



Appeal Decision

Site visit made on 27 November 2023

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2023

Appeal Ref: APP/U5360/W/23/3319444

129 Pritchards Road, Hackney, London E2 9AP

- 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 Paul Stroud (Regnant Property Development Limited) against the decision of the London Borough of Hackney.
 - The application Ref 2022/2467, dated 5 October 2022, was refused by notice dated 23 December 2022.
 - The development proposed is the erection of two additional storeys at fourth and fifth floor level to the rear of the existing building to provide 9 units (8 x studios and 1 x 2-bed unit) including extension to stairwell on the western elevation and provision of additional cycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description on the Council's Decision Notice and Appeal Form as this is more accurate than that on the planning application form.

Main Issues

3. These are:
 - a) the effect of the proposal on the character and appearance of the area,
 - b) whether the proposal would provide a suitable dwelling mix to meet identified housing need,
 - c) whether the proposal would provide suitable living conditions for the future occupiers, with specific regard to outdoor amenity space, accessible housing and refuse collection; and,
 - d) the effect of the proposal on biodiversity, with specific regard to overshadowing of the Regent's Canal.

Reasons

Character and appearance

4. Located on the southern edge of Regent's Canal and Pritchard's Road, the site is a 4/5/6 storey flatted development. The 4 storey element directly flanks the canal, in a narrow elongated rectangle. The building rises to 5/6 storeys at the roadside. Here it has a wider frontage to Pritchard's Road on the edge of the Cat and Mutton Bridge. This creates a taller, principal 'book end' feature, directly facing the street. The 4 storey section appears functionally subservient to the taller roadside section, reducing the building's prominence along the canal.

5. The area has a mixed character, being on the edge of a commercial centre, with a mixture of blocked flatted development, commercial uses and some warehousing. The canal intersects the area and contains well-established trees and shrubs, resulting in an urbanised, leafy character. The canal is designated as the Regent's Canal Conservation Area. Much of the special character of the Conservation Area is derived from an industrial past that has created an unusual building typology.
6. There are taller buildings near to the canal, but many of these are set back from the edge, or perpendicular. That said, there is a 6 storey flatted development to the west on Queensbridge Road, which occupies a similar position to this building, albeit marginally set back from the water's edge. Thus, the principle of a building taller than 4 storeys alongside the canal could be appropriate. Nonetheless, the proposal is for 2 additional storeys to the rear 4 storey section. This would bring it up to a similar height as the principal frontage, providing 9 flats and an extension to the stairwell on the western elevation.
7. This would add a considerable upwards extension to the subservient part of the building, essentially increasing the height by half its existing height. Whilst it would be set back, and an appropriate similar design and materials to the existing building, the 2 storey increase would be prominent and top heavy. It would also result in the rear section of the building competing with the taller primary component. This would be harmfully disproportionate to the overall aesthetic of the host building.
8. The increase in scale and shape would also appear overly tall and dominant in views from the canal and the bridge, even considering the other flatted blocks nearby. This would not respect the design and scale of the existing building nor the setting of the Regent's Canal Conservation Area, whereby the height of buildings along the canal is particularly important.
9. Therefore, the proposal would be harmful to the character and appearance of the area, and the setting of the Regent's Canal Conservation Area. This would be contrary to Policies D3, D4 and HC1 of the London Plan (March 2021) (LP) and Policies LP1, LP3 and LP52 of the Hackney Local Plan 2033 (July 2020) (HLP). Together, these seek to optimise sites densities while delivering the good design of the highest architectural and urban design quality, conserving the significance of heritage assets and making a positive contribution to the character and appearance of the waterfront setting.
10. Whilst being cited in the reason for refusal, I find there to be no relevance of the Hackney Residential Extensions and Alterations Supplementary Planning Document 2009 to this proposal.

Dwelling mix

11. Policy LP14 of the HLP sets out that the preferred dwelling mix for a market housing development is at least 33% of 3 or more bed units and a higher proportion of 2-bed units than 1-bed units. The proposal would comprise 8 x studios and 1 x 2-bed unit. Around 90% of the units would be one bed studios, and of these, the appellant sets out that they would be 1 bed 1 person units, with the 2 bed unit being a 2 bed 3 person unit.

12. Schemes should generally consist of a range of unit sizes. Policy H10 of the LP sets out that a higher proportion of one and 2 bed units are generally more appropriate in locations which are closer to a town centre or station or with higher public transport access and connectivity. The appellant claims that the site is in a highly sustainable location, such that their dwelling mix is appropriate and consistent with Policy H10 of the LP, contributing towards a reduction in the need to subdivide the existing housing stock.
13. However, Policy LP14 of the HLP details that variations to the dwelling size mix will be considered if this can be justified based on the tenures and type of housing proposed, site location, area's characteristics, design constraints and scheme viability.
14. Aside from the location and the existing building providing flats, very little evidence is presented to demonstrate why the proposal could not provide larger units, compliant with the preferred dwelling mix contained in Policy LP14 of the HLP. Indeed, the Council state that the existing block contains 3 and 4 bed units.
15. Therefore, although there is an identified need for one and 2 bed housing in the area, the dwelling mix proposed, containing mainly single person accommodation, would not support mixed and balanced communities. This would be contrary to the objectives of Policy H10 of the LP and Policy LP14 of the HLP.

Living conditions

Outdoor amenity space

16. The flats located on the 5th floor would have no access to any private external amenity space. The flats located on the 4th floor would have access to a small amount of space. Policy D6 of the LP details that a minimum of 5 square metres of private outdoor space should be provided for 1-2 person dwellings and an extra 1 square metre should be provided for each additional occupant, achieving a minimum depth and width of 1.5m.
17. There may be accessible parks in the area that occupants could use for amenity space. However, this does not displace the lack of private amenity space associated with a dwelling. The failure of the proposal to provide outdoor amenity space for 4 of the units, and the provision of small areas of outdoor space for the other units would not provide high quality standards or suitable living conditions for the future occupants.

Accessible housing

18. Policy D5 of the LP details that development proposal should achieve the highest standards of accessible and inclusive design. They should be convenient and welcoming with no disabling barriers, providing independent access without additional undue effort, separation or special treatment; and be able to be entered, used and exited safely, easily and with dignity for all. Policy D7 of the LP requires at least 10% of new build dwellings to be wheelchair user dwellings, and all other dwellings to be accessible and adaptable.
19. There is level access to the existing dwellings, but for access to the proposed upper floors, this would be via a staircase. This means no level access would be provided. Anyone who was less ambulant or disabled would have difficulties

accessing these new dwellings, even if the stairwell was ambulant. Indeed, anyone with a pram would also have difficulties accessing the 2 bed flat. Also, given that 8 of the flats would be for a single person, it would not be unreasonable to assume that many could potentially be occupied by older people looking to downsize.

20. The appellant claims it is not possible to adapt the building to provide level access. I accept the proposal would modify an existing building, and there are some limitations that come with this type of proposal. Nonetheless, aside from asserted feasibility issues, I have been presented with no conclusive evidence why it would not be possible to provide level access to these 9 proposed dwellings.
21. I also agree with the Council that there could be Public Sector Equality Duty implications as the proposal could discriminate against those with protected characteristics, such as age and disability.

Refuse collection

22. No specific details relating to how waste would be stored are provided. The appellant details that there would be sufficient space within the existing refuse areas to accommodate the additional units. They claim this could be the subject of a condition.
23. However, there is no certainty that this could be achieved by condition, particularly with the requirements set out in Appendix 1 of the Council's Statement of Case. This necessitates an additional 950 litres of storage, plus communal food waste bins. Therefore, based on the details before me, I cannot be certain that the proposal would be able to provide sufficient refuse collection facilities to serve the future residents.

Conclusion

24. The proposal would fail to provide suitable living conditions for the future occupiers. This would fail to comply with Policies D5, D6 and D7 of the LP and Policies LP1, LP17 and LP57 of the HLP, and the guidance contained within the Mayor of London's Housing Supplementary Planning Guidance. These seek to ensure accessible housing with inclusive design, high quality standards and that developments should provide clear details for the storage and collection of waste. Despite its citing in the Council's decision notice, there would be no conflict with Policy LP58 of the HLP.

Biodiversity

25. The canal is a significant waterway and designated as a Green Corridor, Green Chain and Site of Importance for Nature Conservation. Policy LP52 of the HLP states that new development adjacent to water spaces and riparian areas must protect and where appropriate enhance the natural habitats and the setting of the water space. Part v states that development will only be permitted where it does not cause additional overshadowing of a canal. Daylight and sunlight assessments must be submitted with all applications. I do not have such an assessment.
26. The site is located adjacent to the canal and directly south. This means that it already overshadows the canal. The appellant claims the impact should be considered in the balance and the extension would be set in. However, the

increase in height is not insignificant, and this could increase the level of shadowing on the canal.

27. Increase shadowing could increase the level of phytoplankton and macroplankton owing to reduced light and cooler temperature. This can affect food sources for fish and bird populations. There can also be a reduction in emergent vegetation, which is a source of nesting areas for waterfowl. This would have a harmful effect on natural habitats and biodiversity.
28. Therefore, the proposal fails to provide sufficient information to ensure that the proposal would not have an adverse effect upon biodiversity. This would conflict with Policy LP52 of the HLP and Policy SI 14 of the LP. Policy SI 14 seeks to ensure proposals address the strategic importance of London's network of linked waterways, and should seek to maximise their multifunctional social, economic and environmental benefits.

Balance

29. The proposal would provide 9 dwellings and there is an acknowledged shortfall of housing. However, the housing mix and living conditions for the future residents would not be acceptable, such that the benefits of the additional housing are diminished.
30. Furthermore, there would be harm to the character and appearance of the area and Regent's Canal Conservation Area by the 2 storey increase in height. There would also be harm to biodiversity.
31. The appellant claims several times that permitted development rights for upward extensions exist, and therefore the principle is established. However, this proposal is for full planning permission. Also, in any event, upwards extensions under permitted development are not a foregone conclusion owing to the need for prior approval.
32. On balance, there are no public benefits that would outweigh the heritage harm, and coupled with the other development plan conflicts, there are clear reasons for refusing the development proposed.

Conclusion

33. For the reasons given above, the appeal is dismissed.

Katie McDonald

INSPECTOR