



Appeal Decision

Site visit made on 2 October 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/G5750/W/24/3336463

91 Whitta Road, Manor Park, London E12 5BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr L Singh against the Council of the London Borough of Newham.
 - The application Ref is 23/01392/FUL.
 - The development proposed is redevelopment of 91 Whitta Road including proposed rear garden 1 bed 2 person dwelling, incorporation of 22/02957/VAR and amendments to first floor flat terrace.
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Decision

1. The appeal is dismissed and planning permission for redevelopment of 91 Whitta Road including proposed rear garden 1 bed 2 person dwelling, incorporation of 22/02957/VAR and amendments to first floor flat terrace is refused.

Background and Main Issues

2. The appeal site has a long and complex planning history. The proposal before me refers to a previous permission¹ to allow access to a rear amenity area and outbuilding by creating access through the main building. Permission has also been granted for a replacement outbuilding to the rear². At my visit I saw that development had commenced, including the construction of an outbuilding to the rear which appeared to reflect the approved scheme.
3. The appellant has confirmed that the proposed first floor amendments include the installation of an obscure glazed privacy screen behind an existing balustrade and the installation of a storage box.
4. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. In its Statement of Case, the Council has indicated that it would have refused planning permission had it been in a position to do so. However, the Council's Statement is of a narrative form, and although it includes a conclusion, the Council's concerns are indicated throughout its Statement. The appellant has had the opportunity to respond on these matters and I have sufficient evidence on which to reach a conclusion on this appeal.

¹ Ref. No: 22/02957/VAR - Section 73 application to vary Condition 2 (Approved documents) To allow access to amenity and rear outbuilding by creating access through main building attached to planning permission 20/01024/FUL allowed on appeal APP/G5750/W/20/3259790 dated 27th August 2021.

² Ref. No: 23/02896/FUL: Replace existing outbuilding with brick and zinc clad outbuilding with associated glazing.

5. On that basis, the main issues are the effect of the proposal on the:
- Character and appearance of the host property and the area; and
 - The living conditions of future residents in respect of privacy, noise and disturbance, outlook and storage space.

Reasons

Character and Appearance

6. There is some variation in the pattern and grain of development in this area, with the appeal site being part of a short terrace of dwellings which on this side of Whitta Road is surrounded by flatted development and circulation areas, including a block of flats to the rear.
7. The proposal would introduce a detached dwelling to the rear of the property which would reflect the design and scale of a permitted outbuilding. However, the proposal would introduce a detached residential use to the rear which does not reflect the arrangement of uses within the terrace and which would not have a legible relationship with the streetscape or public realm. Although I am mindful of the varied forms of development in this area, the introduction of a detached residential use within this constrained rear plot would appear as a contrived development of the site.
8. I have had regard to the permitted outbuilding, and that an access route through the main building to the rear has also been permitted. However, a free-standing residential use would be of a materially different character to that of an ancillary outbuilding. Even allowing for the extant permissions, I consider that the introduction of a detached dwelling in the rear garden separated from the streetscape would be of an unacceptably incongruous character in this area.
9. Although the main building may have been split into different residential units, this does not establish a principle for a detached unit to the rear of the site.
10. In order to prevent overlooking, it is proposed to erect a privacy screen around a first floor external amenity area to the rear of the main building. The rear of the terrace of dwellings has been subject to a number of alterations and extensions, including the erection of a balustrade/railing around the amenity area which has been determined as lawful. However, even within that context, the privacy screen would appear as a bulky and incongruous feature projecting at first floor level to the rear. The obtrusive appearance of the screen would be readily visible in views from neighbouring properties and from open aspects provided by nearby circulation areas.
11. The Council also refers to a lack of clarity in respect of materials and insufficient boundary treatment. However, given the context of the appeal site and the permitted developments, I consider that these aspects of the proposal do not represent sufficient reason to withhold planning permission or could be addressed by condition.
12. Notwithstanding my conclusions in respect of materials and boundary treatment; I conclude that the design, scale and arrangement of the proposal as a whole would lead to significant harm to the character and appearance of the host property and the area. The Council has not identified which specific

development plan policies it considers relate to this issue. However, based on the evidence before me, the proposal would be contrary to Policies H1, SP1, SP3 and SP8 of the Newham Local Plan 2018 (the Local Plan); and Policies GG1, GG4, H2, D3 and D4 of the London Plan 2021 with regards to achieving high quality development and well-designed new homes, which are legible, integrate with the local context and respond positively to its character.

Living Conditions

13. The proposed dwelling would be located in close proximity to a communal external amenity space. A window of the dwelling serving the living area would look onto this amenity space. Due to the minimal separation distance between the window and the amenity area, there would be significant potential for intervisibility with resultant harm to the privacy of users of both the amenity space and the flat. Even allowing for the angled arrangement of this window as well as potential landscaping and a privacy screen, residents of the dwelling and users of the amenity area would be aware of the proximity of each other's presence, with significant harm to their reasonable levels of privacy.
14. An access route through the main building to the rear garden has previously been permitted. However, the nature of access to a separate dwelling would be different from that in relation to an amenity area and outbuilding. Residents of the proposed dwelling would use the access at different times compared to an outbuilding and amenity area, particularly in the evening and early morning. Due to the nature of the access and the close-knit relationship with the flats as the route passes through the main building, residents accessing the dwelling would be likely to lead to an unacceptable level of noise and disturbance to residents of the flats.
15. The Council refers to harm to the privacy of residents of No 91. But, given the separation distances and intervening features between the proposed dwelling and windows of nearby dwellings, I do not consider that there would be an unacceptable degree of intervisibility between windows of habitable rooms in No 91 or any other dwellings. However, this does not negate my conclusions in respect of the effect on the amenity area.
16. Reference is also made to the loss of outlook and sense of overbearing in relation to No 91. However, the proposed dwelling would not have a greater impact in respect of those issues compared to the approved outbuilding.
17. The Council also considers that the proposal would fall short in respect of built in storage. But given the gross internal area of the affected dwellings then I consider that this could be addressed by condition.
18. Notwithstanding my conclusions in respect of the effect on the privacy and outlook of the flats in No 91 and other dwellings as well as storage space, I conclude that the proposal would lead to significant harm to living conditions of future residents of the proposed dwelling and users of the external amenity space in respect of privacy, and occupants of the flats in No 91 with regards to noise and disturbance. The proposal would therefore be contrary to Policies D1, D3, D6 and D14 of the London Plan; and Policies S6, SP1, SP2, SP3, SP8 and H1 of the Local Plan in respect of amenity and housing quality.
19. Policy D1 of the London Plan and Policy SP1 of the Local Plan relate to matters of urban design rather than amenity, however this does not lead me to a

different conclusion in respect of the conflict with other development plan policies.

Other Matters

20. In respect of the outlook from the proposed dwelling, some windows would provide views onto small amenity areas with high means of enclosure. The outlook from the window serving the main living area may also be compromised due to the use of landscaping and a privacy screen. Had I been minded to allow this appeal then I would have considered these matters further.
21. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. A direction of travel has been outlined within the Written Ministerial Statement (WMS) 'Building the homes we need', which I give significant weight as a material consideration.
22. I have had regard to the intention of the appellant to make the best use of a small site within a sustainable location. I am also mindful that a previous Inspector has stated that the residential development of the site would be of moderate benefit. The appellant also emphasises the landscape and biodiversity benefits of the proposal, although given the scale of the scheme I consider that these would be very limited.
23. However, the harm I have identified arising from the development of this constrained site is symptomatic of unacceptable overdevelopment. The adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The WMS and the proposed reforms to the Framework do not negate my conclusions on this appeal.
24. The appellant refers to a similar arrangement of development which has been permitted at 58 High Street South, including with regards to access. However, I do not have full details of the circumstances that led to this proposal being accepted and so cannot be sure it represents a direct parallel to the appeal proposal, including in respect of the form of the access and the scale of the site.

Conclusion

25. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR