



Appeal Decision

Site visit made on 30 November 2021

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2022

Appeal Ref: APP/G5750/W/21/3277696

31 East Avenue, London E12 6SG

- 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 Yunus Mohmed Vali against the decision of London Borough of Newham Council.
 - The application Ref 20/02269/FUL, dated 1 October 2020, was refused by notice dated 23 December 2020.
 - The development proposed is loft dormer extension and change from a single family dwelling to x2 of 3 bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of this appeal, the London Plan 2016 has been replaced with the London Plan 2021 which was adopted on 2 March 2021. Further revisions have also been made to the National Planning Policy Framework (the Framework) and the revised version was published in July 2021. The main parties have been invited to comment on these changes and I have taken into account any responses from them in my determination of the appeal.

Main Issues

3. The main issues are:
 - i) The effect of the proposal on the supply of family sized homes within the Borough;
 - ii) Whether the proposals would provide adequate living conditions for future occupiers of the development, with particular reference to internal living space, outlook and outdoor amenity space;
 - iii) The effect of the development on the living conditions of the occupants of the neighbouring properties, with particular regard to noise disturbance, and;
 - iv) The effect of the proposed dormer extension on the character and appearance of the area.

Reasons

Supply of family homes

4. The appeal site is located within a predominantly residential area characterised by terraces of two storey period properties with front and rear gardens. The existing property comprises a single residential unit of three bedrooms on the first floor, set above associated living accommodation on the ground floor with direct access to the front and rear gardens.
5. The Newham Local Plan 2018 demonstrates an up to date need for family housing of 3 and 4+ bedrooms in the Borough and highlights the need to both increase the rate of provision and protect the existing family stock in order to provide enough family housing for its residents.
6. While the new units resulting from the development proposed would be capable of being occupied by families, the internal floor areas of each would be materially smaller than the existing and the upper unit would not benefit from direct access to outdoor amenity space. The compliance of the new units with current floorspace standards is considered further below. Overall I do not consider that the proposed new units would be equivalent or similar to the existing dwelling and the proposals would conflict with policy H4 of the Newham Local Plan 2018, which specifically seeks to protect housing of this type. The exceptions to this protection listed in policy H4 do not apply in this case.
7. The proposals would result in the loss of a family house which has been identified as being important to meet a local need within the Borough, and would have an adverse effect on the supply of family homes within the area. My comments in respect of the size and quality of the new units proposed is discussed below. In summary the proposed development is contrary to policies H4, H1, S1 and S6 of the Newham Local Plan 2018 which, among other things, address the Council's housing demand and have a focus on the provision of family housing. There is also conflict with policies GG4 and H10 of the London Plan 2021 insofar as they require the delivery of housing which provides for identified need. In turn the proposals would therefore also conflict with the aims of paragraph 62 of the Framework.

Living conditions of future occupiers of the development

8. The Council do not dispute the internal floor areas of the two proposed units as annotated on plan PL05, being 78m² for the ground floor flat (Flat A) and 84sqm for the upper flat (Flat B) which exists over the first and second floor levels. However there is a dispute regarding the potential level of occupation of the units and whether the units comply with floorspace requirements detailed in the Department for Communities and Local Government (DCLG) Technical Housing Standards and the London Plan 2021. These documents contain the most up to date housing standards against which the proposals should be assessed.
9. The likely level of occupancy is a matter of judgement. Advice contained in the Technical Housing Standards states that the number of bedspaces is a means of classification for assessment purposes and it does not imply actual occupancy. As restrictions on the level of occupancy could not reasonably be imposed, it is reasonable for these purposes to assume the maximum level of occupancy which the development could accommodate. In light of the bedroom sizes proposed, I consider it likely that both Flat A and Flat B could each accommodate 5 people across 3 bedrooms. As such the Technical Housing Standards and the London Plan 2021 require a minimum floorspace of 86m²

and 93m² respectively. Both of the proposed new units fall short of these minimum requirements and, as a result, would be likely to provide a cramped standard of accommodation.

10. The proposed plans show that Flat A would include space provided by the single storey rear extension which was approved separately under reference 18/02117/FUL, but which has not currently been constructed. Without this extension Flat A would fall even further short of the minimum floorspace requirements.
11. In addition, within Flat A two of the proposed bedrooms are not served by any windows, only ceiling level sky lights. While these would provide a degree of natural light and ventilation, these habitable rooms would have no source of outlook. As a result these area would be likely to be oppressive and unwelcoming spaces.
12. Flat B lacks any access to outdoor amenity space. Despite the proximity of nearby parks and open space, this would not adequately mitigate for the absence of private outdoor space for a family. The appellant refers to a recently completed development of flats without outdoor space nearby, and other examples across Newham. Despite this I have not been provided with the details of these developments and as such these do not lead me to consider that the proposed development would be acceptable.
13. When considered in combination with the failure to meet the minimum floorspace requirements, the development proposed would not be conducive to a good standard of living accommodation and would result in harm to the living conditions of future occupants. This is contrary to policies SP2, SP3, S1, S6 of the Newham Local Plan 2018 and policies D6 and GG4 of the London Plan 2021 insofar as they require development to deliver good quality housing.

Living conditions of the occupiers of the neighbouring properties

14. The proposed flats would share the same point of entrance from the street. While this entrance may be used more as a result of the development, in light of the proximity of other residential uses, I do not consider that this would cause an unacceptable increase in noise disturbance to the neighbouring occupiers.
15. The proposed floorplan demonstrates that Flat B would have kitchen facilities within the roofspace, where it would be set above its own bedrooms. Any disturbance from this arrangement is therefore likely to be to its own occupiers. Following a site visit it does not appear that the neighbouring properties have bedrooms within their roofspaces which would directly adjoin these facilities.
16. In light of these factors, and in combination with the application of regulatory regimes such as building regulations, I do not consider that the development would give rise to an increase in noise disturbance to the degree that it would cause unacceptable harm to the living conditions of neighbouring occupiers. I find the development to be compliant with the aims of policies SP1, SP2, SP3, SP8 and S6 of the Newham Local Plan 2018 insofar as this impact is concerned.

Character and appearance of the area

17. While the front roof slopes of properties in the area are generally consistent and unaltered, other than by rooflights, to the rear there are a number of

examples of roof extensions and roof level alterations. While several of these may have been carried out under permitted development and without the benefit of planning permission, they do nonetheless form part of the established character and appearance of the area.

18. The proposed rear dormer would include a set back from one of the side walls and would be set lower than the ridgeline. While only modest, these set backs help the dormer to appear subservient to the host building. I consider its bulk and massing would not cause harm to the character or appearance of the terrace or the area in light of the other examples nearby. I therefore find that that the dormer extension would not cause harm to the character and appearance of the area and the proposals would not be in conflict with policies SP1 and SP3 of the Newham Local Plan 2018 and policy D3 of the London Plan 2021 insofar as those policies seek to deliver high design quality.

Conclusion

19. In summary, I find that the development would cause harm to the stock of family homes in the Borough and would fail to provide an acceptable standard of living accommodation for its future occupants. To these harms I attach substantial weight. I have found that the development would not cause unacceptable harm to the living conditions of the occupiers of neighbouring properties, and that it would not cause harm to the character and appearance of the area. However this absence of harm does not amount to a benefit of the proposal.
20. While the development proposed would create an additional unit of accommodation on the site, I can afford this benefit only little weight due to the harm identified in the standard of accommodation that the new units would provide. This does not sufficiently outweigh the other harms which I have identified above, to which I attach substantial weight and which are sufficient to justify dismissing the appeal.
21. The development would be contrary to the development plan as a whole and this conflict is not outweighed by other material considerations in this instance. The appeal is therefore dismissed.

C Shearing

INSPECTOR