



Appeal Decision

Site Visit made on 19 June 2021

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 19 July 2021

Appeal Ref: APP/V5570/W/20/3256491

Flat E, 2A Lidyard Road, Islington, London N19 5NR

- 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 Berliand and Broadacre Estates Ltd against the decision of London Borough of Islington.
 - The application Ref P2019/3604/FUL, dated 28 November 2019, was refused by notice dated 28 January 2020.
 - The development proposed is mansard roof extension to existing 3F Flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the application the description of the proposal was changed to "Erection of mansard roof extension at fourth floor level to extend existing third floor level flat". I have retained the description of the proposal as it appeared on the application form in my banner heading as I consider that it adequately describes the proposal.
3. The appellants have submitted a revised drawing with their appeal documents, updating the layout of windows at 7 Archway Road (No 7). I do not consider that either party would suffer injustice by my consideration of this drawing and so I have taken it into account in my determination of this appeal.
4. Prior to making my site visit I requested access to the roof terrace of the site. This was not possible during the visit. However, I was able to see the surrounding area from the parts of 2A Lidyard Road (No 2A) which I was able to access. Consequently I am satisfied that I have the information required to proceed in determining the appeal.
5. 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.
6. 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 relevant provisions of the New London Plan and no-one's case is prejudiced by my taking them into account.

Main Issue

7. The main issue is the effect of the proposal on the living conditions of occupiers of 7 Archway Road, with particular reference to availability of natural light.

Reasons

8. The appeal site is a four storey residential building fronting Lidyard Road and adjoining 5 Archway (No 5). No 5 lies on the corner of the junction of Lidyard Road with Archway and is of 5 storeys, including a mansard roof. No 2A therefore forms a return on the terraced form of Archway. No 5 Archway is significantly taller than its neighbours, at 7 Archway (No 7) and No 2A. The flat roof of No 2A is currently used as a roof garden by occupiers of No 5.
9. No 7, and the rest of the terrace facing onto Archway are three storeys in height, and have commercial uses on the ground floor with residential accommodation above, apparently including, in some cases, in the roof, although it was unclear at the time of my visit whether the roof space of No 7 is being used for residential accommodation at this time. The rear façade of No 7 contains a number of windows, including one within the gable and two close to the boundary with No 5 and a further one close to the boundary of 9 Archway Road (No 9). The precise location of these windows is a matter of dispute between the main parties. However, at the time of my site visit I was able to observe the windows from the third floor flat and I have determined this appeal with regard to my observations on site as well as the evidence presented to me by the main parties.
10. Policy D4 of the New London Plan seeks, amongst other things, to ensure that development delivers good design. Policy DM2.1 of Islington's Local Plan: Development Management Policies -2013- (the DMP) requires, amongst other things, that development proposals provide a good level of amenity including consideration of overshadowing and direct sunlight and daylight. These aims accord closely with those of Section 12 of the National Planning Policy Framework -2019- (the Framework) which seek to ensure that development results in well-designed places.
11. The proposal would add a mansard roof structure to No 2A, providing additional accommodation for the existing top floor flat, Flat E. I have limited information to demonstrate the degree of impact the proposed rear extension would have on natural light reaching the windows on the rear elevation of No 7. However, given the orientation of the rear extension and the position of the windows it is likely that the increase in height would result in some reduction.
12. The existing windows closest to the boundary with No 5 already experience a significant degree of overshadowing, and it is likely that this would increase and light levels within the rooms served by these windows reduced, increasing gloom within them. In this instance that increase would amount to material harm.
13. I therefore conclude that the development would result in material harm to the living conditions of the occupiers of 7 Archway in terms of a loss of natural light, contrary to DM2.1 of the DMP.

Other Matters

14. The DMP pre-dates the current Framework and so policies within it should be assessed and given weight in terms of their consistency with the aims of the Framework. The policies in the DMP and New London Plan that are most important in this case are in close accordance with the aims and policies set out in the Framework and so significant weight can be applied to them.
15. The development would provide benefits in terms of delivering additional living space for residents of Flat E. However, it would not increase the overall number of dwellings within the locality. There would be minor benefits to the local economy in terms of short term employment in the construction industry. Given the scale of the development, taken together these benefits carry limited weight.
16. I have found that the proposal would result in material harm to the living conditions of occupiers of No 7. Given the weight that the Framework and Government places on good design this is a significant factor weighing against the scheme.
17. In conclusion the identified harm would significantly and demonstrably outweigh the limited benefits provided by the scheme when considered against development plan policies and the Framework when read as a whole.
18. I note that the appellants are dissatisfied with the way in which the Council have handled their application. However, that is a matter between them and the Council and I have determined this appeal on the merits of the proposal before me. The appellants have also raised concerns regarding what they consider to be the tentative nature in which the Council have expressed their concerns. However, the nature of those concerns is clear from the Council's Officer's Report and the wording of the Decision Notice and I have determined this appeal with regard to those concerns.

Conclusion

19. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I Dyer

INSPECTOR