



Appeal Decision

Site visit made on 10 July 2017

by Chris Forrett BSc(Hons) DipTP MRTPI

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

Decision date: 8th September 2017

Appeal Ref: APP/U5930/W/17/3169456

Garages adjacent to 78 Leybourne Road, Leytonstone, London E11 3BT

- 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 Mark Lewis of Jenna Properties Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 163616, dated 1 June 2016, was refused by notice dated 28 December 2016.
 - The development proposed is the demolition of garages and construction of 2 bed subterranean house with landscaped amenity, secure bicycle parking and bin storage and the raising of a dropped kerb.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of garages and construction of 2 bed subterranean house with landscaped amenity, secure bicycle parking and bin storage and the raising of a dropped kerb at Garages adjacent to 78 Leybourne Road, Leytonstone, London E11 3BT in accordance with the terms of the application, Ref 163616, dated 1 June 2016, subject to the conditions set out in the schedule to this decision letter.

Main Issues

2. The main issues are the effect of the development on the character and appearance of the area and whether the proposal provides suitable living conditions for its future occupiers with particular regard to light and outlook.

Reasons

Character and appearance

3. The appeal site is located on the north side of Leybourne Road adjacent to 78 Leybourne Road and to the rear of 37 Bushwood. Leybourne Road comprises of mainly two storey dwellings which retain many of their traditional features. The properties generally have small enclosed front gardens with low brick boundary walls. To the east of the site is the side boundary to No 37 which is enclosed by solid timber fencing. The site currently contains four garages which are of a concrete block construction which are sited immediately to the rear of the pavement, the boundary to No 78 and to the rear boundary.
4. It is common ground between the main parties that the principle of new residential development is acceptable subject to a suitable design and I have

no reason to disagree. I have also had regard to the previous appeal decisions¹ for the development of this site.

5. From my site visit I saw that the garage block does not positively contribute to the character and appearance of the streetscene owing to its materials and its siting coming forward of the established building line of the dwellings on Leybourne Road. That said, the garage block is located between the house frontages of Leybourne Road and the side boundary fencing to 37 Bushwood. As a consequence, this small section of the street has a different visual appearance to the rest of Leybourne Road.
6. The proposed development would have a broadly similar height, width and depth above the existing ground level when compared to the existing garage block. The proposed dwelling would also be constructed in brickwork to match the neighbouring properties. Whilst it would not follow the traditional pattern of the existing dwellings, it would nevertheless represent an improvement on the current garage block without adding any significant visual massing or bulk to the streetscene.
7. The proposal would also include a large element of subterranean development, which would also include a low level amenity area. However, this would not be readily visible in the streetscene owing to the continuation of the boundary fence.
8. Taking all of the above factors into account, to my mind, the innovative approach to the site would represent an acceptable design solution to its constraints and would not represent an overdevelopment of the site. Therefore, the dwelling would not give rise to any harm to the overall character and appearance of the area.
9. For the above reasons the proposed dwelling would be good design and would not harm the overall character and appearance of the area in accordance with Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012) (CS) and Policy DM29 of the Waltham Forest Local Plan Development Management Policies (2013) (LPDMP) and the principles of the Urban Design Supplementary Planning Document (2010) which amongst other matters seek to ensure that new development has a high quality design.

Living conditions

10. The Council did not make an assessment on the living conditions which the future occupants of the dwelling would have owing to a discrepancy on submitted roof plan for the development.
11. To my mind, even with this error, it is possible to determine the standard of living conditions for the future occupiers of the development. In any case, a corrected plan has been submitted with the appeal documentation and this clears up any confusion.
12. The proposed development would have habitable room windows on both the ground floor level and the subterranean level which would face out onto the sunken amenity area. The windows to these subterranean rooms would include full height glazing and would be to both bedrooms. Given the extent of glazing proposed, there would be an acceptable level of light which would ensure that

¹ APP/U5930/A/14/2221441, APP/U5930/W/15/3106026

these habitable rooms would not be oppressive for the future occupants of the development.

13. Turning to the outlook from these bedrooms it is noted that these would face the retaining walls of the sunken amenity area. The walls would be in the region of 5 metres away from the windows of the dwelling. Given this distance, with views over the amenity area, the proposal would provide an acceptable outlook.
14. In respect of the amount of amenity space provided for the future occupants, the submitted drawings indicate around 60 square metres. Given this level of provision, the space would be sufficient to meet the reasonable expectations of the occupiers of the property. That is to say the space would be of a size to allow occupiers to carry out all the domestic activities one would normally expect for the size of the dwelling.
15. For the above reasons the development would provide an acceptable living environment for the future occupiers of the dwelling in accordance with Policy CS2 of the CS and Policy DM7 of the LPDMP which amongst other matters seek to ensure that new dwellings are of the highest quality both internally and externally.

Other matters

16. I have also had regard to the concerns raised in the representations from the Council's consultation period on the application and through the appeal consultation period including potential foundation damage, the water table, trees, parking issues, loss of privacy and noise.
17. In respect of potential foundation damage, this matter would be dealt with under the provisions of the Party Wall Act. In the absence of evidence to the contrary, the development would be unlikely to affect the water table or have any significant impact to surrounding properties in respect of flood risk.
18. From my site visit, I saw that there were trees in proximity to the site boundaries. The excavations required to construct the dwelling would inevitably have some impact on these trees. However, these trees are not protected and are not especially significant features in the streetscene. I therefore consider that any effect to these is not sufficient to warrant the withholding of planning permission.
19. From my site visit I saw that there were parking bays on Leybourne Road which required a parking permit at certain times of the day. I note that the development would close an existing access and potentially provide an additional on street parking space. However, this could be taken up by the occupiers of the new dwelling. Given this situation, I am of the view that the development would not materially add to parking stress or cause any adverse highway safety issue.
20. Turning to matters of amenity, the dwelling would be at a low level with habitable room windows at basement or ground floor level. Given the existing and proposed boundary treatments there would be little impact to the privacy of the occupiers of adjoining residential properties. In respect of noise, the construction process would inevitably have some disturbance. However, this would be for a relatively short timescale and subject to an acceptable code of

construction conduct any disturbance should be minimised to an acceptable level.

Conditions

21. The Council has suggested a number of conditions that it considers would be appropriate. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
22. Other than the standard time limit condition, it is necessary to ensure that the development is carried out in accordance with the approved plans for the reason of certainty. A condition relating to the submission of details of the materials is necessary in the interests of the character and appearance of the area.
23. Conditions relating to further (and alternative) details of the cycle parking, refuse storage are also required in the interests of sustainable transport and to ensure that adequate facilities are provided for the future occupiers of the development.
24. In the interests of the amenity of the occupiers of surrounding residential properties, a Code of Construction Conduct is necessary to prevent any undue noise and disturbance during the construction period. For environmental reasons, a condition which makes provision for dealing with potential contaminated land issues is also necessary.
25. With the exception of the Code of Construction Conduct and contaminated land matters, it is not necessary for any of these to be pre-commencement conditions. It is necessary for these matters to be agreed prior to any works commencing as the contaminated land investigations relate to matters below ground level and should be resolved before any ground disturbance works occur. In respect of the Code of Construction Conduct, this needs to be agreed prior to any works so that the development does not create unacceptable problems during the entire construction period.
26. The Council have also recommended conditions relating to a highway survey condition which is aimed at ensuring that any damage to the highway as a result of the construction works is rectified. However, I consider that such a condition is not necessary to make the development acceptable in planning terms.
27. I have also combined the suggested construction logistics plan conditions with the code of construction conduct condition. However, details of the loading and unloading location are unnecessary given the nature and location of the site. Given the size of the site, details of the contractors accommodation, open storage and employee vehicle parking are also unnecessary.

Conclusion

28. Taking all matters into consideration, for the reasons given above I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR

SCHEDULE OF CONDITIONS

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 – FOB_100; FOB_204A; FOB_205A FOB_206B; FOB_208A (section A-A) and FOB_208A (section B-B and street elevation).
3. Prior to the commencement of the construction of the external surfaces of the dwelling details and samples of the materials to be used in its external surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
4. Notwithstanding the submitted details, prior to the first occupation of the dwelling full details of the arrangements for refuse storage facilities shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.
5. Notwithstanding the submitted details, prior to the first occupation of the dwelling details of secure cycle parking provision (including details of cycle stands and enclosures) shall be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwelling.
6. Prior to the commencement of any site works, a Code of Construction Conduct (Construction Environmental Management Plan) for the development shall be submitted to, and approved in writing, by the local planning authority. The Code of Construction Conduct shall include a construction method statement and logistics plan which shall also detail the :-
 - a) Method of access and parking of construction vehicles (including vehicle routing);
 - b) Measures to prevent deposition of mud on the highway;
 - c) Dust mitigation and suppression measures to control the spread of dust from demolition, disposal and construction;
 - d) Measures to minimise the impact of construction activities;
 - e) Details of construction lighting together with measures to minimise light pollution from any construction lights;
 - f) Details of site security; and
 - g) Site operation times.

Construction works shall only take place in accordance with the approved code of conduct.

7. No development shall take place (other than that required to be carried out as part of these investigations) until a desk-top study is carried out to identify and evaluate all potential sources of land and/or groundwater contamination relevant to the site has been submitted to and approved in writing by the local planning authority. This assessment shall detail the history of the site or land nearby or adjacent to it, and identify potential

sources of contamination, receptors and pathways. An outline Conceptual Site Model (CSM) to determine the relevant pollutant linkages shall be included in the Desk Study.

If the approved desk top study identifies potential sources of contamination, then a Site Investigation shall be carried out providing a suitable and sufficient site investigation to determine the presence of contaminants, shall be undertaken based on the findings of the Desk Study and the outline CSM. The full methodology and detailed results of the investigation shall be submitted to an approved in writing by the local planning authority prior to any further works being carried out on site.

If the approved site investigation identifies the need for remedial actions, a remediation strategy (which would bring the site to a condition suitable for the intended use) shall be submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented in full as approved.

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise first agreed in writing with the local planning authority) shall be carried out until the developer has submitted a revised remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority.

Prior to the first occupation of the dwelling, should any remediation of the site have been required, a verification report (which demonstrates the effectiveness of the remediation carried out) shall be submitted to and approved in writing by the local planning authority.