



Appeal Decision

Site Visit made on 27 July 2021

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Appeal Ref: APP/G5750/W/21/3267027

117 - 119 High Street, Plaistow, London E13 9HH

- 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 Jabhill Properties Ltd. against the decision of the Council of the London Borough of Newham.
 - The application Ref 20/02150/FUL, dated 1 October 2020, was refused by notice dated 3 December 2020.
 - The development proposed is "Change of use of existing retail and mini cab office on the basement and ground floor of 117 High Street and ground floor and first floor of 119 High Street into two self-contained flats, incorporating light wells for the basement on the western elevation and windows to the northern elevation".
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) whether the proposed development would provide satisfactory living conditions for future occupiers; and (ii) the effect of the proposed development on neighbouring properties to the rear.

Reasons

Living Conditions for Future Occupiers

3. Both proposed flats would be accessed directly from the highway into the living accommodation at ground floor level. Each flat would also be served by one window on the south elevation at ground floor level facing onto the highway from their living rooms. It is likely these windows would need to have curtains or blinds fitted and drawn most of the time, as a means of seeking to protect the privacy of future occupiers from passing pedestrians; the alternative would be for obscure glazing to be fitted. That would have unacceptable impacts on the restricted outlook from each flat.
4. The proposed one-bedroom flat at 117 High Street would have a kitchen/dining area at basement level, which would be served by a proposed lightwell window on the west elevation. At ground floor level, two windows on the west elevation would serve the bedroom and bathroom of the proposed flat. Those west elevation windows would face onto a high fence along the application site boundary, which borders an access/waste storage area to a neighbouring block of flats. None of the windows which would serve the proposed flat at No.117 would offer any form of acceptable outlook, due to those on the west elevation

facing directly onto a high fence and those on the south elevation facing directly onto the highway.

5. The proposed two-bedroom flat at 119 High Street would have bedrooms at first floor level; each served by one window facing north or south. Although the bedrooms would offer an acceptable degree of outlook, the ground floor layout of the proposed flat would rely on the south elevation window facing onto the highway and a proposed high-level obscure glazed window on the north elevation. Neither of these windows would offer any reasonable level of outlook to the main living area of the flat. Therefore, despite each bedroom being served by windows providing acceptable degrees of outlook to those rooms, overall, the proposed flat would provide a poor standard of living accommodation to future occupiers due to the main living area at ground floor level offering no reasonable degree of outlook.
6. The proposed flat at No.119 would have an internal hallway, preventing views into the main living space from the highway when residents enter/exit the flat. There would be no such arrangement for the proposed flat at No.117. However, the provision of an internal hallway would be insufficient to provide an acceptable degree of protection from the levels of noise, disturbance and security and privacy concerns residents would likely experience as a result of having entrances and windows facing directly onto what I saw to be a busy pedestrian highway.
7. Both main parties have provided different calculations of Gross Internal Area for each flat; however, they concur that both proposed flats would comply with the relevant internal space standards¹. The Council have highlighted a lack of built-in storage shown on the submitted plans to serve No.119, but I am satisfied that sufficient space would exist within the flat to provide the necessary 2 sq.m of built-in storage, details of which could be required by condition.
8. Neither of the proposed flats would offer any private outside space. Policy D6 of the London Plan states that a minimum of 5 sq.m private outside space should be provided for 1-2 person dwellings. The Housing Supplementary Planning Guidance (SPG)² clarifies that private outside space is highly valued and should be provided in all new housing developments, but that in exceptional circumstances a proportion of dwellings with additional internal living space equivalent to the area of outside space may be considered acceptable. In the case of both proposed flats, the internal space would be of such poor quality that it would not act as a suitable replacement for private outside space.
9. The Council have claimed the provision of a ground floor high-level obscure glazed north elevation window at No.119 could harm the living conditions of future occupiers, as this window would face onto land outside the appeal site, to the rear. I have not been presented with any information confirming the layout or use of land to the rear of the appeal site, and I was unable to inspect this area. The appellant has suggested this window could be required to remain obscure glazed and fixed shut to address the Council's concerns in this respect, and based on the information available, I am satisfied that this would prevent any unacceptable levels of overlooking into the proposed flat resulting

¹ The Mayor of London's London Plan (2021), Policy D6

² The Mayor of London's Housing Supplementary Planning Guidance (2016) (updated 2017)

from this window. Without knowing how the land to the rear is used I am unable to conclude that this window would harm the living conditions of future occupiers by way of noise and disturbance.

10. The proposal would create two flats with no access to private outside space, and unacceptably poor outlook. Their ground floor south elevation windows and doors would not provide sufficient protection from noise, disturbance or security or privacy concerns which would likely result from their positioning directly on the pedestrian highway. The proposal would therefore fail to provide acceptable living conditions for future occupiers. This would be contrary to Policies S1, SP1, SP2, SP8 and H1 of the Council's Local Plan³, Policies GG4, D3 and D6 of the London Plan and the Housing SPG. These require, amongst other things, new homes to be designed to high standards, meeting external private space standards, promoting community safety, avoiding unacceptable exposure to noise or disturbance and minimising loss of privacy.

Effect on Neighbouring Properties

11. No information has been provided by either of the main parties to clarify the circumstances of the land to the rear of the appeal site. The Council have claimed the proposed north elevation high-level window to the ground floor of No.119 would potentially prejudice the development potential of that adjoining land, or its ability to continue its existing unspecified use. The Council have not provided any information to convince me this would be likely. As a high-level obscure glazed window which could be prevented from opening by way of condition, which would be located below a number of first and second floor level windows currently serving residential accommodation, I do not consider that any existing or potential use or development of the land to the rear of the appeal site would be unreasonably prejudiced by the proposed window.
12. The proposal would not therefore have any adverse effect on neighbouring properties to the rear, which would accord with aspects of Policies S1 and SP8 of the Council's Local Plan which support development which avoids negative impacts for neighbours, amongst other things. However, this lack of harm would not outweigh the harm I have identified on the first main issue.

Conclusion

13. The proposal would provide unacceptable living conditions for future residents and would 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.

L Douglas

INSPECTOR

³ Newham Local Plan (2018)