



Appeal Decision

Site visit made on 7 December 2021

by G Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th February 2022

Appeal Ref: APP/G5750/W/21/3273783

19 Dames Road, Forest Gate, London E7 0DS

- 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 Mawahidul Mowla Khan against the decision of the Council of the London Borough of Newham.
 - The application Ref 20/02843/FUL, dated 17 December 2020, was refused by notice dated 30 March 2021.
 - The development proposed is erection of ground floor side / infill extension and internal alterations to layout to create two self-contained flats (1 x 3 bed and 1 x 2 bed) with associated amenity space and refuse / cycle parking area (Part-Retrospective).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It is noted that both parties agreed to a revised development description during the course of the Council's consideration of the planning application. I have adopted that description in my header and have determined the appeal accordingly.
3. At the time of my visit to the appeal property I saw that it was occupied as four separate flats. The appellant has supplied details of both 'pre-existing' and 'existing – as built' floor plans, for which the latter reflects the property's layout as I saw it during my visit.
4. In the period since the Council determined the application the Government published an updated version of the National Planning Policy Framework (the Framework). The main parties were invited to comment on the implications of the updated Framework. I have determined this appeal on the basis of the updated Framework.

Main Issues

5. The main issues are whether or not the proposed development would:
 - Contribute towards building a stable, mixed and sustainable community, with particular regard to the supply of family sized homes; and
 - Provide an acceptable standard of living conditions for future occupiers, with particular regard to outdoor amenity space and internal living accommodation.

Reasons

Supply of family sized homes

6. Together the Newham Local Plan (NLP) and London Plan seek, amongst other things, to secure the delivery of a mix and balance of housing types to reflect locally identified needs. In particular, the NLP identifies a growing local need for housing of all types, sizes and tenures, the greatest need within the borough is for 3-bedroom homes.
7. From 2001 to 2012 the NLP states that the proportion of flats in converted dwellings doubled from 8.4% to 16.8% of total stock. The supporting text to NLP policy H4 goes on to state that it is very clear that there will not be enough family housing if the rates of new provision, and retention of existing, are not increased.
8. It is clear therefore that there is a specific and identified need for the provision of family housing, and the retention of existing family housing, within the borough. Although the existing 'as built' layout (as opposed to the 'pre-existing layout') currently provides a total of seven bedrooms across four flats, the property is shown to have previously accommodated a single three bedroomed home over two floors.
9. The proposal would create a 3-bed flat at ground floor. As such, it would not result in the loss, per se, of a 3-bed home capable of occupation by a family. This unit would also benefit from direct access to a sizeable outdoor amenity area and could also do so even if access to a portion of this area were also to be secured for occupiers of the upper floor flat.
10. However, the proposed quantum of accommodation would fall significantly below that previously provided as a 3-bed dwelling and it would therefore fail to provide at least equivalent floorspace, as required by NLP policy H4, even if it were to remain a 3-bed unit. There is no longer a size threshold against which to consider the suitability of properties for conversion within the NLP, something that the appellant seeks to draw support from in the form of the provisions of a previous plan's policies¹. That the host property exceeds a previous, no longer extant, threshold figure is not a matter to which I attribute any weight.
11. I accept that the sub-division of the property would provide an additional 2-bedroomed flat at first floor. In this respect, the proposal would contribute towards the NLP's recognition of a need for housing of all types and sizes across the borough and the National Planning Policy Framework's (the Framework) objective of significantly boosting the supply of homes. The NLP also recognises the value of good quality flat conversions and their contribution to the quality and quantity of the supply of homes. These are factors that weigh moderately in support of the proposal.
12. However, I am not persuaded by the appellant's suggestion that NLP policy H4 imposes a 'draconian blanket ban' on such residential conversions. NLP policy H4 is clear in setting out the circumstances in which the subdivision of 3+ bedroom dwellings may be considered appropriate. No case has been made by the appellant to counter the Council's conclusions in this respect or to demonstrate alignment with the criteria set out at NLP policy H4(2)(a)(i) to

¹ Referred to by the appellant as policy H20 of the now superseded Local Plan

(iv). In line with NLP policies H1 and H4's aims of specifically seeking to protect 3-bed housing and to ensure a balanced mix of house types, sizes and tenures and promote community cohesion, the proposal would be in conflict with NLP policies H1 and H4 and, collectively, London Plan policies GG4, H8 and H10, NLP policies S1, S6, SP1 and SP3 and the Framework.

Living conditions

13. Although the ground floor flat would have direct access to the private rear yard area, the upper floor flat would have no direct access to it. Whilst I have no doubt that this yard area could be sub-divided and provide outdoor amenity space for each of the flats, it is not readily apparent how the upper floor flat would gain access to any such area. Nor, given the appeal property's end-of-terrace location, is the appeal site particularly well-suited to providing usable private amenity space at the front or side of the property closer to the shared entrance to the flats. External access from the upper floor flat to the private amenity area could be provided but would be far from convenient or practical.
14. NLP policy SP2 and London Plan policy D6 recognise the value of access to open space, whether in the form of parks and recreation spaces or smaller pockets of open space and private gardens / yards to alleviate 'urban intensity'. The importance of access to such spaces has been underlined recently as a result of Covid-19 related lockdowns. No provision has been made within the appeal scheme to ensure that the upper floor flat would have adequate access to an appropriate outdoor amenity space. In collectively seeking to ensure high quality forms of development which contribute to creating healthy neighbourhoods, the lack of provision of, or direct access to, outdoor amenity space for the upper floor flat would be contrary to NLP policies H1, H4, S1, S6, SP2, SP3 and SP8 and London Plan policies GG4, D1, D2, D4 and D6.
15. There is no dispute that each of the two flats would exceed the respective requirements of the London Plan space standards. Nor that each flat would provide adequate daylight and outlook by virtue of their triple aspect layout. Access to the upper floor flat would be compromised somewhat by a narrow and winding staircase leading up to it, but the rooms in both flats appear to be well-proportioned. Together, these factors weigh modestly in support of the proposal but do not outweigh the harm to living conditions of occupiers of the upper floor flat in not having, and not having direct access to, outdoor amenity space.

Other Matters

16. The convenient and accessible location of the appeal site is not in question. Nor is the generally well-maintained appearance of the existing building, notwithstanding previous incidences of squatters and fly-tipping in the rear yard (beyond the existing sub-dividing fence). Whether or not the appeal proposal would provide a better balance of accommodation and better living conditions than the existing 'as built' layout of four flats is not a material consideration to which I give any significant weight as these were, I am advised, the subject of a recent enforcement appeal. These factors do not alter my conclusions in respect of the main issues as set out above.

Conclusion

17. The proposal would provide an additional home through the sub-division of the existing property and would maintain the presence of a 3-bedroom home within the appeal site. However, the 3-bed ground floor flat would be significantly smaller than the existing home and would not therefore maintain a directly equivalent form of housing. Although the proposal's provision of an additional dwelling unit would gain some support from the NLP, London Plan and the Framework, this would not offset the proposal's failure as a whole to achieve the form of balanced communities and retention of larger family housing sought by the NLP, London Plan and the Framework.
18. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

G Robbie

INSPECTOR