



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: 4 November 2022

Appeal Ref: APP/G5750/W/21/3287472

192 Browning Road, Manor Park, London E12 6PA

- 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 S Patel against the decision of London Borough of Newham.
 - The application Ref 21/01966/Ful, dated 6 August 2021, was refused by notice dated 1 October 2021.
 - The development proposed is new 1-bed, single storey courtyard dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Within the appeal documentation Kensington Avenue is intermittently referred to as Kensington Avenue and Kensington Road. Within this decision the road is referred to as Kensington Avenue.

Main Issues

3. The main issues are:
 - The effect of the development upon the character and appearance of the area.
 - The effect of the proposed development upon the living conditions of the occupiers of 192 Browning Road, with particular regard to outlook and daylight.
 - Whether the proposed development would provide adequate living conditions for future occupiers of the proposed dwelling, with particular regard to outside space, outlook and daylight.
 - The effect of the proposed development upon the biodiversity value of the site.

Reasons

Character and appearance

4. The appeal site comprises a small area of land to the rear of number 192 Browning Road. It is on the corner of Kensington Avenue and Browning Road. The area is characterised by its tightly packed grid like pattern of mainly 2-storey terraced residential properties. They have a general commonality to their massing and design detailing. The houses are generally separated from the adjacent carriageways by pavements and small front garden areas which separated from the street by low walls. This creates a pleasant sense of openness within the otherwise built-up area.

5. Due to the proposed siting of the dwelling forward of both the strong building line made by the terraced properties on Kensington Avenue and the building at number 192 Browning Road, it would appear prominent within the street scene. The proposal that the dwelling be single storey with a flat roof, with glazing to the upper section of the front boundary wall, would all serve to minimise or break up its massing. However, due to the height of the proposed boundary treatment and the height and massing of the proposed development to the immediate rear of the pavement, it would be a dominant and discordant feature within the street-scene.
6. The relatively plain and simple design detailing of the road-side elevation of the dwelling and boundary would be in high contrast with the architectural detailing found within surrounding properties, which include bay windows and decorative mouldings. This contrast would be exacerbated by the site's prominent location, and its siting forward of established building lines. The development proposals would not therefore positively respond to local distinctiveness, and they would detract from the established character and appearance of the area.
7. As has been demonstrated at Kensington Primary School, variations from the prevalent forms and patterns of development can work well within an area. However, in that case, the more contemporary and simple design detailing is set back from the road and is not dominant within the street. It is not therefore comparable with the development subject of this appeal. I do not have enough details regarding the development at 1A Earls Court Square, to which my attention has been drawn, to make comparisons between that and the development subject of this appeal.
8. Although Policy H2 of the London Plan indicates that boroughs should pro-actively support- well designed new homes on small sites, for this policy to apply it is a pre-requisite that the development proposal is well-designed. In this case I have not found the development proposal to be well-designed in relation to its context.
9. The house built on the plot to the rear of 150 Browning Road has a greater depth and a larger separation distance between buildings than the site subject of this appeal. As such direct comparisons are not possible with the proposed development.
10. I agree that the site is unkempt and that in its current condition it detracts from the quality of the area. However, given the presence of the of the roadside boundary wall and adjacent buildings, the interior of the site cannot be readily seen from the street. Although the implementation of the development proposal would result in the clearing and redevelopment of this underused site, this consideration does not outweigh the harmful effects that would result from the implementation of the proposed development.
11. I conclude that the proposed development would unacceptably harm the character and appearance of the area. In this respect, it would conflict with the parts of Policies D3 and D4 of the London Plan and Policies S1, S6, SP1, and SP3 of the London Borough of Newham - Newham Local Plan 2018 – A 15-year plan looking ahead to 2023 - 2018 (the Local Plan) which seek to ensure that development proposals positively respond to local distinctiveness and create high quality areas. It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) where it seeks to ensure that

developments maintain a strong sense of place and are sympathetic to local character.

12. London Plan Policy D1 which has a policy development focus is not determinative to this main issue. Nor are Local Plan Policies SP2 which relates to healthy neighbourhoods, SP8 which seeks to ensure neighbourly development, or H1 which relates to sustainable mixed communities.

Living conditions - occupiers of 192 Browning Road

13. The use of the room within the rear single storey section of 192 Browning Road is not clear. However, this room currently benefits from 2 large clear glazed windows. As such it could be reasonably expected to be one of the main living spaces of the property. It has been suggested that a rooflight could be inserted within the roof of this section of the building to mitigate against the loss of day/sunlight which would be caused by the proposed blocking up of one of the 2 windows. However, the submitted plans do not include the provision of a rooflight to serve number 192, nor have I been presented with any other evidence to satisfactorily demonstrate that such a proposal would occur. The loss of a large window and the construction of the proposed dwelling in close proximity of the sole remaining window which would serve the ground floor rear room, would both adversely affect the outlook available from within the room and reduce the level of natural light available within it. This would be to the detriment of the living conditions of the users of that room.
14. The proposed dwelling would be significantly taller than the existing boundary fence to the rear of number 192. Its construction would also result in the reduction of the size of the already narrow and small courtyard serving number 192. Due to its height and location, it would therefore increase the sense of enclosure within this space. It would also reduce the level of daylight to, and outlook from, the courtyard. This would be to the detriment of the occupiers of the property.
15. I accept that the site is currently unkempt, and that as a result of its proposed redevelopment, the occupiers of number 192 would no longer have views over an unsightly underused piece of land. However, this consideration does not outweigh the previously identified harms. I also accept that its redevelopment could deter any anti-social activities that may take place upon the site. However, at the time of my site visit, I found the site to be secure, and I have been presented with no compelling evidence regarding crime on the site. As such I do not attribute this matter great weight in the consideration of this appeal.
16. Thus, I conclude that the proposed development would unacceptably harm the living conditions of the occupiers of 192 Browning Road, with particular regard to outlook and daylight. In these respects, the proposed development conflicts with the requirements of Policies S1, SP2, SP3 and SP8 of the Local Plan and Policy D3 of the London Plan where they seek to ensure quality places with good neighbourliness. It would also conflict with paragraph 130 of the Framework, where it seeks to ensure that development provides a high standard of amenity for future users.
17. Policies D1 and D4 of the London Plan, do not relate to living conditions and are not therefore determinative to this main issue.

Living conditions – future occupiers

18. The provision of high quality private outdoor space can contribute towards the delivery of quality homes. It is a key element of quality of life and living conditions and can benefit the health and wellbeing of occupants.
19. Although the proposed courtyard garden would not be large, and it would be enclosed by buildings and a tall boundary wall and fence, the submitted plans demonstrate that there would be adequate space within this area to accommodate refuse and cycles storage; planting areas; and, seating. These could be provided without restricting access to the front door. The courtyard is south facing and there are slats within the proposed boundary fencing, which would allow some light to pass through it. Adequate levels of light and sunlight could therefore be secured within the courtyard, preventing any unacceptable sense of enclosure or cramp.
20. Due to the height of the roadside boundary treatment users of the outdoor space would be afforded a reasonable degree of privacy from passers by who are on foot or travelling along the road in cars or bicycles. Although the slatting of the proposed fencing may enable passers by to peer into the site, they would have to stop and deliberately peer through the slats in order to see within the site. Such behaviour would not ordinarily be expected, and it would not be of a frequency which would either reduce the level of privacy to an unacceptable level or the attractiveness of the use of the outside space.
21. The location of the proposed bin and cycle store and the proposed high slatted fencing between the appeal site and number 95 Kensington Avenue, would, similarly ensure an acceptable degree of the privacy within the courtyard.
22. The soft landscaping proposals, which include the planting of a tree and the construction of a large planter within the space, would add to the quality of the outside space area.
23. In terms of outlook, the proposed development includes high-level glazing; a rooflight; and, large windows which overlook the courtyard garden. Any future users of the open plan living area and bedroom would therefore have a reasonable outlook of both the sky and upper sections of the surrounding built development from within these rooms. In addition, and from these rooms the outlook would include the courtyard garden area. The tree and other planting proposals would provide visual interest within this area.
24. Provision has been made for the covered storage of refuse and bicycles. The storage of these items within the courtyard would not therefore be harmful to the outlook available to future occupiers of the property either within the house or garden. Given the above considerations, and had this appeal been allowed, conditions would be necessary to secure details of planting schedules and design of the cycle and refuse store, to ensure an adequate level of outlook from within the dwelling and courtyard. Although the courtyard garden area is not large, future occupiers of the proposed accommodation could secure an acceptable outlook from within the internal accommodation. That the fencing would obstruct clear views of the street at ground level, does not change my finding on this matter.
25. No daylight and sunlight assessment has been provided. The large bedroom window would be almost directly south facing. Although the proposed boundary

fencing would be relatively high, there would be sufficient separation for a reasonable level of light to enter the bedroom window. Although due to surrounding development within the area, only limited sunlight would be expected to pass through the slats in the fencing, day light would be able to penetrate, increasing the light levels available within the bedroom.

26. The forward projection of the open plan living area would overshadow parts of the bedroom window in the early to mid-mornings. However, because this element would be single storey with a flat roof, the level of overshadowing would not be significant.
27. Plants within the planters to the front of the bedroom window would have the potential to reduce the level of light able to enter this room. However, any future occupiers would be able to limit and/or restrict the height of such growth to retain adequate light levels within the bedroom.
28. I therefore conclude that the proposed development would provide adequate living conditions for future occupiers of the proposed dwelling, with particular regard to outside space, outlook and daylight. In this respect it would comply with the parts of Local Plan Policies H1, S1, S6, SP2, SP3 and SP8 and Policies D3 and D6 of the London Plan which seek to improve housing quality, provide good living conditions, and provide sufficient quality outdoor space. Furthermore, in these respects, the development would comply with paragraph 130 of the Framework which seeks to ensure that development creates; places which promote health and well-being; and a high standard of amenity for future users.
29. Policies SP1 the Local Plan and D4 of the London Plan, do not relate to living conditions and are not therefore determinative to this main issue.

Biodiversity

30. The Council advise that the appeal site holds very little biodiversity value. I observed some straggly bracken and thin grasses within the site, but I saw nothing which leads me to disagree with the Council's assessment of the existing biodiversity value of the site, or to indicate that it has any especial value in terms of providing connectivity between habitats.
31. No specific biodiversity enhancement statement has been submitted in support of the development proposals. The appellant has indicated that the provision of a roof garden was discounted due to maintenance concerns and the associated visual harms resulting from a poorly maintained area. However, the submitted plans indicate that a tree would be planted, and a large planter constructed within the proposed courtyard. The roof of the bin and cycle store would also be planted. These measures would enhance the biodiversity value of the site.
32. The type and size of the tree to be planted has not been specified, nor have planting schedules for the bin and cycle store roof and planter been given. In addition, no soft landscaping maintenance scheme has been provided. Had this appeal been allowed, conditions could have been applied which would have required the submission of such details. Such conditions would be reasonable and necessary to ensure that the biodiversity value of the site would be enhanced through the implementation of the development proposals.
33. Thus, I conclude that the development proposals would enhance the biodiversity value of the site. In this respect, the development would not

conflict with the aims of Policy G6 of the London Plan and Policy SC4 of the Local Plan to protect and enhance and to contribute towards net biodiversity gain. It would also comply with Paragraph 180. d) of the Framework where it seeks to ensure that opportunities to improve biodiversity in and around developments should be integrated in development.

34. Local Plan Policies SP1, SP2, and SP3 do not relate to biodiversity and are not therefore determinative to this main issue.

Other Matters

35. The Council advise that the site is within the buffer zone of the Epping Forest Special Area of Conservation. Given that this appeal is being dismissed on grounds related to character and appearance and living conditions, an Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 is not required.
36. Paragraph 11a of the Framework relates to plan making, and as such it is not relevant to this appeal.

Planning Balance

37. In this case there's a benefit from the creation of 1 new house on a small site, which is supported by London Plan policy H2 and paragraph 69 of the Framework. The site has reasonable access to public transport and the provision of cycle storage will contribute towards promoting sustainable travel. The development incorporates measures to secure energy efficiency. It would also result in the clearing and re-development of an underused site, helping to deter any anti-social behaviour in the area. However, given the scale of the scheme any benefits would be small, and as such the weight that can be attributed to these benefits is limited.
38. These benefits and would be outweighed by the harms which would be caused to the character and appearance of the area, and to the living conditions of the occupiers of number 192 Browning Road, to which I give great weight.
39. I have found that the development would provide adequate living conditions for future occupiers of the proposed dwelling, with particular regard to outside space, outlook and daylight, and that it would enhance the biodiversity value of the site. However, the absence of harm associated with these considerations does not justify a different conclusion being reached regarding the acceptability of the development.
40. The proposed development conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.

Conclusion

41. For the reasons given above, the appeal is dismissed.

V Simpson

INSPECTOR