



Appeal Decision

Site visit made on 22 April 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 TH May 2022

Appeal Ref: APP/G5750/W/21/3288706

78A Sheringham Avenue, Manor Park, London, E12 5PA

- 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 Steven Singh against the decision of the London Borough of Newham Council.
 - The application Ref 21/02230/FUL dated 7 September 2021, was refused by notice dated 2 November 2021.
 - The development proposed is demolition of existing building and erection of a new building containing an office or medical consulting room use including garden space, cycle parking and bins.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the proposal.
3. A second appeal has been submitted for another scheme on the same site (APP/G5750/W/21/3280444). Whilst site visits were undertaken for the appeals on the same day each case has been considered on their own merits and are the subject of separate decisions.

Main Issues

4. The main issues are i) the principle of the proposal, ii) the impact of the proposal upon the character of the area, iii) the impact of the proposal upon neighbouring amenity with regard to overbearing impact, sense of enclosure, noise, and disturbance, iv) sustainable transport and highways impacts and v) refuse and recycling provision.

Reasons

Principle of the proposal

5. The proposal seeks demolition of an existing building and erection of a new building to be utilised as an office or medical consulting room use including garden space, cycle parking & bins. The starting point for determination is the Local Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004. The Framework does not change this and whilst the overarching objective of the Framework is sustainable development, in the case of this proposal, paragraph 11 is not engaged in the context of a planning balance.

6. The London Borough of Newham Local Plan 2018 (LP) Policy J1 supports employment as an important component of mixed use places but it highlights a need for evidenced demand. It confirms that new employment-generating development should demonstrate, especially when outside of Local Industrial Locations and Strategic Industrial Locations, that it can exist in close proximity to housing with minimal amenity impact as per LP Policy SP8. It is specific in its acknowledgement that small scale/start-up proposals are still to be directed to town centres and other areas noted within point f). LP Policy J2 is noted to allow small-scale (less than 100 sq. m Gross External Area) B Class¹ or Sui Generis non-speculative employment floorspace outside of defined employment areas to meet local business needs, and subject to other policy considerations, notably LP Policies SP2 and SP8.
7. LP Policy INF8 notes that community facilities should be provided where a local need exists or can be clearly demonstrated. This policy provides an exception where proposals are meeting a localised need, are smaller than 75 sq. m and staff and facility users occupying the building at any one time do not exceed fifteen people. This is reiterated within London Plan 2021 (LDN) Policy S2 which stipulates that development proposals that support the provision of high-quality new and enhanced health and social care facilities will be supported but, again, to meet an identified need.
8. I find that such uses could potentially be accommodated on the appeal site in principle within the scope of the above policies outlined but that such uses would be required to meet an evidenced demand, localised need or local business needs as set out in the respective policies outlined above. This evidence is required regardless of any claimed lack of harm to town centre related policy objectives of the LP or LDN. I note that the appellant contends that the proposals would be very quickly let but neither the planning statement, nor the appellant's statement of case, provide evidence as to identified need for either proposed use which I find is a policy requirement as outlined above.
9. Based upon the evidence before me and lack of detail as to whether the proposal would be an office or medical facility, combined with a lack of evidence supporting identified need as required by the policies above, I find that the proposal is unacceptable in principle as currently submitted. The proposal would be contrary to LP Policies J1 and J2, LP Policy INF8 and LDN Policy S2 all of which require such uses would be required to meet an evidenced demand, localised need or local business needs.

Character of the area

10. The appeal site is within a predominantly residential area and is located to the rear of a substantial two-storey end of terrace building which is currently occupied as three flats. The building which stands within the appeal site was previously a rear extension to the original building. The Council state that the building was built without planning permission but have made no reference to this being enforceable. In that regard on the evidence before me the building is there to stay as a result of time. At the time of my site visit I entered site and saw that the existing building on site is a flat roofed structure which is in extremely poor condition in that it is partly open to the elements with a failed

¹ Reference to B Class is prior to the Changes to the Use Class Order in September 2020. Offices would have come under the previous B1 Business (now within Class E – Commercial, Business and Service)

roof. It has evidently been vacant for some time and is notable within the street scene as a result of its poor appearance and contrasting finish in terms of materials.

11. The existing flat-roof development bears no resemblance to the two-storey Victorian terraces on Sheringham Avenue and already represents overdevelopment of the site as it stands. The proposed built form would result in replacement of this existing building on the appeal site and I note that this would be reduced in terms of width/depth and overall built form albeit the height would be increased. I find it would comparatively open up the appeal site and allow views through the site compared to the solid white built form along the pavement boundary. This would reduce the current presentation which is overly crowded and over developed and be appropriate change.
12. The prevailing character of the surrounding built form consists of two-storey properties, served by pitched roof formations with long rear gardens. The proposal is for a one-storey building, served by a crown roof form, with a small area of amenity space. I find that this would result in a slightly uncharacteristic form of development as it would not necessarily relate strongly to the proportions and design of the surrounding buildings.
13. Despite this, given the appeal site would mainly be viewed from Wolferton Road in terms of the street scene I find that the height provides suitable transitional development in terms of bulk, scale and massing between the height of the built form on Sheringham Avenue (substantial terraced buildings) and the more modest scale of adjoining 12 Wolferton Road (a bungalow). It would also offer an opportunity to replace the building with more appropriate materials which are more characteristic for the area. Overall the options for the site are noted to be constrained and given the visual impact of the existing building, I do not find that the built form as proposed would result in an impact upon the qualities which distinguish the area so negative as to warrant refusal.
14. The Council have provided limited commentary, in terms of application of policies, within their delegated report which relies heavily upon LDN Policy D3 despite a number of policies being stated in the second refusal reason itself. The list of policies within the delegated report does not match that within the refusal reason with regard to urban design and place making. As a result of this I have found some policies listed in the refusal to be of little relevance to the proposal before me with specific regard to this key issue (such as LP Policy S1, S2 and SP8 within the Local Plan) and indeed I do not have copies of some policies before me (such as LP Policy S6). I have thus referred to policies which I have found to be relevant to the proposal in light of this.
15. The proposal would be consistent with LP Policies SP1 which seeks high quality development and LP Policy SP3 which states an expectation that all development realises a high quality of urban design in the new buildings and spaces created. The proposal would be consistent with LDN Policy D3 which seeks to enhance local context by delivering buildings and spaces that positively respond to local distinctiveness through their layout, orientation, scale, appearance and shape, with due regard to existing and emerging street hierarchy, building types, forms and proportions and LDN Policy D4 which seeks to deliver good design.

Neighbouring amenity

16. The proposed built form would result in replacement of the existing building on site and as previously noted this would be reduced in terms of width/depth and overall built form. This is well demonstrated within the appellant's statement through replication of a 3D image from the daylight and sunlight report. Despite this the proposal would result in increased height in closer proximity to the ground floor rear window within 78 Sheringham Avenue (no. 78) which is demonstrated within a comparison of the existing and proposed street elevation A-A on the plans before me.
17. I find that the proposed siting in relation to the rear elevation of no. 78 would result in an unacceptable impact in terms of an increased sense of both overbearingness and enclosure due to the increase in height of the proposed building. I did note from my site visit that the existing on-site relationship between the appeal building and rear windows of no. 78 is poor (though my views from within the building were limited to the sides of the boarded up windows). Despite the reduction in overall built form note the increased height and proximity I find would result in further harm to the visual amenity of neighbouring occupiers which warrants refusal.
18. There is potential for any commercial use to increase activity and, therefore, result in increased noise and disturbance. At the time of my site visit I found the area to be generally busy with pedestrians cars and general activity. A condition controlling opening hours could be utilised to ensure increased activity is controlled to defined hours. I find that this would in turn sufficiently mitigate impact as to neighbouring amenity with regard to noise and disturbance based upon either an office or medical facility use.
19. I note comments regarding sunlight and daylight; however, the appellant has submitted a daylight and sunlight report (September 2021) which confirms that the scheme has been designed to mitigate impacts upon neighbouring properties. The Council's refusal reason is not based upon a loss of light or sunlight, or privacy, and I have no evidence before me to conclude differently on this matter.
20. The proposal would be contrary to LP Policy SP8 which highlights that proposals are expected to promote neighbourliness in addressing the need to minimise overbearing impact and LDN Policy D3 which seems to deliver appropriate outlook and amenity. The proposal would also be contrary to paragraph 130 f) of the Framework which seeks to create places with a high standard of amenity for existing and future users.

Sustainable transport and highways impacts

21. The appeal site is located within an area which has a Public Transport Access Level (PTAL) rating of 2 (poor). I acknowledge that the scale of the building would unlikely result in an unacceptable level of pressure to the local highway itself. The site is within a Controlled Parking Zone (CPZ) where the on-street parking is controlled during certain hours. At the time of my site visit I found the parking to be quite busy and did have to drive round a little before being able to park on Wolferton Road. I have no information before me as to the availability of such (in this case) business parking permits, or that the parking can be accommodated on local streets, which effectively results in the proposal as presenting being one which is car-free.

22. Taking into consideration the lack of detailed information of the proposed future use, I find there is insufficient evidence before me to robustly ascertain if a car-free scheme is acceptable within an area with a poor PTAL rating. No cycle parking is shown on the proposed plans. The site is likely capable of providing two cycle spaces, which could be controlled by condition, but overall cycle parking would be limited. This also needs to be considered alongside the waste management or recycling provision as discussed below in terms of overall space required within the site.
23. I find it reasonable to require definition as to end use to ascertain the likely comings, goings and general activity generated by the proposal. I find that an office and medical consulting room use are likely to produce differing movements and visitor levels throughout the day. An office may have limited staff members who arrive on site and remain there for office hours before leaving. By comparison a medical consulting room could encourage several visitors for appointments during the day, the number of which is undefined. These movements need to be outlined in order to enable consideration of the sustainable transport and highways impacts of a proposal.
24. In the absence of evidence to the contrary as outlined above I find the proposal to be contrary to LP Policy INF2 which seeks to maintain careful management of the supply of routes, capacity and parking for motor traffic in order to reduce or minimise congestion and the dominance of motor-vehicular traffic in the public realm and to make space for other modes and LDN Policies T5 and T6 which set out cycle and car parking standards. The proposal would also be contrary to paragraph 14 of the Framework which confirms that transport issues should be considered from the earliest stages of development proposals, so that the potential impacts of development on transport networks can be addressed.

Refuse and recycling provision

25. No waste management or recycling provision is shown on the proposed plans, however, there is space within the appeal site which could possibly be used to accommodate some waste and refuse storage. This may present as a plausible solution in isolation but I find that this would, however, be limited to the front patio area which extends to some 20 sq./m. The patio shown on the plans would also be potentially required to accommodate secure cycle parking, as outlined above, given that the courtyard area labelled on the proposed plans is labelled as "(no access)."
26. The combination of these points, with no detailed information in terms of the future use, means I find that I am unable to adequately assess the required refuse recycling provision or whether the site would be able to cater for this need taking into account all the demands for the limited, accessible, external space for the appeal proposal. This is key to determining whether the proposal is acceptable with regard to refuse and recycling provision.
27. In the absence of evidence to the contrary as outlined above I find the proposal to be contrary to LP Policy INF3 which states that development should ensure on-site handling and storage can meet the needs of the development and local collection arrangements without amenity impacts for occupiers or neighbours and where appropriate providing innovative approaches to sustainable waste management.

Other Matters

28. The proposals compliance with some policy requirements is noted – these do not outweigh the matters I have identified within the main issues of this decision letter.
29. There are a number of objections which have been submitted during the application process. I have dealt with matter relating to amenity, privacy, light and highway safety within the main issues above. I have no evidence before me to suggest the proposal would result in a loss of/cutting down of tree. A construction management plan could be applied to any permission granted which would have included Arboricultural protection measures. Party Wall matters are private and not within the scope of this appeal. Comments regarding past comments as to height and previous uses are noted, however, it falls to consider the proposal which is before me against the Local Plan policies in place at the point of determination.

Conclusion

30. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR