



Appeal Decision

Site visit made on 19 January 2022

by Katherine Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 February 2022

Appeal Ref: APP/U5360/W/21/3279710

54 Broadway Market, Hackney, London E8 4QJ

- 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 Hassan (Sherman Investments Ltd) against the decision of London Borough of Hackney.
 - The application Ref 2020/4069, dated 22 December 2020, was refused by notice dated 16 April 2021.
 - The development proposed is the conversion of first/second floor 3 bedroom maisonette into two self-contained 1 bedroom flats.
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Decision

1. The appeal is dismissed.

Applications for costs

2. The appeal is subject to an application for costs made by the appellant against the Council. This is the subject of a separate decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the mix and balance of housing within the area; and
 - Whether the proposed development would provide adequate living accommodation for future occupiers with regard to internal space provision.

Reasons

The mix and balance of housing in the area

4. The appeal relates to a building on Broadway Market. At present the building provides a total of 4 residential units made of a studio and a 1-bed unit at ground floor, a 2-bed unit in the basement and a 3-bed unit across the first and second floors, in addition to a commercial unit on the ground floor. The proposal would convert the existing 3-bed unit at first and second floor into two 1-bed units, one at first floor and the other at second floor level. It is not clear what accommodation is provided at third floor level in the mansard extension. No reference has been made to the use or occupation of this floor by the appellant or the Council.

5. The Council recognises that there is diversity in the population of the borough which requires a diverse range of housing, and the requirement set out in Policy LP14 of the Hackney Local Plan (HLP) (2020) consequently reflects the housing needs of the population. Part A of the policy sets out the preferred dwelling mix dependent on the proposed tenure of occupation for all housing proposals, irrespective of the quantum of development proposed. Relevant to this appeal the preferred dwelling mix for market housing is set out as follows: 1-bed units should be a lower percentage than 2-bed units; 2-bed units a higher percentage than 1-bed units and 3+ bed units should be provided at a level of 33% within a development. As the proposal would remove a 3-bed unit from the market and the number of 1-bed units in the scheme would outnumber the number of 2-bed units the proposal would not comply with the policy's requirements. No evidence has been submitted which demonstrates any necessity why these standards should not be applied.
6. Consequently, I conclude that the proposal would result in the loss of a family sized dwelling and would be harmful to the mix and balance of housing in the area, contrary to HLP Policy LP14. It would therefore not deliver the mix of accommodation which is required to provide for the diverse population of the borough.
7. HLP Policy LP19 sets out the Council's approach to residential conversions. The appellant argues that this policy does not apply to the conversion of flats or maisonettes as it specifically only refers to the conversion of houses. The Council disagrees and contends that the policy is equally relevant to the conversion of larger flats and maisonettes. I acknowledge that the supporting text to the policy makes it clear that its purpose is to prevent the loss of family housing and the current 3-bedroomed flat does provide a reasonably sized unit which could feasibly be occupied by a family. However, I agree with the appellant that the policy only refers to the conversion of houses to flats and consequently, it does not apply in this particular set of circumstances. I have therefore, not given this policy any weight in the consideration of this main issue.

Living conditions

8. The Council is concerned about the quality of the internal accommodation provided in Flat A of the proposed development (first floor). There is no dispute over the standard of accommodation provided in Flat B (second floor). The minimum gross internal floor area requirements are set out by the Technical Housing Standards (Nationally Described Space Standard) (NDSS) (2015) and Policy D6 of the London Plan (LP) (2020) at Table 3.1.
9. The gross internal floorspace of Flat A would be approximately 40m² with a bedroom size of 11.3m². It is described by the appellant as a 1-bed one person unit. The Council contends that as the bedroom can accommodate a double bed it is capable of being occupied by 2 people. According to the standards, a double (or twin) bedroom is required to be 11.5m². The bedroom shown in Flat A would comfortably accommodate a double bed or two twin beds and therefore I agree that it should be assessed as a 2-person flat. Moreover, as the bedroom is only marginally under the floor space required for a bedroom in a 2-person unit, its occupation by a single person could not be guaranteed and could not be reasonably conditioned. Therefore, the proposal should be considered on the basis of a 1-bed 2-person unit.

10. The NDSS and Policy D6 of the LP require 1-bed 2-person units provide a minimum gross internal floor area of 50m². Although the bedroom would only be slightly under the minimum standard of bedroom size for 2 persons, the overall floorspace of 40m² would fall far short of the 50m² requirement. As such, the lack of internal floorspace would represent an oppressively confined form of accommodation for its future occupants.
11. I therefore find that Flat A would fail to provide adequate living conditions for future occupants, with regard to internal space provision, contrary to HLP policy LP17 and LP Policy D6 which together seek to ensure that development provides a good standard amenity for existing and future occupants.

Other Matters

12. In its statement the Council have indicated that a legal agreement concerning affordable housing and carbon reduction is required. However, this matter was not raised in the Council's reasons for refusal and the appellant has been unwilling to enter into an agreement. No obligation is therefore before me. Even if I were to agree that that the proposal meets the provisions of Paragraph 57 of the National Planning Policy Framework and that this factor could carry some weight in support of the proposal, I have no mechanism before me to consider the matter further.
13. The appeal site is within Broadway Market Conservation Area. As there are no external alterations to the property proposed, the appeal scheme would not have any adverse effect on the character or appearance of the Conservation Area. Accordingly, the proposal would preserve the character and/or the appearance of the Conservation Area and does not require further consideration.
14. I recognise that the appeal proposal would provide an additional housing unit where there is a known shortfall in the borough and is located close to public transport links. In reaching my decision I have also taken account of HLP Policies H1 and H2 and the Government's aims of making efficient use of land. However, these matters do not outweigh my findings in respect of the main issues.

Conclusion

15. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

Katherine Robbie

INSPECTOR