



Appeal Decision

Site visit made on 14 July 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2022

Appeal Ref: APP/E5900/W/21/3280146

5 Old Montague Street, London E1 5NL

- 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 M Sidoli against the decision of London Borough of Tower Hamlets.
 - The application Ref PA/21/00770, dated 7 April 2021, was refused by notice dated 22 July 2021.
 - The development proposed is described as the conversion of four storey dwelling into two flats. One Studio flat and one 2 bed 3 person flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are 1) whether or not the proposed development would harm the supply of family housing within the borough having regard to development plan policy, 2) whether or not the proposed development would provide acceptable living conditions for future occupants, 3) whether the proposed development would preserve or enhance the character and appearance of the Brick Lane and Fournier Street Conservation Area (BL&FSCA), and 4) whether or not the proposed development would make satisfactory provision for refuse storage and cycle storage.

Reasons

Supply of family housing

3. The appeal property is a four-storey end of terrace property with a commercial unit on the ground floor and a residential unit above. The residential unit has three bedrooms and separate living room, dining room and kitchen.
4. Family housing is identified in the Tower Hamlets Plan (2020) as houses and flats which contain three or more bedrooms. The appeal property would thus fall within this definition.
5. Policy S.H1 of the Tower Hamlets Plan outlines how the borough's housing needs will be met. Such measures include, amongst other things, ensuring development does not undermine the supply of, and resisting development that would result in the net loss of, family homes. The policy explains that family housing requires particular protection, due to high levels of identified need.

6. Policy D.H2 further outlines that development which involves the conversion of family homes will only be permitted when a 3-plus bed unit is retained in the new development. This policy also explains that there is a shortage of family housing in the borough and that this requirement of the policy seeks to ensure that priority family housing is not unnecessarily lost through development.
7. The proposed development involving the creation of a studio flat and a two-bedroom maisonette would result in the loss of the existing family sized unit and no re-provision would be made in the resulting development.
8. The appellant's justification refers to the fact that the unit is not occupied as a family unit and each room could be let individually. Be that as it may, the property falls within the definition of family housing and is of a size suitable for family occupation. Furthermore, as the Council highlight, occupation of the property by 3 or more unrelated people would change the use of the property to an HMO and would require planning permission by virtue of an article 4 direction covering the area. I therefore give this aspect limited weight.
9. The appellant refers to the location of the property in a commercial area being unsuitable for family occupation. On my site visit I noted that the surrounding area contained many commercial properties, however on my weekday afternoon site visit, the immediate area, although relatively busy, was not subject to excessive noise levels and had relatively low levels of vehicular traffic, particularly when compared to nearby Whitechapel Road.
10. The appellant has referred to the property having no outdoor amenity space. I agree that this may make the property less desirable for family occupation, however the local plan outlines that a flat of this size is capable of forming family accommodation. Therefore, whilst I accept the lack of amenity space is a somewhat negative feature of the property it does not preclude it from being occupied as family accommodation.
11. The appellant has referred to the property being in a highly sustainable location, to which I agree. However, there is no reason why a family would not wish to live in such a highly accessible location, close to jobs and services.
12. The appellant also suggests that the resulting two-bedroom unit could provide family accommodation. This may be the case, however ultimately, it would not fall within the development plan criteria for family housing.
13. There is nothing substantive before me to suggest that the existing property is not capable or suitable for family housing. The proposed development resulting in its loss with no replacement is therefore contrary to the requirements of Policies S.H1 and D.H2 of the Tower Hamlets Plan (2020).

Living conditions for future occupants

14. Policy D6 of The London Plan (2021) and D.H3 of the Tower Hamlets Plan (2020) outline that development should provide a minimum of 5 sqm of private outdoor space for 1-2 person dwelling, and an extra 1sqm should be provided for each additional occupant. Neither of the proposed properties would have any private outdoor amenity space, nor would there be any communal outdoor amenity space available for occupants.
15. Although no private outdoor amenity space would be provided, contrary to the above policies, this is also the case with the existing dwelling, which as outlined

above is considered to be a family dwelling. In light of the existing arrangement, I do not consider that it is unreasonable in this case that neither of the proposed units have private outdoor amenity space.

16. Policy D.H3 outlines that development is required to demonstrate that, as a minimum, it meets with the most up-to-date London Plan space and accessibility standards. Policy D6 of The London Plan (2021) outlines that dwellings must provide at least the gross internal floor area and built in storage area as set out. For a studio flat with a shower room, such as that proposed, the minimum floor area is 37 sqm. For a two-bedroom two storey dwelling such as that proposed, the minimum floor area is 70 sqm where it is for 3 persons and 79 sqm where it is for 4 persons.
17. The submitted plans state that the proposed studio flat would be 30 sqm and the two-bedroom unit, which is over two storeys, would be 61 sqm. Although there is disagreement over whether the two-bedroom unit is for 3 or 4 persons, regardless, both units would fall significantly short of the minimum floorspace as required.
18. Therefore, due to the size of the proposed dwellings, the development would provide unacceptable living conditions for future occupants. The proposed development is therefore contrary to the requirements of Policy D.H6 of the Tower Hamlets Plan (2020) and Policy D6 of The London Plan (2021) as outlined above.

Character and appearance of the BL&FSCA

19. The appeal property is located in the Brick Lane and Fournier Street Conservation Area (BL&FSCA) that is characterised by its historic evolution as a mixed commercial and residential area with key features including a group of residential properties on Fournier Street and the diverse and character rich Brick Lane.
20. The appeal property sits towards the south-east corner of the conservation area and forms part of its eastern boundary. The property is identified as being from around the 1950's. Although it displays some pleasant architectural features, it is not a hugely significant building in the conservation area.
21. The proposed development would result in the removal of the existing single glazed metal windows and their replacement with double glazed casement windows. The plans show that the new windows would have a similar arrangement of glazing bars. Although their profile and material is not shown on the submitted plans, were I to allow the appeal these could be subject to an appropriately worded planning condition.
22. I therefore consider that the removal of the existing windows and their replacement with windows of a glazing pattern to match and of an appropriate material and profile would have a neutral impact, and thereby preserve the character and appearance of the BL&FSCA.
23. The proposed development would therefore comply with Policies S.DH1 and S.DH3 of the Tower Hamlets Plan (2020) and Policies D4 and HC1 of The London Plan (2021). Collectively, these policies seek to ensure that developments preserve or enhance the character and appearance of conservation areas.

Refuse and cycle storage

24. In terms of refuse storage, the appellant has outlined that there is a small storage area to the rear of the building. It is not however clear in the evidence that this area is available for use by any future occupants of the appeal property, or indeed accessible given the access-controlled gate to the side of the property. It would also appear that this area is not within the appeal site boundary. I therefore cannot be certain that this is a viable solution.
25. The appellant has also referred to refuse facilities being already catered for, for the existing unit, which they assume have been operating without any issues. The existing arrangements are not however set out and I cannot be certain that these are acceptable to continue for the two units which are proposed.
26. Acceptable refuse storage and collection facilities have therefore not been demonstrated. As I cannot be certain that an acceptable solution exists that would not harm the character and appearance of the area and/or the living conditions of future occupants, it would not be appropriate to condition these details.
27. In terms of cycle parking and cycle storage, the appellant suggests that such facilities are regularly 'self-policing' with cycles stored in and around flats in such settings. I have not been provided with any details of such facilities that would be available for future occupants and I cannot be certain that appropriate facilities exist. It would therefore not be appropriate to condition these details.
28. Therefore, satisfactory refuse and cycle storage facilities have not been put forward. This would be contrary to Policy D.MW3 of the Tower Hamlets Plan (2020) which requires that new development has acceptable waste storage and collection. Due to the lack of appropriate cycle parking, the development would fail to promote sustainable travel and would be contrary to Policy D.TR3 of the Tower Hamlets Plan (2020).

Other Matters

29. The appellant has referred to the vacancy of the property, however I am not presented with any marketing details or analysis of, or lack of, demand for the unit. I therefore give this matter limited weight in the appeal.

Planning Balance and Conclusion

30. The Government's objective as set out in the National Planning Policy Framework (2021) is to support sustainable housing growth. The proposed development would result in a slight increase in the Council's overall housing number and would be in a sustainable location. It would also bring a small number of additional residents to the area who would contribute to the local economy. Collectively, I give these matters moderate weight in favour of the proposed development.
31. However, the harm that I have identified that would be caused by the loss of family housing and the failure to provide acceptable living conditions attracts significant weight that outweighs the benefits associated with the proposed development.

32. The proposed development would therefore conflict with the development plan and there are no identified other considerations that outweigh this conflict.
33. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR