



Appeal Decision

Site visit made on 6 July 2022

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 October 2022

Appeal Ref: APP/E5330/W/21/3288233

146-154 Eltham High Street, Eltham SE9 1BJ

- 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 Danish Hanif of Greenside Services Ltd against the decision of Royal Borough of Greenwich Council.
 - The application Ref 21/0904/F, dated 8 March 2021, was refused by notice dated 3 June 2021.
 - The development proposed is the construction of 1 x additional floor over the existing front part of the site to form, 5x new self-contained residential flats (1x Studio, 2x 1B2P, 1x 2B3P and 1x 2B4P).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Government published a revised National Planning Policy Framework ("the Framework") on 20 July 2021, replacing the version published in February 2019. While this was after the Council had determined the planning application, it was before the appeal was lodged, and the appeal submissions were made in the light of the revised Framework. Where I have referred in my decision to specific paragraphs of the Framework, the numbering is that of the July 2021 version.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the area;
 - The effect of the proposed additional storey on living conditions for the occupiers of a first-floor flat within 142-144 Eltham High Street, with particular regard to loss of daylight;
 - Whether the proposed two-bedroom, three-person flat would provide acceptable living conditions for future occupiers, with particular regard to its layout and external amenity space; and
 - Whether or not the proposed development would make adequate provision for refuse and recycling storage, cycle storage and plant rooms.

Reasons

Character and appearance

4. The appeal property is a three-storey building with retail premises on the ground floor and two floors of flats above. The flats are entered via a courtyard off Eltham High Street which passes under the upper floors between the ground floor units at No 150 and No 154; the courtyard also provides service access for the commercial units.
5. The ground floor frontage to Eltham High Street has fairly typical shopfronts with large display windows, above which there are two visually distinct sections to the building. No 146-150 has three red brick gabled bays rising to the full height of the building, while the remaining part above No 154 and the courtyard entrance is rendered at first floor level, with the second floor contained within a mansard roof above. It appears that the "link" section above the courtyard entrance is a relatively recent development following a 2015 grant of planning permission¹, as a result of which the residential upper floors are connected internally. Following a further grant of planning permission in 2019 ("the 2019 permission")², the building contains 18 flats as well as the three ground-floor retail units.
6. The proposed development is the erection of an additional floor on the top of the building, which would accommodate five further flats – one studio, two one-bedroom two-person units, one two-bedroom three-person units, and one two-bedroom four-person unit. The third floor would be contained within a mansard roof, which would step up in height by around 1.2m from the western (152-154) to the eastern (146-150) parts of the building. There would be two dormer windows above Nos 152-154, and five dormers above Nos 146-150); these would have lead flashing surrounds, while the remainder of the mansard roof itself would be of red slate tiles.
7. The highest part of the mansard roof above Nos 146-150 would also become the highest part of the entire terrace (which, like the appellant, I have taken to mean the block from No 144 to No 164), being some half a storey or so taller than No 156 nearby. On this point both main parties drew my attention to an appeal decision relating to a proposal for a part two-storey roof extension at No 142 Eltham High Street (immediately west of the appeal site)³. In it the Inspector concluded that on this part of the high street "no single building dominates the street scene" and that frontages have "a vertical grain to the elevations which settle at around 3 storeys in height".
8. I do not know the full details of that case, but the evidence before me suggests that there are some differences between it and the proposal now before me. In particular, notwithstanding its height relative to the other buildings on the High Street, the mansard proposed for the appeal site above Nos 146-150 would be set well back behind the gable front, and the front of the roof (as well as the sides closest to the front elevation) would be at a 70° slope. The proposed use of red slate tiles would match the existing roofs on the site. These factors would reduce the visual impact of this part of the mansard roof, and would

¹ LPA Ref: 14/3250/F

² LPA Ref: 19/0756/F – at the time the Council determined the appeal planning application this development had not been implemented, although by the time of my site visit it appeared to be substantially complete.

³ PINS Ref: APP/E5330/W/17/3191107

prevent it either dominating the three-storey building below, or being an intrusive feature in the street scene.

9. In my view the same cannot be said, however, of that bit of the proposed third storey which would be above Nos 152-154. This part of the mansard roof would be set much closer to the street frontage, and would combine with the existing second floor below to create a double-height mansard roof. While these are not unheard of in London and other large cities, mansards of two or more storeys are generally found on larger buildings which have the height and scale to accommodate them. That does not apply to the original two-storey building at No 154 which is essentially modest in scale and massing, and which as a result would be overwhelmed and dominated by a double-height mansard. The development would also increase the disparity in appearance between the upper floors of No 154 and those of Nos 156 and 158 immediately to the west. It would further disrupt what would originally, as far as it was possible to tell from what I saw on my site visit, be likely to have been built as a single composition, resulting in increased incoherence and incongruity in the streetscene.
10. The appellant referred to other taller buildings on Eltham High Street, notably the Peacock's/Sports Direct building at Nos 145-159 (opposite the appeal site), and the Vue Cinema complex at Nos 168-176 a short way east of the appeal site. I do not know the precise circumstances in which either of those other buildings came into being, but neither strikes me as being particularly sympathetic to the broader character or appearance of the High Street. The Vue Cinema is a recent building, having been developed since 2018, and was described by the appellant as being "obtrusive, ill-mannered and oppressive, dominating the High Street and paying little or no regard to its neighbours"; this does not seem to me to be an argument that it should set a precedent in terms of design or form. Neither of these other buildings provides a convincing justification for allowing the further, if different, harm to the character and appearance of the area which would arise from this proposal.
11. I therefore conclude that, because of the bulk, siting, scale and massing of the additional floor as a whole (although with particular regard to that part above Nos 152 and 154), the proposed development would be harmful to the character and appearance of the area. It would therefore conflict with Policy DH1 of the 2014 Royal Greenwich Local Plan ("the RGLP") and Policy D3 of the London Plan 2021 which, among other things, seek to ensure that development positively contributes to its surroundings, including by taking account of the architecture of surrounding buildings, and the scale, height and massing of the adjacent townscape. It also conflicts with the requirements of Chapter 12 of the Framework which seek to achieve well-designed places, notably Paragraph 130 which requires that development is visually attractive and sympathetic to local character.

Living conditions – neighbours

12. The appellant submitted a Daylight and Sunlight Report based on the Building Research Establishment's guidance in *Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice* ("the BRE guidance"), which considered the effect of the proposed development on daylight and sunlight reaching neighbouring dwellings. It concluded in respect of 142-144 Eltham High Street that "all windows [would] meet the BRE guidelines" in respect of the Vertical

Sky Component, but that two windows (one serving a bedroom, the other serving a combined living room, kitchen and dining room) would fall short in terms of Daylight Distribution ("DD").

13. In fact, the DD shortfall would affect two windows of the same flat within No 142-144 (the specific flat was not identified within the Daylight and Sunlight Report, but it is clear from the Council's officer report that it is Flat 2). The BRE guidance states that if this figure "is reduced to less than 0.8 times its former value, (a 20% reduction), then this will be noticeable to the occupants, and more of the room will be poorly lit"; while this is guidance rather than policy, it offers a rational and disinterested method of assessing the impacts of the appeal scheme. In the case of the affected flat, its bedroom would see the DD drop from 29% to 19%, while the combined living room, kitchen and dining room would see a fall from 16% to 11%. Both rooms would therefore see a reduction in their DD of around a third; given their already low DD figures, it is evident that the proposed development would make already gloomy rooms darker still.
14. I accept that, as the BRE guidance also advises, in special circumstances such as "in a historic city centre, or an area with modern high-rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings". However, in this case the appeal building already matches the height and proportions of its neighbours; the proposed development would make it taller still and, in terms of its impact on neighbouring occupiers' daylight, more disruptive. These circumstances do not therefore represent to me a strong case for applying a great deal of flexibility in favour of the appeal proposal on this matter. For the same reasons, I do not find the appellant's argument that No 142-144 should be regarded as a "bad neighbour", for which some reduction in daylight is "unavoidable" to be persuasive.
15. I conclude that the proposed development would lead to a loss of daylight reaching Flat 1 within No 142-144 Eltham High Street, which would cause significant harm to living conditions for the occupiers of that flat. It therefore conflicts with Policy DH(b) of the RGLP which seeks to protect the amenity of neighbouring occupiers, including in respect of daylight. For the same reason, the proposal would conflict with the requirements of Paragraph 130 of the Framework.

Living conditions – future occupiers

16. The five proposed flats would each have some form of private balcony or terrace, all of which would comply with the size requirement for private outdoor space set out in Policy D6 of the London Plan 2021. However the external terrace of the two-bedroom, three-person flat (unit 4) would open onto (and overlook) a narrow internal lightwell. As a consequence of this enclosure it would be likely to be a somewhat oppressive place, and its usefulness as an amenity space for the occupiers of that flat would be severely limited.
17. The appellant drew my attention to a further appeal decision in respect of No 142-144 Eltham High Street⁴, in which the Inspector considered that there was "merit in applying at least some flexibility to design standards" and concluded that in view of the town centre location and the likelihood that "some

⁴ PINS Ref: APP/E5330/W/18/3217072

prospective occupiers may not seek amenity space” the absence of private amenity space for one flat would not seriously harm living conditions. However those comments related to a one-bedroom flat, while in this case the proposal is for a two-bedroom flat. With a likely greater number of occupiers, providing unit 4 with private outdoor amenity space of an acceptable standard for purposes such as relaxation, drying clothes and so on becomes a more significant factor; it would become even more important still if – as is possible, even if it is not the appellant’s current intention – that at some point it were to be used as accommodation for a small family.

18. All of the windows of unit 4, with the exception of the doors opening onto the terrace and lightwell, be on the building’s northern elevation facing Eltham High Street. The development plan seeks to avoid the provision of single-aspect dwellings (especially those which face only north), although it also recognises that there will be times when it is an appropriate response to optimising site capacity. While the Council’s officer report discussed the essentially single-aspect nature of unit 4, its conclusion found harm only in relation to the private amenity space. I note from the submitted Daylight and Sunlight Report that all rooms within that flat would comply with the BRE guidance in respect of the daylight they would receive, and find that no significant harm would arise in this regard.
19. Nevertheless, I consider that the poor quality of the private amenity space proposed means that living conditions for the future occupiers of unit 4 would fall short of the standard which they could reasonably expect. The development would therefore conflict with Policy H5 of the RGLP and Policy D6 of the London Plan 2021; among other things these policies seek to ensure that new housing development is of a high quality, and maximises the usability of outside amenity space. The proposal would also conflict with the requirements of Paragraph 130 of the Framework, which among other things seek to provide a high standard of amenity for future users.

Refuse and recycling, cycle storage, plant rooms

20. The appeal scheme includes plant rooms, and storage for cycles, and refuse and recycling in undercroft areas accessed from the inner courtyard. The Council considered that the appellant had submitted “inconsistent drawings” which prevented it making “an accurate and thorough assessment of the [planning] application in terms of the provision of refuse and recycling storage, cycle storage and plant rooms”. This appears to have principally related to the fact that areas which had been shown as being used for one of these purposes in previous planning applications were now being proposed to be used for a different purpose. In particular, an area earmarked as a plant room under the 2019 permission is now proposed to be used for refuse and recycling storage as it is apparently no longer needed for its original purpose, thereby in turn allowing the 2019 bin store to be used as an additional cycling store.
21. In fact, this was briefly outlined on page 14 of the submitted Design and Access Statement, although I have some sympathy with the Council’s stance on this matter as the reason for which the change would be possible (i.e. the rationalisation of the previous plant area) was not clearly explained. Furthermore, although the appellant’s statement has gone some way to addressing this matter, there is no single clear statement or plan before me which demonstrates how and where cycles and refuse and recycling from the

site as a whole (including the existing and five additional proposed flats) would be safely and accessibly stored on site and which could therefore address the Council's concern on this matter.

22. Nevertheless, on the basis of the evidence before me I am satisfied that the appeal site could in principle accommodate the necessary storage areas. There is still some fine detail missing on this matter, as I have just explained, but this is something which I consider could be addressed by the use of an appropriately worded condition, were the proposed development to have been otherwise acceptable,.
23. I conclude therefore that, subject to such a condition, the proposed development would make adequate provision for refuse and recycling storage, cycle storage and plant rooms. It would therefore comply with the requirements of Policies DH1 and IM(b) of the RGLP, and with Policies T5 and SI7 of the London Plan 2021 which seek such provision.

Planning Balance and Conclusion

24. The proposed development would provide five new dwellings, resulting in a small increase in housing supply which is a modest benefit of the scheme. The appeal site is in a town centre location close to a variety of shops and services, and there would also be likely to be some benefits for local businesses arising from an increased number of households in the area, although given the small scale of the proposal this would represent a very modest social and economic benefit.
25. I have found that the proposed development would make adequate provision in respect of plant rooms, and for the storage of cycles, and refuse and recycling. However, it would cause harm to the character and appearance of the area, would harm living conditions for the occupiers of a neighbouring flat, and furthermore it would not provide acceptable living conditions for the occupiers of one of the proposed flats. The proposal would therefore conflict with the development plan taken as a whole.
26. There are no material considerations which indicate that the decision should be made other than in accordance with the development plan. For the reasons given above, the appeal is therefore dismissed.

M Cryan

Inspector