground floor of the dwelling.
28. Both the private enclosed courtyard at ground level and the first floor terrace are enclosed to restrict overlooking. The degree of enclosure of each would result in a cramped space with severely restricted outlook.
29. The enclosed courtyard would incorporate a tree. The size and layout of these open areas would restrict future occupiers from enjoying the space for normal residential activities like sitting outside and airing or drying washing. The dwelling is of a size that could be used as a family dwelling and the outdoor amenity space provided would not be of a quality appropriate for such use.
30. I therefore conclude that the proposed dwelling fails to provide acceptable living conditions for the future residents of the development with particular reference to availability of natural light and ventilation, outlook, and layout of accommodation. This would be contrary to Policies D3 and D6 of the New London Plan, Policy DM1 of the DMDPD, Policy SP11 of the Local Plan which jointly seek to, amongst other things, provide a high standard of amenity and ensure that development is appropriately designed to achieve indoor and outdoor environments that are comfortable and inviting for people to use, providing appropriate sunlight, daylight and open aspects (including private amenity space where required) to all parts of the development.

Planning Balance

31. The Council has identified that, as it has fallen significantly short of its housing delivery target over the last three years, paragraph 11(d) of the Framework is engaged in consequence of footnote 7 of the Framework.
32. The development would provide benefits in terms of delivering an additional home to boost housing supply. The Government seeks to significantly increase housing supply. This is reflected in policies within the New London Plan, The DMDPD and the Local Plan to encourage the provision of housing, including backland and garden development, such as is the case here. However, the DMDPD and Local Plan were adopted prior to the publication of the Framework. Nonetheless, those policies reflect closely the aims of Section 5 of the Framework and so I afford them significant weight. There would be benefits to the local economy in terms of short term employment in the construction industry and longer term support to local shops and businesses. The development would re-use previously developed land. The proposal is situated in a relatively accessible location and future occupiers would not rely solely on the use of the private car to satisfy their transport needs. However, given the scale of the development, these benefits carry limited weight.

33. I have found that the development would result in material harm to the character and appearance of the area and the living conditions of neighbours. Further, the proposal would fail to provide acceptable living conditions for the future residents of the development, contrary to policies within the New London Plan, the DMDPD and Local Plan. Notwithstanding that the DMDPD and Local Plan were adopted prior to the publication of the Framework, the aims of these policies accord closely with the aims of Sections 8 and 12 of the Framework and so they attract significant weight.
34. In conclusion the identified harm would significantly and demonstrably outweigh the limited benefits provided by the scheme when considered against the Framework when read as a whole.

Conclusion

35. For the reasons given, and having taken into account all other matters raised, I conclude that the appeal should be dismissed.

I Dyer

INSPECTOR