



Appeal Decision

Site visit made on 19 May 2023

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/G5750/W/23/3315303

2A Durham Road, Manor Park, Newham E12 5AX

- 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 W Bailey against the decision of London Borough of Newham.
 - The application Ref 22/01277/FUL, dated 26 May 2022, was refused by notice dated 19 December 2022.
 - The development proposed is described as 'extension at roof level to create 3 No. further flats'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal would preserve or enhance the character or appearance of the Durham Road Conservation Area; and
 - Whether the proposed development would provide adequate living conditions for future occupants, with particular reference to internal space, outdoor amenity space, and sun and daylight;
 - Whether the proposed development would provide an adequate housing mix; and
 - The effect of the proposed development on the living conditions of the occupants of 41 and 43 Manor Park Road with particular reference to outlook, and day and sunlight.

Reasons

Whether the proposal would preserve or enhance the Conservation Area

3. The Durham Road Conservation Area (CA) is a small late Victorian suburb that exhibits the style and building traditions of the era. This is especially evident in the high degree of uniformity found in the composition of the street due to repeated house types, materials, road widths, building heights and the enclosure provided by front garden walls. The long straight roads provide a simple legibility and pleasant vistas. Street trees provide an important softening effect and richness, texture and interest are found in the period detailing of the houses, boundary walls and front gardens. Overall, there is a high degree of harmony despite some unfortunate and unsympathetic

incremental changes. Given the foregoing, the CA has historic, evidential and aesthetic value and this affords it significance.

4. The appeal building is a relatively modern insertion at the eastern gateway into the CA from Manor Park Road. The building is plain when compared to the Victorian ornamentation found on nearby period properties, such as bay and sash windows, chimneys and other features identified in Appendix 2 of the Durham Road Conservation Area Design Guide. The front apron has also been given over to parking and the building does not replicate the ubiquitous terraced form due to the use of front gables, one of which is discordantly rendered. That said, the buff brick, slate roof and two storey scale provide some integration, but not to the extent that the building does not detract from the character and appearance of the CA. As a result, redevelopment of the site provides an opportunity to better respond to the significance of the CA.
5. The appeal scheme would involve the construction of a second floor increasing the height of the building to three storeys. This would be harmful out of character with the prevailing scale of buildings within the CA. As a result, the alteration would appear incongruous in the context of the CA as a whole. The increased scale of the building would also draw the eye and thus increase the presence of the building in what is identified as an important view on the plan of the CA supplied by the Council. The failure to improve the site frontage through the appeal scheme is a missed opportunity to enhance this view.
6. The proposed alteration would introduce a hipped roof to the structure. This is a common roof form in Durham Road but in this instance, it would be unusually shallow in the context of the CA, and this would result in the building having awkward proportions, especially the high eaves line and the narrow front 'gables'. The use of natural slate cladding to the walls would also stand out given the prevailing use of brick in the area. Accordingly, the alteration would result in the building being more aesthetically harmful in the street scene than what exists at present.
7. The appellant has sought to justify the proposal with reference to the three-storey structure opposite. Indeed, the Council have suggested that the principal of a three-storey building at the appeal site can be justified on account of this building's presence in the street scene. The circumstances behind the approval of the three-storey building are not before me. It is therefore unclear why a structure of this form was approved when it would be at odds with the prevailing character of the CA and block views of the Church of God, which is identified as the only 'Building of Local Interest' on the plan of the CA. Nevertheless, it is present and forms part of the local context.
8. That said, it is an isolated example in the CA of a three-storey structure and is not a template to follow in a designated heritage asset characterised by two storey buildings. Notwithstanding this, the building does echo some of the styling in the CA such as bay windows and panelled doors. The break at eaves level is incongruous in this location but at least results in a recessive top floor, which allows the building to hint at the two-storey form found elsewhere. Overall, the building opposite the appeal site detracts from the character and appearance of the CA although it does have some sensitive elements. The appeal scheme on the other hand would have a greater adverse impact and appear more out of place. Accordingly, the harm I have identified is not justified by the presence of the building opposite.

9. The appellant has also referred to the presence of four storey flats near to the appeal site, including those in Manor Park Road. However, these are outside the boundaries of the CA, which are well defined. The statutory duty in Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 of paying special attention to the desirability of preserving or enhancing the character or appearance of a conservation area only applies to land within it.
10. In conclusion, the proposal would significantly harm the aesthetic value and significance of the CA. The character and appearance of the CA, or the street scene more generally, would not be preserved. For reasons I will go into, the harm is not outweighed by public benefits. The proposal would therefore be at odds with Policies D1, D3, D4, D8 and HC1 of The London Plan and Policies S1, SP1, SP3, SP5 and SP8 of the London Borough of Newham Local Plan (NLP), which seek to secure development that is well designed and conserves and enhances designated heritage assets.

Whether the proposal would provide adequate living conditions for future occupants

11. Policy D6 of the London Plan sets minimum internal space standards¹ as well as a standard for outdoor amenity space of 5sqm for each 1–2-person dwelling. The Council submit that two of the flats would each have gross internal floor areas of 34sqm against the minimum standard of 37sqm. The appellant has not disputed this. Two of the flats would also be single aspect. This is a particular concern for the rear north facing home.
12. In addition, none of the proposed homes would have the minimum of 1sqm of built-in internal storage and none would have 5sqm of dedicated private outdoor amenity space. In respect of the latter, there may be scope for a communal garden to the rear of the block, but this space is north facing and appears small. It is also unclear how it would function given the need for bike and bin storage. Furthermore, the amenity space could be very intensively used if residents of all the properties in the block were to have access to it. Access to the rear of the building from the proposed flats would also be indirect and convoluted. There are also drawbacks to a communal garden as it limits opportunities to dry washing or sit out with some degree of privacy.
13. The living conditions that would be offered by the appeal scheme may be similar to those in the existing flats in the block. However, planning policy has moved on since the block was originally constructed and is purposely seeking a step change in residential quality. The appeal scheme needs to be considered in the context of existing extant policy.
14. As a result, the proposed flats would be either gloomy, small and/or lacking in adequate outdoor amenity space. They would not provide adequate living conditions. Accordingly, the proposal would be at odds with Policies D3 and D6 of the London Plan and Policies S1, SP8 and H1 of the NLP, which together seek to secure adequate living conditions for future occupants of new homes.

The effect on the living conditions of the occupants of 41 and 43 Manor Park Road

15. The occupants of 41-43 Manor Park Road (Nos 41-43) benefit from modest west facing gardens. The outlook from these gardens is towards the gable end of the appeal building. The outlook is therefore already compromised to an extent. Nevertheless, the appeal scheme would increase the ridge and eaves

¹ See Table 3.1 of the London Plan

height. This would in combination add additional bulk, the impact of which would not be aided by the dark colour of the slate cladding. As a result, there would be an increased sense of enclosure and overbearing.

16. The proposal would be to the west of Nos 41-43 and therefore it would not interrupt sunlight from the south. It is therefore unlikely that the level of sunlight into the property would be impacted to a harmful extent. The impact on ambient daylight is less clear and in this respect the submission of a technical daylight assessment would have been helpful. Overall, I favour the Council's position that there would be a loss of daylight given the close proximity of the extension to Nos 41-43 and the increase in eaves height.
17. In conclusion, the appeal scheme would reduce the outlook and level of daylight at Nos 41-43. This would harm the living conditions of the occupants of these properties contrary to Policies D1, D3, D4, D8 and D14 of the London Plan and Policies S1, H1, SP2, SP3 and SP8 of the NLP.

Whether the proposal would provide an adequate housing mix

18. Policy GG4 of the London Plan seeks to create mixed and inclusive communities and Policy H10 states that schemes should generally consist of a range of unit sizes. The use of the term 'generally' implies that there will be situations where it is unnecessary or undesirable to provide a mix of homes.
19. Policy S1 of the NLP sets out a broad spatial strategy that includes achieving a mix of housing types through Policy H1 of the NLP. The latter confirms that 39% of the number of new homes on sites capable of delivering 10 units or more should be three-bedroom homes, unless there are viability constraints. As a result, Policy H1 outlines in the context of Newham when a housing mix is generally required. Policy H1 of the NLP is consistent with Policy GG4.
20. The appeal scheme is for three flats leading to a cumulative total of nine single person homes within the appeal building. This would not result in a mix of homes with the appeal site. However, the requirement to provide family homes in Policy H1 is not triggered in this instance.
21. Policy H1 also states that all new housing sites will comprise a mixture of housing sizes and/or types or tenure. However, I take this to be a reference to the allocated non-strategic sites, as it would be onerous and potentially impractical to require every scheme to deliver a mix of homes. Policy H1 does explain that the appropriate housing mix would be determined through the existing mix of the area. In this respect, there is little before me to demonstrate that Durham Road and its environs has an over provision of one person homes. Indeed, the appellant submits that there is a high demand for such accommodation, and this is not challenged by the Council.
22. The Council has referred to Policy H4 of the NLP, but this is concerned with protecting existing family housing and not the housing mix of schemes such as that before me. As a result, this policy does not seem relevant.
23. In conclusion, the appeal scheme would not provide a mix of homes but it would seem that the development plan does not require the appellant to do so in this instance. In any event, the Council has failed to demonstrate that the appeal scheme would not make a useful contribution towards the provision of small homes in the local area. As a result, I am satisfied the housing mix proposed would not be at odds with the development plan.

Other Matters

24. The delegated report confirms that the appeal scheme would be new residential development within the Zone of Influence of the Epping Forest Special Area of Conservation (SAC), and in combination with other plans and projects is likely to have a significant adverse impact on the integrity of the SAC. It is therefore unclear why the Council has concluded that no mitigation is required. Had the scheme been otherwise acceptable I would have sought further clarification. However, as it has failed on the main issues this has proven to be unnecessary.

Heritage and Planning Balance

25. The significant harm that would occur to the significance of the conservation area would be 'less than substantial' within the meaning of the National Planning Policy Framework. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
26. The appeal scheme would deliver three homes, and this would modestly boost housing land supply. Building these homes would also provide a small, time limited boost to the construction industry. The subsequent occupation of the flats would provide a more enduring boost to local spending, but the scale would not be of a high order. Overall, I afford limited weight to the economic benefits of the scheme. The proposal would also deliver small housing that are apparently in high demand and it could be delivered quickly. It would also make a more efficient use of land in a built-up area for housing.
27. However, the Framework states that designated heritage assets are an irreplaceable resource that should be conserved for existing and future generations. Any harm to their significance is therefore an important matter. Indeed, the Framework states that great weight should be given to an asset's conservation. Conservation in this context means sustaining, and thus not harming, an asset's significance. In this case, the designated heritage asset is a conservation area of local significance.
28. Overall, in this instance the public benefits would not outweigh the less than substantial harm that would occur. Accordingly, there would be a conflict with Paragraph 200 of the Framework, as harm to the significance of a designated heritage asset would not have clear and convincing justification.
29. Given the above, it follows that the benefits of the appeal scheme would not outweigh the totality of harm I have identified either.

Conclusion

30. The proposed development would provide an adequate housing mix, but it would harm living conditions and the significance of the CA. It would therefore be contrary to the development plan taken as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has failed.

Graham Chamberlain
INSPECTOR