



Appeal Decision

Site visit made on 25 April 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 June 2023

Appeal Ref: APP/U5360/W/22/3298787

59 Cranwich Road, Hackney, London N16 5JA

- 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 Myran Ausch against the decision of the London Borough of Hackney.
 - The application Ref 2021/1133, dated 9 April 2021, was refused by notice dated 1 March 2022.
 - The development proposed is described as the 'Conversion of two terraced houses to form a single building comprising two, four bedroom maisonettes, two, two bedroom flats and three, one bedroom flats including the removal of the rear parts of the original upper storeys and their replacement with a new three storey structure over the retained lower two storeys'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Whilst the address in the banner heading and on the planning application form is 59 Cranwich Road, the appeal site includes both 59 and 61 Cranwich Road.
3. A draft unilateral undertaking has been provided relating to a contribution to carbon offsetting measures. The deed has not been executed and, therefore, does not carry any weight in my decision. Given that the obligation is central to the matters in dispute, the need for it was known before the appeal was made. On this basis, delaying my decision to wait for a completed obligation is not justified and the appeal is determined on this basis.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would provide an appropriate housing mix;
 - whether the proposed development would include appropriate measures to mitigate the effects on climate change;
 - the effect of the proposal on travel patterns of future occupiers of the development with specific regard to air pollution and congestion in the surrounding area;

- whether there would be any benefits arising from the proposed development.

Reasons

Character and appearance

5. The appeal comprises a pair of 4 storey terraced properties located in a predominantly residential area. Whilst the properties in the wider vicinity vary in terms of architectural styles, the row of dwellings in which the appeal properties sit are similar in appearance. The dwellings in this section of the row, including the appeal properties, have been subject to various extensions to the rear. Nevertheless, the uppermost floors of the 4 storey outriggers which project to the rear elevations of the dwellings remain largely unaltered. The resulting pitched roof gable features of the outriggers, with gaps between them, create a pleasant sense of uniformity despite the alterations at lower levels.
6. The proposed rear extension would include alterations to the existing facing walls and mono-pitched roofs to the outriggers to infill the gap between the 2 properties. The extension, which would project from the main roof of the dwelling and would reflect its ridge height, would create a flat roof between the ridges of the existing outriggers, extending across the entire width of both semi-detached properties. The proposal would have the appearance of a 5 storey flat roof addition. The proposal would also include a lower 2 storey flat roof extension to the second and third floors of the building which would project beyond the existing outriggers.
7. Due to the height, scale and design of the proposed extension it would be a dominant and disproportionate addition to the rear elevation of the properties. Consequently, as a result of the combined elements, the extension would be an anomalous addition that would be at odds with the host dwelling and the built form of the terraced row of properties. As a result, it would disrupt the uniform appearance of the properties and would diminish the prevailing character of the area.
8. I note that the appeal site is not within a Conservation Area, and that the properties are not listed buildings. However, that does not mean that the character of the area does not merit protection. My attention is also drawn to the fact that the external materials to be used would match those in the existing building and the proposal would not result in any changes to the front elevation of the buildings and consequently would not affect the street scene. Nonetheless, these factors would not outweigh the harm to the rear elevation of the properties.
9. My attention is drawn to other examples of development in the surrounding area, including rear dormers and a conjoined rear outrigger, which it is suggested is similar to the appeal proposal. However, I do not have full details in respect of such works so I cannot be sure of the circumstances of how these cases came into being. In any case, they are not a prevailing form or a defining characteristic of the area and I have determined the appeal on its own merits, based on the evidence before me.
10. For the forgoing reasons I conclude that the proposal would harm the character and appearance of the area. In that regard, whether or not the Council's

Residential Extensions and Alterations SPD guidance is relevant to this proposal, it would conflict with Policy D3 of the London Plan 2021 (LP), which requires development to follow a design-led approach and among other things to positively respond to local distinctiveness and Policy LP1 of the Hackney Local Plan 2033 adopted July 2020 (HLP) which seeks high design quality.

11. The Council's refusal reason also refers to Policy D1 of the LP which requires Boroughs to undertake area assessments to determine capacity for growth to meet housing targets. The content of this policy is largely irrelevant to the specific harm I have identified.

Housing Mix

12. Policy H10 of the LP sets out that schemes should generally consist of a range of unit sizes. When determining the appropriate mix of unit sizes in relation to the number of bedrooms for a scheme, regard should be had to, among other things, robust local evidence of need where available or, where this is not available, the range of housing need and demand identified by the 2017 London Strategic Housing Market Assessment.
13. HLP Policy PP4 sets out that where appropriate, development should provide new homes with a range of dwelling types, sizes and tenures to sustain mixed and balanced communities, with a particular focus on housing for large families and single people. Policy LP14 of the HLP sets out that developments should provide a mix of market dwellings including 33% 3+ bedrooms and a higher percentage of 2 bedroom units than 1 bedroom units. The supporting text indicates that the policy requirement reflects the highest quantum of each type of housing required to meet housing needs in the Borough having regard to the local housing needs assessments and the Council's housing waiting list.
14. The proposal includes the extension and subdivision of the existing two 8 bedroom dwellings to provide 7 residential units including two 4 bedroom (8 person) units, two 2 bedroom (3 person) units and three 1 bedroom (2 person) units. Whilst the provision of two 4 bedroom units (28.5%) would fall short of the required 33%, given that three 4 bedroom units would exceed the requirement by a significant margin, the provision of two 3+ bedroom units would be acceptable overall in this instance. However, the proposal would include a greater percentage of 1 bedroom than 2 bedroom units, which would fail to accord with the prescribed mix set out in Policy LP14 due to the under supply of 2 bedroom units.
15. The appellant highlights that the development would continue to provide family accommodation, through the provision of two 4 bedroom dwellings, whilst providing smaller 1 and 2 bedroom units to meet the needs of single occupants and/or small families. I acknowledge the reasons put forward by the appellant as to why an alternative mix is not possible, having regard to the constraints of the existing building. However, it has not been clearly demonstrated as to why the number of units proposed is required to be accommodated in the building or why the only reconfiguration options would be those that would result in substandard family housing on upper floors.
16. Whilst the proposal may accord with emerging policies within the draft Stamford Hill Area Action Plan, given that the status of this plan is unknown, and it is not clear if the policies referred to will be adopted in their current form or when, I have attributed limited weight to this.

17. HLP Policy LP13 requires the provision of affordable housing, subject to development viability. The appellant's Financial Viability Report by Development Management Consultancy dated March 2021 concludes that the site cannot viably support an off-site affordable housing contribution.
18. The appeal submissions indicate that the Council found that the development could support a payment in lieu of on-site affordable housing of £120,808 but does not provide details of the basis on which this figure was derived. In the absence of any substantive evidence to demonstrate that the scheme would be viable should it include a financial contribution towards affordable housing, I therefore conclude that the proposal would accord with the relevant policies without a contribution. Accordingly, the proposal would not conflict with the combined aims of Policy H4 of the LP and HLP Policy LP13 which require new development to contribute towards the provision of affordable housing and the Council's S106 Planning Contributions Supplementary Planning Document adopted July 2020 (SPD), in so far as it seeks to secure planning obligations towards the provision of affordable housing.
19. However, due to the unit sizes, the proposal would not reflect the housing mix required in the area and would fail to provide an appropriate housing mix to sustain a mixed and balanced community. In that regard it would conflict with the aims of Policy H10 of the LP and Policies PP4 and LP14 of the HLP.

Effects on climate change

20. The parties agree that the proposal would trigger a requirement for a carbon offset contribution in accordance with Policy SI2 of the LP and Policy LP55 of the HLP. However, given the absence of a signed planning obligation in this instance, there is no mechanism by which to secure the payment. As such the proposal would fail to include appropriate measures to mitigate the effects of the development on climate change.
21. It would therefore conflict with Policy SI2 of the LP which requires Boroughs to collect carbon offset fund payments to implement projects that deliver carbon reductions and HLP Policy LP55 which requires new development that is unable to reduce on-site carbon emissions by specific levels, to make a carbon off-setting payment, to be secured by a legal agreement. It would also conflict with advice in Section 8 of the SPD which sets out a requirement for carbon offset payments for small residential schemes.

Travel patterns of future occupiers

22. Policy T6 of the LP requires, among other things, that car free development should be the starting point for all development proposals in places that are well connected by public transport, such as the appeal site. This is, in part, to ensure that people and businesses can move about the city as the population grows and housing delivery increases significantly.
23. Policy LP45 of the HLP sets out that in order to reduce car usage and promote active travel, all new developments in the Borough must be car free. HLP Policy LP58 requires that all new development must as a minimum not exceed air quality neutral standards or contribute to a worsening of air quality.
24. The appeal submissions indicate that the existing dwellings do not benefit from allocated parking provision, either within the appeal site or on the street, and as this arrangement would continue for the occupiers of the proposed

development, it would be car free. Moreover, the proposal would provide cycle parking spaces and future occupiers would benefit from accessibility to local services and facilities by means other than the private car as well as public transport links. Despite these considerations, given the net increase in dwellings, it is likely that the proposal would lead to an increase in car ownership.

25. Without an appropriate mechanism to secure the residential units as car free development by restricting future occupiers from having a Residents Parking Permit, and ensuring future occupiers are made aware of this, to promote travel by means other than the private car, there is no substantive evidence that the future occupiers of the development would not travel by private car. I therefore conclude that the proposal would fail to discourage travel patterns that would contribute to congestion and air pollution in the surrounding area.
26. In that regard the proposal would conflict with Policy T6 of the LP and Policies LP45 and LP58 of the HLP and advice in Section 7 of the SPD in relation to mechanisms required to secure car free development.

Whether there would be any benefits arising from the development

27. The appellant indicates that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. In terms of housing supply, a net gain of 5 residential units would contribute towards the supply of housing needs in the Borough and specifically Stamford Hill, which the appeal submissions indicate is identified as an area in acute need of additional housing due to the growth of the local community.
28. The proposal would make use of a previously developed site in an existing built-up area to provide additional dwellings which would contribute to the Council's housing supply targets, which the Framework indicates should be given substantial weight. In addition, the development would be in an accessible location close to nearby local services and transport links. These factors carry significant weight in the scheme's favour and result in some support from LP Policy H2 that recognises the contribution that small sites can make towards achieving housing targets.
29. The appeal submissions indicate that the proposal would allow the Charedi Jewish families who currently occupy the dwellings at the appeal site to continue to live at the properties at the lower floor levels. At the same time, it would provide new affordable residential units on the floors above. This would enable additional Hasidic Jews to join the existing Jewish community in the area. In exercising my function on behalf of a public authority, I have had due regard to the Public Sector Equality Duty (PSED) contained in the Equality Act 2010. The Act sets out the relevant protected characteristics which includes religion. The effect of not granting planning permission would be that, whilst the existing families could continue to live at the properties, the proposed additional residential units would not be available for new members of the Hasidic Jewish community.
30. Whilst I acknowledge the appellant's desire to provide the additional residential units at the appeal site, I have not been presented with any evidence to demonstrate that a shortfall in the provision of residential accommodation to meet the needs of the Hasidic Jewish community could not be met elsewhere, or what the long-term consequences would be if the development is refused

planning permission. For these reasons, although the accommodation would be advantageous for the Hasidic Jewish community, I can only attach moderate weight to the need for and benefits of the development for these individuals.

31. Therefore, having due regard to this, and to the need to eliminate discrimination and promote equality of opportunity, it has not been shown that the adverse impacts of not allowing the scheme on those with protected characteristics would conflict with the 3 aims of the PSSED.

Other Matters

32. The proposed dwellings would meet or exceed minimum space standards, provide amenity space, cycling and refuse storage and would not give rise to harm to the living conditions of occupiers of neighbouring properties or future occupiers of the development. However, these are ordinary requirements for new development, and they do not represent a positive benefit that weighs in favour of the development.

33. Concerns regarding due process during the processing of the planning application have little to do with the planning merits of the case.

Planning Balance and Conclusion

34. As set out above, I conclude that the proposal would lead to significant harm to the character and appearance of the area and would fail to provide an appropriate housing mix. Furthermore, in the absence of a completed planning obligation to secure a carbon offset contribution and car free development, the proposal would fail to appropriately mitigate the effects of the development on climate change, air pollution and congestion. It would be contrary to the development plan in these respects.
35. Set against this, the development would make a modest contribution towards the supply of housing generally and specifically for members of the Hasidic Jewish community in the area and in an accessible location. Taking the appellant's suggestion that there is a shortfall in housing delivery as read, I give these considerations moderate weight given the small number of additional units proposed. Even if the planning obligation had been completed, it would only provide mitigation in respect of carbon offsetting, which would be neutral in the planning balance. Overall, there would be conflict with the development plan, read as a whole.
36. The absence of a 5 year supply of deliverable housing would also mean that paragraph 11(d) of the Framework fell to be considered. However, for the same reasons, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits in this case. Accordingly, the presumption in favour of sustainable development as set out in paragraph 11 of the Framework does not apply. The material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.
37. For the reasons given above I conclude that the appeal should be dismissed.

E Worley

INSPECTOR