



Appeal Decision

Site visit made on 1 November 2022

by Ryan Cowley MPlan (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2022

Appeal Ref: APP/G5750/W/21/3287631

128 Barking Road, Canning Town, London E16 1EN

- 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 N Aziz, on behalf of Nector UK Ltd, against the decision of the Council of the London Borough of Newham.
 - The application Ref 21/01956/FUL, dated 28 July 2021, was refused by notice dated 27 October 2021.
 - The development proposed is conversion of upper floors into 3 flat units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's decision notice refers to Policies D1 and D4 of the London Plan, adopted March 2021. Policy D1 sets out requirements for Boroughs to undertake character area assessments and plan for growth when preparing Development Plans. Policy D4 concerns the use of tools for design analysis, design review processes and maintaining design quality through to completion. I find neither are directly relevant to the main issues in this case.

Main Issues

3. The main issues are:
 - Whether the proposal would provide satisfactory living conditions for its future occupiers, with particular regard to light, ventilation, privacy and external amenity space provision;
 - The effect of the proposal on the living conditions of the occupiers of neighbouring properties, with particular regard to light, outlook, privacy and noise; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Living Conditions of Future Occupiers

4. The appeal property is set across 4 levels with the ground and first floors currently in commercial use, and a house in multiple occupation (HMO) occupying the second and third floors. The appeal proposal comprises change of use of the upper 3 floors of the building into 3 self-contained flats, and a

rear extension at first, second and third floor levels. A shared external roof garden would be provided to the rear at first floor.

5. The second and third floor flats are dual aspect with windows in both the front and rear elevations. The first floor flat however does not feature any windows in the front elevation. While there would be a kitchen at the front of the unit, this space is also shared with the main living space. In total, the first floor flat would have only a single window to the rear, serving a separate bedroom. The lounge/kitchen area, which is of considerable depth, would therefore not benefit from any direct natural light and only limited ventilation. The sole bedroom window would provide only limited and transient natural light to the lounge/kitchen area when the bedroom door is open. This would not provide sufficient light for the entire flat, and as a result the main living space would be an oppressively dark and enclosed environment.
6. The sole window in this first-floor flat, serving the rear bedroom, would sit directly adjacent to the proposed shared first floor roof garden. This would enable users of this space to look directly into this bedroom at close distance. The bedroom would therefore suffer from a considerable lack of privacy.
7. While the second and third floor flats do not benefit from private external amenity space, they feature sufficient additional internal space, above minimum requirements, to compensate for this. This approach is set out in the Mayor of London Housing Supplementary Planning Guidance, adopted March 2016, and in the circumstances would be reasonable. However, the first floor flat, while meeting the minimum internal space standard and having access to the shared roof garden, does not benefit from its own external private amenity space. The flat also does not feature sufficient additional internal space to compensate for this deficiency.
8. The proposed first floor flat would therefore fail to provide satisfactory living conditions for its future occupiers, with particular regard to light, ventilation, privacy and external amenity space provision. It is therefore contrary to Policies S1, S6, SP1, SP2, SP3, SP8, H1 and H4 of the Newham Local Plan 2018 (the Local Plan). These policies, amongst other things, seek to ensure proposals maintain or improve the quality of housing and places, provide adequate external private amenity space and minimise overlooking. The proposal is also contrary to Policies GG4 and D6 of The London Plan, which set standards for private outside space, and seek to ensure new housing is of a high standard of design, avoids single aspect dwellings and provides sufficient daylight and sunlight. The proposal also conflicts with the aims of paragraph 130 of the National Planning Policy Framework 2021 (the Framework) in respect of creating places with a high standard of amenity for future users.

Living Conditions of Neighbouring Occupiers

9. The proposed extension would project considerably beyond the rear elevations of both adjoining neighbouring properties. It would abut the shared boundary with 126 Barking Road. A narrow external walkway at first floor would provide a modest gap between the proposed extension and the shared boundary with 128a / 128d Barking Road on the opposite side. Based on the Council's evidence and my own observations on site, the upper floors of the adjoining neighbouring buildings either side are in use as residential accommodation.

