



Appeal Decision

Site visit made on 12 June 2024

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th July 2024

Appeal Ref: APP/K5600/W/23/3333825

6 Holland Road, London, W14 8BA

- 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 Sarwan Nahar against the decision of Royal Borough of Kensington and Chelsea.
 - The application Ref is PP/23/01172.
 - The development proposed is for lower ground rear extension ground floor rear extension and conversion of bedsits (rented rooms) into 3 studio flats (C3) at lower ground floor and ground floor level, at No.6 and No. 8 Holland Road.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the address on the application form, based on the description and submitted drawings, the proposal relates to both 6 and 8 Holland Road and I have determined the appeal on this basis.
3. As part of the appeal the appellant has identified an alternative proposed scheme. However, the drawings for this scheme are not in the evidence before me. In any event, the Procedural Guide: Planning Appeals-England, says that if an applicant thinks that amending their application will overcome the local planning authority's reasons for refusal, they should normally make a new planning application. As such, I have determined the appeal on the basis of the drawings originally submitted with the application.
4. The Council advises that the New Local Plan Review ('NLPR') was submitted for examination (Regulation 22) on 8 February 2023. Examination hearings were held in June and July 2023. Main modifications were discussed to make the NLPR 'sound' during the hearings and there will be a public consultation on the main modifications. The Council also advises that the Examination remains open until the receipt of the Inspector's report. As I do not have any further information in relation to progress with the NLPR or specific details of the relevant policies of this, I have determined the appeal on the basis of the Local Plan (2019) ('LP').

Main Issues

5. The main issues are: i) The effect of the proposal on the character and appearance of the area; ii) The effect of the proposal on existing housing accommodation; iii) Whether the proposal makes appropriate provision for

permit-free development, and iv) The effect of the proposal on the living conditions of neighbours.

Reasons

Character and appearance

6. This appeal relates to two adjoining three-storey (over lower ground floor levels) mid-terraced Victorian buildings (Numbers 6 and 8) which are located within a wider terrace of similar buildings along Holland Road ('HR').
7. Both properties incorporate half width, rear closet wings, which are repeated along the wider terrace. These closet wings are generally finished in render and therefore appear distinct from the brick construction of the remainder of the terrace. The form and height of these rear closet wings also gives the individual buildings a strong vertical emphasis and a pattern associated with their arrangement.
8. There are some rear extensions along the terrace. For example, 4 HR incorporates full width rear extensions and the property at 12 HR also features an infill extension. Irrespective of the circumstances for these extensions, they also inform the character and appearance of the area. Nevertheless, in the context of the wider terrace, the extent of any infilling between rear closet wings is mainly limited to extensions at lower ground floor level.
9. The rear elevations of 6 and 8 HR, like some others nearby incorporate some variations. I observed that the rear closet wing at 6 HR varies in depth and is lower in height relative to the one at 8 HR. Also, 8 HR incorporates patio doors leading to a terrace at ground floor level over a lower ground extension. There are also other variations to fenestrations and additions such as air conditioning units and staircases.
10. The proposed extensions at lower ground floor would infill between the existing rear closet wings at 6 and 8 HR. Given the lower ground location of these and extent of existing alterations, these elements would not be particularly discernible.
11. Although the proposed extensions would extend upwards to ground floor level, these would remain appreciably below the eaves and ridge height of the rear elevations of the terrace and are to be slightly recessed relative to the rear closet wings. As such, the proposed extensions would be relatively modest in scale and subordinate to the host properties and wider terrace.
12. The extensions would incorporate flat roofs. The proposed ground floor fenestration would reflect the existing and although new entrances would be introduced at ground floor level, these would retain a degree of symmetry between the two properties. The final details for the fenestration and doors could be agreed as conditions if the appeal were to succeed. Overall, the extensions would be of a simple design which would not overwhelm the existing pattern of development.
13. The Council has raised concern about the choice of materials. In my view a brick finish to the proposed extensions would distinguish these from the rendered rear closet wings. However, the appellant's most recent evidence suggests that the extensions would be rendered. I see no reason why the use of a dark colour render to match the brickwork could not be agreed by a

condition. This would provide some distinction between the proposed extensions and rear closet wings. Also, because of the proximity and siting of the mews development to the rear of the wider terrace, the rear elevations of the appeal properties are only glimpsed from limited public vantage points. Therefore, the extent of the proposed development, including external staircases would be relatively discrete.

14. Although the Council has referred me to other approved and refused schemes for extensions to 8 HR, as I have limited details in respect of these, they do not alter my findings on this issue.
15. For the above reasons, whilst the proposal would bring some change, this would not harm the character and appearance of the area. As such, I find no conflict with Policies CL1, CL2, CL6 and CL9 of the LP. Together, these policies require all development to be of the highest architectural and urban design quality, which is of high quality form, detailed design and materials and responds to the local context.

Loss of housing accommodation

16. The existing accommodation comprises 4 rooms (bedsits) at each property (total of 8 units). Each of these units incorporates a kitchenette with access to separate toilet and shower facilities. This is similar to the arrangement found in a house in multiple occupancy ('HMO'). Across the two buildings, the proposal would result in the creation of 6 self-contained flats and the net loss of 2 units of accommodation.
17. Policy CH1 of the LP seeks to boost the supply of homes in the borough. Amongst other things, this Policy resists the loss of residential units through amalgamations of existing or new homes unless the amalgamation will result in the net loss of one unit only and the total floorspace of the new dwelling created will be less than or equal to 170 sq m gross internal area ('GIA').
18. In this case, the proposal relates to two separate properties. In each case, there would be a reduction in a single unit i.e. 4 bed-sits to 3 self-contained flats. Also, despite the proposed extensions, the largest new unit at each property would have a GIA less than 170 sq m. As such, the loss of a single unit at each property would not be contrary to Policy CH1 of the LP.
19. LP Policy CH4, seeks to ensure that new housing development meets the housing needs of a range of specific groups. This includes protecting HMO except where a proposal concerns conversion into self-contained studio flats, subject to a legal agreement to ensure the studio flats remain as such in perpetuity.
20. The supporting text to Policy CH4 of the LP says: The Council recognises the role that HMOs have made in terms of providing lower cost housing, and on this basis, they have traditionally been protected from self-containment. However, it is recognised that they provide a less than ideal form of habitation in so far as certain facilities, normally bathrooms, have to be shared. A balance has therefore been struck between the need to cater for the lower end of the private rented market and the need to provide a dwelling of an appropriate standard for the twenty-first century. On this basis proposals to convert HMOs into studio flats will generally be supported, as the evidence suggests that while studio flats are more expensive, the rents they command are not

significantly higher than some HMO, although there is variation depending on geographical location.

21. Based on the modest size of the existing bedsits, the Council is concerned that the proposal would result in the loss of these. Also, that based on the layout of the proposed accommodation, this could result in the creation of larger one and two bedroom flats, where bedrooms would be separate from the living/kitchen areas, unlike studio flats, where generally living/sleeping areas are communal with separate toilet and wash facilities.
22. The proposal would result in the creation of larger units of accommodation, which based on the Council's evidence would be at the expense of more affordable accommodation in the form of the existing bedsits. Even so, the proposed layouts generally show open plan studio flat arrangements. Moreover, the scheme includes two smaller units at each property. Accordingly, because the scheme as a whole is for studio flats, including smaller units, in principle, this is supported by Policy CH4 of the LP.
23. Nonetheless, support for studio flats under Policy CH4 of the LP, is subject to a legal agreement. Because no such legal agreement has been provided, there is no certainty that the proposed studio flats would not be amalgamated into larger and more expensive units of accommodation, contrary to the aims of Policy CH4 of the LP.

Permit-free development

24. LP Policy CT1 (c) requires all new additional residential development to be permit-free. This is to ensure that the new dwellings would have no entitlement to park in resident's permit parking bays. This is required in the interests of promoting alternatives to car use by making it easier and more attractive to walk, cycle and use public transport, and by managing traffic congestion and parking demand. The mechanism identified to secure this is also a legal agreement.
25. The appellant advises that a separate legal agreement for 8 HR securing permit-free parking already exists. Even so, this legal agreement is not before me, and on the available information, this relates to another proposal and is unlikely to include 6 HR.
26. As such, in the absence of a legal agreement specific to the proposal, the development fails to secure permit-free development and conflicts with LP Policy CT1.

Living conditions

27. Each infill extension would project beyond the main rear wall of the neighbouring building. Consequently, if one of the extensions is undertaken before the other, this would result in some loss of daylight and an enclosing effect upon the rear facing lower ground and ground floor windows/patio doors of the neighbouring building. Given that these relate to habitable rooms, this impact would cause unacceptable harm to the living conditions of neighbours.
28. The main parties agree that the above concern would require the construction of the rear extensions to each property at the same time. The mechanism to secure this would be a legal agreement. Despite the appellant's willingness to provide this, no legal agreement is before me.

29. As such, without a robust mechanism to ensure that both rear infill extensions would be completed at the same time and not constructed independently, the proposal fails to show that the development would not have an unacceptable impact upon the living conditions of neighbours. This would be contrary to LP Policy CL5, which amongst other things, seeks to ensure good living conditions for occupants of neighbouring buildings with regard to daylight and outlook.

Other Matters

30. I have taken account of the personal (including medical) reasons advanced by one of the residents for needing the proposed accommodation. However, bearing in mind that in general the Courts have taken the view that planning is concerned with land use in the public interest, rather than private interests, such personal circumstances and reasons, accrue limited weight.
31. I acknowledge that one of the appeal properties was vacant and has been renovated and brought into use and that the proposal would support good quality accommodation. Even so, this and the personal reasons, do not outweigh the harm I have identified.
32. I have taken account of the pre-app advice offered by the Council and the appellant's concerns about how the Council determined the application. Nevertheless, these matters are largely for the main parties and do not alter my findings in respect of the main issues.
33. The main parties have referred to previous approvals and refusals for planning consent associated with the appeal site. Because I have no detailed drawings in respect of these, I am unable to make any worthwhile comparisons.
34. Whilst I note the appellant's willingness to accept planning conditions in respect of some of the main issues, given the lack of suggested conditions, I cannot be certain that these would address my concerns.

Conclusion

35. I have found that the proposal would not harm the character and appearance of the area. On the other hand, in the absence of legal agreements, the scheme fails to safeguard the proposed studio flats from being converted to larger housing units, which would undermine the Council's aims for retaining smaller and more affordable units of accommodation. The proposal also fails to safeguard the living conditions of neighbours and to deliver permit-free development. For these reasons, and conflict with the development plan, I conclude that the appeal should be dismissed.

M Aqbal

INSPECTOR