
Appeal Decisions

Site visit made on 11 October 2016

by Nick Palmer BA (Hons) BPI MRTPI

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

Decision date: 1 November 2016

Appeal A Ref: APP/U5930/W/16/3151362
13 Norfolk Road, Walthamstow, London E17 5QS

- 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 Edward Lipton against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 152656, dated 27 August 2015, was refused by notice dated 1 December 2015.
 - The development proposed is a part single, part two storey building to form 1 x 1 bed residential unit fronting Worcester Road.
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Appeal B Ref: APP/U5930/W/16/3151567
13 Norfolk Road, Walthamstow, London E17 5QS

- 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 Edward Lipton against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 160073, dated 8 January 2016, was refused by notice dated 8 March 2016.
 - The development proposed is a part single, part two storey building to form 1 x 1 bed dwelling house fronting Worcester Road.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for a part single, part two storey building to form 1 x 1 bed residential unit fronting Worcester Road at 13 Norfolk Road, Walthamstow, London E17 5QS in accordance with the terms of the application, Ref 152656, dated 27 August 2015, subject to the conditions set out in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for a part single, part two storey building to form 1 x 1 bed dwelling house fronting Worcester Road at 13 Norfolk Road, Walthamstow, London E17 5QS in accordance with the terms of the application, Ref 160073, dated 8 January 2016, subject to the conditions set out in the attached schedule.

Procedural matters

3. As set out above there are two appeals relating to the same site. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together in this document.
4. In both appeals the appellant states that the description of the development changed from that stated on the application form with the Council's agreement. I have used the amended descriptions in my decisions.
5. In the appeal A proposal there appear to be discrepancies in the submitted plans regarding the roof form. The ridge of the roof would be angled in relation to the front and rear elevations with the result that the eaves would rise from right to left when viewed from Worcester Road and also when seen from the rear. Two of the submitted plans¹ do not appear to be consistent in this respect; however the form of the proposed development is clear from the other plans. I shall disregard the inconsistent plans in my decision.
6. The second reason for refusal in the appeal A decision refers to a cramped form of accommodation but the Council has stated that the adequacy of the proposed internal accommodation does not form a reason for refusal. Accordingly I shall not consider this as a main issue.

Main Issues

7. The main issues in Appeal A are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on the living conditions of adjacent occupants with particular reference to their outlook; and
 - iii) whether the proposal would provide adequate private garden space.
8. The main issues in Appeal B are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) whether the proposal would provide adequate private garden space;
 - iii) whether the proposal would be adequately accessible for all people;
 - iv) whether the proposal would make adequate provision for storage of refuse and recycling bins; and
 - v) whether the proposal would make adequate provision for bicycle storage.

Reasons

Character and Appearance

9. The appeal site is an area of unused and overgrown land which previously formed part of the rear garden of 13 Norfolk Road. That property has been converted into two flats and I understand that the site has been in separate ownership for a number of years. The site fronts onto Worcester Road which comprises predominantly Victorian terraced housing set behind small front gardens. The housing along Norfolk Road is of a similar form and pattern.

¹ Roof Plan 427.(1).1.003B and West Elevation 427.(1).2.006A

10. A previous application for a larger dwelling than those now proposed was dismissed on appeal². The Inspector in that case noted that the site is very constrained in size and does not conform to the established pattern of development. He considered that the design of the proposed dwelling in that case bore no relationship to the immediate surroundings. Two alternative proposals are before me both of which seek to address the previous Inspector's concerns in terms of their design and relationship with adjacent development.
11. In both proposals, the ground floor accommodation would be concealed behind solid boundary treatments along Worcester Road. In appeal A this would take the form of a fence which would be of a similar height to the existing boundary treatment to the side of 13 Norfolk Road with the ground floor being set back behind a garden. In appeal B the ground floor would be sunken and built up to the street frontage behind a 2m high wall.
12. The Council has concerns about the lack of ground floor fenestration facing the street but neither the blank treatment of the ground floor in appeal B nor the fence in appeal A would differ to any great extent from a boundary wall or fence were the site to be enclosed and used as a garden.
13. The first floor elements of both proposals would be of similar width to the adjacent house. The ridge and eaves heights would also reflect those of the adjacent properties. The materials to be used would reflect those used in the area and although the use of zinc for the roofing material in the appeal A proposal would differ this would be consistent with its contemporary design. Both proposed designs would contrast with the adjacent houses although the form, design and materials in appeal B would more closely reflect those of the adjacent house. The contrasting designs would not be harmful given that both proposals would harmonise with their surroundings in terms of scale and massing and that the materials to be used would be sympathetic.
14. The first floor in both proposals would project slightly forward of the adjacent dwelling at first floor level but the extent of projection would be similar to that of the adjacent ground floor bay. Because this would be at the end of the terrace and near to the end of the road this would not be disruptive in terms of the established pattern of development.
15. The proposals would maintain space between the proposed dwelling and the adjacent houses in each case. For the reasons given I find that the proposals would not be bulky, dominant or cramped in appearance and indeed that they would harmonise well with their surroundings. The proposals would accord with policy CS15 of the Waltham Forest Core Strategy (CS) (2012) which requires high quality architecture that responds positively to local context and character. Policy DM29 of the Waltham Forest Development Management Policies (DMP) (2013) requires that patterns of development, urban form and building typology are taken into account. The size and configuration of the proposals would not accord with the established pattern but paragraph 60 of the National Planning Policy Framework (the Framework) requires that innovation, originality or initiative should not be stifled. It is proper to reinforce local distinctiveness and the proposals are consistent with this aim but the limited size of the site would not result in any harmful effect on character or appearance. For these reasons the proposals in both appeals would not harm the character and appearance of the area.

² APP/U5930/A/13/2210896

Living Conditions

16. In the appeal A scheme the first floor of the proposed dwelling would be close to the rear boundary of the site with the garden of 12 Norfolk Road. It would be adjacent to the rear part of that garden and to its north. As such it would not obstruct sunlight and it would not directly adjoin the living accommodation in that property, maintaining an open gap between the proposal and the rear of the Norfolk Road houses.
17. I saw on my visit that there are no facing windows in the rearmost walls of 13 Norfolk Road. The rear windows in the main part of that dwelling are some distance away from the proposal. The Council had no objection regarding the appeal B proposal with regard to the living conditions of adjacent occupants and I see no reason to disagree.
18. I find that there would be no other unacceptable effect on neighbour's living conditions including in terms of privacy. For these reasons the appeal A proposal would not harm the living conditions of adjacent occupants. The proposal would accord with policies CS13 of the CS and DM32 of the DMP which require the provision of satisfactory amenity for surrounding occupiers, ensuring that outlook is maintained for neighbours in their homes and gardens.

Private Garden Space

19. Both proposals would provide a private garden which would adjoin the living room and be separated from it by sliding doors. This arrangement would enable the use of the garden in combination with the living accommodation when weather permits. In both proposals the cantilevered design of the first floor would overshadow part of the garden areas although this effect would be likely to be less in the appeal B scheme because of its orientation. However the garden space in both proposals would be usable and practical. The gardens would also be enclosed, providing privacy.
20. The Urban Design SPD³ advises that the emphasis for amenity space provision should be on its quality and usability. The SPD seeks provision of 50 sq m of private garden space for family housing of 1 and 2 bedrooms. This standard is also sought in table 8.3 of the DMP and in policy DM7. The areas to be provided, at 30 sq m in appeal A and 36 sq m in appeal B would fall short of that standard. However because the gardens in both proposals have been designed to form continuous spaces with the living accommodation and given that they would be private and usable I find that they would be of suitably high quality. Although the proposals would not accord with the aspiration of policy DM7 of the DMP to achieve minimum amounts of private garden space they would accord with that policy in terms of the quality of provision.
21. While falling below the Council's standard I do not find this to be harmful given that the proposals would have only one bedroom and given also that there is a park in close proximity to the site which is on the other side of Norfolk Road and which provides easily accessible open space.
22. The proposals in overall terms would accord with policies CS2 and CS15 of the CS and policy DM29 of the DMP which require high quality design. For the reasons given I conclude on this issue that the proposals in both appeals would provide adequate private garden space.

³ Waltham Forest Urban Design Supplementary Planning Document (2010) page 57

Accessibility

23. The Council's second reason in appeal B concerns the accessibility of the proposed dwelling to disabled people. The entrance door and hall would be of limited width and access to the ground floor living area would be via a short flight of stairs and this arrangement would not be accessible to wheelchair users. The Council has referred to a number of development plan policies in relation to accessibility. Policy CS2 has an overall requirement of facilitating sustainable housing growth and as part of this requirement paragraph D of that policy requires that new homes should be accessible to all members of the community. For the reasons given the appeal B proposal would not accord with that requirement. However it would accord with the overall requirement of that policy in terms of seeking housing growth.
24. Other policies referred to require high quality design. Policy CS15 of the CS and policy DM7 of the DMP have this requirement. Policy DM30 requires accessibility to buildings to which the public have access. While the proposed dwelling would not be a building to which the public have access the general quality of the design would meet the requirements of policies CS15 and DM7.
25. I conclude that the proposal would not be accessible for all people and would not accord with an aspect of policy CS2 of the CS. This weighs against the proposal but must be considered in the context of the overall requirements of that policy and of the development plan as a whole.

