



Appeal Decision

Site visit made on 1 September 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 September 2020

Appeal Ref: APP/U5930/W/20/3252422

225 Chingford Mount Road, Chingford E4 8LP

- 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 U Pelut against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 192949, dated 2 September 2019, was refused by notice dated 2 December 2019.
 - The development proposed is a single storey rear extension and associated additional seating.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the site address and description of proposed development from the planning application form although I note these are expressed differently on other documents. I have also taken the appellant's name from the planning application form but note that a Christian name has been included on the appeal application form.

Main Issue

3. The main issue raised by this appeal is the effect of the proposed development on the living conditions of adjoining existing occupiers, in particular respect to outlook and noise disturbance.

Reasons

Outlook

4. The proposal relates to a single storey rear extension that would provide additional seating associated with the existing restaurant and wine bar. The extension would abut the side rear boundary of 227/227A Chingford Mount Road where there is a ground floor residential flat with accompanying outdoor living space at the rear of the property. The proposed rear extension would extend a significant distance beyond the rear elevation of the neighbouring ground floor flat and would be taller than the existing fence that runs along the side rear garden boundary.
5. The proposal would be a large structure in close proximity to this adjoining property and its outdoor living space. The extension would be a dominant

feature in the outlook of the occupiers of the ground floor flat, both from the internal and outdoor living spaces. It would, therefore, reduce the outlook from these living environments. The extension would also have an enclosing impact, particularly as this neighbouring property is already bordered by a high wall on its boundary with 229 Chingford Mount Road. As a result, the proposal would have a harmful impact upon the living conditions that the occupiers of the ground floor flat should reasonably expect to enjoy. This would be so irrespective of whether the internal living accommodation at the rear of the flat serves one or more rooms.

6. My attention has been drawn to extensions that can potentially be erected under the Neighbour Notification Scheme. However, that process relates specifically to householder applications, which is not what is being proposed here. As such, any rights under that scheme do not apply to this case. This holds neutral weight in favour of the proposal that can and should be considered on its own merits having regard to the development plan that is in place. Further to this the appellant highlights that no response was received to the Council planning application consultation process. Whilst this may be so there remains the requirement to consider the proposal in terms of the living conditions of the existing adjoining occupiers and the wider public interest.
7. For these reasons, I conclude that the proposed development would be harmful to the living conditions of adjoining occupiers in respect of outlook. The proposal would, therefore, conflict with Policies CS13 and CS15 of the Waltham Forest Local Plan Core Strategy (Core Strategy) 2012, Policy DM32 of the Waltham Forest Local Plan Development Management Policies (DMP) 2013, Supplementary Planning Document (SPD) 'Residential Extensions and Alterations' 2010 and SPD 'Urban Design' 2010. These policies and SPDs seek, amongst other matters, development to ensure that daylight/sunlight, outlook and privacy is maintained for existing occupants and their neighbours in their homes and gardens.

Noise

8. The restaurant and wine bar extension would include a uPVC glazed roof and retractable canopy roof system. The adjoining property, 227/227A Chingford Mount Road, hosts two residential flats and there are also residential properties at Orchard Close immediately to the rear of the appeal site.
9. The proposal would allow for a more intensive use of the rear yard by patrons of the premises. This concentration of customers, as well as any musical entertainment provided, would generate noise that would be clearly audible to the occupiers of adjoining properties. This would be particularly so when the roof canopy is retracted. This would create unacceptable noise disturbance to the occupiers of the adjoining residential properties. This disturbance could take place over a considerable period of the day and extend into the late evening. Consequently, the proposal would have a harmful impact upon the living conditions the adjoining occupiers.
10. The appellant has suggested planning conditions could be imposed to restrict the hours of operation within the proposed rear extension and/or times when the retractive roof can be open, suggesting a timeframe of 23:00 to 09:00 every day for the roof to be closed. However, I do not consider that it would be reasonable to limit the daytime use of the extension. Furthermore, the hours suggested when the roof would be shut would still allow it to be open for

a considerable part of the day and evening. I, therefore, do not consider that such conditions would be reasonable or would ameliorate the objections sufficiently to allow permission to be granted.

11. I have been referred to two recent planning permissions for commercial uses, one at 221-223 Chingford Mount Road and the other at 25 Old Church Road. The Council has explained that the proposal at 221-223 Chingford Mount Road did not include a rear extension and noise omission would be concentrated toward the front of that premises. The considerations of that proposal were quite different to that of the proposal before me. The proposal at 25 Old Church Road involved a large rear extension and use of the rear garden area between existing commercial uses. From the information before me it appears that extension had an enclosed roof and was some distance from existing residential occupiers. The considerations relating to that proposal would, therefore, be different. I find that those recent planning permissions do not offer support for the proposal that is before me.
12. For these reasons, I conclude that the proposed development would be harmful to the living conditions of adjoining occupiers in respect of noise disturbance. The proposal would, therefore, conflict with Policies CS13 and CS15 of the Core Strategy and Policy DM32 of the DMP. These policies seek, amongst other matters, all new development to meet appropriate environmental standards that minimise air, water, noise and light pollution and ensuring satisfactory amenity is provided for surrounding occupiers.

Other Matters

13. I accept that the proposal is situated in a commercial location where such uses would normally be located and where there is access to public transport and opportunities to walk or cycle are available. The proposal would make fuller use of the available site and bring about social and economic benefits through construction employment, expansion of the existing business, increasing employment at the premises and would boost local expenditure. It would also provide a social benefit for the wider community. These are all benefits of the scheme, whether taken individually or collectively. Nonetheless, these benefits would be modest and would not outweigh the harm that I have identified to the living conditions of existing adjoining occupiers or justify the proposed development.
14. The appellant contests that the Council's consideration of the proposal was flawed, however I have no substantive evidence before me that would indicate this to be so.

Conclusion

15. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies
INSPECTOR