



Appeal Decision

Site visit made on 23 January 2024

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2024

Appeal Ref: APP/E5330/W/23/3328091

6 Westdale Road, Greenwich, Woolwich, SE18 3BQ

- 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 Sandip Patel against the decision of the Council of the Royal Borough of Greenwich.
- The application Ref 22/4267/F, dated 22 December 2022, was refused by notice dated 20 March 2023.
- The development proposed is described as "Construction of three storey, two-bedroom dwelling including associated external works, bin and cycle storage and rear amenity space. Alteration to the existing first floor flat external access stairs and ground floor commercial back storage".

Decision

1. The appeal is dismissed.

Preliminary and Procedural Matters

2. The address of the appeal site which I have used in the banner heading above is taken, as is usual, from the planning application form. The site as shown by the "red line" on the submitted drawings also encompasses No 58 Herbert Road, as I describe in my reasons below.
3. The Government published revised versions of the National Planning Policy Framework ("the Framework") on 5 September 2023, replacing the July 2021 version extant at the time the application was determined, and again on 19 December 2023. The amendments made did not have any bearing on the main issues in this appeal, and it was not therefore necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.

Main Issues

4. The main issues are whether the proposed dwelling would provide acceptable living conditions for future occupiers, and the effect of the proposed development on living conditions for occupiers of the neighbouring flat at No 58 Herbert Road

Reasons

5. The appeal site comprises part of a mixed-use terrace of buildings, and land at its rear. The eastern end of the appeal site is occupied by No 58 Herbert Road ("No 58"), part of the terrace, with a laundrette on its ground floor (which has an associated storage area within the lower ground floor) and a flat on the first and second floors. The western part of the site comprising the yard at the rear

of No 58 has, since 2006, has been known as No 6 Westdale Road, and the submitted Design and Access Statement uses that address to describe the upstairs flat within the Herbert Road terrace. The land slopes steeply downhill from east to west, and the site entrance from Westdale Road is somewhere in the region of two storeys or so below the Herbert Road shopfront; the flat is accessed by external stairs (a concrete stairway in the lower part of the site, and a steel staircase in the higher parts) which rises to the back of the first floor of the terrace.

6. The proposed development is the erection of a three-storey dwelling towards the Westdale Road end of the site, replacing an existing brick shed in the lower part of the yard. This would have a combined open plan kitchen/living room, a cloakroom WC, and an external rear amenity space at ground floor level, a single bedroom at first floor level, with a double bedroom and a family bathroom on the second floor. The lower concrete part of the stairway to the rear of No 58 would be replaced as part of the scheme, with an access passageway running through the new building at first-floor level to the existing yard and staircases behind.

Living conditions – future occupiers

7. Policy D6 of the 2021 London Plan applies space standards for new residential development which reflect the Nationally Described Space Standard (“the NDSS”)¹. Neither the NDSS nor the development plan set a minimum space standard for a two-bedroom, three-person dwelling over three storeys, so strictly speaking the appellant is correct to say that the scheme cannot fall below the standard.
8. The Council suggests that a space standard has not been set because for two-bedroom, three-storey dwellings because it is a form which is “usually [...] inappropriate”. Equally, it may simply be that they are, in my experience, a very rare arrangement for housing. Three-storey housing can allow for efficient utilisation of space, and while a two-bedroom, three-storey dwelling may be unusual, nothing before me suggests that the form should be considered unacceptable as a matter of principle. At the same time, it is self-evident that adding a storey will usually also mean that more of the dwelling will be given over to staircases and circulation space, and it also therefore seems reasonable that the minimum space requirement should rise to reflect this.
9. Policy D6 requires a minimum gross internal area (“GIA”) of 70m² for a two-bedroom, three-person two-storey dwelling. For dwellings with three or more bedrooms, going from two storeys to three adds 6m² to the minimum floorspace requirement set out in Policy D6 and the NDSS, regardless of the number of bedspaces. Increasing the requirement for a two-bedroom, three-person dwelling by the same amount would suggest that 76m² would be the minimum floorspace capable of providing acceptable living conditions. The dwelling proposed here would have a GIA of 75m², so would be a slightly smaller size than might be considered acceptable by extrapolating the NDSS and development plan requirement.
10. The submitted drawings show that the first-floor bedroom would have an area of 8.5m², and the second-floor bedroom would measure 14.5m²; they would

¹ *Technical housing standards – nationally described space standard*. Department for Communities and Local Government, March 2015

comply with the requirements set out in Policy D6 of 7.5m² for a single bedroom and 11.5m² for a double bedroom. The combined kitchen/living room would have an area of 27m², and so would be in line with the advice in the Mayor of London's 2023 *Housing Design Standards* London Plan Guidance ("the LPG"). At the same time, rather than the "minimal amounts of space" suggested by the appellant, the submitted drawings show somewhere in the region of a quarter of the second floor, and more than half of the first floor, being given over to landing areas and staircases. The circulation areas would provide little in the way of genuinely usable space for occupiers of the dwelling, increasing the pressure on the three principal habitable rooms. Overall, and despite the relatively limited shortfall against the (admittedly hypothetical, in this case) standard, I consider that the dwelling would be likely to provide somewhat cramped living conditions for future occupiers.

11. The proposed external courtyard at the rear of the dwelling would have an area of 6.5m², so would exceed the 6m² minimum area for private amenity space required by Policy D6. I acknowledge that the steeply sloping nature of the appeal site, as well as its location among surrounding buildings, no doubt present some challenges in terms of laying out a dwelling and outdoor space. However, this would result in the rear courtyard being a deeply enclosed space, with walls ranging between approximately one and three storeys in height on its four sides, and it would be likely to be extremely gloomy and inhospitable as a result. The courtyard would also be easily overlooked by anyone using the stairway leading to or from the upstairs flat at No 58, which would reduce its privacy.
12. These factors would severely limit the usefulness of the amenity space; it would not comply with advice in the Mayor of London's 2016 Housing Supplementary Planning Guidance ("the SPG") that private open spaces should offer good amenity, and would not be of a standard which future occupiers of the dwelling should reasonably be able to expect. The appellant states that the amenity space which would be provided "is the same [as] or better than many in the immediate area", but no substantive evidence was provided to explain this. In any event, that other dwellings nearby may have poor quality (or even no) private outdoor space, that does not amount to a justification for permitting a poor quality of amenity space in this case.
13. As I have briefly described in paragraph 6 above, the commercial unit on the ground floor of No 58, and the flat on the upper floors, would be accessed by a steel staircase leading from the small shared front courtyard off Westdale Road to the passageway through (and surrounded on three sides by) the first-floor of the new dwelling. The comings and goings which might be associated with the flat alone would, in the usual run of things, not be likely to lead to an unacceptable risk of noise disturbance for occupiers of the proposed dwelling. However, the same cannot be said of its potential use for access to the commercial unit.
14. The main access to that unit at the moment is from its Herbert Road shopfront. The rear entrance from Westdale Road give convenient access to the large storage areas on the lower ground floor and in a shed, especially if goods or equipment were being loaded to or from vehicles. The appellant describes it as currently being "secondary and used as emergency access", and states that it would "continue to be emergency access only". That may well be so as far as the existing laundrette is concerned. However, the unit could be put to various

other commercial uses, many of which would not need planning permission, so there is no certainty that the existing pattern of use will persist indefinitely. Any increased use of the rear access to the commercial unit would be likely to lead to an unacceptable risk of noise disturbance to occupiers of the proposed dwelling, not simply from greater numbers of people coming and going, but also potentially from goods or equipment being moved up and down the steel staircases.

15. Finally, regardless of whether the stairway to No 56 from Westdale Road would only be used by residents of the flat, or would also provide access to the commercial unit, anyone entering it would pass the front door and window of the new dwelling at very close range. A clear view into the front window would be possible from the bottom steps, which would result in an unacceptable lack of privacy within the dwelling. The appellant suggests that "the design of the proposed development could be adapted to include measures that mitigate any potential privacy issues". No details of how this might be done were put forward, but in my view any such measures would be likely to have a knock-on harmful effect on the daylight and sunlight reaching, or the outlook from, the new dwelling.
16. Taking all of these points together, I conclude that the proposed dwelling would not provide acceptable living conditions for future occupiers. It would therefore conflict with Policies H5 and DH1 of the 2014 Royal Greenwich Local Plan Core Strategy ("the LPCS"), and with Policy D6 of the London Plan 2021; together, and among other things, these policies seek to ensure that new residential development is designed to create attractive and well-functioning spaces, with comfortable and functional layouts offering a good standard of amenity.

Living conditions – neighbours

17. The Council has described the proposed small forecourt area off Westdale Road as "the front garden of the new dwelling". They consider that its use to give access to the flat at No 58 would lead to a loss of privacy "and a significant nuisance" for the occupiers of No 58.
18. I accept that "any arrangement that requires existing occupiers to walk through the private garden space of another dwelling to access a property" is unlikely to be appropriate, but none of the evidence before me suggests that the space is intended to be, or would be likely to be perceived as, a private front garden solely for the new dwelling. As well as providing access to the front door of the new dwelling, and the stairway to the upper flat within No 58, it would contain storage space for waste and recycling bins serving both dwellings. Rather than a private garden, and notwithstanding my concerns about its possible use in connection with the commercial unit at No 58, in form and function it would be intended serve as a shared semi-private forecourt for two dwellings.
19. I accept that shared access as proposed may not be the Council's preference, but I have not been directed towards any guidance or policy which specifically seeks to prevent such an arrangement. While I have found that the layout of the access would contribute to the new dwelling not providing acceptable living conditions, as I have described in the preceding section, none of the evidence before me demonstrates that (or explains how) it would lead to a significant harmful loss of privacy or any other nuisance for the occupiers of the existing flat at No 58.

20. I therefore conclude that the proposed development would not cause unacceptable harm to living conditions for the occupiers of the flat at No 58 Herbert Road. I find no conflict with Policies H(c) and DH(b) of the LPCS which, among other things, seek to ensure that new development does not cause an unacceptable loss of amenity for neighbouring occupiers, including as a result of a loss of privacy.

Other Matters

21. The appellant has drawn my attention to other residential development on Westdale Road in recent years, specifically terraces of four dwellings at Nos 1-4, and three dwellings at Nos 1A, 1B and 1C, which I was able to see during my site visit. The three dwellings at 1A, 1B and 1C were allowed on appeal² in 2015; I was only provided with a limited extract from that decision, in which the Inspector considered the question of a shortfall in living space against the NDSS and development plan requirements. In this appeal, however, the harm in respect of living conditions which I have found stems from a wider range of issues; had it simply been a question of a relatively limited shortfall in living space, I may have reached a different overall conclusion. Notwithstanding their proximity to the appeal site, the evidence before me does not demonstrate that issues raised by the other two schemes on the street are directly comparable to those I have addressed in this case, and those examples do not weigh significantly in favour of the appeal proposal.
22. There were no objections to the proposed development from neighbouring occupiers. However, rather than something which weighs in favour of the appeal scheme, as the appellant suggests, this is a neutral matter in the overall balance which does not weigh against the harm which I have found.

Planning Balance and Conclusion

23. The Council's evidence indicated that it is only able to demonstrate a housing land supply of 3.1 years. In line with Footnote 8 of the Framework, I therefore consider that the most important policies for determining the appeal should be considered out of date, and the presumption in favour of sustainable development set out in Paragraph 11 d) of the Framework applies. As such, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
24. The proposed development would provide one new dwelling, on a site close to shops and services, and where it appears likely that development could be brought forward quickly. Given the very small scale of the scheme, this would represent a modest social and economic benefit which, in total, carries moderate weight in favour of the proposal.
25. The development would also result in the payment of Community Infrastructure Levy to the Council, although by definition this would largely be to mitigate the effects of the proposed development in planning terms. I have not found that there would be have an adverse effect on living conditions for neighbouring occupiers; I note also that the Council had no "in principle" objections to the proposal, and nor do I disagree that the development would be acceptable in

² PINS Ref: APP/E5330/W/15/3063706

terms of its effects on the character and appearance of the local area. I consider all of these matters to be neutral factors in the overall balance.

26. The proposed development would not provide acceptable living conditions for future occupiers, and I consider that its deficiencies in this respect would be significant. As such, there would be conflict with the provisions of Chapter 12 of the Framework which seek to achieve well-designed places. In particular, the proposal would not accord with the requirements of Paragraph 135 which, among other things, seek to ensure that development provides a high standard of amenity for existing and future users.
27. Overall, I consider that the harm from the development would significantly and demonstrably outweigh the benefits when assessed against the Framework taken as a whole. The proposal would not amount to sustainable development in the terms set out in the Framework.
28. Section 38(6) of the Planning & Compulsory Purchase Act 1990 and the Framework state that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise.
29. The proposed development conflicts with the development plan, taken as a whole. There are no material considerations, including those of the Framework, that indicate the proposal should be determined other than in accordance with the development plan.
30. I therefore conclude that the appeal should be dismissed.

M Cryan

Inspector