

Appeal Decision

Site visit made on 30 March 2017

by M Seaton BSc (Hons) DipTP MRTPI

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

Decision date: 11 May 2017

Appeal Ref: APP/U5930/W/16/3166331

Land Rear of 192 Westward Road, Chingford, London, E4 8QQ

- 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 Christopher Steel against the decision of the London Borough of Waltham Forest.
 - The application Ref 161276, dated 21 January 2016, was refused by notice dated 26 May 2016.
 - The development proposed is the erection of 2 No. 2-bedroom houses.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are;
 - The effect of the proposals on the character and appearance of the area;
 - Whether the proposals would safeguard the living conditions of the existing occupiers of No. 192 Westward Road and neighbouring properties, having regard to the availability of private amenity space, outlook, light and privacy;
 - Whether adequate provision is made for the living conditions of the future occupiers of the proposed dwellings, having regard to space standards and the need to provide for accessibility and suitability for changing needs;
 - Whether the proposed arrangements for vehicular access, and refuse and recycling collection would result in an adverse impact on highway safety; and,
 - Whether the proposal satisfactorily addresses the safety and security of future occupiers.

Reasons

Character and appearance

3. The appeal site comprises land to the rear of No. 192 Westward Road, and is located within an existing residential area. The site currently forms part of the existing rear garden of the property, as well as accommodating a car-port like structure under which was provided parking for the appellant's vehicle, with
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access gained via a private garage court and drive to Sinclair Road to the north. To the west of the site is a narrow access road from Westward Road leading to a small garage court to the rear of Nos. 194a, 194b, 194c, and 196 Westward Road, with adjoining land to the east in use as part of a neighbouring rear garden.

4. It is evident that a prevailing characteristic of the area is the substantial and established private rear gardens to existing properties. I was able to observe that many properties in the vicinity also possessed sheds and outbuildings of various sizes situated within the rear gardens, and that small groups of garages arranged around modest-sized parking courts were also characteristic of the area. However, these were in the main clearly limited to single-storey structures, and there is no evidence that these are occupied as anything other than ancillary to the dwellings to which they would relate.
5. The proposed pair of two-storey dwellings would not reflect the prevailing character of the area in respect of either the backland position, or scale, bulk and form in the location of the appeal site. It is evident that such development is not characteristic of the area, and whilst I accept the appellant's point that the wider area is characterised by two-storey development, the introduction of two-storey dwellings in this location and context would appear as an incongruous building form. Whilst I accept that existing outbuildings within rear gardens do at least in part erode the generally spacious character of gardens within the area, the proposed dwellings would have a substantial adverse impact in this respect, reducing the overall spaciousness of the area created by the substantial gardens, and resulting in a cramped form of development within comparatively very small plots.
6. I have also considered the Council's argument that the current proposal would set an uncharacteristic precedent for similar developments in the surrounding area, as well as the appellant's reference to a previously allowed appeal nearby at No. 173 Westward Road. Whilst I do not have any particular detail regarding any similarity in circumstances between the appeal proposals and the earlier approved scheme, each application and appeal must be treated on its individual merits. As a consequence, I can appreciate the Council's concern that approval of this proposal could be used in support of such similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern given the number of other substantial rear gardens where it would be possible to gain access via private drives or existing garage courts to the rear of properties. Allowing this appeal would undoubtedly make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would undoubtedly exacerbate the harm to the character and appearance of the area which I have described above.
7. The appellant has made reference to the proposed development as representing a more efficient use of an underused area of land, as well as referring to the variety of individual dwelling designs within the area. However, I am mindful that the National Planning Policy Framework (the Framework) guards against inappropriate development of residential gardens where there would be harm caused to the local area, which has been identified in this instance. Furthermore, whilst I recognise that there is a diverse range of individually designed dwellings within the area, I do not consider that the comparatively bulky design and form of the proposed dwellings would contribute positively to the existing diversity.

8. I am therefore satisfied that the construction of the proposed dwellings would result in an adverse impact on the character and appearance of the area. The proposal would therefore conflict with Policy CS15 of the Waltham Forest Local Plan – Core Strategy 2012 (the Core Strategy), and Policy DM29 of the Waltham Forest Local Plan – Development Management Policies 2013 (the DM Policies), as well as the Council's 'Urban Design' Supplementary Planning Document 2010 (the Urban Design SPD). These policies seek to ensure that new development is of the highest quality architecture and urban design, and positively responds to local context and character, whilst reinforcing and promoting local distinctiveness. Furthermore, the proposal would not accord with paragraph 17 of the Framework as it would not represent high quality design.

Living conditions – existing occupiers

9. The position of the proposed dwellings within the existing rear garden of No. 192 Westward Road would undoubtedly result in a change to the outlook from the rear of the existing dwelling. However, whilst I accept that the existing available outlook would be worsened as a consequence of the erection of the proposed dwellings, even allowing for the Council's contention regarding a discrepancy within the proposed layout plan relating to the position of rear building lines, the distances maintained would still be reasonable, and I am not therefore persuaded that the impact on outlook from the two-storey dwellings would as a consequence be unacceptable in respect of the effect on living conditions.
10. With regards to the impact on light and the potential for overshadowing, I have noted that the proposed dwellings would be located to the North of the rear of the existing properties on Westward Road, and that there would not be an adverse effect on sunlight. Furthermore, I am satisfied that the separation distance between the proposals and habitable room windows would be sufficient to ensure that existing levels of daylight available to the rear of properties on Westward Road would still be safeguarded.
11. Having regard to the privacy of existing occupiers, the proposed dwellings would incorporate first floor windows on the rear elevation facing towards the rear of No. 192 Westward Road and neighbouring properties, and which would be in relatively close proximity to the proposed garden boundary with No. 192 Westward Road. The distance between facing habitable windows would be uncharacteristically close in the context of the relationship between dwellings in the immediate vicinity, however would not be unusual in a suburban setting. Nevertheless, whilst a degree of mutual overlooking of adjoining gardens would normally be expected in a suburban context, the position and proximity of the windows in relation to neighbouring gardens would result in some limited harm to the privacy of neighbouring occupiers using the adjoining gardens.
12. Turning to the impact on external garden space, I accept that there would be a significant reduction in the available area of private rear garden available to No. 192 Westward Road. However, whilst I have already addressed the impact on the character and appearance of the area above, the residual garden area as identified by the Council at No. 192 Westward Road would be 145 m², which would still not preclude the undertaking of a normal range of external activities associated with residential occupation, and would not therefore result in an unacceptable impact on living conditions.

13. I am satisfied that the proposed development would not result in an unacceptable impact on the living conditions of neighbouring occupiers, having regard to the availability of private amenity space, outlook, and light. However, there would be some limited harm to the privacy of neighbouring occupiers having regard to the use of the rear gardens. The proposals would therefore conflict with Policy CS13 of the Core Strategy, and Policies DM7, DM29, and DM32 of the DM Policies, as well as the Urban Design SPD. These policies seek to ensure that satisfactory amenity is provided for surrounding occupiers to ensure that daylight/sunlight, outlook and privacy are maintained, as well as an appropriate level of usable amenity space. The proposals would also not be in accordance with paragraph 17 of the Framework which seeks to secure a good standard of amenity for all existing occupants of land and buildings.

Living conditions – future occupiers

14. The Council has assessed the living conditions of future occupiers on the basis of the requirements of the DCLG Technical housing standards – nationally described space standard, published in 2015, and against the space standards set out within the London Plan. In this respect, I note that the Council has assessed the property on the basis of it providing 2 No. double bedrooms, with the smaller bedroom assessed to be 0.5 m² below the required 11.5 m² required. However, I have not found any reference by the appellant to the proposals as intending to provide 2 No. double bedrooms, with the appellant's statement clarifying that the proposals would provide a double bedroom and a single bedroom, both of which would provide well in excess of the requisite space standard.
15. I accept that there would be a deficiency in identified built-in storage as required by the space standards, but see no reason why this could not be incorporated to meet the required standards, and in any event do not consider that this alone would result in a failure to safeguard a good standard of living conditions for future occupiers.
16. The Council has also referred to the need to comply with "Lifetime Homes" criteria. However, I am mindful that the new system of housing standards commenced on 26 March 2015, with a new additional optional Building regulation on access, and that as a consequence the Lifetime Homes standards have therefore been replaced. However, I am satisfied that the matter could be satisfactorily addressed by a condition requiring compliance with *Building Regulations Optional Requirement Approved Document M4 (2) Category 2: Accessible and adaptable dwellings (2015)*.
17. On the basis of the submitted evidence, I am satisfied that the proposed development would not result in an unacceptable impact on the living conditions of future occupiers, having regard to space standards and the need to provide for accessibility and suitability for changing needs. I have not therefore found conflict with Policies CS13 and CS15 of the Core Strategy, and Policies DM7, DM30 and DM32 of the DM Policies, as well as the Urban Design SPD. These policies seek to ensure that satisfactory amenity is safeguarded for future occupiers by ensuring that all new residential development, including conversions and changes of use meet minimum internal and external space and amenity space standards, and that inclusive design principles are applied. The proposals would also accord with paragraph 17 of the Framework which seeks

to secure a good standard of amenity for all future occupants of land and buildings.

Highway safety

18. The access to the proposed dwellings would be from Sinclair Road, and would utilise the existing shared access drive to reach the small garage court which would be adjacent to the position of the development. I am satisfied that the modestly-sized garage court would provide limited but sufficient space to allow manoeuvring to ensure that exiting the site could be undertaken in a forward gear. Whilst I noted that the visibility at the access was limited as a consequence of nearby parked cars, this is the situation currently and would potentially also be so for any properties with front driveways where vehicles may have to reverse into the road. I am therefore not persuaded that the additional level of traffic generated by the proposed development would result in an unacceptable adverse impact on highway safety or that pedestrians would not be able to also safely use the access.
19. The Council has referred to the access road as being of insufficient width to accommodate access for emergency vehicles, although the appellant has contended that emergency access to ambulances would be feasible. Whilst I have not been provided with any great detail by either party in this respect, but given that the appellant's existing large van uses the access to park at the rear of the existing property, I see no reason why a similarly sized ambulance or smaller para-medical emergency vehicle could not gain access to the proposed dwellings.
20. Turning to the means of refuse and recycling collection, whilst I have noted the inclusion of refuse and recycling storage facilities within the integral design of the two dwellings, I have not been provided with any evidence to support the contention that any collection would be made directly from the properties. As a consequence, there would be a reliance on the occupiers moving the various refuse and recycling bins and receptacles to a point close to the Sinclair Road frontage. In the absence of any details of a formal arrangement as to where the collection would be likely to take place from, it has to be assumed that bins and receptacles would be deposited at the end of the access drive, which would have the potential to impinge upon vehicular access and egress from the driveway.
21. Whilst I am satisfied that the proposed access arrangements would not in themselves result in an adverse impact on highway safety, I find that there is likely to be conflict between the access to the site and the arrangements for refuse and recycling collection. As a consequence, I consider that there would be conflict with Policies CS13 and CS15 of the Core Strategy, and Policies DM15, DM30 and DM32 of the DM Policies, as well as the Urban Design SPD. These policies seek to ensure that new developments provide satisfactory amenity for future occupiers, are functional, demonstrate that they will not cause any harm or hindrance to highway safety, and ensure provision of facilities for the collection of refuse and access of refuse collection vehicles is maintained.

Safety and security

22. I have carefully considered whether the position of the development would lead to an adverse impact on the safety and security of future occupiers of the

proposed dwellings. In this respect, the appellant has highlighted the intention to incorporate measures to combat crime with alarms, security lighting and CCTV security cameras built into the properties and external areas, which it is contended would also enhance the security of the properties adjacent to the access drive. However, whilst I accept that these measures may be of some benefit in mitigating safety and security issues and could be addressed by planning condition, I am not persuaded that they would be sufficient to outweigh concerns derived from the combination of an absence of an active street frontage, the overall length of the access drive, and the limited surveillance of the drive and garage court available from the properties on Sinclair Road adjacent to the access.

23. I am not therefore persuaded that the proposal has satisfactorily addressed the safety and security of future occupiers. I consider that there would be conflict with Policies CS15 and CS16 of the Core Strategy, and Policies DM32 and DM33 of the DM Policies, as well as the Urban Design SPD. These policies seek to ensure that development proposals provide a safe environment, and minimise opportunities for criminal behaviour and the likelihood of crime and disorder.

Other Matters

24. I am mindful of the various facets of sustainable development as set out in the Framework, and in particular the need to achieve the three mutually dependent elements of sustainable development; economic, social and environmental.
25. The appellant contends that there is a need for two-bedroom starter homes in the area. Whilst there is no detailed evidence on this contention before me, the Framework sets out the need to boost the supply of housing, and I accept that the proposed pair of dwellings would have the potential to make a limited contribution towards the supply to meet local needs. The local economy would also have the potential to experience some limited benefit both during the construction period and following occupation, and I accept that the appeal site is located within a reasonably sustainable location with access to services and facilities, as well as public transport to the wider area.
26. Whilst acknowledging the above benefits, I also have had regard to the absence of harm which I have found in respect of the living conditions for future occupiers and highway safety. However, I have found that the proposal would not represent good design and would be harmful to the character and appearance of the area, and also would have a limited adverse impact on the living conditions of existing occupiers, having regard to privacy. I have also concluded that the proposals would not adequately address matters of safety and security, or the arrangements for refuse and recycling collection. As a consequence, I have not therefore found the development to be in accordance with either the Development Plan or the Framework. I am satisfied that despite the limited benefits summarised above, that these would be significantly outweighed by the adverse impacts.

Conclusion

27. For the reasons given above, I conclude that the appeal should be dismissed.

M Seaton

INSPECTOR