
Appeal Decision

Site visit made on 20 September 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 13 October 2016

Appeal Ref: APP/U5930/W/16/3152160

875-877 High Road, Leytonstone, Waltham Forest E11 1HR

- 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 S K Ahmed against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 153280, dated 2 November 2015, was refused by notice dated 7 January 2016.
 - The development proposed is second floor rear extension and conversion of first and second floors from three self-contained flats and a house in multiple occupation to eight self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for a second floor rear extension and conversion of first and second floors from three self-contained flats and a house in multiple occupation to eight self-contained flats at 875-877 High Road, Leytonstone, Waltham Forest E11 1HR in accordance with the terms of the application, Ref 153280, dated 2 November 2015, 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: 1345-10, 1345-11, 1345-12, 1345-13, 1345-14a, 1345-15a, 1345-16a, 1345-17 and 1345-18a.
 - 3) No development shall commence until samples of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
 - 4) The development hereby permitted shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Home have been met and the details of compliance submitted to and approved in writing by the local planning authority.

Procedural Matter

2. The application was refused for eight reasons. The eighth reason related to the lack of a legal agreement for a contribution to affordable housing provision. However, the Council confirms in its appeal statement dated 27 July 2016 that
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such a contribution is no longer required for this number of residential units following a recent Court of Appeal decision¹ which reinstates government policy for small scale housing development. As a consequence, I have limited my assessment of this appeal to the remaining seven reasons for refusal.

Main Issues

3. The main issues are:

- (a) The effect of the proposed development on the character and appearance of the area;
- (b) Whether the proposed development provides an acceptable dwelling mix;
- (c) The effect of the proposed development on the living conditions of future occupiers of the development;
- (d) The effect of the proposed development on the provision of cycle parking; and
- (e) The effect of the proposed development on the provision of refuse and recycling facilities.

Reasons

Character and appearance

- 4. 875 and 877 High Road Leytonstone is a pair of three-storey semi-detached properties with a lengthy shared two storey projection at the rear. This two storey projection is set back from the flank elevations and below the roof slope of the properties, giving it a subservient appearance.
- 5. The properties form part of the townscape of the High Road, which is characterised by buildings of similar height and architectural design, with tall and deep rear projections. The flank and rear elevations of Nos 875 and 877 are more visible than some properties on the High Road due to the space provided by a modern church to the north-east and a car park and single storey building to the south-west serving a fast-food restaurant.
- 6. The proposed second floor extension to Nos 875 and 877 would add considerable height and bulk to the flank and rear elevations of the properties. However, the extension would retain the same degree of set back from the flank elevations as the existing two storey projection and would have a ridge height lower than the ridge of the main roof to maintain a subordinate appearance. Its detailed design would reflect the existing properties in terms of materials and the appearance of its windows, eaves and gables. The extension would be prominent in views from along the High Road and from the car park to the side and rear, but given the height and size of other buildings along the High Road it would not look out of character.
- 7. Concluding on this main issue, the proposed development would have an acceptable effect on the character and appearance of the area. Therefore, it would accord with Policy CS15 of the Waltham Forest Local Plan Core Strategy

¹ The Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441

2012 ('the Core Strategy'), Policy DM29 of the Waltham Forest Development Management Policies Local Plan 2013 (DMPLP) and the Waltham Forest Urban Design Supplementary Planning Document (SPD) 2010. Amongst other things, these two policies and the SPD seek development that has a high standard of design and responds positively to local context and character in terms of scale, height and architectural style.

Dwelling mix

8. Policy CS2 of the Core Strategy 'prioritises the need for larger homes (three bedroom or more)' and Policy DM5 of the DMPLP 'generally does not support development proposals containing only smaller homes (one and two bed)'. From the plans before me, it would seem feasible to create a three bedroom units on the first and second floors that could suit family housing. However, I note the appellant's argument that the location is not desirable for such housing and the Council's statement that the policy can be applied flexibly in highly accessible town centre locations. The wording of Policy CS2 and Policy DM5 also indicates a more flexible approach is possible. I agree that the location adjoining a busy high street and commercial uses is not highly suitable for family housing. Therefore, a development containing solely one bed residential units would not be unacceptable in this instance.
9. Concluding on this main issue, the proposed dwelling mix would be acceptable. Therefore, while the development would not fully accord with Policy CS2 of the Core Strategy or Policy DM5 of the DMPLP insofar as they seek a range of dwelling sizes in housing developments, the site specific circumstances indicate that a more flexible approach can be allowed.

Living conditions of future occupiers

10. The existing extractor flue at the rear of No 875 adjoins the rear wall of the two storey rear projection with the top of the flue just above the pitched roof of the rear projection. At my site visit, whilst standing near the open living room window on the first floor of the existing residential property at No 875, the flue emitted loud noises and vibration which caused some minor disturbance. No odours were present. The effect of the flue on future occupiers of the proposed development on the first floor would be similar to the existing situation.
11. The proposed second floor rear extension would result in a kitchen and living room window for Flat 7 immediately next to the top of the flue. The level of noise and vibration is likely to be similar to existing levels experienced on the first floor and only cause minor disturbance. It is possible that odours might be more noticeable given the proximity of the top of the flue, but the appellant states the flue is fitted with a double carbon filter. The appellant has also indicated that the flue could be modified in the future if issues were caused in terms of noise, vibration or odour. Based on the evidence before me, the existing extractor flue would not result in unacceptable harm to the living conditions of future occupiers of the proposed development.
12. As indicated by the application form and drawings, five of the eight proposed residential units would be one-bedroom flats and the remaining three would be studio flats/bedsits. The size of bedroom in each of the flats is large enough to be classed as a double bedroom in the Nationally Described Space Standards (NDSS) and the flats considered as two person units. This means the minimum

gross internal area (GIA) for each flat should be 50 square metres based on the NDSS as well as Table 8.1 that supports Policy DM7 of the DMPLP.

13. Flats 1 and 3 remain unaltered from the existing flats within 877 High Road, so the considerable shortfall in GIA that both flats provide is an existing issue that this proposal does not seek to address. The proposed units at Flats 2 and 4 would exceed the minimum GIA, while Flat 7 would be slightly under by 1.2 square metres. This shortfall is relatively minor and would be better than the unaltered provision for Flats 1 and 3. As such, it would not be unacceptably harmful.
14. Policy DM7 and Table 8.1 does not provide minimum GIA for studio flats and one bed, one person homes as the Council does not support their provision. The NDSS indicates that one bed one person homes with shower rooms should provide a minimum GIA of 37 square metres, which the three studio flats/bedsits would comfortably exceed. I have already found that the dwelling mix of the proposed development would be acceptable given the site specific circumstances, and so the provision of three studio flats/bedsits whilst contrary to Policy DM7 is acceptable in this instance.
15. The proposed development would not provide the minimum 10 square metres of external space per bedroom that Policy DM7 and Table 8.3 of the DMPLP seek for flatted development. However, paragraph 8.7 of the DMPLP states that the Council will take a flexible approach when applying this standard and will consider a range of site specific issues. The appeal site is highly constrained by neighbouring sites, and has limited external space that is confined to the rear and used as service yards for the restaurant and café that occupy the ground floor. There is a first floor balcony outside the existing residential unit at No 875 that serves as an emergency escape route to the rear, but this provides limited useable outdoor space for occupants. Furthermore, given the town centre location, the appeal site is within a highly accessible location to shops, public transport and other facilities. As such, it is neither feasible nor necessary to accommodate the minimum external space within the site. Thus, the proposal would not be unacceptably harmful in this respect.
16. The outlook from within the existing residential properties is of the commercial spaces along and behind the High Road which would not alter with the proposed development. Six of the eight proposed units would have windows on more than one elevation providing a reasonable outlook for occupants. Two of the studio flats (Flats 5 and 6) would have a single aspect. While not ideal, the windows would be south-east facing providing a reasonable amount of light. The proposal would thus not be unacceptably harmful in this respect.
17. Concluding on this main issue, the proposed development would not cause unacceptable harm to the living conditions of future occupiers of the development, taking into account the existing extractor flue, the provision of internal and external space and the outlook from within the new units. Therefore, it would accord with Policies CS1, CS2 and CS13 of the Core Strategy which, amongst other things, seek development that contributes positively to urban quality and provides satisfactory amenity for future occupiers. It would not fully accord with Policy DM7 of the DMPLP insofar as not meeting minimum external space standards, Flat 7 not meeting minimum internal space standards and three units being one bed per person studio flats.

However, the site specific circumstances indicate that the development would be acceptable. There would also be no conflict with Policy DM1 which promotes sustainable development or the Urban Design SPD.

Cycle parking

18. As noted above, there is limited external space within the appeal site, while existing internal corridors and halls are too small to accommodate bicycles. This would not alter with the proposed development. While this is undesirable, the site is in a highly accessible location that would encourage occupants to walk and/or use public transport. As a consequence, the proposed development would have an acceptable effect in terms of the provision of cycle parking. Thus, it would accord with Policies CS7 and CS13 of the Core Strategy and Policy DM14 of the DMPLP which encourage sustainable transport and promote health and well-being.

Refuse and recycling provision

19. At my site visit it was not evident where occupants of the existing residential properties store refuse and recycling outside of their units. The proposed development would not provide communal internal or external space for such provision given the constraints of the site already noted. The appellant refers to thrice weekly kerbside collections of refuse bags which would allow occupants of the proposed development to store limited amounts of refuse and recycling within their flat and dispose of regularly. The lack of on-site provision is regrettable, but offset by the site constraints and the provision of frequent kerbside collections. As such, the proposed development would have an acceptable effect in terms of the provision of refuse and recycling facilities. Thus, while not in full accordance with Policy CS6 of the Core Strategy and DM32 of the DMPLP which seek the provision of facilities for the storage of waste, the site specific circumstances indicate that the development would be acceptable.

Conditions

20. Conditions setting a time limit for the commencement of development and for it to be carried out in accordance with the approved plans are necessary for clarity and compliance. Given the prominent position that the extension would have within the High Road townscape, it is necessary to request that samples of materials are submitted and approved in writing beforehand to ensure that the appearance is satisfactory. However, it is not necessary to prohibit the fixing of vents, extracts, plumbing or pipes other than rainwater pipes on the external face of the building, as such fixings are small-scale and unlikely to individually or cumulatively harm the character and appearance of the area. Furthermore, such fixings are likely to be necessary to serve the new residential units.
21. The Written Ministerial Statement of 25 March 2015 makes it clear that where there are existing development plan policies that require compliance with energy performance standards that exceed the energy requirements of the Building Regulations up to Level 4 of the Code for Sustainable Homes, such policies can continue to be applied until the commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Act 2015. These amendments have not yet commenced. Policy CS4 of the Core Strategy and DM10 of the DMPLP require development to meet high environmental

standards and achieve the Code for Sustainable Homes Level 4 standard. Therefore, a condition requiring a level of energy performance equivalent to Level 4 is necessary, relevant and reasonable in the interest of sustainability and energy efficiency.

22. It is not necessary to require details of cycle or refuse storage because of the site constraints and the lack of harm that I have identified on these issues. Requiring details of external lighting is also unnecessary on a development that will largely be accessed from a single internal stairwell and front door onto the High Road, in an already well-lit high street location.

Conclusion

23. The proposed development would have an acceptable effect on the character and appearance of the area and would have an acceptable dwelling mix. It would not cause unacceptable harm to the living conditions of future occupiers of the development, and would have an acceptable effect in terms of the provision of cycle parking and refuse and recycling facilities. For these reasons, and having had regard to all matters raised, I therefore conclude that the appeal should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR