
Appeal Decision

Site visit made on 22 November 2017

by M Seaton DipTP MRTPI

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

Decision date: 04 April 2018

Appeal Ref: APP/U5930/W/17/3180639

Rear of 12-14 St James Street, Walthamstow, London, E17 7PF

- 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 Samuel March against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 171442, dated 18 April 2017, was refused by notice dated 12 July 2017.
 - The development proposed is a change of use from retail unit (Class A1) to residential units (Class C3) 1 x 1 bedroom flat and 1 x 2 bedroom flat.
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Procedural Matter

1. The proposed development identified by the appellant on the planning application forms provided a detailed description of the circumstances leading to the planning application, and referred specifically to the proposals on the basis of *the submission suggests 2 x 1-bed flats arranged as shown on the submitted drawings*.
2. The description of development was simplified into a more concise form by the Council, focussing solely on the works which required planning permission, and identifying the proposals as *a change of use from retail unit (Class A1) to residential units (Class C3) 2 x 1 bedroom flat*.
3. However, it is evident from the submitted plans and the Council's and appellant's submissions during the appeal, that the proposed development should in fact have been described as being for *1 x 1 bedroom flat and a 1 x 2 bedroom flat*. On the basis that it is clear that this is how the proposed development has been assessed, I have altered the description of development to reflect the exact nature of the proposals.

Decision

4. The appeal is dismissed.

Application for costs

5. An application for costs was made by Mr Samuel March against the Council of the London Borough of Waltham Forest. This application is the subject of a separate Decision.

Main Issues

6. The main issues are;

- whether the proposed development would preserve or enhance the character or appearance of the Walthamstow St James Conservation Area and the adjoining Leucha Road Conservation Area; and,
- whether adequate provision is made for the living conditions of the occupiers of the proposed residential units, having regard to internal space, lighting, ventilation, privacy, outlook, and the availability of external space.

Reasons

7. The appeal site is located to the rear of 12-14 St James Street, and is occupied by a contemporary 2-storey rear element located on Leucha Road, set behind the three-storey Victorian building fronting St James Street. The ground floor of the site, to which this appeal relates, was constructed as retail floor space, but as a consequence of Costa Coffee taking the ground floor unit facing on to St James Street, the retail floorspace on the appeal site is indicated by the appellant to be surplus to requirements. The first floor over the appeal site has been completed as residential flats.

Conservation area

8. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) places a duty upon the decision-maker, in the exercise of planning functions, to have special regard to the desirability of preserving or enhancing the character or appearance of conservation areas. This is also reflected in the approach set out within the National Planning Policy Framework (the Framework), which advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
9. The appeal site is identified as being within the Walthamstow St James Conservation Area, and is also in close proximity to the Leucha Road Conservation Area which is made up entirely of residential Warner Housing. The Walthamstow St James Conservation Area Character Appraisal Statement 2014 (the CA Appraisal) identifies 12-14 St James Street as being within a group of possible future Locally Listed Buildings. The area is noted for its pendant blocks framing the mouth of Leucha Road, being prominent landmark buildings with good quality detailing, a variety of materials and a lively, picturesque appearance that contributes materially to the quality of the area.
10. I have carefully considered the visual effect of the proposed development. I note that the extent of physical works to facilitate the conversion of the existing building would amount principally to alterations to the Leucha Road frontage, through the provision of recesses to allow the proposed internal amenity areas, and relatively minor alterations to the existing fenestration.
11. I acknowledge that, even allowing for the more modern and contemporary design of the existing building, the creation of the recessed areas would effectively be a departure from the prevailing design rationale of the area and the conservation areas. However, whilst I have carefully considered the Council's contention that the alterations would amount to an unsympathetic interruption to the appearance of the frontage, I would disagree with this conclusion. I consider that as a consequence of the retention of the full height external windows flush with the front elevation, that any adverse visual effect of the proposed recesses would be significantly reduced to the extent that the

proposed alterations would have a neutral effect on the appearance of the existing building and the neighbouring conservation areas.

12. I am therefore satisfied that the proposed development would preserve the character and appearance of the Walthamstow St James Conservation Area, and the adjoining Leucha Road Conservation Area. I have not found conflict with Policies CS12 and CS15 of the Waltham Forest Local Plan – Core Strategy 2012 (the Core Strategy), and Policies DM28 and DM29 of the Waltham Forest Development Management Policies (the DM Policies), or the CA Appraisal. These policies seek to promote the protection and enhancement of heritage assets, preserve or enhance the significance, including character or appearance of conservation areas, and recognise spatial context and local character in designing new development.

Living conditions

13. The Council has raised a series of concerns regarding the effect of the proposed change of use on the living conditions of future occupiers, with particular regard to internal space, lighting, ventilation, privacy, outlook, and the availability of external space.
14. I have noted that there is a certain degree of discrepancy between the area of the residential units as identified on the submitted plans and the description within the appellant's Statement of Case, although this would seem to have been adequately explained by virtue of the inclusion of the areas of the 'winter gardens' and external terrace within the calculations on the submitted plans. Nevertheless, the lower figures relied upon by the appellant in the Statement of Case would, at 59.5 m² for a 1 bed 2 person (1b2p) flat and 65 m² for a 2 bed 3 person (2b3p) flat, still comfortably exceed the respective internal space requirements of 50 m² and 61 m² as set out within Policy DM7 of the DM Policies, and the reported standards set out in the Mayor of London's Housing Design Guide.
15. The Council disputes that the overall size of the internal living space would meet the minimum standards, with the total living areas of unit 2 indicated to be approximately 3 metres less than the standard. However, I am mindful though that no detailed alternative measurements have been offered in the submitted evidence to counter the appellant's submissions, and support a conclusion that the overall living accommodation would be cramped. In this respect, whilst I have noted the Council's contention that the double bedroom to Unit 2 would fall short of the space requirements, I am satisfied that any shortfall would be relatively minor, and given the overall exceedance of the internal space standard for the unit as identified, I am satisfied that this would not have any significant adverse impact on the spaciousness of the accommodation.
16. In respect of available light, Unit 1 would principally be reliant for light on the windows located within the broadly north-facing elevation on to Leucha Road, with a single modest-sized south-facing kitchen window directly overlooking the neighbouring land to the rear of No. 14 St. James Street. Unit 2 would, in addition to north and south-facing windows, also benefit from west-facing bi-folding doors to the bedrooms, which would provide access to an external terrace.

17. In carefully considering issues related to light, I share the Council's concern over the long-term availability of the 'borrowed' light from the south-facing windows, for which there is no evidence submitted in support of their future protection. As a consequence, the main Kitchen, Living Room and Dining Room in Unit 1 would potentially be solely reliant on light and ventilation from the window to Leucha Road, which would pass through the proposed internal amenity space, and has been described by the appellant as a 'winter garden'. In the absence of any detail as to how this space would be arranged, or detail of the size and nature scale of the internal windows, I am not persuaded on the basis of the evidence and given the overall depth of the habitable room that sufficient natural light would be guaranteed for future occupiers. Furthermore, whilst I have noted the appellant's reference to purge ventilation of the units in the context of Section F of the Building Regulations, I find the limited information provided at this stage does not satisfactorily demonstrate that reasonable living conditions in this respect would be achievable for future occupiers in this respect.
18. Turning to Unit 2, I am satisfied that despite the broadly north-facing orientation of the bedrooms towards the wall of the external terrace, and the proximity of the flank wall of the neighbouring property on Leucha Road, that the bi-folding doors to the bedroom would be likely to provide a reasonable level of natural light and ventilation for occupiers of these rooms. However, the Kitchen/Dining Room does not appear to benefit from any natural light or ventilation, and the living room, whilst not as deep as the comparative main habitable room within Unit 1, would again be reliant on light and ventilation from the Leucha Road elevation, and again through the proposed internal amenity space. For the same reasons, I am not persuaded on the basis of the evidence placed before me that sufficient natural light and ventilation would be guaranteed for future occupiers.
19. The concerns related to privacy stem principally from the relationship between the proposed windows in the front elevation and the public realm on Leucha Road. In respect of the privacy of the rooms to the rear of the internal amenity space for each unit, there would be a degree of separation and as a consequence defensible space between pedestrians and the occupiers of the units, albeit that any use of the amenity space itself would not be private due to the glazed frontage to the winter gardens. Furthermore, the bedroom window to Unit 1 would not have the benefit of any defensible space, leading to a direct interface between pedestrians and the future use of this room, and as a consequence a poor standard of privacy for occupiers. However, whilst the appellant has referred me to appended photographs of another development where it is contended that such a relationship has been accepted, the context does not appear to be the same with the windows within the front elevation set well back behind a glazed façade, which would provide the necessary defensible space from the public realm.
20. Despite the privacy concerns, the outlook from the bedroom window to Unit 1 would be acceptable, although the extent of the outlook from the main habitable living rooms in both units would be dependent on the use and/or presence of any visual obstruction within the designated internal amenity space. However, whilst the availability of continued future outlook from the windows across the rear of No. 16 St James Street is uncertain, the available outlook from the bedrooms within Unit 2 would be severely restricted as a consequence of the close proximity of the boundary wall facing the windows.

21. I have also carefully considered the requirements for the provision of external amenity space, as highlighted for all new residential development including conversions and changes of use, within Policy DM7 of the DM Policies. I am mindful that for flatted development, the policy requires the provision of 10 m² of amenity space to be provided per bedroom, as set out in *Table 8.3 – Minimum external space standards* within the DM Policies.
22. Despite having regard to the appellant's contention regarding the qualification of the winter gardens as useful amenity space in addressing the requirements of Policy DM7, and noting the conclusions of the London Development Design Study (Spring 2017) prepared by Knight Frank and others in respect of the appropriateness of the use of winter gardens on high-rise buildings, their use would not satisfy the explicit requirements of the policy for the provision of external amenity space, being internal in nature. Furthermore, I do not accept that the winter gardens would provide private or particularly useable space given their full visibility from the public realm, and their overall narrow dimensions. I accept that the external terrace provided in connection with Unit 2 would provide some limited external space for future occupiers, albeit that the overall area would fall a significant way short of the 20 m² requirement for the 2-bed unit.
23. I am mindful that Policy DM7(v) of the DM Policies, addresses the circumstance where external amenity space standards cannot be provided on-site, and where the Council may require financial contributions to enhance or upgrade the provision of local open space in the vicinity of the development. In this instance, no such alternative provision has been proposed, although I note that the appellant has expressed that it would have been for the Council to require a financial contribution for its provision elsewhere. I have also had regard to the Council's indication that within town centre locations, a lack of private amenity space for non-family units can be acceptable, provided a high quality scheme is provided.
24. I accept that there is no evidence of the Council making a specific request for a financial contribution, although the Council has quite clearly indicated within the Delegated Report that the site is located within an area identified as one with deficiency to play facilities, with the nearest play facility and public outdoor space at Coppermill Park a distance of around 450m away. It would appear from the Grounds of Appeal that despite the Council's reference to the deficiency that the appellant has not made any effort to grapple with this aspect of the policy or seek clarification from the Council, relying instead upon the perceived failure of the Council to make such a request. I am not persuaded that the appellant has on this basis satisfactorily addressed the Development Plan policy in this respect. Furthermore, and for the reasons which have already been set out, I have concluded that the proposed development would not represent a high quality scheme where an absence of provision would be acceptable. As a consequence, I am satisfied that the proposed development has not adequately addressed matters related to the provision of external amenity space.
25. Whilst I am satisfied that the proposed development would provide adequately sized units for future occupiers, the proposals would not make adequate provision for the living conditions of the future occupiers of the proposed residential units, having regard to lighting, ventilation, privacy, outlook, and the availability of external space, and would not therefore amount internally

and externally to a high quality development. This would therefore lead to conflict with Policies CS13, CS14 and CS15 of the Core Strategy, Policies DM7, DM29 and DM32 of the DM Policies, and the Council's Urban Design Supplementary Planning Document 2010. These policies and guidance seek to encourage new housing where a high quality living environment offering good levels of residential amenity can be provided, with all new development ensuring satisfactory amenity is provided for future occupiers in respect of internal and external spaces, also having regard to daylight/sunlight, outlook and privacy.

Other Matters

26. The re-use of an otherwise redundant building would clearly be of benefit to the environment in the context of ensuring a more efficient and effective use of land and buildings, and would have the potential to provide flexible and accessible accommodation for which it is contended would be suitable for specialised housing. I also accept that the appeal site is located within an area designated as having a high Public Transport Accessibility Level (PTAL) rating, and has excellent access to the many services and facilities of St James Street. Furthermore, the principle of providing two additional units of accommodation, indicated as for the rental market, would be acceptable and would make a limited contribution towards the supply and variety of housing in the local area. The local economy would also have the potential to have some limited benefit during the construction and from any expenditure from future occupiers. These are all matters to which I would attribute some limited weight in support of the proposals.

Conclusions

27. I have found that the proposed development would preserve the character and appearance of the Walthamstow St James Conservation Area. I have also concluded that the proposed development would bring some other limited environmental, social and economic benefits. Nevertheless, whilst acknowledging these benefits, for the reasons already set out above, the proposal would result in an adverse effect on the living conditions of future occupiers. In this respect, the proposed development would be contrary to the Development Plan.

28. Therefore, for the reasons given above, the appeal is dismissed.

M Seaton

INSPECTOR