

Appeal Decision

Site visit made on 20 February 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 21 March 2017

Appeal Ref: APP/U5930/W/16/3161448

Rear of 210 Billet Road, Waltham Forest E17 5DY

- 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 E Papanicola against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref: 160823, dated 16 March 2016, was refused by notice dated 11 May 2016.
 - The development proposed is the conversion of rear part of property from storage into residential, 1 x 1 bed residential unit (use class C3) – Partial demolition and alteration to the roof and elevation fronting Durban Road E17.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. On validation of the application, the description of development was amended by the Council to the conversion of rear part of property from storage into residential, 1 x 1 bed residential unit (use class C3) – Partial demolition and alteration to the roof and elevation fronting Durban Road E17. This is an accurate description of the development as a whole, and as the appellant did not raise an objection to this, it is the basis on which I have determined the appeal.

Main Issues

3. The main issues are the effect of the proposal on:
 - (i) the living conditions of future occupiers of the dwelling, with particular regard to overshadowing and privacy; and
 - (ii) the character and appearance of the surrounding area.

Reasons

Living conditions

4. Policy DM7 of the London Borough of Waltham Forest Development Management Policies Local Plan 2013 (the LP) details the external amenity and internal space standards required for new residential development. Both parties accept that the proposal would comply with the minimum internal space standards and I find no reason to disagree. In relation to outdoor amenity
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space, the proposal would provide approximately 22 square metres, which is less than half that required by Policy DM7 of the LP.

5. Nevertheless, Policy DM7 of the LP acknowledges that a flexible approach is required when assessing outdoor amenity provision. Despite the technical breach of Policy DM7, given the relatively sustainable location of the site, the dense urban location and the site constraints in relation to available space, in this instance I consider the provision of outdoor amenity to be acceptable.
6. From my observations made during my site visit, and from the evidence submitted by the appellant, I note that the proposed setback location of approximately 2.6 metres would generally follow the existing building line on Durban Road. Furthermore, the proposed low boundary treatment would further assist in separating the proposal from the footpath.
7. In relation to the potential for overshadowing, I consider that the location of the proposed outdoor amenity space would enable sunlight to be received from early afternoon through to early evening. Accordingly, I do not consider a level of overshadowing would occur which would be significantly detrimental to future occupiers enjoyment and use of the outdoor amenity space.
8. The external staircase which serves the upper floor flat would be enclosed, to separate it from the appeal site. However, given the proximity the staircase, and the windows of the first floor flat, considerable overlooking of the proposal would occur. I consider that this overlooking would reduce the level of privacy to a degree uncharacteristic of the level of privacy expected within an urban setting.
9. The appellant has drawn my attention to the fact that overlooking regularly occurs in dense urban locations. However, rather than providing justification for the development in question, if anything, such situations point to a need for proposals to be carefully controlled if the living conditions of future occupiers are to be safeguarded.
10. Despite a technical breach of Policy DM7 of the LP, given the specific circumstances of the site, I consider adequate outdoor amenity space would be provided. Nonetheless, I have found that the proposal would give rise to a harmful loss of privacy for future occupiers of the proposal. As such, the proposal fails to comply with the protection of residential amenity objectives of Policy CS2 of the Waltham Forest Local Plan Core Strategy 2012 (the CS) and guidance contained within the Waltham Forest Urban Design: Supplementary Planning Document 2010 (the SPD).

Character and appearance

11. The appeal site is located on the northern side of Billet Road, adjacent to the junction with Durban Road. The front of the appeal site is a two-storey detached dwelling, with commercial units located on the ground floor and a self-contained flat on the upper floor.
12. The rear of the appeal site has been extended and consists of a single storey building which was previously used as garages. The building fronts onto Durban Road and is the subject of the appeal before me.
13. Durban Road is predominately residential. From my observation made during my site visit it is evident that the majority of dwellings are of a two-storey

design, set back from the road with low boundary treatments. However, I noted some variation in terms of design of the dwellings.

14. The proposal before me is a revision of a planning application made by the appellant in 2015¹ for a similar scheme at the appeal site. I have limited information with regard to the previous application. However, it is evident that the appeal proposal aims to address the issues of refusal through a revision to the proposed roof design.
15. Taken together, Policy CS15 of the CS and Policy DM29 of the LP and guidance contained within the SPD, amongst other things, seek a high standard of urban and architectural design for new development.
16. The building line of the proposal and the front forecourt area, enclosed with a relatively low boundary treatment, would be relatively consistent with the adjacent terrace of dwellings on Durban Street. Furthermore, the proposed use of painted render would match the existing property which fronts Billet Road and also the neighbouring dwelling on Durban Road.
17. With regard to the roof, it is proposed to utilise tiles which would match the adjacent dwellings and the use of a pitched roof would also be consistent with adjacent dwellings. I accept that the proposed roof design would incorporate a hipped end and a gable end. However, given the variety in terms of architectural design within the surrounding area, I do not consider that the re-development of an existing, relatively small scale, disused building with one gable end and one hipped end would cause significant harm to the character and appearance of the locality.
18. Accordingly, I find that the amended roof design, appropriate set back location, use of sympathetic materials, combined with the modest benefit to housing supply, is sufficient to override any limited material harm which may occur to the character and appearance of the surrounding area. I am therefore of the view that the balance of the arguments put to me are in favour of the proposed development meeting the design objectives of Policy CS15 of the CS, Policy DM29 of the LP and the SPD.
19. The Council has referred to Policy CS13 of the CS and Policy DM32 of the LP within the decision notice. However, these policies are concerned with the improvement of the health and well-being of communities and residential amenity. As neither policy makes reference to specific design considerations, I do not consider they are of relevance in this instance.

Conclusion

20. I have found that the proposal would not have an unacceptably harmful effect in relation to character and appearance of the surrounding area. In addition, the proposal would also make a modest contribution to housing supply within the Borough. However, the harm to the living conditions of future occupiers is decisive.
21. For the reasons given above, and taking account of all other matters raised, I conclude that the appeal should be dismissed.

Helen Cassini, INSPECTOR

¹ Council reference 152981