



Appeal Decision

Site visit made on 21 June 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2021

Appeal Ref: APP/G5750/W/20/3259787

Land to the rear of 91 Whitta Road, London E12 5BX

- 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 Lamber Bhuller against the decision of the Council of the London Borough of Newham.
 - The application Ref 20/00891/FUL, dated 30 April 2020, was refused by notice dated 22 June 2020.
 - The development proposed is the erection of a one storey residential dwelling with basement plus private amenity space, associated landscaping, cycle parking, bin stores and boundary treatments.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have dealt with another appeal (Ref: APP/G5750/W/20/3259790) at 91 Whitta Road. This 'other appeal' is the subject of a separate decision.
3. I have determined the appeal against revised drawings which were submitted during the Council's consideration of the application, and upon which it based its decision.
4. Since that decision was issued, the London Plan 2021 ('LP') has been adopted, and the National Planning Policy Framework 2021 ('Framework') has been published. The principal parties were given an opportunity to comment on these during the appeal, and I have considered the scheme against their policies.

Main Issues

5. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the occupants of the proposed dwelling, the occupants of the flats at 91 Whitta Road, and adjacent occupiers, would experience satisfactory living conditions; and
 - the effect of the proposal on the safety and convenience of highway users, with particular regard to waste collection arrangements.

Reasons

Character and appearance

6. The Whitta Road streetscene is diverse, with a mix of two storey terraces and larger residential blocks. It is punctured in places by roads leading to set back apartment buildings or further terraces. The terraced properties at 89 to 95 Whitta Road ('No 89 to No 95') have fairly short rear gardens, some containing outbuildings or other domestic structures. A three storey block 'The Chase' lies to the rear just beyond those gardens, with a footway and a narrow lawn in between.
7. No 91 has a hard surfaced rear yard which is enclosed by walls and fences. The proposed dwelling would be set in from the plot's western boundary, with bicycle and bin stores, and a hedgerow, between it and the footway. It would achieve a contemporary look and its materials, which would include London stock brick and zinc cladding, would respond to its setting.
8. However, whilst a significant section of the dwelling would be below ground level, its front and side faces would reach a height of around 3.6 metres to the parapet. Thus, it would be considerably taller than the relatively large domestic structure at the end of No 93's garden. It would have a much greater mass than a typical ancillary outbuilding. As a result of that, the limited size of the site, and the short gap to the rear face of the terrace, it would appear cramped in this setting.
9. Additionally, in this garden location between dwellings fronting Whitta Road and apartment blocks to the rear, it would appear visually isolated and unrelated to the existing pattern and grain of nearby development. Given that the proposed access would be via a narrow pathway, off a cul-de-sac to the rear of frontage dwellings, it would not address the street, and it would not achieve the legibility required by Newham Local Plan 2018 ('NLP') Policy SP8.
10. Whilst No 91's yard and boundary treatment currently have a rather stark appearance, this scheme is not the only way in which that could be addressed, and I have no persuasive evidence that the land is vacant or under-utilized.
11. The appellant states that the scheme could set a desirable precedent for similar development to the rear of the other properties in this terrace. His Design and Access Statement includes an indicative mews scheme to illustrate how adjacent land could be built. However, I have no evidence that those landowners have similar plans, and I have considered this proposal on its own merits.
12. Views of the scheme from the public realm would be limited, but the harm that I have identified would be visible from nearby properties on Whitta Road, particularly their rear gardens and rear faces, where it would reduce their currently more open aspect, as well as from The Chase and its associated footpaths and lawns. The scheme would not address this area's issues, as identified in the Newham Character Study 2017, of poor legibility, visually disorganised street patterns, and isolated buildings unrelated to their context.
13. Although I have been referred to examples elsewhere in Newham where a dwelling has been permitted to the rear of another, I do not have the full details of those schemes, including their context, and they do not alter my findings regarding the harm that would be caused here.

14. Amongst other things, and in general terms, NLP Policies H1, SP1, SP3 and SP8; along with LP Policies GG1, GG4, H2, D3, D4, D5 and D8, support high quality development and well-designed new homes, which are legible, integrate with the local context and respond positively to its character, and which optimise site capacity through the most appropriate form of development.
15. That approach is consistent with the Framework's stance at paragraph 130 on promoting design which adds to the overall quality of an area in terms of matters including layout, and which is sympathetic to its local character; along with the general requirement to contribute to the overall appearance of an area in the Mayor of London Housing Supplementary Planning Guidance 2016 ('SPG'). For the above reasons, the scheme would harm the character and appearance of the area, and it would conflict with those policies and with that guidance.
16. NLP Policy H4 addresses the existing housing stock, NLP Policy S6 addresses broad strategic and spatial objectives, NLP Policy SC4 addresses biodiversity and NLP Policy SP2 addresses health impacts. LP Policy GG6 addresses building efficiency, LP Policy D1 addresses general requirements of Borough Councils, LP Policy D2 addresses infrastructure requirements, LP Policy G1 addresses green infrastructure, LP Policy G6 addresses biodiversity and LP Policy D13 addresses noise mitigation. Consequently, they are of little or no relevance on this issue, or the other issues below.

Living conditions

17. No 89's rear garden is largely free of built development. The proposed dwelling would be partially set in from the side boundary with that property, and the part of it abutting the boundary would be set down with a declining roofline. However, given the building's proximity to a large proportion of No 89's rear garden, and its height, it would have an overbearing impact on those occupiers. As the three storey block at The Chase lies beyond No 89's garden to the rear, its impact is not comparable to this proposal.
18. As there is already a large outbuilding at the end of No 93's garden, the scheme would not significantly harm the outlook from that property. Having regard to the conclusions at paragraph 6.24 of the appellant's statement, I have no cogent evidence that any adjacent occupants would experience a significant loss of daylight or sunlight.
19. The scheme would include a ground floor rear amenity space for the occupants of the proposed dwelling, which would be enclosed by a 1.56 metre high opaque glass screen. Although the existing first floor flat at No 91 has a raised terrace, given the distance between those two spaces and the presence of that screen, there would not be a harmful degree of overlooking between these properties. The gap between the ground floor rear face of the proposed dwelling and the rear face of the flats at No 91 would not change as a result of the other appeal scheme.
20. Summing up on this issue, the proposal would provide a comfortable and functional layout for the dwelling's future occupants in accordance with LP Policy D6. However, for the above reasons it would have a harmful overbearing impact on the occupants at No 89 due to the mass of proposed development that would be located close to, or alongside, much of its garden boundary.

21. As the scheme would not provide appropriate living conditions for all occupiers, it would conflict with those parts of NLP Policies H1, SP1, SP3 and SP8; and LP Policies GG1, D3 and D6 which in broad terms, seek to ensure housing quality, attractive places to live with good neighbourliness, and to deliver appropriate outlook and amenity; and with Framework paragraph 130 f) which seeks a high standard of amenity for all existing and future users; along with the similar approach in the SPG.

Safety and convenience of highway users

22. Refuse bins would need to be wheeled along the footway from the site to the roadside for collection, in an arrangement broadly similar to that at The Chase. Although the Council states that those residents' bins are not always returned to their properties, I have limited evidence on this issue, and the responsibility of residents to return bins to an appropriate location is not unique to this site.
23. Given the small amount of refuse that a single dwelling would generate, and that just two 240 litre bins are proposed, I am satisfied that the scheme would not add significantly to roadside clutter, or present a significant obstruction to pedestrians, people in wheelchairs, or other highway users.
24. Consequently, on this issue, the scheme would not conflict with NLP Policies SP3 and INF3, nor with LP Policies GG1, GG2 and D8 which, collectively and in broad terms, seek appropriate on-site refuse storage, a safe and accessible public realm, and streets that are easy to move around. Neither would it conflict with the Framework's stance at paragraph 112 on providing safe access and avoiding unnecessary street clutter.
25. LP Policy SI8 which addresses strategic waste infrastructure, LP Policy D4 which addresses general design matters, and NLP Policy SP1, are of little relevance on this issue.

Other matters

26. In its favour the scheme would make an efficient use of this small site to deliver housing, in a location close to services and amenities, and with good public transport links. Whilst just a single dwelling would be delivered, that is nonetheless a moderate benefit given the pressing need for housing as set out in the development plan, and given the Framework's requirement to significantly boost supply.
27. The scheme would also incorporate various sustainable design features such as high quality secure cycle parking, green roofs, and bird and bat boxes; and it would have a level approach and entry, in accordance with development plan policies.
28. On the matter of security, whilst the scheme would introduce additional surveillance into the area, I share the Council's concerns regarding how safe residents would feel getting to and from the proposed dwelling given the nature of the access, that the occupants of The Chase have an alternative access route, and the scheme's lack of legibility. This matter is therefore neutral in the overall planning balance.
29. Finally, whilst the scheme followed pre-application discussions with the Council, I have determined the appeal on its planning merits.

Planning balance and conclusion

30. I have found that the scheme would significantly harm the character and appearance of the area and that, as it would have an overbearing impact on the outlook from No 89's garden, it would harmfully impact those occupants' living conditions.
31. The scheme's moderate benefits would not outweigh the harms that it would cause and it would conflict with the development plan when considered as a whole. Consequently, and having regard to all other matters raised, the appeal is dismissed.

Chris Couper

INSPECTOR