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## Appeal Decision

Site visit made on 12 November 2013

**by M C J Nunn BA BPL LLB LLM BCL MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 13 December 2013**

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**Appeal Ref: APP/G5750/A/13/2198457**

**Burke Lodge, 122 Balaam Street, London, E13 8RE**

- 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 Jon Freedman against the decision of the Council of the London Borough of Newham.
  - The application Ref: 13/00032/FUL, dated 11 January 2013, was refused by notice dated 12 March 2013.
  - The development proposed is 'the conversion of the existing roof void above the subject building to provide four additional two bedroom residential flats'.
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### Decision

1. The appeal is allowed and planning permission granted for the conversion of the existing roof void above the subject building to provide four additional two bedroom residential flats, at Burke Lodge, 122 Balaam Street, London, E13 8RE, in accordance with the terms of the application Ref: 13/00032/FUL, dated 11 January 2013, subject to the following conditions:
    - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
    - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: BLRD-L000, BLRD-E101, BLRD-E102, BLRD-E103, BLRD-E104, BLRD-L101, BLRD-L102, BLRD-P101, BLRD-P102, BLRD-P103, BLRD-P104, BLRD-P105, BLRD-S101.
    - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
    - 4) No dwelling shall be occupied until space has been laid out within the site for 16 bicycles to be parked.
    - 5) Demolition or construction works shall not take place outside 0800 hrs to 1800 hrs Monday to Friday, and 0800 hrs to 1300 hrs on Saturday, nor at any time on Sundays or Bank Holidays.
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## **Main Issues**

2. The main issues in this case are: (i) the effect of the proposal on the character and appearance of the area; (ii) whether the proposal would provide adequate living conditions for future occupiers, in terms of private amenity space (iii) whether the proposal would be adequately accessible to its users; (iv) whether the proposal would comply with sustainable objectives; (v) whether the proposal would provide adequate parking; and (vi) whether the proposal would provide an adequate mix of housing, having regard to local policy.

## **Reasons**

### *Character and Appearance*

3. The appeal property comprises an 'L-shaped' three storey residential block comprising 12 flats. It is predominantly faced in brick, but also has rendered sections, and a shallow pitched roof. The building is set back from the road with an area of hard standing to the front for vehicle parking. There is a grassed area to the rear which serves as a communal amenity space. The surrounding area is mixed in character, comprising various uses, with buildings from different eras, and varying styles.
4. In my view, the appellant has attempted to echo some of the architectural features of the existing building. The windows in the additional storey would align with those below, and the proposed materials would match those in the existing building. The windows would be set partially within the existing facades of the building and partially within the roof slopes, thus reducing the appearance of bulk. This arrangement, punctuating the roof slopes, would provide interest and variety to the scheme's overall design.
5. The proposed roof would be of a similar pitch to the existing one, and therefore preserve the building's overall form. To my mind, the proposal would be adequately assimilated with the host building without spoiling its character. Moreover, given the wide variety of building designs nearby, I see no reason why the scheme would not blend satisfactorily with the locality.
6. I conclude on the first issue that the proposal would not harm the character and appearance of the area. It would therefore comply with Policies 3.5 and 7.4 of the London Plan, Policy H17 of the Unitary Development Plan, and Policies H1, SP1 and SP3 of the Core Strategy. Together, these require high quality design that respects and enhances its context, and fits with the existing urban character and scale of neighbourhoods.

### *Private Amenity Space*

7. The Council objects to the scheme on the basis that it would not provide any additional outdoor amenity space for the new flats, which it argues would contravene Policy 3.5 of the London Plan. However, in this case, there is already a sizeable communal outdoor rear garden area for existing residents which would provide an adequate facility for the additional occupiers. Therefore, I find that the Council's concerns on this issue are not sufficiently well founded to cause the appeal to fail.
8. I conclude on the second issue that the proposal would provide adequate living conditions for future occupiers, in terms of private amenity space. I see no

conflict with Policy 3.5 of the London Plan, Policy H17 of the Unitary Development Plan, and Policy H1 of the Core Strategy. These policies, amongst other things, require developments to provide satisfactory living conditions, including adequate private amenity space.

#### *Accessibility*

9. The Council says that the development has not been designed to incorporate a stair lift to the flats, and therefore does not comply with the Lifetime Homes criteria. However, according to the relevant criteria, although a 'good practice recommendation', the provision of a lift is not a Lifetime Homes requirement. As a consequence, this is not a reason for the appeal to fail. However, and importantly, I note that the communal stairs, providing an access route to the flats would comply with the relevant Lifetime Homes criteria.
10. I conclude on the third issue that the proposal would comply with Policies 3.8 and 7.2 of the London Plan, Policy H17 of the Unitary Development Plan, and Policy H1 of the Core Strategy, which together require developments to be accessible to members of the community.

#### *Car Parking*

11. The Council states that 4 additional car parking spaces (one per flat) are required for the four new flats in addition to the existing 8 spaces at the site. However, the appellant stresses that the site is in a highly accessible location, close to shops and services, and with good links to public transport. In these circumstances, I am satisfied that the existing level of parking is acceptable. In reaching this view, I note that Policy 6.13 of London Plan, and the associated Table 6.2, says that all developments in areas of good transport accessibility should aim for significantly less than 1 space per unit.
12. I conclude on the fourth issue that there would be no conflict with Policy 6.13 of the London Plan which seeks to strike an appropriate balance between promoting new development and preventing excessive parking provision that can undermine cycling, walking and public transport use.

#### *Sustainable Measures*

13. The Council says that the appellant has not demonstrated that the proposal would achieve the Code for Sustainable Homes Level 4. However, I note that, according to Policy SC1 of the Core Strategy, compliance with Code is only required for major developments in the Borough. Given this scheme entails enlarging an existing building and only four additional units are proposed, I am not persuaded that this is a reason for the appeal to fail.
14. I conclude on the fifth issue that the proposal would be acceptable, and that there would be no conflict with Policy SC1 of the Core Strategy, which amongst other things, requires developments to respond to a changing climate.

#### *Family Housing*

15. The Council is concerned that the additional units, providing only two bedrooms, would not comprise 'family' housing. On this basis, it is argued that the proposal would fail to provide a balance of housing sizes and tenures, and would not provide mixed, sustainable and cohesive communities. However,

Policy H1 of the Core Strategy does not impose an embargo on two bedroom schemes and the supporting text to Policy H1 says that individual schemes will be assessed on a 'case by case' basis.

16. In this case, given the small number of additional units, and the limitations imposed by the existing footprint and design of the building, I consider the provision of two bedroom units to be acceptable in this case. Importantly, the scheme would provide much needed additional housing in the Borough and would also make effective use of land that has previously been developed, in accordance with the National Planning Policy Framework.
17. I conclude on the sixth issue that the scheme would be acceptable and not conflict with the underlying aims of Policy H1 of the Core Strategy or Policy 3.8 of the London Plan, which together require housing to meet the needs of local communities.

### **Conditions and Conclusion**

18. The Council has not suggested any conditions. However, a list of possible conditions was provided to the parties for their comments. Having regard to the advice set out in Circular 11/95: '*The Use of Conditions in Planning Permissions*', a standard commencement condition is required to comply with the relevant legislation. A condition is required ensuring compliance with the submitted plans in the interests of proper planning. A condition requiring materials to match those in the existing building is necessary to protect the character and appearance of the area. A condition is required to ensure satisfactory provision is made for cycle parking. A condition restricting the hours of construction / demolition is necessary to protect the living conditions of existing residents in the vicinity.
19. For the reasons given above, and subject to these conditions, I conclude the appeal should be allowed.

*Matthew C J Nunn*

INSPECTOR