



Appeal Decision

Site visit made on 5 March 2024

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 March 2024

Appeal Ref: APP/U5360/W/23/3325659

83 Maury Road, Hackney, London N16 7BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Mendel Cik of Athena Properties Limited against the decision of the Council of the London Borough of Hackney.
 - The application Ref is 2023/1034.
 - The development proposed is excavation at basement level and creation of front and rear lightwells in association with providing two additional HMO rooms.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 December 2023 and is a material consideration in planning decisions. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context, and both parties have had the opportunity to make comments on the revised Framework within their statements and final comments.
3. With their appeal the appellant has submitted; a revised floor plan that shows an additional 1 no. 240 litre bin and 2 no. larger 360 litre bins; and a revised elevation and section drawing to show an angle taken from the middle of the windows on the proposed basement level rooms. The changes and additional information are relatively minor to the proposed development, and the Council and other interested parties have had the opportunity to comment on that information through the appeal process, I am satisfied there would be no unfairness to any interested party by accepting this information. Consequently, the appeal will be determined on this basis.

Main Issues

4. The main issues are:
 - whether the proposed development would provide satisfactory living conditions for future occupiers, with particular regard to sunlight and outlook; and,
 - bin storage provision.

Reasons

Living conditions of future occupiers

5. The appeal property is a tall end terraced property arranged as a House in Multiple Occupancy (HMO), providing 9 no. rooms for 16/17 occupants. The proposed 2 no. additional rooms would be provided at basement level. Each room would have a kitchenette, sleeping area and living area.
6. I have not been provided with a Daylight and Sunlight Assessment, although I do acknowledge that there is no disagreement between the parties that there would be no sunlight to the windows of either of the proposed rooms, for reasons relating to their basement location, proximity to other structures and orientation. The lack of sunlight to the proposed rooms would provide a poor quality of accommodation, which would be harmful to the living conditions of future occupiers.
7. The proposed basement room to the front, would be served by a front facing window and a lightwell, with a small forecourt area in front of it, which is set behind an existing front boundary wall. Between the proposed lightwell and the front wall would be 8 no. food waste caddies, there would also be larger bins positioned to either side of the proposed lightwell. A window and lightwell is proposed at basement level on the rear elevation to serve the proposed room at the rear, immediately beyond it, is a single storey rear extension, with a tall rear wing of the main property on one side, and the appeal property's boundary fence on its other side, which would significantly enclose the proposed lower-level window and lightwell. The proposed floor plans show 2 no. side windows for the proposed rear room; however, it is unclear at what height they would be or their size. In any event, due to their close proximity to the boundary fence and the adjoining building, they would not provide any meaningful outlook for future occupiers of that room.
8. Section 4 of the Council's Supplementary Planning Document, Residential Extensions and Alterations, approved April 2009 (REA) in relation to basement extensions says that a habitable basement room should not as a guide have any obstruction above a line 30 degrees above the centre of the window. The appellant's revised plans show that this guide would be met (said to be 25 degrees for the front facing window and 15 degrees for the rear facing window, above which it is said would not be obstructed).
9. Notwithstanding this, and the large size of the proposed front window, the outlook from within the majority of the room, away from the window itself, would be towards the proposed lightwells, which would include views of the bin storage areas, giving a significantly poor outlook for future occupiers, particularly given that this would be its only window. The outlook from the proposed rear basement room would be dominated by the very close parts of existing buildings and structures above it. In view of this, the outlook from within both proposed rooms would be very poor and wholly unsatisfactory for future occupiers. Painting the lightwells with reflective paint, and the occupiers having access to the shared garden area, would not make the outlook from within the proposed rooms acceptable.
10. The appellant argues that there should be some flexibility in respect of the living conditions of future occupiers in this urban location, however, in view of

the harm identified above, I am not persuaded it would be reasonable to do that in this particular case.

11. I therefore conclude that the proposed development would be harmful to the living conditions of future occupiers in terms of the lack of sunlight and poor outlook, contrary to Policy D6 of The London Plan, The Spatial Development Strategy for Greater London, dated March 2021 (the LP) and Policy LP2 of the Hackney Local Plan 2033, adopted July 2020 (HLP), that amongst other things require development to provide sufficient sunlight to new housing, and be designed to ensure no significant adverse effects upon occupiers, including in terms of their outlook and sunlight provision. In addition, there would also be conflict with Standard 32 of the Mayor of London's Housing Supplementary Planning Guidance, dated March 2016 that requires new homes to have direct sunlight to enter at least one habitable room for part of the day. The proposal would also not comply with paragraph 135 of the Framework insofar as it requires a high standard of amenity for existing and future users.
12. The Council referred to the proposals conflicting with Policies LP1 and LP17 of the HLP, these policies are mainly concerned with design and character, I did not find them to be directly determinative on this main issue.

Refuse provision

13. Policy LP57 of the HLP states that plans should show clear details of the facilities needed for the storage and collection of waste and recycling. The Council has said that along with the existing HMO rooms, there is a requirement for 600 litres of storage for refuse and 1200 litres of storage for recycling.
14. The revised plans show a total of 720 litres of storage for waste and 1200 litres of storage for recycling, including the use of the proposed sacks. The Council has not stated that the use of sacks would be unacceptable, and combined with the proposed bins, the proposals would meet the waste and recycling storage requirements at the appeal site.
15. Whilst the Council has referred to the 8no. 23 litre storage food caddies to be unsatisfactory, it is unclear what their exact requirement would be in this respect, and whether indeed, if these would be part of the recycling provision. The 8 no. food caddies would be provided in addition to meeting the waste and recycling storage provision. The Council has not provided any comments in response to the revised plans or indicated that the proposals as revised would not satisfy Policy LP57, and I see no reason, subject to the imposition of a condition mentioned below, why the waste and recycling storage would not satisfy the Council's requirements.
16. In view of the limited information provided regarding on-site management arrangements, in the event I was minded to allow the appeal a suitably worded planning condition could be imposed regarding the management of these waste and recycling areas.
17. I therefore conclude that subject to an appropriate condition, satisfactory waste and recycling facilities could be provided for the proposed development to ensure the proposal would comply with Policy LP57 of the HLP, insofar as it requires clear details to be shown of the facilities needed for the storage and collection of waste and recycling.

Other Matters

18. The appeal site is located within the Cazenove and Northwold Conservation Area (the CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The Northwold and Cazenove Conservation Area Appraisal, dated September 2010 states the CA is predominantly residential in use, and comprises mainly terraced street frontage properties of varying heights arranged in a distinctive and coordinated form, mostly built between 1865-1895. The composition of the terraces in Maury Road is said to be attractive and largely intact. The proposed basement level accommodation and associated external alterations would ensure the property retained its terraced appearance and would not detract from the character and appearance of the property and the area. For these reasons the proposals would ensure the character and appearance of the CA is preserved.
19. The appellant has stated that the appeal site is within a well-connected area; that there are other lightwells on properties nearby; that the proposal would not cause a high concentration of HMO's in the area or result in a family home being lost; and that the property has been in use as a HMO for a number of years. These points are noted, but they do not individually or collectively outweigh the identified harm above, or the proposal's conflict with the development plan policies and the Framework.
20. Whilst it is acknowledged that the Council has not identified any harm other than the main issues above, and that access to the rear garden for existing occupiers would be maintained. These are likely to be requirements for any well-designed scheme to be acceptable and they are neutral factors in my decision that neither weigh in favour or against the proposal.
21. I note the appellant's offer to accept a condition that would ensure there would be no additional cycle parking or waste provision by limiting the number of double and single rooms at the appeal property, to ensure there would be no more occupiers than the current situation. However, such a condition would not address the identified harm to the living conditions of the future occupiers of the proposed basement level rooms.
22. I have had regard to the planning history of the appeal site insofar as it is relevant to my decision. I also note the other matters raised by interested parties, which I have had regard to, however, as I am dismissing the appeal for another reason, it is not necessary for me to consider those issues further.

Conclusion

23. Although I find the proposed bin storage arrangements to be satisfactory, the proposal would be harmful to the living conditions of future occupiers of the proposed development. As a result, I find there to be conflict with the development plan taken as a whole. There are no other considerations, including the Framework, which indicate a decision other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR