



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/22/3302871

Land Former 17 Samson Street, Plaistow, London E13 9EJ

- 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 Ian Turrell against the decision of the Council for the London Borough of Newham.
 - The application Ref 21/01685/FUL, dated 17 August 2021, was refused by notice dated 13 June 2022.
 - The development proposed is a 3-bedroom family house to the front and a single storey 1-bedroom dwelling to the rear of the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposed dwelling to the front is described within the application form as a 2-bedroom maisonette. However, the plans and other evidence before me confirm it would contain 3-bedrooms and be a house rather than a maisonette. In the banner heading above, I have therefore referred to the description of the proposal from the Council's decision notice, as this is more accurate.
3. The appellant has advised that he provided amended plans to the Council during the application to overcome his concerns, and a copy of an e-mail to demonstrate this has been provided. The informative note included in the Council's decision notice however indicates that while guidance was offered during the application, in the Council's view, the necessary amendments to make the application acceptable are substantial and would materially change the proposal, requiring further consultations to be undertaken. It concludes that the appellant is therefore encouraged to submit a new application.
4. It is at the Council's discretion to accept amended plans during an application. The decision of the Council, along with the plans and other evidence they have provided, indicates the amendments were not accepted or considered as part of the application. Likewise, the appeal process should not be used to evolve a scheme. It is important that what is considered by the Inspector is essentially what was considered by the Council, and on which interested people's views were sought. I am therefore obliged to determine the appeal based on the original plans considered by the Council and have done so in this appeal.
5. The appeal site is within the Zone of Influence for Epping Forest Special Area of Conservation (SAC) in which proposals including a net gain in residential development have the potential to give rise to significant effects (either alone, or in combination with other proposals). As the appeal is to be dismissed for

other reasons, it is not necessary in this instance for me to undertake an appropriate assessment to consider the effect on the SAC.

6. The Council's decision notice refers to Policies D1 and D4 of the London Plan. 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. At this stage, I find neither are directly relevant to the main issues in this case.

Main Issues

7. The main issues are:

- The effect of the proposal on the living conditions of the existing occupiers of 19 Samson Street and future occupiers of the proposed rear single storey dwelling, with particular regard to privacy and noise;
- The effect of the proposal on the character and appearance of the area;
- Whether the access arrangements for the proposed rear single storey dwelling would be appropriate, with regard to safety and legibility.

Reasons

Living conditions of existing and future occupiers

8. The proposed front dwelling would include a rear balcony, serving a first-floor bedroom. The balcony would benefit from screening to the side adjoining 15 Samson Street, given this neighbouring property's two storey rear offshoot. However, views to the side facing 19 Samson Street would be unobstructed.
9. No 19 also features a two-storey rear offshoot, albeit set off the shared boundary with the appeal site. Between this two-storey offshoot and the shared boundary is a single storey structure. Above this, within the main rear elevation of No 19, there is a large rear facing window at first floor level and two smaller windows at second floor level, within a roof extension.
10. The size and position of the proposed balcony would allow future occupiers to look back toward the first-floor rear facing window within No 19. Given the balcony's proximity, this would harm the privacy of the occupiers of No 19. The proposed balcony would also allow overlooking at close distance of the ground floor bedroom window of the proposed rear dwelling.
11. While a privacy screen could potentially be used to overcome loss of privacy for the occupiers of No 19, it is unclear from the plans before me whether this could be achieved without altering the proposed rear elevation fenestration or affecting the outlook from No 19. It is also unclear whether privacy screening could be used to protect the privacy of future occupiers of the proposed rear dwelling, without harming the outlook from its ground floor bedroom or from the first-floor bedroom of the proposed front dwelling. I therefore do not consider a planning condition to address this to be appropriate in this instance.
12. The proposed rear balcony may result in a degree of additional noise at first floor level. However, given the relatively modest size of the dwelling, it would likely only be at a level that could reasonably be expected in a domestic setting. For the existing occupiers of No 19, the level of noise and disturbance

arising from the balcony would be unlikely to be greater than that resulting from the existing commercial use of the site. For future occupiers of the proposed rear dwelling, the main living space and external amenity space would be set some distance away and somewhat screened from the balcony. I therefore find that the proposal would not result in undue noise for the existing occupiers of No 19 or future occupiers of the proposed rear dwelling.

13. I conclude that the proposal would harm the living conditions of the existing occupiers of 19 Samson Street and future occupiers of the proposed rear single storey dwelling, with particular regard to privacy. It would be contrary to Policies SP1, SP2, SP3 and SP8 of the London Borough of Newham Local Plan (the Local Plan) which, amongst other things, seek to ensure development is high quality, achieves good neighbourliness and minimises overlooking and loss of privacy. The proposal is also contrary to Policies D3 and D6 of The London Plan, which seek to ensure development is the most appropriate form for the site and delivers appropriate privacy. The proposal also conflicts with the aims of paragraph 130 of the National Planning Policy Framework (the Framework), in respect of creating places with a high standard of amenity.

Character and appearance

14. The surrounding area is primarily residential in character, save for the appeal site, which features a corrugated metal gate fronting onto the street. There is also a car repair garage with roller shutter doors further along Samson Street. There is a mix of dwelling types in the vicinity, though modest two storey traditional terraced dwellings are prevalent. There is a large traditional red brick building opposite the appeal site, behind which sits a more contemporary residential development. Finishing materials are a combination of brick and render. Bay windows are common though not ubiquitous.
15. The appeal proposal would close a gap in the street scene, extending the existing row of terrace dwellings. The existing dwellings within this terrace appear similar in size and design, however there is a mix of finishing materials, fenestration and level of architectural detail. Windows typically have a vertical emphasis, though the style of window varies. There are examples of more contemporary box bay windows amongst the traditional bays, of varying degrees of aesthetic integration. At the end of the terrace, there is a double height bay, adjacent to a more contemporary infill dwelling without a bay.
16. The proposed front dwelling would be of a size and form in keeping with the rest of the terrace. It's front facing windows would have a vertical emphasis, while window headers and cills, and the front door canopy, would complement those of traditional neighbouring dwellings. While the rear passageway would be unfamiliar to the area, it's size and detailing would be like a window or doorway opening and so would not appear unduly incongruous, particularly in indirect views along the street. Though the dwelling would not include a bay window, in the context of the surrounding area described above, the absence of this would not appear unduly harmful or out of character. Replacement of the incongruous gap and metal gate with a dwelling would overall be a positive contribution to the prevailing residential character and appearance of the area.
17. The proposed rear dwelling is of a size and design out of keeping with adjacent dwellings. It would however be considerably screened from public areas by the proposed front dwelling, neighbouring buildings and boundary treatments. It would therefore have limited impact on the area's appearance. The provision of

a house to the rear accessed via a passageway does not appear to be a common feature locally. However, given the proposed rear dwelling's modest size and residential nature it would not harm the character of the area.

18. I find that the proposal would not harm the character and appearance of the area. It would accord with policies S6, SP1 and SP3 of the Local Plan, and Policy D3 of the London Plan. These policies, amongst other things, seek to ensure development is high quality and respects, takes advantage of, and enhances the positive elements of the borough, reinforces local distinctiveness and responds to the existing character of a place. The proposal also complies with section 12 of the Framework, in respect of achieving well designed places.

Whether access arrangements would be appropriate

19. The plans before me appear to indicate a solid gate or door on the front elevation of the proposed front dwelling which would provide access to the passageway and proposed dwelling at the rear. In its current form this would obstruct views to the rear dwelling along the passageway from the street.
20. The appellant has indicated they are willing to improve the openness and visibility of this passageway and entrance, and this could be achieved, for example, by using a less solid gate. Lighting could also be used to improve visibility at night. Both measures could be secured by planning condition without fundamentally altering the appeal proposal. The main front door to the proposed rear dwelling is aligned with the entrance to the passageway and so would otherwise be visible from the street, albeit at some distance. The passageway and entrance to the property would also benefit from considerable natural surveillance being surrounded by other dwellings.
21. I conclude that, subject to planning conditions, the access arrangements for the proposed rear single storey dwelling would be appropriate, with regard to safety and legibility. The proposal is therefore in accordance with Policy D3 of the London Plan. This policy, amongst other things, seeks to ensure development achieves safe, secure and inclusive environments. It also accords with Part 2.3 of the Mayor of London Housing Supplementary Planning Guidance SPG and Section 8 of the Framework, which advise all main entrances to houses should be visible, clearly identifiable and directly accessible from the public realm, and places should be safe and accessible so that crime and disorder, and the fear of crime, do not undermine quality of life.

Conclusion

22. Although I have found no harm would be caused to the character and appearance of the area, and that the access arrangements would be appropriate, these do not outweigh the harm that would be caused to the occupiers of neighbouring properties through overlooking from the proposed rear balcony. The proposed development therefore conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, for the reasons given above, I conclude that the appeal should be dismissed

Ryan Cowley

INSPECTOR