The Planning Inspectorate

Appeal Decision

Site visit made on 18 February 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st June 2020

Appeal Ref: APP/U5930/W/19/3241413
36 St. Egbert's Way, Chingford E4 6QH

- 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 F Gjana against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref: 192259, dated 9 July 2019, was refused by notice dated 18 September 2019.
- The development proposed is described as: Ground floor single-storey side and rear extensions and conversion of dwellinghouse into three self-contained flats (2 x 1 bed, 1 x 3 bed).

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:

- Whether the proposed development would provide suitable living conditions for the future occupiers;
- Whether the appeal site is an appropriate location for the development proposed having regard to the development plan and access to shops, services and employment opportunities;
- The effect of the proposed development on the character and appearance of the area;
- The effect of the proposed development on the living conditions of the occupiers of number 38 St Egbert's Way, with regard to light and outlook; and
- Whether the proposed development makes suitable provision for the storage of bicycles and refuse.

Reasons

3. The appeal building is a three storey, terraced, house with an integral garage, positioned at the end of the terrace. It is located at the head of short spur road leading from a cul-de-sac of similar properties. The appeal proposal is to extend the house at ground floor level to the side and rear, and to convert the resulting building to provide three flats.

Living conditions of future occupiers

4. Policy CS15 of the Waltham Forest Local Plan Core Strategy 2012 (the Core Strategy) seeks a high standard of design in new development that provides attractive and functional developments. Waltham Forest Development Management Policies Local Plan 2013 (the DMP) Policy DM7 sets out internal space standards that new residential developments are expected to meet. Whilst these policies predate the publication of the latest version of the National Planning Policy Framework (the Framework), they are broadly consistent with the requirements of Framework that new development is of a high standard of design and which provides a good standard of amenity for existing and future occupiers of land and buildings and as such are up to date. The DMP also predates the publication of the Technical housing standards – nationally described space standard (the NDSS) in 2015. In such instances the requirements of the NDSS supersede those in Policy DM7 insofar as there is an equivalent requirement in both documents.

5. DMP Policy DM33 is also cited in the reason for refusal and addresses community safety. It is not clear from the evidence what requirement, if any, of this policy the proposal offends in relation to the provision of internal space and I do not find any conflict with the expectations of the policy in this respect.

6. Although it is not included in the description of the of the development on the planning application form, the Design and Access Statement submitted with the planning application sets out that the proposal would create one, 3 bedroom, 4 or 5 person (3b4p or 3b5p), flat on the ground floor and two, 1 bedroom, 2 person flats (1b2p), one on each of the upper floors of the resulting building.

7. The proposed ground floor flat would have a gross internal area (GIA) of 108.6m^2 which exceeds the requirements of the NDSS for a 3b4p and 3b5p dwelling. The proposed second floor flat would have a GIA of 51m^2 which also exceeds the 50m^2 required by the NDSS for a 1b2p dwelling. However, the proposed first floor flat would have a GIA of 47m^2 which falls short of the required internal space for a 1b2p dwelling.

8. Table 8.1 of DMP Policy DM7 also sets out minimum requirements for the combined floor area of living, kitchen and dining spaces (LKD) within new residential development. There is no equivalent for this within the NDSS, but the requirements of the Policy are nonetheless still relevant. This sets out that the minimum combined LKD floorspace for a dwelling intended to be occupied by two persons is 23m^2. The first floor flat would have an LKD of 22m^2 and the second floor flat an LKD floorspace of 18m^2. Both of these fall short of the requirements of Policy DM7. Neither of the upper two flats would, therefore, provide adequate, practical and useable living space for the intended future occupiers.

9. Whilst the appellant suggests that the first floor flat could provide adequate living space for a single occupier, it is clear from the evidence the bedrooms of the upper floor flats would be 17m^2 and 19m^2 respectively. The NDSS states that in order to provide two bed spaces, a double bedroom should have a minimum floor area of 11.5m^2. Both upper flats are well in excess of this and no mechanism is proposed that would limit occupancy of the proposed flats, which could, consequently, be occupied by more than one person. Whilst a planning condition could attempt to impose an occupancy restriction, I do not consider that such a condition could be practically enforced as it would be

extremely difficult to establish whether a breach of the condition had occurred and would require excessive monitoring to ensure compliance.

10. The submitted drawings show that the entrance to the upper flats would be adjacent to the window serving a bedroom of the ground floor flat. In addition, access to the shared refuse storage and cycle storage illustrated on the drawings, and to the communal garden area for the upper flats, is also past this window. This would give rise to potential disturbance and loss of privacy to the occupiers of this room as the times when these access points would be used would not be within the control of the occupiers of the ground floor flat. I note that the appellant states that an area outside this window could be fenced off to provide privacy. Nevertheless, it is not clear from the submissions how this could be achieved whilst still maintaining access for pulling out bins for collection or placing and removing cycles in the storage area. Any fence of a height sufficient to ensure privacy to this window would also severely restrict outlook from this bedroom. This arrangement adds to my concerns about the lack of floorspace in the upper flats. When the development is taken as whole it would not provide suitable living conditions for the intended future occupants.

11. I accept that the proposal would provide adequate private external amenity space for the proposed new flats having regard to the provisions of Policy DM7. However, this does not overcome the shortfall in internal living space or the problems that would arise from the proposed arrangements for accessing the upper flats and communal areas.

12. I therefore conclude that the proposed development would not provide suitable living conditions for the future occupiers. It would not comply with the relevant requirements of Core Strategy Policy CS15, DMP Policy DM7 and the NDSS. It would also be inconsistent with the requirements of the Framework which seeks to ensure that new development provides a good standard of amenity for future occupiers.

Whether the appeal site is an appropriate location for the development

13. The appeal building is located in a predominantly residential area. Core Strategy Policy CS2 seeks to facilitate sustainable housing growth by maximising the number of homes in the borough and to create a mixed and inclusive community. DMP Policy DM6 sets out specific criteria against which proposals for dwelling conversions will be assessed.

14. It is not in dispute that the appeal building has a current floor area exceeding 124m^2, which is the threshold below which building conversions would be resisted, and it is also common ground that the proposal would provide a three bedroom dwelling at ground floor level with a dedicated rear garden.

15. The Council's principal objection, as expressed in the reason for refusal, is the location of the proposed new flats in relation to shops, services and employment opportunities. I recognise that the site is in an area that has a low Public Transport Accessibility Level (PTAL) which is indicative of a poor level of public transport availability. However, neither Core Strategy Policy CS2 nor DMP Policy DM6 relate the acceptability of development proposals to PTAL and I saw when I visited the site that there is a bus stop on The Ridgeway, just beyond the junction with St Egberts Way which has regular services to Chingford Overground Station. I also saw that there are further bus stops on

the A110 at The Green and on Station Road that are served by several bus routes. When I visited the site, I took the opportunity to walk from the Overground Station to the appeal site. Whilst this is a relatively long distance, it is not wholly inaccessible and, in any event, the station is served by a bus route that stops close to the appeal site, providing for interconnectivity of the transport modes.

16. I also saw that Station Road accommodates a wide range of shops and services including two small supermarkets. These are accessible by walking, cycling, or by bus from the appeal site. The occupiers of the proposed new flats would, consequently, not necessarily be dependent on the use of a private car to meet their day to day needs or to access employment opportunities.

17. Although the Council consider that local shops and services in the area would face undue additional pressures with cumulative the creation of two additional residential units, there is no evidence before me which would indicate that this is the case. DMP Policy DM6 also requires that residential conversions provide appropriate levels of car parking. Whilst the Council have not raised this as a specific reason for refusal, I note that the Highway Authority have commented that proposal could increase parking stress in an already dense parking area and that it is likely that car ownership and visitors to a split property would face on-going parking and access issues which would also negatively impact existing residents.

18. There are limited opportunities for on-street parking on St Egberts Way as a result of various parking restrictions and the presence of a large number of accesses to private driveways for other houses. At the time of my site visit, the available on street parking was well used. Due to the configuration of the spur road and the number and position of the dwellings around it, the appeal building has little space available for off street parking. Nonetheless, as I have found that the future residents would not necessarily be dependent on using private cars for their transport needs, I consider that the appeal proposal would make appropriate provision for car parking.

19. I therefore find that the appeal site would be an appropriate location for the proposed development having regard to the development plan and access to shops, services and employment opportunities. It would not conflict with the relevant requirements of Core Strategy Policy CS2 or DMP Policy DM6.

Character and appearance

20. The appeal building is a three storey terraced house located in a predominantly residential area. St Egbert's Way is a cul-de-sac road accessed from The Ridgeway, a main distributor road, and in turn, part way along its length, provides access to Hungerdown, a further short cul-de-sac.

21. The latter part of the cul-de-sac and Hungerdown are predominantly comprised of three storey dwellings of a similar design to the appeal building, generally forming short terraces with a small number of semi-detached pairs. At the termination of the two culs-de-sac are several blocks of three storey flats. These latter are faced in the same brickwork as the nearby houses and have full height vertical elements on the front façade, containing the windows, which reflect the vertical arrangement of the fenestration of the nearby houses. As a result of this, and the largely unaltered façades of the dwellings, the area

immediately surrounding the appeal building has a very homogenous appearance.

22. The appeal building is located at the end of a short spur of road leading from the main cul-de-sac. Due to the disposition of neighbouring properties and the surrounding development, the appeal building has a comparatively large garden to the rear and side compared to other properties in the area.

23. The appeal proposal includes a single storey, ground floor, side and rear extension, with a combined flat and pitched roof, that would wrap around the gable wall of the building. The proposed extension would be large, and its overall width would be comparable to that of the original dwelling. This notwithstanding, the front façade of the terrace of which the appeal building forms part and that of the neighbouring terrace at 30 to 34 St Egberts Way are situated at right angles to each other and are located approximately 3 to 4 metres apart. The proposed extension would be set back from the front elevation of the appeal building and the widest part of the extension would be located several metres behind the main front elevation of the building. Due to the positions of the appeal building and its neighbour at number 34, the relatively narrow gap between the building frontages, and the set back of the proposed extension, only a small section of the extension would be visible from the street. As a result of being set back from the building frontage, the visible portion would not compete visually with the strong linear frontages of the buildings enclosing the end of the spur road, or interrupt the prominent and distinctive pattern of fenestration on the buildings which give the immediate surroundings its uniform appearance.

24. The proposed development would result in a small alteration to the appearance of the group of buildings, however, change is not synonymous with harm. The limited visibility of the extension would only cause a modest change in the perceived appearance of the area and, as such, would not be detrimental to it.

25. I conclude that the proposed development would not cause harm to the character and appearance of the area. It would comply with the relevant requirements Core Strategy Policy CS15 and Policy DM29 of the DMP which expect new development to be of a high standard of design that has regard to its context.

Living conditions of neighbouring occupiers

26. The appeal proposal would result in an extension to the rear of the appeal building which would adjoin the common boundary with the neighbouring property at 38 St Egberts Way. This would project 4m from the rear of the appeal building and would have a pitched roof with a maximum height of 3.7m where it joins the appeal building reducing to 2.3m at the eaves.

27. When I visited the site, I observed that the neighbouring property at number 38 had a substantially completed rear extension that adjoined the common boundary. This extension projected approximately the same distance as that proposed by the appeal scheme. The upper parts of this extension were glazed in a mix of opaque and clear glazing, with the opaque glazing closest to the main building.

