



Appeal Decision

Site visit made on 4 December 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 March 2024

Appeal Ref: APP/G5750/W/23/3319210

Holly Court, 28 St Andrews Road, Plaistow, Newham, London E13 8QD

- 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 Michael Joyce against the decision of the Council of the London Borough of Newham.
 - The application Ref 22/01948/FUL, dated 13 July 2022, was refused by notice dated 1 February 2023.
 - The development proposed is creation of two storey roof extension to provide 3x1 bedroom flats, 1x2 bedroom flat, 1x3 bedroom flat, associated building improvements and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council used a different description of the development on its decision notice. As there is no indication that the appellant agreed to this change, I have used the description given on the application form.
3. I have been provided with an amended drawing "Proposed Block Plan 1904 PL(2)-101 Rev P7" which was not before the Council at the time it made its decision. This drawing provides a revised indicative arrangement of bins within the bin store but does not change the proposal itself. I have therefore considered this plan in reaching my decision, and no party has been prejudiced by my doing so.
4. In reaching this decision, I have had regard to the revised version of the National Planning Policy Framework ('the Framework'), that was published on 20 December 2023 and I have sought the parties' comments upon it. Accordingly, no party has been prejudiced by me doing so.
5. The Council's second reason for refusal related to the lack of a planning obligation to secure a car-free development. A signed unilateral undertaking has been submitted by the appellant which I am satisfied would address this issue. Therefore, there is no reason for me to consider it further.

Main Issues

6. The main issues are:
 - the effect of the proposal upon the character and appearance of the area;
 - the effect of the proposal upon the living conditions of the occupiers of nearby residential properties with particular regard to outlook and daylight;

- whether the proposal would provide acceptable living conditions for future occupiers with particular regard to private outdoor space, and;
- whether the proposal would make adequate provision for the storage of waste and recycling.

Reasons

Character and appearance

7. The area around the appeal site is characterised by two-storey terraced properties. At present the appeal property is a detached, three-storey block of nine flats. It is located at the corner of St Andrews Road and Prince Regent Lane (A112) and therefore occupies a prominent location.
8. The building takes design cues from the terraced housing around it, incorporating front bay features and a part-brick, part-render construction with a hipped roof. Although a larger building than others in the street, it nevertheless assimilates with its surroundings.
9. The scheme would introduce a further two storeys onto the existing building, significantly increasing its height. Whilst corner plots can lend themselves to buildings of a larger scale than those around them, and larger buildings can improve the surveillance of surrounding streets, the proposal would nevertheless lead to the building forming an incongruent feature within the area. It would be a significantly larger building than those around it, and this difference in scale would be exacerbated by the terraced nature of the street, where uniformity of scale is a key character feature, as it is in other nearby streets of terraced housing. The fact that the site lies along a busy road leading to a local centre would not overcome this harm, nor would the use of a design approach which would replicate the general form and materials of the existing building.
10. I have been directed to a development at 9 Prince Regent Lane, which I saw on my visit, and whilst construction was not complete, I was able to appreciate the scale of the building. The context of that proposal differs from that before me in that its immediate context includes four-storey blocks of flats. These flats do not contribute significantly to the context of the appeal site as they are located beyond the Greenway, which effectively screens them. Accordingly, this development does not justify or mitigate the harm that I have found.
11. The proposal would cause unacceptable harm to the character and appearance of the area. It would be contrary to Policies D1, D3, D4 and D8 of the London Plan ('the LP') and Policies S1, SP1, SP3 and SP8 of the Newham Plan. ('the NP'). Together and amongst other factors, these policies require a high quality of design and development which responds well to local character and the established pattern of development. It would also be contrary to advice within Chapter 12 of the Framework, which states that developments should add to the overall quality of an area and be sympathetic to local character and history, including the surrounding built environment.

Living conditions of the occupiers of nearby residential properties

12. Adjacent to the appeal site is an end of terrace residential property, 123 Crofton Road ('123'). 121 Crofton Road ('121') adjoins 123. Both properties sit on a broadly similar alignment to the appeal property, albeit the larger building

projects beyond the rear of 123 to a limited extent, and the rear outrigger staircase tower at the appeal property projects further again, although it is set away from the shared boundary.

13. As a result of the proposal, the appeal property would be of a significantly larger scale to the buildings that are around it. However, it is orientated on a similar alignment to its neighbours, and in this respect views towards it from the gardens of 121 and 123 would be largely oblique. The outrigger staircase tower would be more visible, but would be located away from the boundary. Accordingly, the proposal would not lead to an unacceptable sense of enclosure to these properties or their associated gardens.
14. The appellant has provided a sunlight test which considers the effect of the proposal upon the levels of sunlight available to the rear gardens of both 121 and 123, and it is common ground that the proposal would not lead to unacceptable harm in terms of levels of available sunlight in rear gardens at both properties. However, the provided document does not provide any consideration of the effect of the proposal upon levels of daylight to either property.
15. I accept that the footprint of the appeal property would not increase as a result of the proposal, and that the appeal property and its neighbours have a similar orientation. However, given the significant difference in height between the appeal property and numbers 121 and 123, and having particular regard to the rear outrigger staircase tower, I cannot rule out that the proposal would have an adverse effect upon the levels of daylight available to occupiers of these properties.
16. My attention has been drawn to an appeal decision in relation to another development where it is stated that the Inspector in that case did not consider the effect of the proposal on the living conditions of occupiers of an adjacent property. However, I have been provided with only very limited details of this case, and it is unclear what the main issues of dispute were. Furthermore, the information that is before me indicates that the circumstances of the case are not wholly comparable in terms of the nature and scale of the proposal. Accordingly, this decision is not determinative in my considerations.
17. Although I have concluded that the proposal would not lead to unacceptable harm with regard to outlook, with no substantive evidence before me to demonstrate otherwise, I cannot be satisfied that the proposal would not lead to harm to the living conditions of occupiers of adjacent properties with regard to daylight. The proposal would therefore fail to accord with LP Policies D3 and D6, and NP Policies SP1, SP8 and H1 which together, and amongst other criteria require new development to minimise overshadowing and overbearing impacts. It would also conflict with advice within Chapter 12 of the Framework which states that development should provide a high standard of amenity for existing and future users.

Living conditions of future residents

18. The proposal does not include the provision of private outdoor space for future occupiers of the additional accommodation. It is the case that there is currently no private outdoor space for occupiers of the existing building, although there are limited areas of communal space. It is common ground that the internal specifications of the proposed additional flats would exceed the internal space

standards set out in LP Policy D6. The proposal would also lead to existing car parking spaces being removed in order to provide additional communal open space within the site.

19. These measures would off-set, to an extent, the lack of provision of any private outdoor space. However, neither alternative would wholly replicate the practical and wellbeing functions of private outdoor space. Whilst I acknowledge that the nature of the proposal as an extension to an existing building means that there would be design implications to providing such space on the upper floors of the development, it has not been shown that the feasibility of such options has been explored to any significant extent. In this context, although the London Plan Housing Supplementary Planning Guidance makes provision for off-setting private outdoor space in exceptional circumstances where it is impossible to provide private outdoor space, such circumstances have not been demonstrated in this case.
20. The proposal would fail to provide acceptable living conditions for future occupiers with specific regard to private outdoor space. It would fail to accord with LP Policies D3 and D6 and NP Policy SP8 and H1. Together these policies require all new dwellings to be provided with private outdoor space, and that appropriate provision should be made for communal spaces and private outdoor spaces in multiple-user buildings. It would also conflict with advice within Chapter 12 of the Framework which states that development should provide a high standard of amenity for existing and future users.

Storage of waste and recycling

21. The appeal site currently contains a brick-built bin store. The proposal would result in this store being enlarged and the plans indicate that four large bins could be stored within this area and be accessible to occupiers of the development.
22. There would be a conflict between the outwards opening doors of the bin store and the pedestrian access to the building, as the plans indicate that the doors would swing over the footway. The plans also indicate that a new gate would be installed at this entrance which would also have the potential to conflict with the doors of the bin store. This, along with existing bollards in the footway close to this entrance means that it would be awkward to manoeuvre bins out of the store, through this entrance, and around the bollards in order to facilitate collection.
23. However, a larger vehicular entrance also exists close to the pedestrian entrance. The plans indicate that this would be retained, albeit with gates. This access would provide an alternative, wider and unimpeded means of moving bins out of the site to facilitate collection. Overall, this would represent an acceptable arrangement for managing regular waste and recycling storage and collection.
24. Although the proposal makes no specific provision for bulky waste collections, with such matters being subject to private direct collection arrangements with no need for external storage, it would nevertheless appear that sufficient space would be provided within the extended bin store in order to allow the storage of bulky waste for a limited period, should it be required.

25. The proposal would make adequate provision for the storage of waste and recycling. It would therefore accord with LP Policies D3, D4, D6 and S17, and NP Policies INF3, SP2 and SP8. Together, and amongst other factors, these policies require developments to ensure on-site waste handling and storage meets the needs of the development, achieve a high standard of access, egress and circulation including the provision for waste and recycling storage, and promote healthy neighbourhoods.

Other Matters

26. I am aware that planning permission¹ was previously granted for a one-storey roof extension, however the evidence indicates that this permission expired in late-2023 and as a result, I afford it little weight in my considerations. Equally, although provision is made within the Town and Country Planning (General Permitted Development) Order 2015 for upwards extensions, I understand that the building does not benefit from such rights. Accordingly, this does not form a fallback position to which I can afford weight.

Planning Balance and Conclusion

27. The appeal proposal would lead to the provision of five additional flats, including family homes for which there is an identified need in the area, in a location with good access to public transport. Paragraph 60 of the Framework sets out the Government's objective of significantly boosting the supply of homes. Accordingly, the modest boost to the housing supply that the appeal proposal would provide is a factor which weighs in favour of the proposal, and to which I afford moderate weight.
28. The proposal would also represent the efficient use of a small site, and in comprising an upwards extension would represent the use of brownfield land, making use of airspace. These are all factors that are encouraged by the Framework. I therefore also afford them moderate weight.
29. However, the proposal would harm the character and appearance of the area, would fail to provide adequate private outdoor space and it has not been shown that it would not harm the living conditions of the occupiers of nearby properties. It would conflict with the development plan taken as a whole. Although the appeal proposal would result in some benefits, these would not outweigh the harm and conflict with the development plan that I have identified.
30. The appeal site lies within the identified zone of influence of Epping Forest Special Area of Conservation. The Conservation of Species and Habitat Regulations ('the Habitat Regulations') require the Competent Authority to consider whether or not the proposal could adversely affect the integrity of the protected sites, either alone, or in combination with other plans and projects. This responsibility falls to me in the context of this appeal, and an appropriate assessment ('AA') under the Habitat Regulations would ordinarily be required to be undertaken.
31. However, I have not needed to undertake such an AA in this case as I am dismissing the appeal for other reasons, and I have not, therefore, pursued the matter further. Even if I had conducted such an AA and found that there would

¹ 20/02131/FUL

be no adverse effect, this would have been a neutral factor which would not have weighed in favour of the scheme.

32. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

C Harding

INSPECTOR