



Appeal Decision

Site visit made on 7 March 2023

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 June 2023

Appeal Ref: APP/G5750/W/22/3302203

299 Green Street, Upton Park, London E13 9AR

- 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 Towerwell Developers Ltd against the decision of the Council for the London Borough of Newham.
 - The application Ref 21/02796/FUL, dated 8 November 2021, was refused by notice dated 4 January 2022.
 - The development proposed is for the sub-division of an existing residential flat (Use Class C3) into four x two bed flats (Use Class C3) served by four new rear facing dormer windows, eight front facing velux windows and associated external alterations including private amenity space and secure refuse/cycle storage.
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Decision

1. The appeal is allowed and planning permission is granted for sub-division of an existing residential flat (Use Class C3) into four x two bed flats (Use Class C3) served by four new rear facing dormer windows, eight front facing velux windows and associated external alterations including private amenity space and secure refuse/cycle storage at 299 Green Street, Upton Park, London E13 9AR in accordance with the terms of the application, Ref 21/02796/FUL, dated 8 November 2021, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 3342-03/FF; 3342-04/FF; 3342-05/FF; 3342-06/FF; 3342-07/FF and 3342-08/FF.
 - 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the development including the means of enclosure for the roof terraces hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details / samples.

Preliminary Matters

2. The Council's Decision Notice refers to the decision date as 4th January 2021. The Council have confirmed that this is a typo and should have referred to 4th January 2022. I have included the correct decision date within the heading above and it is clear that the application was determined by the Council within this timeframe, and as no parties would be prejudiced, I have determined the appeal on this basis.

Main Issues

3. The main issues are i) whether the proposal is an appropriate form of development having regard to national and local policies with particular regard to making appropriate use of the site; ii) whether the appropriate provision would be made for affordable housing; iii) whether the proposed development would provide acceptable living conditions for future occupiers with specific regard to access; and iv) the effect on character and appearance of the surrounding area with specific regard to the enclosures at first floor level.

Reasons

Whether the proposal is an appropriate form of development having regard to national and local policies with particular regard to making appropriate use of the site.

4. The appeal site occupies a prominent corner location in Green Street district centre and is located within a primary shopping frontage at the junction of Green Street and Plashet Grove. The site is in an accessible location being located within a Public Transport Access Level (PTAL) of 4 which is good, and the site is very close to local amenities. The surrounding area has a mixed use feel with commercial properties located at the ground floor, whilst upper floors are used mainly as residential units. The prevailing form and scale of development around Green Street and Plashet Grove consist of mainly 3 storey development, however the appeal property appears to have been a former Public House with only 2 storeys.
5. The appeal proposal seeks to provide a mixed-use development maintaining the existing commercial facilities at the ground floor level, whilst providing 4 x 2-bedroomed apartments at the existing upper floor and roof levels. However, the Council consider that the proposal results in the underutilisation of the development potential at the site given its prominent location within a district centre with a good PTAL.
6. The National Planning Policy Framework (the Framework) seeks to significantly boost the supply of homes, placing importance on the amount and variety of land to come forward where it is needed. The Framework further highlights the importance of small and medium sized sites, such as this, which can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly.
7. Policy D3 of the London Plan (LP), March 2021 also seeks to optimise site capacity through the design-led approach, providing suitably sized higher density accommodation in locations that are well connected to amenities by public transport. Policy S1 of the London Borough of Newham Local Plan (NLP) adopted December 2018, also seeks development of higher density, providing it is sensitively designed.
8. My attention has been drawn to a previous application at the site for a three-storey development providing a mixed-use scheme with 8 residential units located above the ground floor commercial use, which was refused permission and dismissed at appeal¹. That previous scheme was found unacceptable in terms of its design on the character and appearance of the area and provision of substandard accommodation. The appellant also draws my attention to the

¹ PINS Ref: APP/G5750/W/17/3178818

Councils pre-application response which suggested that a 5-6 storey development, subject to other considerations, could be accommodated here to maximise the site's development potential.

9. Both the previously dismissed appeal scheme and the pre-application submission represented a denser form of development, consisting of 8 and 9 units respectively, suggesting that the site may have the potential to accommodate an increase in units. However, notwithstanding the prominent location within the district centre, I have not been presented with any substantive evidence that the increased quantum of development is achievable in this particular location, whilst still adhering to design principles and residential standards. Furthermore, in this respect, neither has the site been identified as capable of a higher density through the NLP site allocation process and I have no evidence to indicate that any other formal assessment of the site's capacity has been undertaken.
10. Nevertheless, I am required to assess the development before me, as each scheme needs to be considered on its own particular merits and circumstances. As stated above, the local plan requires a significant boosting of the supply of homes and emphasises the importance of small sites in meeting housing needs. Notwithstanding the Council's references in its officer report to the proposal being for 1 bedroom units, it would actually be for 4 x 2 bedroomed units, a net increase of 3 dwellings, that would make a modest but valuable contribution to the provision of housing required by Newham. Whilst a relatively modest contribution, it is a contribution nonetheless and would increase the existing housing density of the site.
11. For the above reasons, I conclude on this issue that the development proposed would represent an appropriate form of development in regard to making appropriate use of the site. As such in respect of this issue, the proposal would accord with LP Policy D3 and NLP Policy S1, which among other things require the optimisation of site capacity through the provision of the most appropriate form and land use for the site, whilst responding to local distinctiveness. The proposal would also be consistent with the aims and objectives of Section 5 of the Framework relating to delivering a sufficient supply of homes.

Affordable housing provision

12. Paragraph 64 of the Framework states that affordable housing should not be sought for residential schemes that are not major developments. In a local context LP Policy H4 and NLP Policy H2, also seek affordable housing for all major development of 10 or more units. Given my findings above, in regard to the proposal of 4 units providing an appropriate form of development at the site, this would not meet the threshold for a major development where the affordable housing requirement would be triggered.
13. Even if I had found that the proposal represented an under provision of development, there is no evidence before me to suggest that the threshold would be met for any future proposed development of the site. Indeed, both the dismissed and the pre-application schemes represented development that was also under the appropriate threshold to provide affordable housing.
14. As such, I do not find conflict with LP Policy H4 and NLP Policy H2 which focuses principally upon processes in ensuring the delivery of affordable housing on major sites. Nor do I find conflict with LP Policy H2 which contains

no provision to secure affordable housing at smaller sites. Furthermore, LP Policy D3 and NLP Policy S1 are largely irrelevant to this matter, as these are strategic policies aimed at securing the most appropriate form and land use for sites, amongst other things.

Living conditions for future occupiers

15. In terms of the legibility of the entrance, the existing residential property is accessed at the rear via Plashet Grove. Existing occupants enter the site through the rear yard and access the first-floor level via an external staircase. The access route is somewhat utilitarian, given that the rear yard is secured by a large roller shutter door, nevertheless the existing route does provide adequate legibility despite an underwhelming sense of arrival in terms of access to the existing premises.
16. The proposal would retain the same route for the entrance to the new units, via the rear yard, albeit that the roller shutter would be replaced by a large sliding door. Behind the sliding door and within the rear yard, the proposal would provide secure and covered cycle storage for 8 cycles and the external staircase. From the information before me and my site observations, I acknowledge that there could be pedestrian access to the rear of the ground floor commercial units through the four smaller roller shutter doors. However, given the tight nature of the site, lack of space and vehicle access the servicing of these commercial units from this rear area would be impractical.
17. Consequently, whilst the proposed access would be similar to that of the existing situation retaining a functional appearance, future occupants would nevertheless have safe, secure and legible access to their dwellings via the external staircase and private terraces. As such it would not represent poor quality or an impractical or illegible means of access. Furthermore, the quality of that environment in terms of the proposed external surfaces could be controlled through an appropriate condition to secure the approval of details of materials intended to be used.
18. In respect to safety, the appellant has confirmed that the rear yard will solely be utilised for residential access, waste/recycling storage and cycle parking. Given the tight nature of the rear yard it is unlikely that vehicles would be able to access the site. Furthermore, the existing servicing arrangements for the commercial facilities at the ground floor are proposed to continue, with the units being serviced from the existing off-street loading bay located in Green Street at the front, thus reducing conflict between commercial and residential users.
19. For the above reasons, I conclude on this issue that, the proposed development would provide acceptable living conditions for future occupiers with specific regard to access. Therefore, in respect of this issue, the proposal would accord with the objectives of LP Policies D1 and D4, NLP Policies SP3 and SP8 in so far as they relate to living conditions and amenity, and the Framework, which amongst other things, seeks to achieve well-designed places, including the creation of places with a high with a high standard of amenity for existing and future users. Furthermore, the proposal would accord with the health protection aims of LP Policy D3 and NLP Policies H1, SP2 and INF2. I do not find conflict with LP Policy D8 or NLP Policies S6 and SP1 which are more strategic policies, and amongst other things, seek to ensure the public realm is

well-designed, safe, accessible, and focus upon processes to assist in ensuring the delivery of place making and a design led process.

Character and appearance

20. Outdoor amenity space would be provided for the proposed units on the flat roof at first floor level at the rear of the existing development. In order to delineate private amenity space a means of enclosure would be required on the first-floor to provide roof terraces. Furthermore, railings or similar would be required under building control regulations to avoid fall hazards.
21. During my site observations I noted that there are several different types of railings and enclosures at the first-floor level in the immediate vicinity, notably at the rear of 10 – 16 Plashet Grove and 303 – 315 Green Street. In that context, the proposed means of enclosure would not stand out as an unusual or unexpected feature. It is acknowledged that it would be more visible from public vantage points than those other examples. However, having regard to the nature of the proposal and its relationship to adjoining properties, I consider that an appropriate design solution could be achieved so as to not appear out of keeping within the surrounding area. These are matters that can be subject of a condition, to secure details / samples of the materials to be used in construction.
22. The proposal would not therefore harm the character and appearance of the surrounding area. As such, in respect to this issue it would accord with the principles of NLP Policies SP1, SP2, SP3, SP8 and H1 and the LP Policies D1, D3 and D4 which amongst other things, require all new development to be of high quality and compatible with development in the surrounding area whilst meeting residential standards. The proposal would also comply with Paragraph 130 c) of the Framework insofar as it requires development to be sympathetic to local character. I find no conflict with LP Policy D8 which is principally concerned with the public realm, which is largely irrelevant to the private amenity space proposed here.

Other Matters

23. The appeal site lies within the Epping Forest Special Area of Conservation (SAC). The SAC is a large ancient wood pasture with habitats of high nature conservation value including ancient semi-natural woodland, old grassland plains, wet and dry heathland and scattered wetland. As the Epping Forest also serves a strategic regional need in terms of its open space amenity value, the impacts of recreational activities must be mitigated in order to avoid harm to the protected site.
24. The Interim Approach to Managing Recreational Pressures on the Epping Forest SAC produced by Natural England sets out the measures to mitigate the harm of increased recreational pressure on the SAC as a result of new residential development. It is considered that new residential development within two identified Zones of Influence (ZoI) will, in combination, have a likely significant effect on the sensitive interest features of the Epping Forest SAC through increased recreational pressure. The ZoI are 0-3km and 0-6.2km.
25. As such, suitable mitigation will be required in order for a conclusion to be reached, via Appropriate Assessment, that no adverse effects on the integrity of the SAC will arise so as to allow planning permission to be granted. It is

therefore necessary for me, as the competent authority, to carry out an Appropriate Assessment in relation to the effect of the proposal on the integrity of the SAC.

26. The London Borough of Newham Council Interim Habitats Funding Statement (IHFS) April 2019, produced in light of advice from Natural England sets out that as visitors arising from the London Borough of Newham are low, contributions towards the costs of implementing the Strategic Access Management and Monitoring Strategy (SAMM) will only be sought from major developments within the 0-3km ZoI.
27. As the appeal site is located outside the 0-3km ZoI, and is not a major development it would not be required to make any financial contributions to the SAMM. Natural England have confirmed this approach is in accordance with the mitigation measures of the IHFS in relation to major developments. As such, I am satisfied that this approach would address any effects associated with the proposed development and its likely effects on the SAC. I therefore find that the proposal would not result in an adverse effect on the integrity of the Epping Forest SAC.

Conditions

28. No conditions have been suggested in respect to the proposal by the Council. Consequently, in attaching conditions to this decision, I have had regard to the tests set out at paragraph 56 of the Framework.
29. In addition to the standard time limit condition, a condition would be necessary to specify the approved plans for the avoidance of doubt and in the interest of certainty. A condition would also be necessary to secure details/samples of the materials to be used in the construction of the external surfaces of the development including the means of enclosure for the roof terraces, in the interests of a good quality appearance to the development.

Conclusion

30. For the reasons set out above, the proposal would accord with the development plan, when read as a whole and the Framework. Having considered all material considerations and other relevant matters raised, I therefore conclude that the appeal should be allowed.

Robert Naylor

INSPECTOR