



Appeal Decision

Site visit made on 9 November 2021

by C J Ford BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 April 2022

Appeal Ref: APP/U5360/W/21/3278409

110 Lower Clapton Road, Hackney, London E5 0QR

- 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 Laveen Nanda against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2020/3075, dated 28 October 2020, was refused by notice dated 18 January 2021.
 - The development proposed is erection of 2 single storey self-contained residential units and building for refuse and cycle storage to the rear of 110-120 Lower Clapton Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Revised versions of the London Plan (LP) and the National Planning Policy Framework (the Framework) were published in March and July 2021 respectively. The 2021 versions of the LP and the Framework are referred to in the decision.
3. Some of the proposed plans are inconsistent. In determining the appeal, the following elements have been taken to be incorrect; the northern extent of Flat 1 shown in the elevations in Plans 07B, 10B and 12A, and the position of the roof gardens shown in Plan 03B.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the standard of accommodation would provide acceptable living conditions for future occupiers of the development.

Reasons

Character and appearance

5. The appeal site comprises a long and fairly narrow strip of land that extends along the rear of a four storey terrace which faces Lower Clapton Road and wraps around onto Laura Place. The terrace accommodates commercial premises on the ground floor and residential units above. It appears the original purpose of the appeal site would have been a rear service yard for the

commercial premises. However, as servicing now occurs from the front of the terrace, the land is unused save for some open air bin storage alongside Laura Place. The site is bordered by a secondary school to the east, while the wider area to the east of Lower Clapton Road has a varied character in terms of uses, the pattern of development, the scale of the built form and its architecture.

6. In long views from Laura Place, the distinctive well-ordered rear elevation of the terrace with its multiple hipped roof rear wings makes a positive contribution to the street scene. However, this only relates to the upper floors of the terrace, as the ground floor is mostly screened by one of the school buildings and the school's perimeter brick wall with mesh fencing above. In close views from Laura Place, near to the appeal site entrance, the clutter of the bin storage and the visible vacancy of the remainder of the site, which is dominated by concrete hardstanding, detracts from the appearance of the terrace and the neighbouring street scene.
7. The proposed scheme involves the erection of two single storey one bedroom flat roof units, along with a lower single storey flat roof bin and cycle storage building. In close views from Laura Place, the development would present a simple elevation of a brick wall containing double doors to the bin storage, as well as a residential door that would provide access to a passageway leading to the cycle storage and the northern unit, identified as Flat 1.
8. Set a good distance behind the wall, only a small section of the top of Flat 1 would be visible, and that would similarly be the case in long views. It is unlikely that Flat 2 to the rear would be perceptible in public views. Compared to the present swathe of barren hardstanding, the green roofs and potentially the garden areas to the new units would positively contribute to urban greening. Consequently, subject to conditions that would secure the use of appropriate high quality external materials, matching brickwork and new planting, the proposal would provide a substantial visual improvement over the current appearance of the site, while its low built form would ensure the key parts of the terrace's distinctive rear elevation would remain publicly visible.
9. The Council is of the view that the narrowness of the site would disrupt the uniform plot sizes and grain of the surrounding area. However, as previously noted, the character and in turn the urban grain of the area varies considerably. Furthermore, the terrace and its former service yard is so extensive that it effectively has a subsidiary urban grain of its own. In this respect, the submitted plans which correctly illustrate the proposed scheme demonstrate that the siting of the units would sensitively correspond with the corners of the respective adjoining wings of the terrace. Additionally, there would be a good balance between the built form and the open areas on the site, such that it would not appear cramped or overdeveloped. While the units would have an altogether different orientation from those in the terrace, they would appear consistent with the site lying to the rear of the terrace and facing towards Laura Place.
10. The Council also considers the units would appear more as functional rear outbuildings rather than standalone high quality residential development, while the Hackney Society deems the design as rudimentary and unimaginative. However, it would be unrealistic to expect a demonstrably standalone scheme as it would openly appear shoehorned up against the rear of the terrace, and anything other than single storey buildings with flat roofs would interfere with

the positive contribution that the upper floors of the terrace make to the Laura Place street scene. The proposed units, while simple in their form, would be unassuming and largely hidden from public view, which is a logical response to the site constraints. Therefore, given the particular circumstances and context of the site, externally the proposed scheme may be regarded as a high quality design response, and of the highest architectural quality.

11. In light of the above, the proposed development would not have an unacceptably harmful effect on the character and appearance of the area. In this regard, it would not conflict with Policies D3 and D4 of the LP, or Policy LP1 of the 2020 adopted Hackney Local Plan 2033 (HLP). Amongst other things, these policies seek to ensure development responds to local character and context, and is of the highest architectural and urban design quality. Similarly, it would not conflict with the Framework's promotion of development that is sympathetic to local character.

Living conditions

12. The new units would be dual aspect with the habitable rooms having an outlook to garden areas or smaller courtyards and enjoying adequate daylight and sunlight. Having regard to the submitted plans, the courtyard adjacent to Flat 2 would not be accessible to its occupiers. Nevertheless, even without such access, both Flats 1 and 2 would each have sufficient external amenity space provision. While the site itself is fairly narrow, the width of the internal space and the garden areas would be acceptable, being similar to that of modest terrace houses.
13. Although the properties would be bounded to the sides by the four storey rear wings of the adjoining terrace and the one and a half storey height of the neighbouring school building, the main living and garden areas would be orientated towards each other rather than the neighbouring buildings. Consequently, an unacceptable level of enclosure would not be experienced within the units or in the garden areas.
14. The Council's noise officer took into consideration the relationship with the rear of the commercial premises and the school when concluding there would be no objection in principle to the scheme, subject to relevant conditions. Nevertheless, the Council raises concerns about the cumulative impacts of the neighbouring uses and considers there would be an unacceptable combination of uses in close proximity to one another. However, the conditions would ensure appropriate mitigation in respect of any noise arising from the neighbouring uses, and subject to that mitigation, there is no reason why the close mix of uses would not harmoniously coexist.
15. Notwithstanding the findings above, and the Council acknowledging compliance with the relevant space standards, a fundamental problem with the design of the units is the lack of bathroom facilities of any kind, thereby rendering them uninhabitable. Moreover, this is not something that could be addressed through a condition requiring the submission of further details, as units of a different design would be required.
16. Accordingly, the standard of accommodation would not provide acceptable living conditions for future occupiers of the development. As such, it would conflict with Policy D6 of the LP, Policies LP1 and LP17 of the HLP, and the Mayor of London Housing Supplementary Planning Guidance. Amongst other

things, these seek to secure housing developments of high quality design which are functional and fit for purpose. It would also conflict with the Framework's promotion of high quality developments that function well and provide a high standard of amenity for future users.

Other Matters

17. The Council's officer report sets out that had the development been acceptable, the following would have been sought through a Section 106 legal agreement; financial contributions towards affordable housing and carbon off-setting, car free housing, monitoring fees and the payment of legal fees. A planning obligation which relates to these matters has not been provided.

Planning Balance

18. Notwithstanding the finding on the first main issue, the critical failure to provide habitable accommodation for future occupiers of the development is an overriding matter and one which outweighs all other considerations in this case.

Conclusion

19. The proposed development would conflict with the development plan as a whole and there are no material considerations, including relevant advice in the Framework, which would indicate that the decision should be made otherwise than in accordance with it. The appeal is therefore dismissed.

C J Ford

INSPECTOR