
Appeal Decision

Site visit made on 10 January 2017

by Jonathan Tudor BA (Hons), Solicitor (non-practising)

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

Decision date: 02 February 2017

Appeal Ref: APP/U5930/W/16/3160174

80 High Street, Walthamstow, London E17 7LD

- 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 Mahomed Ismail against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 161965, dated 17 June 2016, was refused by notice dated 9 September 2016.
 - The development proposed is a second floor extension to create two new one bedroom flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposed development on the character and appearance of the original building, the St James Conservation Area and the setting of a Grade II listed building; and,
 - whether the proposal would provide acceptable living conditions for future occupiers in respect of internal and external living space.

Reasons

Character and appearance

3. The appeal site consists of a two storey Victorian building on the south side of High Street in Walthamstow's main pedestrianised shopping area. There are retail premises on the ground and two one bedroom flats above. The site is located within St James Conservation Area (CA) with a Grade II listed building at 76 High Street, L Manze eel pie and mash shop, just two doors away.
4. The proposal is to add a third storey to the building which would be approximately 4.8 metres wide and 1.1 metres higher than the existing roof. Though the front elevation would still be set back about 6.7 metres from the projecting ground floor shop premises and on the same alignment as the first floor, it would rise vertically with a shallow roof behind a parapet replacing the current pitched roof. The visual effect would be to create a more prominent vertical front elevation higher than the current pitched roof which slopes away from the street.

5. The change in roof design and increase in height would not have a harmful visual effect on the building due to its existing modest design qualities. The significant effect would be on the street scene and area.
6. Currently, there is continuity in the height of the ridge and eaves of the roof that runs from the adjoining property at 78 High Street to the appeal property at 80 High Street. The property to the immediate north east at 82 High Street also has a pitched roof, albeit a storey higher. The proposed vertical front elevation would visually protrude in front of those roofs which slope away from the street. It would be higher than No 78 and though it would reach the same ridge height as No 82, it would present a vertical face to the street. The overall effect would be to visually disrupt the roof line and create a discordant note in the immediate street scene.
7. Despite the setback, looking south west along High Street, the front elevation rising vertically from the first floor would obscure parts of the distinctive red brick side elevation and chimneys of the three-storey Grade II listed building at No 76. There is also a visual gap in the roofline between the gable end at No 82 and the side elevation of the flat-roofed No 76, created by the lower pitched roofs of Nos 80 and 78. That gap would be partially closed by the proposed development. The prominent new front elevation would create visual competition with No 76, impinging on the open views looking towards it past No 80. The proposal would, therefore, detract from the setting of this distinctive London building, a setting which contributes to its significance by giving clear open views of it from the north east.
8. The Council advises that the different roof heights and styles in this part of High Street contribute to the character and appearance of the CA. Policy DM28 of the London Borough of Waltham Forest Development Management Policies Local Plan (DMP)¹ aims to protect, conserve and, where appropriate, enhance the borough's heritage assets. In combination with Policy DM29, there is also a requirement that development should reinforce and/or enhance local character and distinctiveness, taking account of patterns of development and building typology.
9. As further explained in the Council's Urban Design Supplementary Planning Document (UDSPD) and the Residential Extensions and Alterations Supplementary Planning Document (RESPD)² proposals should take account of existing rooflines, forms and gaps as well as scale, height and massing. Though there may be some similar roof designs in the area, at this particular location the existing lower level roof-scape over Nos 80 and 78 provide an open view of the listed building which contributes towards the significance of the CA as a whole. The increased in height of the proposed roof design would, therefore, have a detrimental effect on the character and appearance of the CA.
10. A development at 72-74 High Street, cited by the appellant, replaced a pitched roof and added additional storeys with a flat roof. It stands immediately adjacent to No 76 and its front elevation projects in front of the upper storeys of the listed building. The Council suggests that Nos 72-74 are on a larger plot than the appeal site and could more readily accommodate

¹ Adopted October 2013

² Both adopted February 2010

that proposal without an adverse effect on the existing building. Whatever effect that development has had on the setting of the listed building does not justify the specific harm of the appeal proposal that I have identified.

11. It is submitted by the appellant that developments given permission at 82-84 High Street and 89 High Street are similar to the proposal. The development at Nos 82-84 appears to have been mainly concentrated on the rear of the building, which is largely out of public view.
12. The permission at No 89 was for the erection of a four storey building to form four flats. According to the relevant Council Officer's report, supplied by the appellant, that development filled a gap in the terrace. Therefore, whilst I have considered it, I do not find it to be a direct parallel with the appeal proposal for an extension to an existing building. Moreover the height and scale of the building at No 89 is comparable with the adjoining buildings and whilst it does feature more modern design elements it is not prominent in the street scene. Therefore, whilst I have considered those other planning permissions, I must deal with the appeal proposal on its own merits within its particular context.
13. Overall, I conclude that whilst the proposal would not have a significant impact on the host building, it would harm the setting of the Grade II listed building and the character and appearance of the St James CA. It follows that it would not preserve the setting of the listed building or the CA.
14. Therefore, the proposal would conflict with the objectives of Policies CS12 and CS15 of the Waltham Forest Local Plan Core Strategy (CS)³ and Policies DM28 and DM29 of the DMP which, amongst other things, seek to ensure that development protects and enhances heritage assets and responds positively to local distinctiveness. It would also be contrary to guidance based on those policies provided in the UDSPD and RESPD.
15. Paragraph 132 of the National Planning Policy Framework (the Framework) requires me to give great weight to the conservation of designated heritage assets such as listed buildings and their settings and CAs. Though I have concluded that the development would harm both, I consider that, given that only some views of the listed building would be affected and that the proposal relates to one building in High Street, the harm caused would be less than substantial. In accord with paragraph 134 of the Framework, I must weigh that harm against the public benefits of the proposal.
16. The appellant states that the proposal would provide much needed smaller affordable accommodation which would contribute to the supply and diversity of housing. There would also be social and some economic benefits during construction and from the contribution of future occupiers of the property. However, such benefits would inevitably be limited as the development is only providing two 1 bedroom flats. Therefore, whilst there would be some limited public benefits, I do not consider that they would outweigh the heritage harm that I have identified.

³ Adopted March 2012

Living conditions

17. The Council refers to the Government's 'Technical housing standards – nationally described space standard' (THS), published in March 2015 and now incorporated into the London Plan. Along with Policy DM7 of DMP, they are intended to ensure that new developments provide an acceptable standard of living accommodation for future occupants by setting minimum space standards. The two 1 bedroom flats proposed would each have a gross internal floor area of approximately 46m² and would, therefore, fall below the 50m² specified in the THS for a 1 bedroom flat occupied by 2 persons.
18. Policy DM7 also sets a minimum combined floor area for living, dining and kitchen space of 23m² for 1 bedroom flats with 2-person occupancy. The Council advises that the proposed flats offer approximately 19m² and 18m² respectively. Furthermore, one of the bedrooms would be only about 6.65m² and therefore below the 7.5m² required by the THS. Those measurements have not been disputed by the appellant.
19. Furthermore, DM7 also requires a minimum of 10m² of outdoor space for one bedroom flats. The appellant refers to the long uncovered narrow passageway which leads from a door off High Street to a side inset entrance to the building. However, I do not consider that it would be reasonable to classify that as outdoor living space as it is merely an extended narrow passage and the prospect of it being used as outdoor living space is remote.
20. One of the flats would benefit from a small Juliette balcony but that would not meet the requirement. The appellant comments that many flats in London do not offer any outdoor space and refers to the proximity of nearby parks. However, more recent policy reflects recognition of the importance of easy access to usable outdoor living space as an intrinsic element of good quality housing.
21. The appellant states that the flats would be similar in size to the existing two flats on the first floor, which gained planning permission in 2008. However, that was prior to the current CS, DMP and the THS. The appellant suggests that the current proposal's shortfall in space is marginal, but the THS are minimum required standards. As the proposal also fails to meet the requirements of DM7 in terms of living/dining/kitchen space and usable outdoor space and one of the bedrooms falls below the THS minimum, I consider the shortfall to be significant.
22. Whilst the appellant recognises the new standards, it is suggested that the Council have assumed that the flats are for two people whereas they would provide an excellent level of accommodation for 1 person. Though the THS does have a lower space requirement for 1 person occupancy, Policy DM7 omits a space standard for studio flats and 1 bed, 1 person homes as the policy states explicitly that the Council does not support their provision in the borough. Though the appellant suggests that they could be occupied by 1 person, there would be no obvious way of ensuring that without being unduly restrictive and affecting the flexibility of the accommodation. Therefore, I give limited weight to that argument.
23. My attention has also been drawn to the London Plan's encouragement of new homes of all types and the National Policy Framework's support for sustainable development. Nevertheless, Policies CS2 and CS13 of the CS stress the

importance of high quality housing and how factors such as low levels of internal space can impact negatively on health.

24. The issues discussed above lead me to conclude that the proposed development would not provide acceptable living conditions for future occupants in respect of internal and external living space. Therefore, it would be contrary to Policies CS2 and CS13 of the CS, Policy DM7 of the DMP and the London Plan's incorporation of the THS, insofar as they all seek to ensure high quality housing providing sufficient indoor and outdoor space.

Conclusion

25. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Tudor

INSPECTOR