
Appeal Decision

Site visit made on 15 November 2016

by Andrew McGlone BSc MCD MRTPI

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

Decision date: 22 December 2016

Appeal Ref: APP/U5930/W/16/3155766
65a Pearl Road, Walthamstow E17 4QY

- 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 Steve Georgiou of Conco Limited against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 161028, dated 5 April 2016, was refused by notice dated 26 May 2016.
 - The development proposed is the building of a new 1 No one bedroom dwelling adjacent to approved dwelling 5 in the former location of derelict workshop buildings, an additional one parking space, and alteration to Planning Permission 2010/2015 granted on appeal.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on: (i) the living conditions of future occupants of the proposed dwelling and other dwelling units on the site, with regards to outlook and private and communal amenity space; and (ii) the living conditions of nearby existing and future occupants of neighbouring dwellings on the development site, Pearl Road and Brookdale Road, with regards to outlook and noise and disturbance.

Reasons

3. The appeal site is an area of communal garden which forms part of much larger, elongated site in-between Pearl Road and Brookdale Road that contains a number of residential properties. The properties are arranged efficiently across a narrow and tapering site which is accessed through a covered passageway from Pearl Road.
4. I understand the site has a complex planning history spanning a number of years. Notably, planning permission was granted in 2011¹ on appeal for the part demolition and part conversion of industrial buildings into five dwellings. This scheme included provision for car parking and three communal amenity areas for use by the occupants of the dwellings. The respective areas are labelled as zones A, B and C in the appeal before me. Zones A and B are laid out and landscaped for residents use, whilst zone C has not yet been finished.

¹ Appeal Decision Ref: APP/U5930/A/10/2135662

5. Subsequently, further planning applications have been submitted which have sought to increase the number of homes within the site. Planning permission was granted for a further one bedroom dwelling at the northern end of the site. This scheme was granted on appeal² and included alterations to zone A, as the dwelling was located in part of that zone and the parking provision on the site. The total number of consented dwellings in the development is six. I note the Council refer to two other schemes. The first was dismissed at appeal in March 2016³ for the erection of an additional dwelling in the southern part of the site. The second scheme also proposed an extra dwelling towards the southern end of the site. While the Council identified the second scheme was going through the appeal process, I note that this appeal was dismissed in July 2016⁴.

Living conditions of occupants of the proposed dwelling, and other dwellings within the site

6. The appeal site comprises of communal area zone B which is roughly in the centre of the development site. The width of the development site narrows to the south due to the rear gardens and yards associated with properties on Pearl Road and Brookdale Road. The proposed dwelling would abut approved dwelling 5, thereby removing the large opening in the southern elevation of this dwelling.
7. Even though two window openings would remain in the eastern elevation of dwelling 5 to serve the living and dining room, the outlook of future occupants would be directly onto the communal access, a boundary wall and the rear elevations of properties on Pearl Road. The outlook from these windows would be very constrained as a consequence, with only a relatively small space between the openings and the wall which would be oppressive and in particular enclose the occupant's outlook and thus severely harm their living conditions.
8. The proposal would result in the loss of the private amenity space associated with dwelling 5 and the communal garden in zone B, and only introduce a very small area of private amenity space for the occupants in the proposed dwelling. While I am mindful of the communal amenity spaces, dwelling 5 and the proposed dwelling would be left with either very little or no area of private amenity space at all. I recognise the Council consider the private amenity space of the new dwelling being of a decent size. However they are markedly below the standard set out in policy DM7 of the Waltham Forest Development Management Policies Local Plan (DMPLP). The area next to the proposed dwelling would be overlooked due to its location and given its size, especially if it is screened its use would be very restricted rendering it unusable.
9. Zones A and C would remain as communal amenity spaces for the entire development in addition to the private amenity spaces which would continue to serve dwellings 1 to 4 and 6. The remaining communal amenity spaces would be at either end of the development. As a consequence of removing zone B, units on the site would more heavily rely upon zones A and C. Access to them would be via a communal walkway. Due to the location of zone A, this well laid out space is most likely to be utilised by the occupants of dwellings 1 to 4. Although occupiers of the remaining dwellings could access this space, they are much more likely to use zone C which would be considerably larger, far closer

² Appeal Decision Ref: APP/U5930/W/15/3003887

³ Appeal Decision Ref: APP/U5930/W/15/3138863

⁴ Appeal Decision Ref: APP/U5930/W/16/3146846

and occupiers would not need to cross the vehicular access in order to do so. Cumulatively, the amount of communal amenity space exceeds the minimum threshold set out in the Urban Design Supplementary Planning Document (UDSPD). This moderately weighs in the scheme's favour.

10. Despite the moderate weight that I have attached to the amount of communal amenity space the site can offer, I do not consider this represents a suitable solution for the lack of private amenity space for the proposed dwelling and dwelling 5, and the effect this would have on the outlook of the future occupiers of these dwellings. Even though properties in Pearl Road and Brookdale Road do not have very large gardens, they are uniformly shaped and private amenity spaces that occupants can use. Also, the appellant suggests that as some of the properties are flats they may not have access to the gardens. However, I have not been provided with evidence to demonstrate that this is the case.
11. For these reasons, I conclude on this issue that the proposed development would lead to an oppressive and a very enclosed outlook for the future occupants of dwelling 5. Moreover, in respect of the proposed dwelling and dwelling 5, the proposal would not provide a satisfactory standard of private amenity space for the future occupants which would significantly affect their living conditions. The proposal would be contrary to Policy CS15 of the Waltham Forest Local Plan Core Strategy (Core Strategy), Policies DM7, DM29 and DM32 of the DMPLP and the UDSPD; which together, amongst other matters, seek to deliver the highest quality architectural and urban design and management of the impact of development upon occupiers and neighbours.

Living conditions of occupiers of properties on the development site, Pearl Road and Brookdale Road

12. Although the site was extensively occupied by industrial buildings, this use is very different to a residential use.
13. With regard to the outlook as I have already assessed the effect of the proposed development on occupants in the development site, I shall focus my attention in this issue to the effect on properties on Brookdale Road and Pearl Road. In terms of Brookdale Road, the proposal would be positioned up against a wall on the western boundary which lines the rear gardens of properties on Brookdale Road. As the dwelling would be hidden behind this wall, it would not be readily visible to occupants on Brookdale Road. Thus, no harm would be created to their outlook.
14. As the proposal's front elevation would mirror or be set back from the front building line of dwelling 5, it would not be materially closer to the rear elevations of properties on Pearl Road than dwelling 5. While an extended built form would be created, rather than the communal amenity space, despite the prior industrial use, the proposal would infill land that has been subsequently cleared and is ready to put to a different use. However the dwelling's flat roof would mean only the uppermost part of the dwelling would be visible to occupants in Pearl Road from their ground floor, due to the existing boundary treatment. Even though occupants would be able to view over the rear boundary and into the site from upper floor windows, occupants would maintain an outlook over the roof of the proposed dwelling. I do not therefore consider the living conditions of occupants of properties on Pearl Road would be detrimentally harmed, with regards to outlook.

15. An extra dwelling beyond the number which have planning permission on the site would inevitably lead to more comings and goings together with noise and disturbance that is linked to vehicular movements in particular. Also, the occupants of the dwelling would be able to come and go throughout the day and night across the week, rather than solely during weekday business hours. However, the effect generated by a single extra dwelling would not likely to be significant, even with extra vehicle movements. While occupants of properties on Pearl Road and Brookdale Road have been accustomed to quieter periods at evenings and weekends, there is no reason to consider that the proposed dwelling would not also ensure that this is the case, even for future occupants in dwellings 5 and 6.
16. For these reasons, I conclude on this issue that the proposed development would ensure satisfactory living conditions of nearby existing and future occupants of neighbouring dwellings on the development site, Pearl Road and Brookdale Road, with regards to outlook and noise and disturbance. As such the proposal would comply with Policy CS15 of the Core Strategy, Policies DM4, DM29 and DM32 of the DMPLP and the UDSPD. Together these policies, amongst other matters, seek to achieve the highest quality architectural and urban design, and ensure the impact of new development on residential occupants is managed.

Other Matters

17. The appellant company has expressed a willingness to enter into an agreement to control the future occupant's access to on-street car parking permits, with a view to overcoming the Council's fourth reason for refusal, despite the provision of an extra parking space on the site. Whilst, a draft Unilateral Undertaking has been submitted as part of the appeal which relates to the proposed development, this has not been signed. It is also suggested that a Unilateral Undertaking was signed on 7 May 2015. Even so, this undertaking pre-dates the application subject of this appeal and relates to a development at the northern end of the site⁵. As such it is unrelated to this appeal.
18. Even though reference is made to the use of permitted development rights, I have determined this appeal on the basis of the development sought.

Conclusion

19. I have found no harm from the appeal scheme in relation to the second main issue and although the proposal would boost the supply of housing on a site close to facilities and services, these do not outweigh the harm that I have found in relation to the scheme's impact upon living conditions of occupants on the development site.
20. For the reasons set out above, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR

⁵ Appeal Decision Ref: APP/U5930/W/15/3003887