



Appeal Decision

Site Visit made on 8 June 2021

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/Y5420/W/21/3267332

57-59 West Green Road, Tottenham, London N15 5DA

- 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 Gulfraz Taj (Taj Partners LLP) against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2020/2484, dated 11 August 2020, was refused by notice dated 14 December 2020.
 - The development proposed was originally described as application under Section 73A of the Town and Country Planning Act 1990 for the alterations in connection with conversion of three flats into four.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by the appellant against the Council of the London Borough of Haringey. This application is the subject of a separate Decision.

Preliminary Matters

3. The application was originally described in the terms set out in the banner heading above. A different description was used in the Council's decision notice and the appeal form: *"External and internal alterations in connection with conversion of unauthorised change of use of the second floor level from three flats into four flats, including second floor rear extension with a parapet wall to forming a balcony terrace"*. I have determined the appeal on this basis.
4. The application was submitted retrospectively and I have considered the appeal on that basis. However, an ongoing enforcement case relating to the appeal property is not a matter for me to consider as part of this section 78 appeal, which I have considered on its own merits.
5. I am also dealing with another appeal at this site (Appeal reference: APP/Y5420/W/21/3268380), which will be the subject of a separate Decision.
6. Since the determination of the application that is now the subject of this appeal, the London Plan 2021 (LP2021) was published in March 2021. Further, a revised version of the National Planning Policy Framework (the Framework) was published in July 2021. The main parties to this appeal have had opportunities to comment upon any relevance of these occurrences to the outcome of this appeal.

7. During the course of the appeal I sought clarification from the Council in respect of its second refusal reason. The appellant has had the opportunity to comment on any potential implications for his case.

Main Issues

8. The main issues are:

- Whether the development provides an acceptable standard of living for all occupiers of the second floor flats.
- Whether the development preserves or enhances the character or appearance of the Clyde Circus Conservation Area.
- The effect of the development on the living conditions of occupiers of neighbouring residential properties, with particular regard to privacy.

Reasons

Living conditions of the occupiers

9. The appeal site is part of a terraced building containing a parade of ground floor shops with two floors of residential accommodation above. The appeal concerns the formation of an additional 1-bedroom flat at second floor level, taking the number of flats at second floor from three to four, and the total number of flats in the building to ten.
10. There is a dispute over whether the size of the proposed flat 10 falls below the minimum space standards set out under the Technical Housing Standards – Nationally Described Space Standard, and incorporated into the LP2021 under Policy D6.
11. According to the drawings, the proposed flat 10 has a gross internal area (GIA) of 37.9m². The appellant is correct that this exceeds the minimum space standard of 37m² for a 1-bedroom, 1-person dwelling with a shower room. However, the stated dimensions of the bedroom are the size of a double bedroom under criteria F4) of Policy D6 of the LP2021. As a result, the proposal would be capable of being occupied as a 1-bedroom, 2-person dwelling. The minimum space standard for a dwelling of this type is 50m². The proposed flat is therefore significantly undersized, which would result in the living conditions of its occupants being compromised through insufficient space. I have given consideration to whether a condition could be used to restrict the number of occupants of this flat, but in my view, any such condition would be very difficult to enforce, so it would not make the development acceptable in this regard.
12. There is also a dispute over whether the effect of the proposal on the existing second floor flats should be taken into consideration. Whilst I note a previous certificate of lawfulness at the site, this is not the same building that existed in 2013 when the certificate of lawfulness was issued. This is because flats 7 and 9 were subsequently extended to form 1-bedroom dwellings under planning permission ref: HGY/2013/1343. Furthermore, this is a whole new development, which I must assess in line with current relevant planning policies and standards. Consequently, as the proposal to provide an additional residential unit has been achieved through the re-configuration of the layout of

flats 7 and 9, the minimum space standards are therefore also applicable to those two dwellings, but not to flat 8 as it has not been altered.

13. Both flats 7 and 9 have become 1-person studio flats with a shower room. According to the Council's uncontested figures, the GIA of flat 7 is 16m², while that of flat 9 is 25m². As such, these flats also fall significantly short of the minimum space standard for dwellings of this type, which would compromise the living conditions of their occupiers through reduced space.
14. I note that flats 7 and 9 are single aspect, which LP2021 Policy D6 states should normally be avoided. However, flat 7 benefits from a south-facing aspect, while flat 9 benefits from a reasonable outlook at the front, as well as additional sources of light from a toilet window and skylight. At the time of my site visit, the outlook of flat 7 was compromised by a privacy screen, but given the acute angle of view to the side window/door of the proposed flat 10, the need for this screen is unclear, and its removal could potentially be secured by a planning condition, if I were minded to allow the appeal. I therefore do not share the Council's concerns in respect of the outlook and daylight to flats 7 and 9. However, this does not outweigh the failure to comply with the minimum space standards as set out above.
15. I give very little weight to the appellant's claims that the occupiers have not complained about the size of the accommodation, because the residential space standards exist to ensure an appropriate standard of accommodation for all occupiers, regardless of whether some may be prepared to accept lower standards. In any event, the standards are expressed as minimum requirements, and whilst I have had regard to the appellant's justification for the proposal, there is no compelling evidence before me as to why a standard less than that should be accepted in this particular case.
16. I conclude, on this issue, that the development does not provide an acceptable standard of living for all occupiers of the second floor flats, which is harmful to their living conditions. This is contrary to Policy D6 of the LP2021, Policy SP2 of the Haringey Local Plan Strategic Policies Consolidated with Alterations 2017 (the SP), and Policy DM12 of the Haringey Development Management Development Plan Document 2017 (the DPD), which among other things, require that housing developments should be of high quality and provide adequately-sized rooms with comfortable and functional layouts, meeting minimum space standards. However, I do not find conflict with Policy DM16 of the DPD as the proposal does not involve the conversion of family-sized homes.

Clyde Circus Conservation Area

17. The appeal site lies within the Clyde Circus Conservation Area (CA). In so far as it relates to this appeal, this part of the CA derives some of its significance from its urban layout and relatively consistent terraces of two and three-storey late Victorian properties with a diverse mix of retail units at ground floor level. The terraced building containing the appeal property is broadly in conformance to the overriding character, and as such contributes to the importance of the CA as a designated heritage asset.
18. The Council has clarified that its second refusal reason relates to the upper section of a lean-to extension at the back of the three-storey rear projection. I am informed that the rear windows in this extension are recent additions in order to overcome the Council's concern in relation to a stark rear elevation.

Nonetheless, as a result of its height, lean-to roof design, and an awkward junction where the roof meets the gable end, this development is an incongruous and uncharacteristic addition to the building in design terms, notwithstanding the addition of windows. It also unacceptably increases the overall bulk and massing of the rear projection, making it disproportionately large and more visually conspicuous. The use of matching materials is not sufficient to mitigate this harm.

19. Although confined to the rear of the terrace, the development is readily visible from the east on Brunswick Road, within the Brunswick Road car park, and will likely be prominent in views from the neighbouring properties at the rear, particularly when the trees are not in leaf. I acknowledge that the rear of the terrace has been much altered along the whole of its length with extensions of various heights and forms, including the previously permitted extensions at the appeal site. However, even in this context, the extension which is the subject of this appeal appears as an undesirable feature that harmfully erodes the character and appearance of the CA.
20. Overall, I conclude that there has been moderate harm caused to the significance of the CA. Accordingly, the development fails to preserve or enhance the character or appearance of the CA. The proposal also conflicts with Policies HC1 and D4 of the LP2021, Policies SP11 and SP12 of the SP, and Policies DM1, DM9 and DM12 of the DPD, which among other things, require high quality design that is appropriate to its location and which protects the historic environment by preserving or enhancing the character or appearance of the CA.
21. In the language of the Framework, the harm to the CA would be 'less than substantial', but that is nevertheless a matter of considerable importance and weight. In terms of countervailing public benefits the proposal would contribute towards the supply of new housing generally, and specifically meet a demand for smaller units. The accessibility to services and the opportunity for prospective residents to support the vitality of the local community are also positive aspects of the scheme. However, these public benefits arising from a net increase of 1 dwelling would be small, and tempered further by the substandard living conditions created. As a result, I find that the public benefits of the proposal do not outweigh the harm to the CA.

Living conditions of neighbouring occupiers

22. The Council states that the position of a proposed roof terrace affords close range and direct views over the neighbouring adjoining gardens, as well as clear views back to the rear windows of adjoining neighbours.
23. However, the appellant has been clear that the proposal does not include a roof terrace. The plans explicitly state that the flat roof over flat 5 is 'non accessible' and that the parapet wall has been reduced to 20cm in height. The latter would likely render the roof unsafe for use as a terrace. Furthermore, railings have been installed in front of the double doors in the side elevation to flat 10, which prevents direct access onto the flat roof. The use of the flat roof as a terrace could be further prevented by a planning condition, if I were minded to allow the appeal.
24. For these reasons, I conclude that the development is not harmful to the living conditions of neighbouring occupiers, with particular regard to privacy. In this

regard, the proposal complies with Policies DM1 and DM12 of the DPD in so far as they seek to avoid loss of privacy to neighbouring occupiers.

Planning Balance

25. The Housing Delivery Test results published on 19 January 2021 show a measurement of 60% for Haringey. This is substantially below the threshold of 75%. Therefore housing development should be subject to the presumption set out in paragraph 11 d) of the Framework unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Policies for designated heritage assets are included in the list in footnote 7.
26. In this case, I have found that the harm to the CA, a designated heritage asset, is not outweighed by the public benefits of the development. This alone provides a clear reason for refusing the development proposed. As such, the presumption in favour of granting planning permission does not apply. Even if paragraph 11 d) ii. of the Framework had been applicable in this case, the adverse effects arising in relation to unsatisfactory living conditions for some occupiers of the development significantly and demonstrably outweigh the benefits associated with the provision of 1 dwelling.

Conclusion

27. For the reasons set out above, the proposal conflicts with the development plan taken as a whole. There are no considerations, including the policies of the Framework, that outweigh that conflict. Accordingly, the appeal is dismissed.

A Caines

INSPECTOR