



Appeal Decision

Site visit made on 6 December 2021

by G Rollings BA (Hons) MAUD MRTPI

An Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 29 December 2021

Appeal Ref: APP/G5750/W/21/3276917

213 Albert Road, North Woolwich, London, E16 2JS

- 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 Ali Bekir against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/00191/FUL, dated 20 January 2021, was refused by notice dated 30 March 2021.
 - The development proposed is a ground floor storage unit conversion to a 1-bed self-contained flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken into account the parties' representations on the updated *National Planning Policy Framework* (2021) (the Framework), which supersedes the version that was in force at the time of the Council's decision.

Main Issues

3. The main issues are:
 - Whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to outdoor space provision, and privacy;
 - Whether appropriate bicycle, waste and recycling storage would be provided; and
 - The effect of the proposal on the potential for local flooding and the flood risk of the development.

Reasons

Living conditions

4. The proposed accommodation would not have access to private outdoor space. London Plan Policy D6 requires at least 5 square metres of private outdoor space to be provided for 1-2 person dwellings. This is separate to the requirement for dwellings to achieve the minimum floor area set out in Table 3.1 of the Policy. I acknowledge the appellant's submission on the functional layout of the proposed dwelling, but the stated floor area of 49 sq.m. is

significantly above the Council's measurement of around 37 sq.m. The appeal plan specifically denotes a gross internal area of approximately 38 square metres.

5. I do not consider that the provision of the required internal floorspace and storage provision to the minimum standards justifies the non-provision of private outdoor space. Moreover, the justification provided does not overcome the conflict with Policy D6.
6. The combined lounge/kitchen/dining room of the proposed accommodation would be served by one window, which would directly open into the pedestrian pavement of Albert Road. I acknowledge the fact that the window would provide a functional role in allowing light into the room, but this would not mitigate any harm experienced to the living conditions of future occupiers, as a result of pavement users being able to look directly into the room. Furthermore, this could result in occupiers feeling as though they were being overlooked or experiencing a loss of privacy, which would not achieve a "comfortable and functional" layout of the type sought by London Plan Policy D6.
7. I therefore conclude that the proposed development would not provide acceptable living conditions for future occupiers, with particular regard to outdoor space provision and privacy. It would conflict with *Newham Local Plan 2018* Policies S1, SP1, SP2, SP3, SP8 and H1, and London Plan Policies GG4, D1, D3 and D6, which require development to achieve a high design quality, amongst other considerations. These policies are consistent with the Framework.

Storage

8. Local Plan Policies INF2 and INF3 set out a requirement for provision of cycle parking and waste storage, respectively, within development sites. Cycle parking is encouraged by both the Local Plan and London Plan to improve access to sustainable transport choices. That the development is not on an identified cycle route, or has a high level of access to public transport, does not negate the need to provide facilities in accordance with the development plan.
9. The constricted nature of the appeal site means that there would be no opportunity for provision of either parking or waste storage, and a condition requiring this to be provided would therefore not be precise nor reasonable, as it would require the development to be redesigned to accommodate these on-site. I acknowledge the appellant's comments that there are nearby facilities in the same building that could accommodate both, but as these are outside the appeal site, in the absence of a planning obligation I cannot be certain that these would be made available to future occupiers. Additionally, it would not be reasonable for me to apply a condition relating to specific land outside of the site, as this could potentially affect any third parties with an interest in the land. Whilst I would be able to impose a negatively worded condition prohibiting the development from taking place until off-site provision had been procured, based on the information provided I would have no certainty that this would be in a location or of a configuration that would be suitable for both future occupiers and waste collection services.
10. I therefore conclude that appropriate bicycle, waste and recycling storage would not be provided, and that this would conflict with Local Plan Policies S1,

SP1, SP2, SP3, SP8, INF2 and INF3, and London Plan Policies D3, D4, D6, D8, SI8 and T5. Together, these require the provision of appropriate facilities as part of the good design of development, amongst other considerations, and are consistent with the Framework.

Flood risk

11. The site is within Flood Zone 3. Although a Flood Risk Assessment (FRA) was submitted with the proposal, the Environment Agency (EA) identified shortcomings and recommended refusal of planning permission. In particular, the FRA does not identify the source of the appellant's breach depth data, meaning that the accuracy of the FRA's proposed actions cannot be verified. The EA also requires sleeping accommodation to be above the breach level, which the appellant considers to be impractical in an existing building. Additionally, the internal mitigation, which involves access via a stairwell in a neighbouring building, is not accepted by the EA.
12. I acknowledge the other measures proposed by the FRA, particularly with regard to evacuation, advance notice of any serious event, and the fact that it would not increase the risk of flooding. However, the EA's concerns have not been addressed, and I see no reason to deviate from its requirements. As such, in the absence of a wholly robust FRA that is consistent with EA advice and the Planning Practice Guidance¹ I am not convinced that the proposal would represent a safe environment or that, despite a low overall risk, potential loss of life could be avoided.
13. I therefore conclude that although the proposal would have a neutral effect on the potential for local flooding, the flood risk of the development represents potential harm for future occupiers, and the development is therefore unacceptable. There would be conflict with Local Plan Policies SP3, SC1, SC3, SP8 and SP9, and London Plan Policies GG6, D11, SI12 and SI13, which together require development in Flood Zone 3 to be designed and constructed to be flood resilient, amongst other considerations.

Other matters

14. I have read the appellant's comments regarding the Council's handling of the application, but have limited my considerations to the planning matters of this decision. Furthermore, I have noted the decision precedents submitted with the evidence, but do not consider these to be directly comparable to the appeal proposal, particularly with regard to flood risk.

Conclusion

15. There are no material considerations to indicate that I should determine the appeal other than in accordance with the Development Plan for the area. The appeal is dismissed.

G Rollings

INSPECTOR

¹ Specifically "Flood risk and coastal change" Paragraphs 030-032.