
Appeal Decision

Site visit made on 3 October 2023

by Gary Deane BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th October 2023

Appeal Ref: APP/U5360/W/23/3315874

1 Allerton Road, Hackney, London N16 5UJ

- 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 Charles Rowland Developments against the decision of the Council of the London Borough of Hackney.
 - The application Ref 2022/1456, dated 10 June 2022, was refused by notice dated 4 August 2022.
 - The development proposed is the erection of 2-storey dwellinghouse; resubmission of withdrawn application 2021/2075.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted an Arboricultural Report (AR), dated 23 October 2022, which assesses the impact of the proposed development on trees. Although the AR was not before the Council when it decided to refuse planning permission, they and others have had the opportunity to comment on the document through the appeal process. On that basis, no injustice would be caused if I were to take the AR and the representations made in relation to it into account.

Main issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the local area;
 - whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to access and outlook;
 - whether the proposal would make an appropriate financial contribution towards affordable housing and carbon offsetting and secure car-free housing; and
 - whether the proposal would encourage sustainable transport.

Reasons

4. The proposal is primarily to erect a detached dwelling towards the rear of the long back garden of the appeal property, which is an end of terrace house with

the plot subdivided between the existing and proposed dwellings. Access to the new addition would be along a path that runs alongside the existing house and the rear garden of No 1. A space would also be provided immediately in the front of the existing house for off-road vehicle parking.

Character and appearance

5. Along Allerton Road and nearby streets, 2-storey residential terraces and buildings in semi-detached pairs predominate. These dwellings are generally arranged in a linear way to directly face the road often with good sized landscaped gardens at the rear. I saw no obvious examples of back-land housing development in the local area, as would be the case here, nor have any such cases been drawn to my attention. As such, this type of development is not a strong or defining characteristic of the locality. Some properties close to the site include detached outbuildings albeit mostly smaller than the proposal before me and, from what I could see, without an independent access to the road. The use of these existing outbuildings is also likely to be ancillary to the main dwelling and thus differ to the proposal. In that context, a new self-contained detached dwelling nestled into a plot that would be surrounded by the gardens of neighbouring properties with no direct access to the road would be incompatible with the prevailing pattern of development locally.
6. I accept that the main body of the site is not readily visible in the local street scene. However, it encompasses the characteristics of the local area as it is experienced and appreciated from nearby houses and gardens. Having carefully viewed the site, I am in little doubt that from these vantage points the proposed built form would appear as a visually disruptive and uncharacteristic intrusion into relatively long and mostly open garden space.
7. The new addition would be partly screened by boundary vegetation and a fence. Additional planting could further mitigate the visual impact of the proposed development. The type of materials to be used could also be covered by a planning condition, as the Council suggests. However, even considering detailed design considerations, the proposal would not be readily assimilated into the prevailing pattern of existing development.
8. The AR confirms that no trees would be removed to accommodate the proposed development although the canopy overhang of some specimens would be cut back and lifted. According to the AR, none of these works would adversely affect the health or longevity of the trees. The AR also notes that the risk of damage to the tree roots through excavation could be minimised by appropriate foundation design. Conditions could also be imposed to protect the existing trees during the construction phase in line with the Method Statement and the Tree Protection Plan of the AR. While some interested parties express concern about the accuracy of the information presented in the AR, the effect of the proposal on trees would be acceptable subject to these conditions. On that basis, there would be no conflict with the policies cited by the Council in the fourth reason for refusal.
9. No further landscaping is to be introduced at the front of No 1 nor is any planting to be removed to accommodate the off-road parking space. Given that the hard surfaced forecourt of No 1 is already used for vehicle parking, no visual disharmony would result from this element of the appeal scheme. A failure to introduce additional greenery at the front of the appeal property is therefore insufficient to withhold planning permission.

10. Notwithstanding my findings in relation to trees and the forecourt of No 1, I conclude on the first main issue that the proposed development would cause significant harm to the character and appearance of the local area. As such, it is contrary to Policies D3, D4, D5 and D6 of The London Plan (LP), Policies LP1, LP12 and LP17 of the Hackney Local Plan 2033 (HLP) and the advice within the Supplementary Planning Guidance: Housing (SPG). These policies and guidance broadly aim to ensure that development achieves high quality design; responds to local character; and is compatible with the existing townscape. It also conflicts with the policies of the National Planning Policy Framework (the Framework), which state that developments should be sympathetic to local character and add to the overall quality of the area.

Living conditions

11. The Council and others raise concern that access for future occupiers and visitors would be restricted by the long path leading from Allerton Road to the new dwelling. Although largely straight and with good visibility along the route, this path would be narrow in sections that could present a problem especially for wheelchair users or for those pushing a bicycle. Even assuming the proposed access is always kept clear of obstructions and is adequately lit, this arrangement would be far from ideal.
12. To avoid overlooking problems towards neighbouring properties, the first-floor bedrooms of the new dwelling would be served solely by rooflights. As a result, the only external views from these main habitable rooms would be skyward. In my experience, roof lights are useful, amongst other things, in supplementing the outlook provision for new residential development but are generally an inadequate substitute for an external window. In this case, the reliance on rooflights would result in a poor outlook, the effect of which would make the first-floor bedrooms feel unduly confined and uninviting.
13. On the second main issue, I conclude that the proposed development would not provide satisfactory living conditions for future occupiers. Therefore, the proposal conflicts with LP Policy D4 and D6, HLP Policies LP1, LP2 and LP17, and the advice in the SPG insofar as they aim to safeguard residential amenity. It is also contrary to the Framework, which states that developments should create places that are accessible with a high standard of amenity for users.

Affordable housing, carbon offset measures and car-free housing

14. The appellant has indicated a willingness to enter a Unilateral Undertaking (UU) to secure the development as car-free and has provided a completed statement to that effect. The appellant's statement also confirms that the UU would cover payments towards affordable housing and carbon offsetting and that the Council's legal and monitoring fees would be met. The absence of a legal agreement to secure these obligations is the subject of 3 reasons for refusal.
15. The Framework states that affordable housing should not be sought for residential developments that are not major developments other than in designated rural areas. Nevertheless, section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

16. In this case, LP Policy H4 and HLP Policy LP13 support the requirement to contribute to affordable housing provision, which is underpinned by the Council's Supplementary Planning Document, *S106 Planning Contributions* (SPD). Specifically, for schemes of 1-9 units, HLP Policy LP13 requires on-site provision or a payment in lieu, subject to viability. The Council's SPD also identifies an acute shortage of affordable homes in the borough and a high level of demand, which is unlikely to change in the coming years.
17. Against that background, the evidence adequately justifies the need to secure affordable housing provision on small sites to partly address the need, which is pressing. The evidence of a local demand for affordable housing is also compelling. Therefore, although the Framework is relevant, it would not outweigh the development plan in this instance.
18. LP Policies T6 and SI 2, HLP Policies LP45 and LP55 and the Council's SPD similarly provide a cogent case for a contribution to be made towards the Carbon Offset Fund and for car-free development to be secured unless parking for the disabled is required.
19. Taking into account all these considerations, sufficient justification has been provided in the Council's evidence to demonstrate that the obligations sought are in line with the statutory tests. The appellant's statement, although sufficient to enable the application to be validated, does not provide a legally binding commitment that the relevant payments would be made or that the development will be car-free. Had the proposal been acceptable in all other respects, I would have considered the option of allowing the main parties to pursue a legal agreement to secure these obligations. As it stands, the proposal would undermine the Council's strategy towards affordable housing, carbon offsetting and sustainable transport and so it is contrary to the policies identified above. Significant harm would be caused as a result.

Sustainable transport

20. To reduce car usage and promote active travel, HLP Policy LP45 states that all developments must be car-free, with on-site parking provision limited to disabled users or to meet essential operational or servicing needs. There is no evidence before me to confirm that the off-road parking space to be provided on the forecourt to No 1 would satisfy either of these requirements.
21. With cycle storage provided on site, future users would have a choice in the means of transport other than the private car. However, the modest width and length of the proposed access path may deter some cyclists. The provision of an off-road parking space and a wider vehicle crossover to Allerton Road would do little to reduce car usage. As such, the proposal would not encourage sustainable transport and it would conflict with HLP Policy LP45.

Other matters

22. The proposal was refined in the light of the advice provided by the Council at the pre-application stage and in response to the feedback expressed during a public consultation exercise that was carried out by the appellant. Once complete, the proposal would contribute towards the supply and choice of housing and make efficient use of underused land. The appellant states that it would meet the need for family sized accommodation, which is encouraged in policy terms. The new dwelling would meet relevant space standards and

Building Regulations regarding adaptability and accessibility. It would also be energy efficient, with details given in the appellant's Sustainable Construction, Energy and Water Statement. The proposal includes measures to enhance biodiversity through the provision of bird and bat boxes and living walls amongst other things. All these considerations add to the social and environmental credentials of the proposal and weigh in favour of the appellant's case. The Officer's report also notes that the principle of providing additional housing is supported by the development plan. However, these considerations do not outweigh the significant harm that I have identified.

23. Given the screening provided by existing trees, which are to be retained, and the position and height of the new building, I share the Council's opinion that the proposal would not adversely affect the setting of the Lordship Park Conservation Area, situated just beyond the southern boundary of the site. As such, the character and appearance of this designated heritage asset would be preserved.
24. Interested parties raise several additional objections including light, potential noise and general disturbance, lack of access for emergency services, wildlife, precedent, design, security, outdoor amenity space, drainage, materials, fire safety and flood risk. These are all important matters and I have considered all the evidence before me. However, given my findings on the main issues, these are not matters on which my decision has turned.

Conclusion

25. Overall, the proposed development would conflict with the development plan, when read as a whole. There are no material considerations, including the policies of the Framework, which indicate that the decision should be taken other than in accordance with the development plan.
26. For the reasons set out above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR