



Appeal Decision

Site visit made on 28 January 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2020

Appeal Ref: APP/E5330/W/19/3239240

1 Westmount Road, Eltham SE9 1JB

- 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 M Noone of Harland Building Services against the decision of Royal Borough of Greenwich Council.
 - The application Ref: 19/1379/F, dated 10 April 2019, was refused by notice dated 1 July 2019.
 - The development proposed is described as: Conversion of existing large family home to provide 5 self-contained apartments, incorporating part single storey, part first floor rear extension and provision of loft conversion with plans incorporating associated amenity space, parking, secure cycle and bin storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed development would provide suitable living conditions for the future occupiers;
 - The effect of the proposed development on the living conditions of the occupiers of the neighbouring residential properties; and
 - The effect of the appeal proposal on the supply of family housing in the area, having regard to the development plan.

Reasons

Character and appearance

3. The appeal building forms part of a short terrace of late Nineteenth or Early Twentieth Century, two storey, houses on the edge of a predominantly residential area to the north of Eltham High Street. From Eltham High Street to its junctions with Glenure Road and Gourock Road, Westmount Road is comprised mainly of similar short terraces of two storey houses, apart from two blocks of three storey flats, dating from approximately the 1960's. At the junction of Westmount Road with Eltham High Street, to the south of the

appeal building, is a block of two and three storey, modern, flats with an older two storey building to the rear that adjoins the boundary of the appeal site. On the opposite corner, fronting Eltham High Street, is a three storey terrace of older properties with commercial uses on the ground floor and residential on the upper floors. To the front of the appeal building and number 2 Westmount Road opposite are small, single storey, buildings in commercial use.

4. The terraced housing on this section of Westmount Road is of two similar, but slightly different, basic designs. The dwellings on the same side of the street as the appeal building have two, full height, bay windows on the front elevation with hipped roofs over and those on the opposite side a single full height bay window. There are minor differences in detailing within the individual terraces. The properties are all constructed of buff coloured brick with red brick detailing and have slate covered, hipped, main roofs with tall chimneystacks. Both house types share a common feature of being joined to the neighbouring property in the terrace by a lower section that has either a shallow pitched, or a flat roof. Many, though not all, of these linking sections have been converted into separate dwellings and from my observations during the site visit, it is probable that these originally provided additional or ancillary accommodation to the main house, before subsequently being severed from it.
5. Nonetheless, in terms of built form, the height differences and different roof forms, hipped roofs on the larger dwellings and shallow pitched, or flat roofs on the linking buildings, together with a regular succession of projecting bay windows creates a strong visual rhythm within the terraces to both sides of the street. This is reinforced by the straight line of the road and the largely unaltered front elevations and roof profiles of the buildings. Although two more modern flat blocks have been introduced into the street, these echo the short terraces in terms of length and incorporate similar features such as hipped roofs; projecting full height, front elements; and tall chimneys. As a result, this part of the street has a distinct visual homogeneity.
6. The proposed extensions and alterations to the appeal building would result in the shape and form of the original hipped roof being altered through the elongation of the ridge and the formation of partial gables at each end. It would also result in the removal of the chimney stack from the appeal building. These alterations to the building would result in a roof form that would disrupt the uniformity of the roofscape within the terrace and would be perceived as a large, discordant, and inconsistent feature within both the terrace of which the appeal building forms part and this section of Westmount Road. As such, it would be harmful to the character and appearance of the area.
7. I have noted that the Council do not object to the proposed dormer window in the rear roof slope. From what I saw when I visited the site, taken in isolation, the proposed rear dormer would not be inherently objectionable. However, I have no evidence that this part of the proposal would be implementable independently of the other proposed alterations to the roof.
8. Regarding the proposed extensions to the rear of the building, these would be extensive both at ground floor level and first floor level. However, the appeal building is itself a substantial property and has a large rear garden area. Although large, the proposed rear extensions would not be disproportionately large in relation to the original house. The perceived size would be broken up

- by the first floor element projecting a shorter distance from the main rear wall and being inset from the boundaries, which would reduce its overall mass.
9. The proposed timber privacy screens to the first floor roof terraces are not shown on the proposed side elevations, although they are indicated on the cross section drawing. No details are provided of these and I saw no evidence that roof terraces and high level timber are features present in the surrounding area. There are also no other two storey rear extensions present within the terrace containing the appeal property. This aspect of the proposal would result in an alteration that is not characteristic of the area.
 10. Nonetheless, the proposed rear extensions would not be readily visible from the public domain and would only be seen from the rear garden areas of some of the other houses in the terrace, from where they would be viewed in context with the two storey building adjoining the boundary of the appeal site and the three storey flats beyond. There would be some views of the proposed rear extensions from the top floor of the flats to the south, however, these would also be in conjunction with the intervening two storey building. The appeal building is not listed, nor is it within a conservation area. As a result, the effect of the proposed rear extensions would be broadly neutral.
 11. Whilst the rear extension elements of the scheme would not cause harm, the appeal proposal is contingent on all of the proposed elements in order to provide the quantum of accommodation sought. The lack of harm resulting from the rear extensions would not overcome the harm caused by the alterations to the roof and, when taken as a whole, the proposal would be harmful to the character and appearance of the area.
 12. The appellant suggests that the proposed alterations to the roof of the appeal building could be carried out as permitted development. Although both parties refer to a Certificate of Lawfulness for the alterations to the roof¹, I have not been provided with a copy of this or any drawings that may have accompanied this. Consequently, I cannot be certain that this is the same as the proposal before me. The appendix to the Design and Access Statement contains a drawing showing an alteration to the roof of the building that is essentially similar to the current proposal. However, this is associated with an earlier application for a Certificate of Lawfulness² which was refused. It is not the purpose of an appeal under Section 78 of the Town and Country Planning Act 1990 to determine whether an appeal proposal, or parts of an appeal proposal, would be lawful. Based on the evidence before me, I can give no weight to this point.
 13. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policies 7.4 and 7.6 of the London Plan 2016 (the London Plan), Policies DH1 and DH(a) of Royal Greenwich Local Plan Core Strategy with Detailed Policies 2014 (the Core Strategy), or the Council's Residential Extensions, Basements and Conversions Guidance Supplementary Planning Document 2016, which seek to ensure that new development is of a high standard of design that has regard to its context and respects the scale and character of the host building and street scene.

¹ Referenced 19/1225/CP

² Referenced 18/3137/CP

Living conditions of the future occupiers

14. When read together, London Plan Policy 3.5, Core Strategy Policy H5 and the Mayor of London's Housing Supplementary Planning Guidance 2016 (the SPG) all expect new residential development to meet the minimum internal space standards set out in the Technical Housing Standards – nationally described space standard, published in 2015 (the NDSS). The NDSS sets out minimum gross internal areas for dwellings to accommodate various numbers of occupants in addition to minimum bedroom sizes, minimum floor to ceiling heights and requirements for built in storage.
15. The Design and Access Statement and the drawings submitted with the planning application specify that the accommodation that would be provided would comprise two, 2 bedroom, 3 person flats (2b3p) at ground floor level; two, 1 bedroom, 1 person flats (1b1p) on the first floor; and one, 1 bedroom, 2 person flat (1b2p) within the roof space.
16. There is some disagreement between the parties regarding the floorspace and room sizes that would be provided within some of the proposed flats, particularly the ground floor flats (Units A and B) and the proposed second floor flat within the roof space (Unit E). The submitted drawings are annotated with the floor area of each unit. These either exactly meet the NDSS minimum gross internal area, in the case of Units A, B and E, or exceed them in the case of Units C and D. Although the Council dispute the floor area measurements for the ground and second floor units there is no indication in respect of where it considers the discrepancies arise. Dimensions of the individual rooms are not annotated on the plans, nor are the floor areas of each room. As a result, I have no means of verifying which party is correct in respect of these.
17. Whilst the Council identify some errors in the submitted drawings and suggest that this casts doubt on the accuracy of the drawings as a whole, there are also inaccuracies in the table of results in the Planning Officer's report, which states that the floor areas of Units C and D are identical. It is apparent from the submitted drawings that this is not the case as Unit C has a larger floor area to the living room/kitchen to accommodate the window centrally placed in the front elevation. The Council's figures also incorrectly identify Unit E as a 1 bedroom, 1 person flat.
18. Notwithstanding the above, the NDSS requires that all new dwellings have a minimum floor to ceiling height of 2.3 metres for at least 75% of the gross internal area. In this respect, it is clear from the cross section drawings submitted that this is not achieved in Unit E and, indeed, many of the kitchen units and sanitary fittings illustrated on the submitted drawings are located in parts of the internal space that would be below 1.8m in height. There would also be severely restricted headroom at each end of both principal rooms in the flat. The drawings also illustrate that a large proportion of the floor area where the headroom does meet the minimum requirement is taken up by the stairs and landing area. As a result, whilst the overall floor area of Unit E may meet the minimum requirement for 1b2p flat, in real terms much of the internal space has restricted headroom and, taken as a whole, this proposed flat would not provide suitable, practical and useable living accommodation for the future occupiers.
19. Whilst four of the proposed flats may meet the minimum requirements for new dwellings, Unit E does not and so, when taken as whole, the development

would not provide suitable living conditions for the future occupiers in terms of internal space.

20. Both ground floor flats would have access to the existing rear garden, which the drawings indicate would be sub-divided to provide private amenity space for each. The two flats on the first floor would each have access to a terrace area that would meet the minimum requirement of 5m² set out in the Mayor of London's Housing Supplementary Planning Guidance. Unit E on the second floor would have no outside amenity space. It is not uncommon for upper level flats such as this to have no access to a private external area and I noted when I visited the site that there are public parks within reasonable walking distance of the appeal building. Taken in isolation this would not necessarily make the proposal unacceptable. Nevertheless, in combination with the restricted headroom and lack of usable floor area within the proposed upper flat it does add to my concerns regarding the quality of the accommodation.
21. Although the Council have also questioned the lack of built in storage within the units, it is clear from the submitted drawings that provision for storage space has been made and I am satisfied that this requirement of the NDSS would be met. However, this does not alter my conclusions on the suitability of the accommodation overall.
22. I conclude that the proposed development would not provide suitable living conditions for the future occupiers of the development. It would not comply with the relevant requirements of Policy 3.5 of the London Plan, Core Strategy Policy H5, the SPG or the NDSS.

Living conditions of the neighbouring occupiers

23. The appeal building is part of a terrace of properties and has dwellings with a narrower frontage attached to each side. The appeal proposal would result in the existing, single storey, rear additions to the appeal building being replaced by a two storey rear extension that would project approximately 6m from the main rear wall at ground floor level across the whole width of the building. At first floor level the proposed extension would project approximately 3.4m from the main rear elevation and would be inset from the side boundaries.
24. The proposal would result in a blank elevation approximately 3.3m high immediately adjacent to the boundary of both neighbouring properties. To the north, the house at 1B Westmount Road has an existing rear addition projecting approximately 2.6m from the main rear wall. The rear elevation of the dwelling to the south of the appeal building is currently level with the main rear elevation of the number 1. When I visited the site, I observed that both neighbouring properties have a door and what appeared to be a kitchen window in their respective ground floor rear elevations.
25. The proposed ground floor element of the extension would project significantly beyond the rear of both properties and due to this and the proposed height would substantially increase the degree of enclosure and perception of overbearing experienced at the rear of these properties. This would be exacerbated by neighbouring properties having narrow garden areas. The proposed extension would, due to its size and the relative positions of the houses, result in some overshadowing to the rear of number 1B Westmount Road at certain times of the day. I accept, however, that this would mainly to be a kitchen rather than to a habitable room. The Council acknowledge that as

a result of being inset from the boundary, the proposed first floor extension would not have any particular effects on the neighbouring properties.

Nonetheless, the proposed ground floor extension would have an adverse effect on both adjoining properties. This would be contrary to the requirements of Policy DH(b) of the Core Strategy which seeks to ensure that new development does not have an unacceptable effect on the living conditions of the occupiers of neighbouring properties.

26. My attention has been drawn to a prior approval that has been granted by the Council for a larger house extension, projecting 6m from the main rear wall of the appeal building and with a maximum height of 3.5m. This proposal had not been implemented at the time I visited the site, however, it is still extant, and the appellant has clearly stated that it is their intention to carry out this development. Whilst the Council argue that, as this prior approval has not been implemented, it should not be used as a fallback position, I have no reason to believe that there is not a realistic prospect of this scheme being implemented. The effect of this permitted larger house extension on the living conditions of the occupiers of the neighbouring properties would be broadly similar to the effects of the appeal proposal.
27. Had this matter been the only significant disputed issue in this case, then the existence of a permitted scheme that would have a similar effect may have indicated that planning permission could be granted for a development that conflicted with the requirements of a policy in the development plan. However, I am dismissing the appeal for other reasons and, in this light, the existence of a permission for an alternative development that would have essentially similar effects on the living conditions of neighbouring occupiers is not sufficient to overcome the other harm that I have found in respect of the character and appearance of the area, or that the proposed development would not provide suitable living conditions for the future occupiers.
28. I therefore find that the proposed development would cause harm to the living conditions of the occupiers of neighbouring residential properties. It would not comply with the relevant requirements of Policy DH(b) of the Core Strategy or the Council's Residential Extensions, Basements and Conversions Guidance Supplementary Planning Document 2016 which expect new development to not adversely affect the living conditions of the occupiers of neighbouring properties.

The effect on the supply of family housing

29. The appeal building is a two storey terraced property presently in use as a single dwelling house. The submitted plans indicate that at present it is configured as a four bedroom house. Family housing is defined as 'Housing that has three or more bedrooms and direct access to a garden'. The appeal proposal would result in this being extended and converted to form two, 2 bedroom, 3 person flats (2b3p); two 1 bedroom, 1 person flats (1b1p); and one 1 bedroom, 2 person flat (1b2p).
30. Policy 3.8 of the London Plan expects new development to offer a range of housing choices in terms of the mix of housing sizes and types. Policy H2 of the Core Strategy seeks to ensure that all residential developments, including conversions, contains a mix of housing types and sizes and states that they should contain a proportion of 3, 4, and 4+ bedroom units.

31. Core Strategy Policy H(b) relates particularly to conversions of residential properties and, in order to protect the supply of small and medium sized family dwellings, precludes the conversion of terraced houses where the original building has a net floor area of less than 130m². It is common ground that the appeal building in its original form had a net floor area greater than 130m². Policy H(b) also sets out a number of criteria that conversion proposals are expected to meet. Among these, criterion iv. sets out that dwellings intended for families are to be provided on the ground floor or have direct access to a garden.
32. Neither party has provided any substantive evidence in respect of either the supply of family sized housing, or the need for this in the area. Whilst the Council refer to a table in the Core Strategy, I am mindful that the Core Strategy was adopted in 2014 and was informed by the South East London Strategic Housing Market Assessment 2009. This evidence base is now somewhat dated and neither party has provided any more recent figures.
33. Neither London Plan Policy 3.8 nor Core Strategy Policy H2 specify that family sized units are an absolute requirement of all new developments or conversions. The language of Policy H2 is such that a mix of housing types and sizes is required by the policy but when it comes to units with three or more bedrooms it uses the word 'should' which indicates that the outcome is desirable, rather than the more imperative words 'will', 'shall' or 'must', which would indicate that it is a requirement. The wording of Policy H(b) is ambiguous as to whether the provision of family sized units is a requirement. Whilst criterion iv. refers to dwellings intended for families, within the context of the other criteria, it could equally mean that, if the proposal includes family sized units, then these should be at ground floor level. The supporting text to the policy and the Council's Residential Extensions, Basements and Conversions Guidance Supplementary Planning Document 2016 do not provide any clarity in respect of this. Consequently, I do not find any support for the Council's position in this policy.
34. It is not in dispute that the appeal proposal would result in the loss of a dwelling that is suitable for occupation by a family and would not provide any new units that meet the definition of family housing. When I visited the site, I observed that whilst there were some blocks of purpose built flats on Westmount Road and the surrounding streets, and within the vicinity there was some evidence of subdivision of larger houses into flats in the form of multiple door bells and bins, the majority of the houses had the appearance of being in single occupation. The relevant development plan policies are not prescriptive in requiring that all conversions must, of necessity, include a unit suitable for accommodating a family and there is no recent evidence before me in respect of the need for units with three or more bedrooms. Within this context, I cannot find that the proposal would have an adverse effect.
35. I therefore conclude that the appeal proposal would not cause harm to the supply of family housing in the area, having regard to the development plan. It would comply with the relevant requirements of London Plan Policy 3.8 and Core Strategy Policies H2 and H(b).

Conclusion

36. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be

made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposed development would cause harm to the character and appearance of the area and to the living conditions of the occupiers of neighbouring residential properties. I have also found that it would not provide suitable living conditions for the future occupiers. As such the proposal would conflict with the requirements of relevant policies in the development plan for the area. It is not contended that these policies are out of date.

37. I have found that the appeal proposal would not have an adverse effect on the supply of family housing in the area. The appeal proposal would provide four additional housing units. The Framework seeks to significantly boost the supply of housing and the proposed development would assist in doing so. Nonetheless, it is not argued that the Council cannot demonstrate a deliverable five year supply of housing land or that it is not meeting its housing delivery targets. In this context, only moderate weight can be given to the small increase in the housing stock that would result from the appeal proposal. This would not overcome the other harm that I have found, or the conflict with other policies in the development plan. No other material considerations have been identified that would indicate planning permission should be granted for a development that conflicts with relevant policies in an up to date development plan.
38. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR