



Appeal Decision

Site visit made on 20 September 2022

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 November 2022

Appeal Ref: APP/G5750/W/22/3296048

204 High Street South, East Ham, London E6 3RR

- 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 M Abdullah against the decision of London Borough of Newham.
 - The application Ref 21/03182/FU, dated 23 December 2021, was refused by notice dated 24 February 2022.
 - The development proposed is extensions and conversion into two self-contained flats
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Although within the officer report the site is indicated as being within the buffer zone for the Epping Forest Special Area of Conservation, the Council have subsequently confirmed that it is not within such an area.

Main Issues

3. The main issues are:
 - The effect of the development on the supply of family sized housing within the borough;
 - Whether the development would provide appropriate living conditions for the occupiers of the appeal property, with particular regard to outdoor space and internal storage space.
 - The effect of the development upon the living conditions of occupiers of neighbouring properties with particular regard to noise and disturbance.
 - Whether the development would provide suitable secure cycle storage.

Reasons

Loss of family sized accommodation

4. The appeal site comprises a 3bedroom dwellinghouse. It has a good sized private rear garden.
5. Although forming one house within a short terrace of residential properties, other development within the area fronting High Street South is more mixed and includes; a fuel station with convenience store; a fire station; and, a number of commercial properties. Although there is no on-street parking to the front of the property, there is resident parking available in nearby streets. At the time of my site visit, I found High Street South to be a busy 2-way road.

Suggestions that these considerations make the property unattractive to families are not substantiated by compelling evidence.

6. Amongst other things, Policies S1, H1 and H4 of the Newham Local Plan 2018 (the Local Plan) all seek to protect and/or increase family housing within the borough. A specific objective of Policy H4 is to protect 3 and 4+bedroom family housing. The justification of Policy H4 states that there is sufficient capacity for flats, and that it is very clear from analysis of requirements that Newham will fail to provide enough family housing if it does not both increase the rate of new provision (as per Local Plan Policy H1) and hold onto existing family stock.
7. Notwithstanding the above, Policy H4 2.a. outlines certain circumstances in which the conversion of 3+bedroom housing to other high quality conventional housing may be acceptable. Even if I were to accept the appellants position that the site was within a quality movement corridor or linear gateway, all criteria must be met for policy compliance. The property has a well-defined front entrance and is not located above an existing, occupied commercial unit. Therefore, the next 2 criteria are not met. In addition, while there would be no harm to the character and appearance of the area, and given that the sole alterations proposed to the front of the property are the introduction of 2 rooflights, it has not been satisfactorily demonstrated that the proposals would enhance the street-scene, as required by the 4th criterion. Therefore, the circumstances identified within Local Plan Policy H4 which could justify the conversion of a 3+bedroom house to other quality housing are not met.
8. The creation of an additional unit of residential accommodation, in a good location in terms of its proximity to shops, facilities and public transport, would make a small contribution towards the boroughs identified housing need in terms of the numbers of properties required. However, the loss of a unit of accommodation suitable for family occupation, would undermine the Council's objective to retain and increase the amount of 3+bedroom family housing within the area. I therefore attribute limited weight to the creation of an additional unit, in this case.
9. For the above reasons, I conclude that the development would reduce the supply of 3bedroom family sized housing within the Borough. As such, and in respect of this main issue, the development is contrary to Policies S1, H1, and H4 of the Local Plan. In this regard it also conflicts with Policies GG4 and H10 of the London Plan – March 2021 (the London Plan), which amongst other things seek to ensure that homes meet identified needs. Furthermore, the proposal would conflict with the aims of paragraph 62 of the National Planning Policy Framework July 2021 (the Framework) and the Housing SPG¹ which seek to ensure that housing is of a size and type to meet the needs within communities.
10. The Council suggest conflict with Policy H8 of the London Plan. However, this policy relates to loss of housing, and it is unclear how a harmful conflict with its aims would arise. In terms of this main issue, the alleged conflict with Local Plan policies SP1, SP2 and SP3 which seek to ensure; a high quality of development which is of design that is responsive to its context; and, healthy neighbourhoods, have also not been clearly demonstrated.

¹ Mayor of London – Housing Supplementary Planning Guidance – March 2016 – updated August 2017

Living conditions – future occupiers

11. Although any future occupiers of the ground floor flat would benefit from a large private rear garden area, future occupiers of the first and second floor flat would have no private outdoor space. Policy D6 of the London Plan indicates that a minimum of 5sq.m of private outdoor space should be provided for 1-2 person dwellings.
12. The appellant indicates that the site is a short walk from Central Park. However, walking distances and times to the park have not been clarified. Furthermore, privacy cannot be reasonably anticipated within such an area. I do not therefore find that this is a suitable alternative to the provision of a private outdoor amenity space to serve the first and second floor flat.
13. Whilst I accept that there may be many examples where outdoor space has not been provided for flats above ground floor level, I have not been provided with details of any such schemes, or whether they were permitted within the same policy context. As such I cannot be certain that they are comparable. This consideration does not therefore alter my finding in this appeal regarding the need for outdoor space.
14. The Council indicate that the overall gross internal area for both flats would exceed the required space standards, which are set out within table 3.1 of the amplification of London Plan Policy D6. This is a small benefit which would weigh in support of the scheme.
15. While it may be possible to provide adequate indoor space and secure appropriate storage facilities by condition, the development proposals would not provide appropriate living conditions for the occupiers of the appeal properties, with particular regard to outdoor space. Consequently, and in this respect, I find conflict with Policies GG4, D3 and D6 of the London Plan, which seek to ensure quality housing and to achieve outdoor environments that are comfortable and inviting for people to use. There is also conflict with those aims of Policies SP8, and H1 of the Local Plan, that seek to ensure that Newham is an attractive place to live, and, neighbourly development with adequate external private open space. Furthermore, it would conflict with paragraph 130 f) of the Framework, an objective of which is to ensure that development delivers a high standard of amenity for future users. In addition, it would conflict with minimum private outdoor space levels contained within the Housing SPG.
16. The Council indicate conflict with Local Plan policies S1, SP1, SP2 and SP3. Amongst other things these policies seek to ensure; development of a design that is responsive to its context, and, healthy neighbourhoods. In respect of this main issue it is unclear how a harmful conflict with these aims would arise.

Living conditions – occupiers of neighbouring properties

17. The proposal to create 2 separate flats which could be occupied by two separate households would create the potential for additional movements to and from the property. There could be an increase the amount of noise generated by the use of the 2 flats. However, given the nature of the development proposal, i.e. the provision of 2 one bedroom flats rather than one 3 bedroom dwelling, and even accounting for an associated increase in visitor movements, any such increases are likely to be small.

18. Furthermore, given the observed high general levels of noise and activity within the area, any small increase in noise and activity resulting from the implementation and subsequent use of the proposed development would be barely perceptible to occupiers of neighbouring properties.
19. I have not been provided with full details of the proposal or appeal decision related to appeal reference APP/G5750/W/19/3226713, and as such I cannot make direct comparisons with that scheme and the development proposals subject of this appeal. Nor have I been provided with details of the layouts of adjacent properties. Irrespective of this, for the reasons given it has not been demonstrated that the proposal would be harmful to the living conditions of the occupiers of neighbouring properties.
20. Thus, I conclude that the proposals would not be harmful to the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance. In these respects, there would be no conflict with those aims of Policies SP1, SP2, SP3, SP8 and H1 of the Local Plan, which seek to ensure that Newham is an attractive place to live, creating healthy and quality neighbourhoods and ensuring neighbourly development. Nor would there be any conflict in this regard with the aims of Policies D3, D6 and D14 of the London Plan where they seek to reduce and mitigate noise, protect quality of life and deliver appropriate outlook, privacy and amenity. The proposals would also not conflict with the Framework, where it seeks to ensure a high standard of amenity for existing users.
21. Local Plan Policy S2 has been referred to in the Council's reason for refusal. This policy relates to strategic principles for development in Stratford and West Ham. It has not been demonstrated that the development proposal would conflict with this Policy.

Cycle storage provision

22. The house subject of this appeal is separated from the road and pavement by a relatively large hardstanding. This hardstanding is under the control of the appellant. It is of a sufficient size to securely store at least 3 bicycles, without restricting access to the front door of the property.
23. Although the submitted plans do not include any proposals for dedicated cycle parking provision, the Council indicate that had they been minded to approve the application, then details of cycle parking would have been requested. It has not been demonstrated that such provision could not be resolved with the use of planning conditions.
24. Therefore, the development could comply with the requirements of Policy T5 of the London Plan where it seeks to ensure development proposals should help remove barriers to cycling. It could also comply with Policy INF2 of the Local Plan where it seeks to encourage and facilitate cycling. In this respect it could also comply with the objectives at paragraphs 92.c) and 104.c) of the Framework to support healthy lifestyles and to promote sustainable transport.

Other Matters

25. That the proposal would provide accommodation with regularly shaped and well-proportioned rooms with good light and outlook, and that the front garden area is large enough to accommodate the storage of waste are neutral factors. As is the fact that no unacceptable level of harm would result upon the living

conditions of the occupiers of neighbouring properties with particular regard to loss of privacy, light and/or outlook.

26. I note that there are permissions in place for alterations and extensions to the house (references 21/02125/HH and 21/02276/CLP). The development subject of this appeal includes a change of use. I have found that the change of use would result in harm both in terms of the delivery of the Councils housing strategy and upon the living conditions of future occupants of the first and second floor flat. Therefore, the fall-back position is not comparable with the appeal scheme and doesn't justify a different decision being made in this case.

Conclusion

27. I have found that the proposed development would be harmful to the supply of family housing in the borough. Due to a lack of private outdoor space, it would fail to provide suitable living conditions for future occupiers of the first and second floor flat. I have also concluded that the development would result in no unacceptable effects upon the living conditions of the occupiers of neighbouring properties, and that appropriate cycle storage provision could be made. However, the absence of harm associated with these last 2 considerations does not justify a different conclusion being reached regarding the acceptability of the development.
28. The proposed development conflicts with the development plan when taken as a whole. There are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
29. For the reason given above, I conclude that the appeal should be dismissed.

V Simpson

INSPECTOR