10. The neighbouring properties either side feature rear facing windows adjacent to the shared boundary with the appeal site. Given its overall height, proximity and the extent to which the proposed extension projects beyond these windows, it would have a detrimental overbearing and enclosing effect on the outlook from them.
11. A daylight and sunlight report was not submitted with the planning application and none has been received in relation to this appeal. I must therefore assess the relevant matters on the merits of the case as I see them. The proposed extension would be located south-west of No 128d and its first floor roof terrace. It is therefore likely to result in considerable overshadowing of upper floor rear facing windows and the roof terrace at this property, particularly later in the day. As the proposed extension would be located to the north-east of No 126, any direct overshadowing of rear facing windows would be less, however would still occur earlier in the day.
12. The proposed first floor roof terrace would be accessible to future occupants of the proposed flats and in the absence of any screening would allow views back towards the rear elevations of neighbouring properties and the adjacent roof terrace at close distance. This would have a harmful effect on the privacy of neighbouring occupiers. However, I am satisfied that a planning condition could otherwise have been used to secure appropriate privacy screening.
13. The appeal site is in a busy, mixed-use, dense urban area and the proposed first floor roof terrace is similar in size to others adjacent. I therefore conclude that it is unlikely to result in unacceptable levels of noise for neighbouring occupiers, above that which could be expected in this context.
14. I conclude the proposal would harm the living conditions of neighbouring occupiers, with particular regard to light and outlook. It is therefore contrary to Policies SP2 and SP8 of the Local Plan. These policies, amongst other things, seek to improve housing quality and ensure development achieves good neighbourliness, provides adequate access to daylight and sunlight and minimises overshadowing and overbearing impact. The proposal also conflicts with the aims of paragraph 130 of the Framework, in respect of creating places with a high standard of amenity for existing users.

Character and Appearance

15. The appeal site is located within a mixed-use area, on the southern side of Barking Road, a main thoroughfare. The buildings within the vicinity of the site have commercial units on the ground floor and many appear to have residential accommodation above. A listed former public hall and library is located indirectly opposite the front of the appeal property, on Barking Road.
16. The proposed extension would not be visible from the front and so would have no impact on the street scene along Barking Road. There is however a network of roads and pedestrian footways to the rear of the property, as well as a number of large residential buildings, from which the appeal site can be seen.
17. At the rear, many terraced properties feature a distinctive butterfly roof form with a central valley and a parapet wall to the front. However, flat and conventional dual-pitched roof forms can also be observed. Rear extensions are common, though are often notably lower in height than the building they are extending. These too feature a mix of flat and pitched roof designs.

18. The proposed extension would be a considerable addition to the existing building, dominating its rear elevation. It would appear notably larger than other similar rear extensions within the immediate vicinity. The flat roof of the proposed extension would rise to the eaves level of the existing building, contrasting with the distinctive butterfly form of the main roof. Due to its size the proposed extension would partly obscure this characteristic design feature from street level. The proposed square windows would also be at odds with the prevailing vertical emphasis of windows in the vicinity, particularly at the rear of similar traditional terraced buildings. In combination, this would result in an extension of a size and design unsympathetic to the existing building, that would detract from the prevailing character and appearance of the area.
19. I conclude that the proposal would harm the character and appearance of the area. It would therefore conflict with Policies S1, S6, SP1, SP2, SP3, SP8 and SP9 of the Local Plan. These policies, amongst other things, seek to ensure development is well integrated with its surroundings and high quality, engenders successful places and is sustainable. The proposal is contrary to Policy D8 of the London Plan, which seeks to ensure the design of buildings contributes to a vibrant public realm. The proposal also conflicts with section 12 of the Framework, in respect of achieving well designed places.

Other Matters

20. The proposal would provide additional housing in an established urban area, which may be suitable for young people. However, given its small scale, this contribution would be very modest.
21. The appellant advises 116 Barking Road has been granted planning permission, with a similar design. No further details with respect to this property or its planning history are before me. No 116 sits along the same terrace of buildings as the appeal property, however, is of a different scale and design. There is insufficient information to draw a comparison to the appeal proposal. In any event, each proposal should be considered on its individual merits, and this does not provide sufficient justification to outweigh the identified harm and development plan conflict.

Conclusion

22. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Ryan Cowley

INSPECTOR