28. Due to the relative positions of the two buildings, the proposed extension would restrict light to this extension at certain times of the day, particularly

during the winter months. However, this would be to opaque glazing at a high level and, as a result, the effect would not be so great that the living conditions of the occupiers of the neighbouring property would be significantly altered. As the side of the extension is a combination of solid wall and opaque glazing the proposed extension at the appeal building would not affect outlook from the neighbouring extension. I am also mindful that no objections or representations were received from the occupier of the number 38 St Egberts Way, either during the consideration of the application or in connection with the appeal.

29. I therefore find that the proposed development would not cause harm to the living conditions of the occupiers of number 38 St Egbert's Way with regard to light and outlook. It would not conflict with the relevant requirements of Core Strategy Policy CS15 and Policies DM29 and DM32 of the DMP which seek to ensure that new development is of a high standard of design that has regard to its context and maintains daylight/sunlight and outlook for existing occupiers.

Cycle and refuse storage

30. The submitted application drawings, whilst indicating potential storage areas refuse bins and cycles do not contain large amounts of detail in respect of these. The curtilage associated with the appeal building is large, and from what I saw when I visited the site, there is sufficient space that an appropriate number of refuse bins could be accommodated in suitably designed dedicated area. There is also scope for accommodating the required level of secure and covered cycle storage.

31. Whilst the detail provided with the proposal is scant, neither of these matters is fundamental to this proposal, but are rather matters of detail that could be satisfactorily addressed through an appropriately worded planning condition.

32. I therefore conclude that, subject to an appropriate condition the proposed development would make suitable provision for the storage of bicycles and refuse. It would comply with relevant requirements of Policies CS2 and CS15 of the Core Strategy and DMP Policies DM6, DM7 DM16, DM29 and DM32 which when taken together expect new development to be of a high standard of design that makes appropriate provision for refuse and cycle storage.

Other matters

33. My attention has been drawn to a planning permission for a development at the neighbouring property which it is argued is similar to the appeal proposal. This was considered within essentially the same policy context, although I note from the documentation that the proposal was originally assessed prior to the publication of the NDSS. From the information that I have been provided with, this proposal does not have an entirely similar internal layout to the appeal proposal. Whilst one of the upper flats in this scheme does not meet the required GIA and the other has an LKD that falls short of the floorspace required by DMP Policy D7, due to the differing internal layouts, the shortfalls are more marginal than the appeal proposal and the resulting rooms are more regular in form, providing more practical and useable internal arrangements. Each planning application and appeal must be determined on its own merits and I do not consider that this scheme should be used to justify a proposal that diverges further from the required minimum standards.

Conclusion

34. I have found that the proposed development would not provide suitable living conditions for the future occupiers and that it would not comply with the relevant requirements of Core Strategy Policy CS15, DMP Policy DM7 or the NDSS.

35. 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. The Framework is clear that where a planning application conflicts with an up to date development plan permission should not normally be granted. The conflict with the policies of an up to date development plan weighs heavily against the proposal.

36. I have found that the appeal proposal would not cause harm to the character and appearance of the area, or to the living conditions of neighbouring occupiers. I have also found that the appeal building is in an appropriate location for the development proposed and that suitable refuse bin and cycle storage could be secured by way of a planning condition.

37. The Framework seeks to significantly increase the supply of housing and the appeal proposal would add to the housing stock in the borough. Nonetheless, this is not an objective to be pursued at any cost. It is not argued that the Council cannot demonstrate a deliverable five year supply of housing land or that it is not currently meeting its targets for housing delivery. The development plan and NDSS expect new development to provide suitable levels of floorspace in order to be practical and fit for purpose and, consequently, the very modest addition of two new dwellings would not justify the provision of dwellings that do not meet the required standards, notwithstanding that the proposal complies with other policies in the development plan.

38. No other material considerations have been identified that would indicate that a development which conflicts with relevant, up to date, policies in a development plan should be granted planning permission.

39. I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR