



Appeal Decision

Site visit made on 8 August 2022

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2022

Appeal Ref: APP/U5360/W/21/3284956

47 Burma Road, Hackney, London N16 9BH

- 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 J Light against the decision of the London Borough of Hackney.
 - The application Ref 2020/3111, dated 9 October 2020, was refused by notice dated 16 September 2021.
 - The development proposed is conversion of the property to three self-contained residential units facilitated by the erection of a lower ground floor rear extension; mansard roof extension including front roof terrace and raised chimneys; alterations to fenestration on rear elevation; and including cycle and refuse storage in front garden.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The development description in the banner heading above, is taken from the appeal form and refusal notice. I have referred to this instead of the development description in the application form as it provides more detail and clarity on what is being sought.

Main Issues

3. The main issues are:
 - whether future occupiers would be likely to experience acceptable living conditions, with particular reference to internal living space and privacy; and
 - whether or not an affordable housing contribution is necessary to make the proposed development acceptable in planning terms.

Reasons

Living conditions

4. The appeal site comprises a vacant four-storey terrace dwelling. The property is in a line of similar dwellings which are largely characterised by shallow enclosed gardens containing attractive planting, together with cycle and waste storage facilities.
5. The proposed Flat B would comprise, according to the appellant a 1 bed, 1-person unit with a gross internal floor area (GIA) of around 37.8 square

metres (sqm), while Flat C would be a 2-bedroom, 3-person unit measuring approximately 69.2sqm.

6. The London Plan 2021 Policy D6 (housing quality and standards) sets out that housing should be of high-quality design and provide adequately sized rooms with comfortable and functional layouts which are fit for purpose. To ensure that homes provide sufficient space for the everyday activities of its occupants, the policy sets out minimum space requirements. Individual dwelling types are expressed with reference to the number of bedrooms and the number of bedspaces or people that can be accommodated within these bedrooms. The intention is that the size of the bedroom determines how occupancy is defined. These requirements follow those set within the Nationally Described Space Standards (2015) ('the standards').
7. For double bedrooms the standards set out a GIA of at least 11.5sqm. The submitted drawings show a single bed annotated within the bedroom of Flat B. Notwithstanding that, it shows a GIA of 11.8sqm. As the room would exceed the minimum dimension of a double bedroom, I have assessed Flat B as being a 1-bedroom, 2-person unit. As indicated the overall internal floor area of Flat B would be 37.8sqm, which is significantly below the 50sqm GIA, for a 2-person unit, prescribed by the standards. The result would be a lack of sufficient space for the everyday activities of the flat's occupants, and this would significantly harm their living conditions.
8. Flat C would be spread over two floors. Bedroom 2 would be 13.4sqm in area and would, therefore exceed the minimum requirement for a two-bedspace room. A single bed is annotated on the submitted floor plan, but due to its size and shape, the room would be capable of accommodating twin beds or a double bed. Therefore, I have assessed the proposed Flat C as being a 2-bedroom, 4-person unit. For dwellings of this type, the standards prescribe a GIA 79sqm. With an internal area of some 69sqm the unit would fall appreciably below the minimum standard, and therefore the living conditions of future occupiers would not be of a satisfactory level.
9. I note that the appellant indicates that the above rooms would be 1-person bedrooms and that the standards only relate to minimum requirements. The notes in the standard set out that furnished layouts are not required to demonstrate compliance, and it seems to me that there is no reason why the flats in question could not be provided with double beds given their size and occupied by two persons. Moreover, no control regarding whether they are occupied by one or two people would be in place. In any case my assessment of future occupancy of the rooms has been judged against the GIAs set by the standards.
10. The proposed cycle store's position immediately in front of the lower ground and ground floor bedroom windows could have effects on the privacy of occupiers within those rooms, as cycle users access and egress the storage area.
11. However, the cycle store's position along with that of the bin compound could be reconfigured and placed away from the windows near to the side and front boundary of the property. Along with some planting that could limit overlooking into rooms, particularly, the lower ground floor bedroom, the effect on privacy would be appreciably reduced. Re-positioning the cycle and bin stores in this fashion would also be consistent with the other properties in the street. I am

satisfied that these details could be secured by condition and would overcome the Council's concerns in respect of privacy.

12. Despite my findings on the effect on privacy, the proposed development would not provide adequate internal living space. It would thereby result in sub-standard accommodation which would fail to provide satisfactory living conditions for future occupiers. The proposal would, therefore, fail to accord with Policy D6 of the London Plan and the Nationally Described Space Standards (2015), the requirements of which I have referred to. Additionally, it would not satisfy Policy LP17 of the Hackney Local Plan 2033 (2020) (the Local Plan) where it requires housing to be of high-quality design that meets the internal space standards outlined in the London Plan.

Affordable housing

13. Policy LP13 of the Hackney Local Plan outlines that for residential developments which fall below the 10-unit threshold, they will be required to provide on-site provision or payments in lieu up to the equivalent of 50% of housing delivered as affordable housing, subject to viability. This position is also reflected, and elaborated on in more detail, in the Hackney S106 Planning Contributions Supplementary Planning Document (the SPD), published by the Council. However, the policy pre-dates the most recent Framework which states that affordable housing should not be sought for residential developments that are not major developments (i.e. less than 10 units).
14. The supporting text to policy LP13 indicates an acute need for affordable housing in the Borough, the importance of small sites in delivering this, and that these requirements do not place a disproportionate burden on developers. The appellant does not dispute the relevance of the policy, therefore, based on this specific local evidence, the Framework's provisions, do not outweigh the development plan in this instance.
15. The appellant has submitted a Financial Viability Analysis (FVA). The FVA also includes amendments that were made in response to the Council's initial assessment. Together they present a comprehensive analysis and coverage of the scheme's viability, and I note there are several areas where the main parties are in agreement. It concludes that there would be a scheme deficit and that an affordable housing contribution would not be viable.
16. The FVA appears to cover the necessary variables to assess viability, whilst I have not been presented with any counter evidence from the Council that challenges the final figures presented. Notwithstanding this, my conclusions on the first main issue, in respect to bedroom size/number of occupiers, places an element of doubt on the value of the proposed units. Therefore, it is not clear whether my findings on that matter would alter the Benchmark Value in the FVA.
17. Accordingly, I cannot conclude with certainty whether or not a financial contribution towards affordable housing is necessary to make the proposed development acceptable in planning terms. Therefore, the proposal conflicts with Policy LP13 of the Local Plan, together with the SPD, the objectives of which are referred to above.

Other Matters

18. I acknowledge that the dwelling would be in a location well served by existing facilities and infrastructure. The proposal would also provide some, limited, benefits for example a net gain of two dwelling units. I also acknowledge the economic benefits of engaging local professionals, trades and suppliers and the ongoing benefits of the occupiers spending in the locality and utilising local facilities. Those benefits are, however, limited by the small scale of the proposal and must be considered in that context.
19. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusions I have reached that the proposal would cause harm to the living conditions of future occupiers, and the failure to justify the requirement of an affordable housing contribution.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR