



Appeal Decision

Site visit made on 13 December 2023

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2024

Appeal Ref: APP/G5750/W/23/3318962

34 Hanover Avenue, Silvertown, Newham, London E16 1SD

- 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 James Ball against the decision of the Council of the London Borough of Newham.
- The application Ref 22/01686/FUL, dated 12 July 2022, was refused by notice dated 23 September 2022.
- The development proposed is the erection of three-storey side extension to form a new 3-bed dwelling house and erection of an additional storey to the existing house.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
3. The appeal site was the subject of a recent appeal decision¹, which was dismissed. The previous appeal proposal sought prior approval for the erection of an additional storey to No.34 Hanover Avenue (No.34). The primary difference between this proposal and the previous appeal scheme, is that planning permission is also being sought for the extension of No.34 to provide a three-storey, three-bedroom dwelling. The appeal decision is a material consideration in the determination of this appeal.
4. Full planning permission was also granted² in June 2022 for the erection of a two-storey side extension to No.34 to form a 1-bedroom dwelling house. The general layout and arrangement of the site is broadly consistent with the extant permission on the site. However, the primary difference between this scheme and the approved scheme is the increased height of the proposed extension, with approval now being sought for a three-storey dwelling, rather than a two-storey dwelling. Therefore, this planning approval is also a material consideration in the determination of this appeal.
5. The appellant has submitted amended plans and an updated Daylight and Sunlight Assessment with the appeal. I have given consideration to the

¹ Appeal Ref: APP/G5750/D/22/3301861

² Planning Application Ref: 21/00270/FUL

'Wheatcroft Principles' and whether any prejudice would occur to any party if I were to determine the appeal on the basis of the amended plans. In this case, the amended plans were submitted with the appeal documentation and the Council has had an opportunity to provide comments. I am therefore satisfied that no party's interests have been prejudiced by my determining the appeal on the basis of the revised plans, and I have proceeded accordingly.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area;
- the effect of the proposed development on the living conditions of the occupiers of No.1 Fitzgerald Mews with particular regard to daylight, sunlight and outlook; and
- whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to the internal floor to ceiling heights.

Reasons

Character and Appearance

7. No.34 is a two-storey end of terrace dwelling forming part of a short terrace facing the northern side of the street. A car parking space serving the house is located to the side of the building.
8. The building heights in the locality of the appeal site vary considerably. However, there is a noticeably coherent hierarchy of buildings, including a clear transition in roof heights from the tall buildings fronting onto the dock, including the very tall flat roofed apartment block, to the modest two storey buildings fronting on to the northern side of Hanover Avenue. In this regard, the area of the appeal site has a formal and generally well-ordered character and appearance.
9. The proposed development would involve the erection of a three-storey dwelling attached to the side of No.34, together with an upwards extension. The proposed development would create two three-storey dwellings at the end of a row of two-storey dwellings, which would have a significantly higher ridgeline than the existing host terrace. It would add high level bulk that would unbalance and disrupt the uniformity of the existing terrace in the street scene. The matching materials and architectural design features of the additional storey would not overcome this harm.
10. There are some taller buildings on Hanover Avenue, this part of the street is characterised by two-storey, modest, terraced dwellings. This character would be harmed by the introduction of the proposed development, which would significantly unbalance the short terrace of dwellings. The proposed additional storey to the appeal dwelling would be visible in the context of the markedly taller and larger buildings in the locality, and the raised highway flyover nearby. Nonetheless in the immediate context, it would be seen as a visually discordant and incongruous addition to the dwellinghouse and host terrace.

11. Although located at the end of Hanover Avenue, the appeal site and its short terrace is still viewed in the context of the longer terrace of similar two-storey dwellings located between Fitzwilliam Mews and Capulet Mews. Together, these terraces are consistent in terms of their scale, form, and appearance, and they display a strong sense of uniformity and cohesion in the street scene. The proposed development would result in the harmful erosion the appeal site's positive contribution to the uniformity of the rows of terraces fronting on to the northern side of Hanover Avenue and to the coherent hierarchy of buildings in the wider locality.
12. The appellant has suggested that the owners of all of the properties in the terrace could seek to increase the height of their properties. However, I have not been presented with any compelling evidence to demonstrate that is there more than a theoretical possibility that the development might take place. Furthermore, any proposal would need to be assessed through the submission of a separate planning application. I therefore attribute this very limited weight.
13. For the above reasons, I find that the proposed development would cause unacceptable harm to the character and appearance of the area. It would therefore conflict with Policies D1, D3, D4 and D8 of The London Plan 2021 and Policies S1, S6, SP1, SP2, SP3 and SP8 of the London Borough of Newham Local Plan 2018 (NLP). These policies require, amongst other things, a high quality of design and development which responds well to local character and the established pattern of development.

Living Conditions – Existing Occupiers

14. No.1 Fitzwilliam Mews (No.1) is a three-storey, semi-detached property located to the rear of No.34. It has a large rear garden which extends beyond the appeal site and no windows which directly overlook the appeal site.
15. The application was supported by a Daylight and Sunlight Report. However, the Council raised concerns that the report made no reference to BRE guidelines, or other technical analysis. An amended report has been submitted with the appeal which provides a detailed assessment of the potential impact of the proposed development on the provision of daylight and sunlight to No.1. The report concludes that any reduction in daylight or sunlight would not be significant and would be within the acceptable limits set out in the BRE guidelines. Although the Council has not provided comments on this updated assessment, based on the evidence provided and my own observations at my site visit, I am satisfied that the proposed development would not result in an unacceptable reduction in daylight or sunlight for the occupiers of No.1.
16. In relation to outlook, No.1 is orientated away from the appeal site, meaning that there are no direct views possible from the windows in the rear elevation. The appeal site is also set at a lower level than No 1. Although the proposed development would result in increased bulk and massing at second-floor levels, due to the position and orientation of the proposed development, I am satisfied that the proposal would not be an unduly dominant or overbearing feature in the outlook from the windows or garden of the neighbouring property.
17. Consequently, I therefore find that the proposed development would not result in unacceptable harm the living conditions of the occupiers of No.1 Fitzgerald Mews with particular regard to daylight, sunlight and outlook. The proposed

development would therefore comply with Policies D1, D3, D4 and D6 of the London Plan and, Policies SP1, SP2, SP3 and SP8 of the NLP. These policies require, amongst other things, new development to minimise overlooking and loss of privacy, overshadowing, and overbearing impacts.

Living Conditions – Future Occupiers

18. Policy D6 of the London Plan states that the provision of a minimum floor to ceiling height of 2.5 metres for at least 75% of the gross internal area is strongly encouraged. Policy H1 of the NLP requires all new homes to meet the internal space standards of the London Plan as a minimum.
19. The plans submitted with the application indicated that the proposed accommodation on the ground and first floors would fail to meet this requirement, meaning that the proposed development would be in conflict with Policy D6. However, amended plans submitted with the appeal which have been annotated to demonstrate that the required minimum ceiling heights could be provided without any resultant changes to the external appearance of the building. Consequently, in the event that I had been minded to allow the appeal, I am satisfied that this could have been secured by the imposition of a suitably worded planning condition.
20. For these reasons, I conclude, that subject to a planning condition to secure compliance with the amended plans submitted with the appeal, the development would provide adequate living conditions for future occupiers with particular regard to the internal floor to ceiling heights. The development, the subject of the amended plans would comply with Policy D6 of the London Plan, and Policies S1, S6, SP1, SP2, SP3, SP8, H1 of the NLP which requires new housing to meet the minimum space standards and to provide comfortable and functional layouts.

Other Matters

21. The proposed development would create an additional, 3 bed house within an existing established residential area, whilst also creating additional accommodation for an existing dwelling. However, the contribution to the area's housing supply would as a consequence of the scale of development be small and any economic or social benefits arising from the development would also be limited. I therefore find that these benefits do not outweigh the harm I have identified to the character and appearance of the area.

Conclusion

22. For the above reasons, I have found that the proposed development would not cause harm to the living conditions of neighbouring occupiers and would provide adequate living conditions for future occupiers. However, it would cause harm to the character and appearance of the area. The proposed development would not therefore accord with the development plan when taken as a whole. There are no material considerations of sufficient weight that indicate the appeal should be determined other than in accordance with the development plan. The appeal is therefore dismissed.

K Lancaster

INSPECTOR