
Appeal Decision

Site visit made on 5 November 2019

by C Osgathorp BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2019

Appeal Ref: APP/U5930/W/19/3233311
207 Farmer Road, Leyton, London E10 5DJ

- 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 Delroy Chambers against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 183529, dated 16 October 2018, was refused by notice dated 16 January 2019.
 - The development proposed is construction of second floor to create 1 self-contained flat (1 x 3 bedroom).
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Decision

1. The appeal is allowed and planning permission is granted for construction of second floor to create 1 self-contained flat (1 x 3 bedroom) at 207 Farmer Road, Leyton, London E10 5DJ in accordance with the terms of the application, Ref 183529, dated 16 October 2018, subject to the conditions set out in the attached Schedule.

Preliminary Matter

2. The description of development shown on the Council's decision notice is more precise than the description shown on the planning application form and I have therefore used it in the banner heading and the decision.

Main Issues

3. The main issues are the effect of the proposed development on (i) the character and appearance of the area; and (ii) the living conditions of the occupiers of neighbouring properties in Farmer Road and Coopers Lane, with particular regard to outlook.

Reasons

Character and appearance

4. Construction works are currently being carried out at the appeal site for a 2 storey flat-roofed building, which has been substantially completed externally. The appeal site adjoins the rear gardens of neighbouring properties in Farmer Road and Coopers Lane and it is served by a vehicular access from Farmer Road. The adjoining properties are predominantly 2 storey terraced dwellings, however 6 nearby properties in Farmer Road have large rear dormers, which creates the appearance of 3 storeys at the rear. The north-eastern boundary of the appeal site borders a railway line and the buildings on the opposite side are

generally taller. There is a nearby 4 storey development at No 649 & 651 High Road.

5. The proposed development would introduce a second floor extension to the building, which would provide one additional 3-bedroom flat. The proposed extension would be set back from the external walls of the building and it would have sloping walls. It would be finished in copper standing seam cladding. The appellant states that the proposed development would be 79cm taller than neighbouring properties in Farmer Road, which is not disputed by the Council.
6. Given the separation distances between the building and neighbouring properties, the modest difference in building heights would not be noticeable in the surrounding area. Furthermore, the extended building would be lower than the nearby 4 storey development at 649 & 651 High Road, which is approximately 15 metres away. Consequently, the height of the proposed development would be compatible with adjacent buildings.
7. The set back of the extension from the existing brick facing walls and the provision of sloping walls would limit the scale and bulk of the proposed development. In addition, the stepped layout of the extension would further break up the massing of the built form. The proposed copper cladding would be sympathetic to the existing brickwork and the contrasting materials would provide visual interest and aid the massing of the building. The height and scale of the proposed development would therefore provide an acceptable appearance and it would respect the character and appearance of the surrounding area.
8. For the above reasons, I conclude that the proposed development would not be harmful to the character and appearance of the surrounding area. The proposal would therefore comply with Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012), Policy DM29 of the Waltham Forest Local Plan Development Management Policies (2013) and Supplementary Planning Document – Urban Design (2010), which amongst other things, state that new development should respond positively to the local context and character, improve the way places function and promote distinctiveness and sense of place.

Living conditions

9. The Council is concerned that the increase in height and massing of the building would particularly affect the gardens of neighbouring properties. It states that the proposed development would appear overbearing and cause a sense of enclosure to the neighbouring gardens. Whilst the proposed development would make the building more perceptible from the gardens, the set back of the proposed extension from the existing external walls and the provision of sloping walls would restrict the additional bulk. Therefore, the proposal would not appear overbearing or cause an unacceptable sense of enclosure to the neighbouring gardens.
10. The Council states that, at its closest point, the proposal would be approximately 15 metres from the rear windows in Farmers Road and around 20 metres from the rear windows in Coopers Lane. Given this level of separation, the proposed development would not appear overbearing or cause a significant loss of outlook to the habitable rooms of neighbouring properties.

11. For the above reasons, the proposed development would not cause significant harm to the living conditions of the occupiers of neighbouring properties. The proposal would therefore comply with Policies DM29 and DM32 of the Waltham Forest Local Plan Development Management Policies (2013), which, amongst other things, state that new developments should ensure that outlook is maintained for existing occupants and their neighbours in their homes and gardens.

Other Matters

12. I have had regard to the representations submitted by local residents, which in addition to the above main issues raise concerns including: loss of daylight/sunlight; loss of privacy; poor standard of accommodation; pressure on availability of parking spaces; glare from cladding; noise; disturbance during construction works; and loss of property value.
13. The effect of the proposed development on daylight/sunlight and the privacy of neighbouring properties was considered extensively in the officer's report. The report concluded that the proposed development would not cause a significant loss of daylight/sunlight to neighbouring properties due to the separation distances and the orientation of the sun path. I see no reason to disagree.
14. The plans show that the second floor windows in the north-western elevation would be fitted with obscure glass, which would restrict views into properties in Farmer Road. This could be secured by condition. Whilst the proposed roof terraces would be set in from the edges of the roof, they would afford views above the low planter walls towards the rear gardens of properties in Farmers Lane and Coopers Lane. However, if I were to allow the appeal, privacy could be ensured by the imposition of a suitable condition requiring the provision of privacy screens around the roof terraces. For the avoidance of doubt, I will also impose a condition preventing the use of the roof outside the roof terraces shown on drawing No FRM – P307 Rev 1 as a balcony, terrace or sitting out area.
15. The officer's report sets out that the proposed development would provide an acceptable standard of accommodation for future occupiers and I agree. The proposed flat would exceed minimum internal space standards and habitable rooms would benefit from adequate levels of natural light and outlook.
16. The provision of one flat in a location close to shops and passenger transport facilities, including bus stops and a train station, would not cause a significant increase in pressure on the availability of parking spaces in the area. There is no substantive evidence before me to show that it is necessary to remove parking permit entitlement for future occupiers of the proposed flat.
17. The appellant states that the proposed copper cladding would have a matt finish. A condition could be imposed to require details of materials to be used in the external surfaces of the proposed development to be submitted to the Council for approval. This would enable the Council to consider the suitability of the colour and matt surface specification of the cladding.
18. The proposed residential use is compatible with the residential nature of the area and there is no substantive evidence before me to suggest that future occupants of the proposed dwelling would cause a material increase in noise in

the surrounding area. There are legislative controls outside the planning system in respect of noise or other effects associated with construction works.

19. In relation to property values, it is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.

Conditions

20. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
21. A condition to require the further approval and implementation of external materials is necessary in order to maintain the character and appearance of the area.
22. A condition to require the submission of details of measures to achieve a 35% reduction in carbon emissions beyond 2013 Building Regulations is necessary to minimise the environmental impact of the proposed development, in accordance with Policy DM10 of the Waltham Forest Local Plan Development Management Policies (2013).
23. The appellant's Noise and Vibration Assessment¹ contains recommendations in respect of the required sound reduction performance of windowsets and vents, and external acoustic screens, in order to achieve acceptable noise levels for the proposed flat. A condition to require details of a final scheme to be submitted to the Council for approval is necessary to ensure that the recommendations in the Noise and Vibration Assessment are adhered to.
24. The PPG advises that care should be taken when using pre-commencement conditions. However, in the interests of proper planning and to avoid any potentially abortive works, it is appropriate in this case that the conditions relating to materials, carbon emissions and noise, should be approved prior to the commencement of development. This has been agreed by the appellant.
25. Conditions requiring the provision of obscure glazing, privacy screens to the roof terraces and the restriction on the use of the roof area are necessary to safeguard the living conditions of neighbouring occupiers.
26. There are limited details before me to show bin and cycle storage provision for the proposed development. A condition requiring details of bin and cycle storage provision is necessary to maintain the character and appearance of the area and to meet sustainable transport objectives.
27. The Council has requested a condition to require the development to be built to Building Regulation requirement M4(2) 'accessible and adaptable' dwellings. However, access to the proposed dwelling would be from an internal stairwell and the Planning Practice Guidance: Housing: optional technical standards states that where step-free access is not viable the optional requirements in Part M should not be applied. Given that the building does not include a lift and therefore would not provide step-free access to the proposed dwelling, it would not be reasonable to impose the suggested condition.

¹ Prepared by Venta Acoustics Report VA2254.180627.NIA dated 31 July 2018

Conclusion

28. For the reasons given above, and having had regard to all matters raised, I conclude that the appeal should be allowed and planning permission be granted subject to the conditions contained in the attached Schedule.

C Osgathorp

INSPECTOR

Schedule of conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:-

FRM – P301 Rev 1; FRM – P302 Rev 1; FRM – P303 Rev 1; FRM – P304 Rev 1; FRM – P305 Rev 1; FRM – P307 Rev 1; FRM – P308 Rev 1; FRM – P309 Rev 1; FRM – P310 Rev 1; FRM – P311 Rev 1; FRM – P312 Rev 3; FRM – P313; FRM – P314 Rev 2; FRM – P315 Rev 1; and FRM – P316 Rev 1.
3. No development shall commence until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall only be carried out in accordance with the approved details.
4. No development shall commence until a scheme for protecting the proposed flat from noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of ventilation and shall be based on the recommendations detailed in the submitted Noise and Vibration Assessment Ref VA2254.180627.NIA dated 31 July 2018. The flat shall not be occupied until the scheme has been carried out in accordance with the approved details.
5. No development shall commence until details of measures to be incorporated into the development to ensure that it achieves a 35% reduction in carbon emissions beyond 2013 Building Regulations have been submitted to and approved in writing by the Local Planning Authority. The flat shall not be occupied until the measures have been carried out in accordance with the approved details.
6. The development hereby permitted shall not be occupied until the windows in the north-western facing elevation of the extension, as identified on drawing Nos FRM – P307 Rev 1 and FRM – P310 Rev 1, have been fitted with obscured glazing. The obscured glazing shall be permanently retained thereafter.
7. Notwithstanding the details shown on the approved plans, the development hereby permitted shall not be occupied until details of privacy screens for the proposed roof terraces have been submitted to and approved in writing by the Local Planning Authority and the privacy screens have been installed in accordance with the approved details. The privacy screens shall be retained at all times thereafter.
8. The flat roof outside the roof terraces shown on drawing No FRM – P307 Rev 1 shall not be used as a balcony, terrace or sitting out area and shall only be accessed in relation to the general maintenance of the building.
9. The development hereby permitted shall not be occupied until details of bin and cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority and the storage facilities have been provided

in accordance with the approved details. The storage facilities shall be retained at all times thereafter.