Refuse, recycling and bicycle store

26. The appeal B proposal would include an enclosed structure with lockable doors adjacent to the entrance which would accommodate two wheeled bins and two bicycles above the bins. The Council says that it has a three bin policy but no details in this respect have been provided. While space on the frontage would be limited to accommodate any further waste container in the absence of specific evidence to demonstrate a need for a greater amount of waste storage space I find that the proposal would be sufficient in this regard. The close proximity of the bin storage facility to the front door would not be harmful because the doors to the enclosure could be suitably sealed to prevent the escape of odours.
27. Accordingly I find that the appeal B proposal would make adequate provision for storage of refuse and recycling bins. The storage facility would be accessible and well-designed and for these reasons would accord with policies CS6 of the CS and DM32 of the DMP which have those requirements.
28. The proposed bicycle storage provision would exceed the relevant standard in Appendix 4 of the DMP which requires one bicycle parking space for a 1 bedroom dwelling. The storage of bicycles above the bins would allow for bins to be wheeled out in order to open their lids if necessary. The enclosure could be secured. For these reasons the proposal would accord with policies CS7 of the CS and DM16 of the DMP which encourage cycling and require well-designed high quality bicycle parking facilities. The appeal B proposal would make adequate provision for bicycle storage.

Other Matters

29. The Council requires a financial contribution from small sites of between 1 and 9 dwellings towards affordable housing provision under policy DM3 of the DMP.

No planning obligation has been submitted to secure such a contribution. However it is government policy as set out in the Planning Practice Guidance⁴ that contributions towards affordable housing should not be sought from developments of 10 units or less. This is a material consideration to which I give significant weight and which outweighs the conflict with policy DM3.

Conditions

30. I have imposed the conditions suggested by the Council and in doing so I have had regard to the tests in paragraph 206 of the Framework. A condition which requires the development to be carried out in accordance with the approved plans is necessary to provide certainty. I have omitted reference to the plans in which I have noted inconsistencies.
31. A condition requiring details of external facing materials to be approved is necessary in order to ensure the appearance of the development is acceptable. Details of the refuse/recycling and bicycle storage units are necessary in both cases to ensure their appearance is acceptable and that they provide suitable facilities in order to encourage the use of sustainable means of transport.
32. Because the size of the site is constrained it is necessary to include a condition removing permitted development rights for extensions and outbuildings.

Balance and Conclusion

33. I have found no harm in terms of the character and appearance of the area and the living conditions of adjacent occupants. I have also found that the proposals would provide adequate facilities for refuse and recycling bins and bicycle storage. I have found that the size of the private garden in both proposals does not meet the Council's standard but nevertheless that the spaces would be of reasonably good quality.
34. The proposals would be in accordance with the Council's policies for housing growth and for providing a range of different types of housing accommodation. Thus the proposals would accord with the requirements of the development plan read as a whole.
35. While the appeal B proposal would not be accessible to all people and the garden sizes would fall below the standard requirement these matters are not sufficient to outweigh my overall findings on the appeals.
36. For the reasons given I conclude that both appeals should be allowed.

Nick Palmer

INSPECTOR

⁴ ID 23b-031-20160519

Schedule of Conditions – Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 427.(1).1.001B, 427.(1).1.002B, 427.(1).1.004A, 427.(1).2.001B, 427.(1).2.002A, 427.(1).2.004A, 427.(1).2.005A, 427.(1).2.007A and 427.(1).3.001B.
- 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the building 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 details / samples.
- 4) No development shall take place until details of secure and lockable cycle stores and refuse and recycling facilities have been submitted to and approved in writing by the local planning authority. The approved facilities shall be provided before the dwelling is occupied.
- 5) Notwithstanding the provisions of Article 3 and Classes A, B and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or alteration of or to the dwelling shall be carried out without planning permission having first been obtained via the submission of a planning application to the local planning authority; nor shall any building or enclosure required for a purpose incidental to the enjoyment of the dwelling as such be constructed or placed on any part of the land covered by this permission without such planning permission having been obtained.

Schedule of Conditions – Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 427.(1).1.001C, 427.(1).1.002C, 427.(1).1.003D, 427.(1).1.004D, 427.(1).2.001D, 427.(1).2.004 D, 427.(1).2.005D, 427.(1).2.006D, 427.(1).2.007D, 427.(1).3.001C, 427.(1).3.002D and SK001.
- 3) No development shall commence until details / samples of the materials to be used in the construction of the external surfaces of the building 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 details / samples.
- 4) No development shall take place until details of secure and lockable cycle stores and refuse and recycling facilities have been submitted to and approved in writing by the local planning authority. The approved facilities shall be provided before the dwelling is occupied.
- 5) Notwithstanding the provisions of Article 3 and Classes A, B and E of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted

Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargement, improvement or alteration of or to the dwelling shall be carried out without planning permission having first been obtained via the submission of a planning application to the local planning authority; nor shall any building or enclosure required for a purpose incidental to the enjoyment of the dwelling as such be constructed or placed on any part of the land covered by this permission without such planning permission having been obtained.