



Appeal Decision

Site visit made on 24 May 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2021

Appeal Ref: APP/H5390/W/20/3263082

3 Greyhound Road, London W6 8NH

- 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 Ayhan Mehmet against the decision of The London Borough of Hammersmith & Fulham.
 - The application Ref 2019/02702/FUL, dated 20 June 2019, was refused by notice dated 15 July 2020.
 - The development proposed is Change of use of No. 3 (takeaway with ancillary restaurant Use Class A3/A5) and No.5 (Use class A1 retail) at ground floor and basement levels into a single unit (takeaway with ancillary restaurant Use Class A5/A3) to the front and residential (Class C3) to the rear, including the installation of new shopfronts; erection of 2x extraction ducts to rear elevation to replace existing ducts; erection of part single storey, part four storey and part five storey rear extensions at basement to third floor levels following demolition of the existing back additions of both No. 3 and 5 to provide 3x one bedroom and 6x studio self-contained residential flats at basement, ground, first, second and third floor levels of unit 3, and basement, ground and first floor level of unit 5.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the time the appeal was submitted, the Mayor of London has published the London Plan 2021 on 2 March 2021, and this replaces the London Plan 2016. The London Plan policy referred to within one of the Council's reasons for refusal, has therefore been replaced by that of the policy of the new plan. Both parties have been asked for comments regarding the new plan and therefore I am satisfied that neither parties have been prejudiced as a consequence of the new plan.

Main Issues

3. The main issues of the proposal are:
 - The effect on the living conditions of future occupiers of the flats;
 - Whether or not there would be adequate on-site cycle parking; and
 - The effect on flood risk and water use.

Reasons

Living conditions

4. The site forms part of a long terrace and is two separate buildings, currently in mixed use with commercial on the ground floor and residential on the floors above. There is a small combined rear yard accessed from the lower ground levels of both buildings. The yard area is adjacent to other yards and is surrounded on all sides by high boundary walls and buildings of a similar scale to those of the appeal.
5. The remaining unbuilt yard area would be dedicated to external space for Unit 1 within the lower ground level. Its proposed single bedroom French doors would be located in a corner position and would face east. The space may gain some sunlight for part of the morning although for the majority, it would not receive direct sunlight. The main open-plan living space would also be single aspect north facing. Together with the close relationship with other adjacent buildings, their scale, and the perimeter yard walls, I am not satisfied that the future occupiers' outlook, and both daylight and sunlight levels, would be acceptable.
6. This situation would also apply to the future occupiers of Unit 2 positioned above Unit 1. They would have broadly the same restricted outlook and daylight and sunlight levels from ground floor habitable rooms from small single aspect windows, given the proposed internal arrangement. Outside space would be provided by way of a small external balcony. The high nature of the proposed perimeter enclosure would prevent it functioning as meaningful external space.
7. I do not dispute the appellant's stated gross internal floor area for proposed Unit 3 at approximately 66.2sq.m in size, and he acknowledges it does not meet the Council's required size of 70sq.m. However, I do not share their view that the flat would be well-configured given the single aspect of both bedroom windows that would face north with a restricted outlook given the built-up nature of the surrounding environment. Even if the proposed two bedrooms may exceed the 'Main bedroom' size of Key Principle HS3 of the Council's Planning Guidance Supplementary Planning Document 2018 (SPD), as this is a two-bedroom, non-family unit, there is no specific requirement for the second bedroom to be the proposed size.
8. Further, in accordance with the requirements of Key Principle HS3, the size of the combined dining/living room and working kitchen should be 19.5sq.m in size. This unit would therefore fall short of the Council's stipulated requirements.
9. No outdoor space has been provided as part of the original submission associated with this unit, although amended plans submitted to me demonstrate a balcony attached to the rear of the flat. No formal consultation has taken place on these plans and therefore I have not taken them into account as part of my assessment. Overall, the quality of residential accommodation would be detrimental to the living conditions of future occupiers of this proposed flat.
10. For studio Units 4 and 5, they would also be located at the back of the property with the only window positioned above the kitchen sink facing east, small in

size and single aspect. Both would have balconies although they would be sandwiched between buildings with restricted light levels. This would compromise their usable function together with the proposed high enclosure. The same high enclosures would apply to the balcony of Unit 7. Even if there is a public park within walking distance to the appeal site, this does not make up for the shortcomings of the proposed balconies here.

11. Overall, to conclude, given the poor quality accommodation proposed, it would lead to the living conditions of future occupiers being detrimentally compromised contrary to Policies HO4 and HO11 of the Hammersmith and Fulham Local Plan 2018 (LP), and Key Principles HS3 within the SPD in their combined aims to provide a high quality residential environment.

Cycle parking

12. There may be no dedicated cycle parking associated with the existing uses of the buildings. However, they are historical uses, and in any case, the proposal before me is for new development. Further, there is no evidence before me to suggest that the number of occupiers of the building as a consequence of this proposal would indeed be reduced.
13. The appellant confirms within their Statement of Case that there is limited scope to accommodate on-site cycle parking although they comment that two cycle spaces could be proposed within the ground floor. However, no precise details have been submitted to ensure they could be appropriately located as suggested.
14. Planning conditions should only be applied in light of the six tests of paragraph 55 of the National Planning Policy Framework (the Framework). Taking account of the proposal before me and the limited information presented, a planning condition would not be appropriate in this circumstance without evidence to demonstrate cycle parking could be satisfactorily provided.
15. To conclude on this main issue, given the inadequate cycle storage proposed at the development, the proposal would be contrary to the LP Policy T3 and Appendix 8, and London Plan 2021 Policy T5 in their combined objectives to increase opportunities for cycling.

Flood Risk

16. The site is located within Environment Agency (EA) Flood Zones 2 and 3. A site specific Flood Risk Assessment (FRA) was required as part of the planning submission. Furthermore, the Council confirm that EA have since updated their tidal breach modelling information for the River Thames and the resultant consequences of this on the Borough's flood risk potential.
17. As part of the original submission, the appellant relies on flood risk details submitted to the Council for a previous condition imposed to a different scheme. However, the proposal before me is not for the same development scheme, and irrespective of the EA or Thames Water raising no objections to this proposal, given the additional EA data, it has not been appropriately integrated into the FRA for the development before me. It is a material consideration.
18. Given the site's potential vulnerability to flooding, particularly to basement and ground floor level, no details of integrated structural waterproofing have been

submitted with the proposal to ensure it is resilient to flooding. Further, no details of a flood evacuation strategy for occupants during a breach has been submitted. Some sustainable urban drainage solutions have been proposed by way of water butts and soft landscaping. However, no water efficiency measures have been submitted with the proposal and this forms part of the relevant requirements of the policy.

19. In addition, the Council raises uncertainty with regards to the submitted FRA and its assessment of the risk from sewer flooding. The site's vulnerability to flood risk from all sources requires assessment. There is an absence of evidence before me to contradict their findings. This further leads to ambiguity as to the potential for the development to minimise flood risk.
20. Based on the site's vulnerability to flood risk from all sources, it would not be appropriate to consider planning conditions would satisfactorily meet the tests of Framework paragraph 55.
21. To conclude on this matter, the proposed development does not demonstrate that there is adequate means to minimise flood risk and that it would be a safe development, as well as provide adequate water efficiency measures. The proposal therefore fails to comply with Policy CC3 of the LP and relevant Key Principles of the SPD in their combined aims to reduce the use of water and minimise flood risk.

Conclusion

22. The proposal would fail to provide adequate living conditions for future occupiers, it would not demonstrate adequate on-site cycle provision, and it has not been demonstrated that it would be safe from flood risk and reduce the use of water. This is in conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR