
Appeal Decision

Site visit made on 2 July 2019

by J Williamson BSc (Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2019

Appeal Ref: APP/U5930/W/19/3225957
33 Gloucester Road, London E17 6AE

- 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 Nick De Lotbiniere of N&HDL Properties Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 181870, dated 24 May 2018, was refused by notice dated 6 December 2018.
 - The development proposed is erection of 2 x 2-bedroom dwellings following the demolition of existing rear outbuilding and existing garage building adjacent to 33 Gloucester Road.
-

Decision

The appeal is dismissed.

Procedural Matters

1. The right of appeal rests solely with the original applicant which was N&HDL properties. The appeal was submitted by Mr Nick De Lotbiniere who has confirmed that he and his son are the sole owners of the company. For the sake of clarity, I have included references to Mr De Lotbiniere and his company in the header.
2. Notwithstanding the differences between the description of the development on the application form and the Council's decision notice I have based my decision on the plans referred to in the its decision notice.
3. Since the determination of this application, the Council has approved a proposal for a single dwelling, Ref 184261, fronting Gloucester Road. This is identical to the dwelling, which I refer to as Unit 1, within the scheme before me. I have taken this into account in reaching my decision.
4. A Unilateral Undertaking (UU) has been submitted with the appeal. The Council were given the opportunity to comment on its provisions, but none have been received. Apart from works within the highway, which could be dealt with via a s278 agreement with the highway authority, the officer's report identified that various matters would need to be addressed and appropriate measures secured by a planning obligation to make the development acceptable. The UU submitted has addressed some of these requirements and this is therefore a matter I will return to later in my decision.

Main Issues

5. Considering the above, the main issues are:

- the effect of the proposal on the character and appearance of the area;
- whether or not the proposal would provide suitable living conditions for future occupiers, in relation to the arrangements for access;
- the effect of the proposal on the living conditions of adjoining occupiers, in relation to noise and disturbance.

Reasons

Character and Appearance

6. Gloucester Road and Worcester Road are residential streets primarily characterised by modest two-storey dwellings in terraces of varying lengths set in long narrow plots. The dwellings are laid out in a traditional grid pattern. The properties have relatively deep rear gardens and fairly well-defined building lines fronting the highway, with shallow front gardens, mainly used for storage of refuse bins. Car parking is primarily on-street.
7. The site comprises a two-storey dwelling that sits between 2 terraces of varying designs. There is a side garage extension, extensions to the rear and a single-storey U-shaped workshop/outbuilding located at the rear end of the garden. The property has a relatively large rear garden, extending behind the rear garden of the neighbouring property No 29 Gloucester Road and abutting the rear garden boundaries of Nos 28, 28a and 30 Worcester Road. I note that the plans denote 28a as 28. The outbuilding can be accessed from both the rear garden of No 33 and via a private access track off Worcester Road, passing between Nos 30 and 32.
8. The proposal would demolish the existing outbuilding and introduce a detached dwelling on the rear of the site, Unit 2. It would therefore appear as an isolated dwelling with no street frontage. Furthermore, in contrast with other domestic outbuildings, which tend to be single-storey and utilitarian in appearance, the proposed dwelling would be two-storey, evidently designed as a dwelling, with pitched roofs, dormer window and sky-lights. It would appear as an intrusive, alien feature. The plot sizes for the proposed and existing dwellings would also be substantially smaller than those of surrounding properties. As such, the proposal would lead to an arrangement of development that would erode the prevailing pattern of development. Although the proposal would not be readily visible from the public highway, this incongruous pattern of development would be apparent from the rear of nearby properties, gardens and the access track.
9. By contrast, the replacement of the existing garage on the side of No 33 would extend the existing terrace with the addition of another dwelling which would reflect the size, siting and design of adjoining properties. It would therefore integrate effectively with the surrounding street scene.
10. Notwithstanding the acceptability of Unit 1, I conclude that the development as a whole would be significantly harmful to the character and appearance of the area. As such it would not accord with Policy CS15 of the Waltham Forest Local Plan Core Strategy, (2012) (LPCS), Policy DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan, (2013)

(DMPLP), or guidance in the Urban Design Supplementary Planning Document, (2010) (SPD). These policies collectively seek to ensure new development responds positively to local context and takes account of patterns of development and urban grain.

Living Conditions – Future Occupiers

11. Unit 2 would be served by a pedestrian access via an existing track from Worcester Road. The site entrance to the property would be located approximately 32 m from Worcester Road. Future occupants would therefore have to walk some distance to reach their front door along an unlit track which is primarily grass covered. As such, I consider the track would not be a suitable access to the dwelling, in respect of the safety and well-being of users, particularly in the dark and/or in inclement weather conditions.
12. I conclude that the proposal would fail to provide satisfactory living conditions for future occupants arising from the inadequacy of the access arrangements. Consequently, the proposal would not accord with Policy CS15 of the LPCS and policies DM29 and DM32 of the DMPLP, which require, among other things, new development to function effectively and provide a safe and convenient access for occupants/users, with safe connections to surrounding streets. The Council also referred to Policy CS2 of the LPCS and Policy DM7 of the DMPLP in its decision notice. However, I do not consider them relevant to my assessment in respect of this issue.

Living Conditions – Adjoining Occupiers

13. From the evidence before me it appears that the existing outbuilding has been used for repair and maintenance of motor vehicles. However, the evidence does not lead me to conclude that the building has any lawful use other than as ancillary to the existing residential use at No 33. Therefore its removal would only provide minimal benefits to surrounding occupiers. Nevertheless, I am satisfied that the proposal would not result in any harmful levels of noise and disturbance to existing occupiers.
14. Unit 2 would be a relatively small dwelling that would not be accessed via a motor car. As such, it is unlikely to generate a significant number of comings and goings. The activities associated with the dwelling are therefore likely to be comparable to those of surrounding properties. Similarly, the use of the garden, although modest in size, is unlikely to generate significant noise or disturbance for neighbours in the context of the surrounding densely developed residential area.
15. Hence, I conclude that the development of Unit 2 would not harm the living conditions of adjoining occupiers in respect of noise and disturbance. As such, the proposal would accord with Policy DM32 of the DMPLP, which seeks to ensure that new development maintains the amenities of existing occupiers. The Council referred to Policy CS2 of the LPCS and Policy DM29 of the DMPLP in its decision notice. However, I do not consider them relevant to my assessment in respect of this issue.

Other Matters

16. A UU was submitted with the appeal which would secure provision of a private refuse collection service for Unit 2 and ensure that the development as a whole would be 'car free'. This sought to address concerns regarding these matters

raised by the Council and third parties. However, it is not necessary for me to consider whether or not this obligation meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations, as I am dismissing the appeal for other substantive reasons.

17. The appeal site lies within the zone of influence of the Epping Forest Special Area of Conservation (SAC), an area which has been designated for protection under the Habitats Regulations. The officer's report therefore identified the need for a contribution towards mitigation measures in order to avoid an adverse effect on the integrity of the protected site. Although no contribution is provided for through the UU, there is no need for me to consider the implications of the proposal on the SAC because the scheme is unacceptable for other reasons.

Conclusion

18. The Government is seeking to significantly boost the supply of housing. There is no objection in principle to a residential development on this site, provided this can be achieved without harm to the local environment. As permission has now been granted for the dwelling at the front of the appeal site, Unit 1, this proposal would only deliver one additional unit of accommodation.
19. However, I have concluded that the dwelling at the rear of the site, Unit 2, would be harmful to the character and appearance of the area and would fail to provide satisfactory living conditions for future occupants. The lack of harm to adjoining occupiers is a neutral factor in the overall balance. In my view the benefits that would accrue from the additional dwelling would not outweigh the harm I have identified.
20. The proposal would conflict with the development plan and there are no considerations that justify setting aside that conflict. For this reason, I conclude that the appeal should be dismissed.

J Williamson

INSPECTOR