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## Appeal Decision

Site visit made on 17 August 2020

**by Alison Scott BA(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 September 2020**

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**Appeal Ref: APP/U5930/W/20/3244585**

**41 Blackhorse Road, Walthamstow E17 7AS**

- 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 Huang HZH Developments Ltd, against the decision of the Council of the London Borough of Waltham Forest.
  - The application Ref 19073, dated 1 February 2019, was refused by notice dated 15 November 2019.
  - The development proposed is Conversion of house into two self contained flats including a loft conversion and rear extension and part demolition to create 1 x 1 bed and a 3 bed unit.
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### Decision

1. The appeal is dismissed.

### Procedural and Preliminary Matters

2. The description of the proposal has been amended by the Council and described as, *Conversion of single dwelling house in to two self-contained flats (1 x 3 bedroom and 1 x 1 bedroom). Construction of hip to gable side roof extension and rear dormer extension (with French doors and safety railings), together with installation of two roof lights to front roof slope. Construction of single storey ground floor extension and two storey rear extensions at first and second floor levels.* I concur that this accurately describes the proposal before me.
3. At the time of my visit, it was apparent that roof extensions including the rear dormer has been erected. The room layouts did not precisely accord with the plans before me. The proposed first floor layout contained a bathroom to the rear off-shot and back bedroom in place of a bathroom. There was no evidence of an ensuite bathroom within the second floor layout. I have nonetheless considered the proposal based on the plans submitted with the appeal.

### Main Issues

4. The main issues are:
  - The effect of the proposal on the loss of a family dwelling within the area;
  - The effect of the dormer extension on the character and appearance of the area;
  - The effect of the proposal on the living conditions of future occupiers; and

- Whether or not there is sufficient space to accommodate cycle and refuse storage.

## Reasons

5. The appeal site is a Victorian end of terrace dwelling located on the corner with Glenthorne Road within a residential area. The terrace contains similarly designed dwellings although the appeal site is the most prominent along the terrace as it is the highest and most decorated of the dwellings. It is originally a four bedroom dwelling spread over four floors.

### *Loss of family accommodation*

6. The Council have adopted Local Plan policy to retain family accommodation. The appeal ward is a 'Restricted Dwelling Conversion Ward' where the conversion of larger homes into smaller self-contained dwellings are not permitted and this is compatible with Policy DM6 of the Development Management Policies Local Plan 2013 (DMP), more specifically DM6 (A) (ii). The supporting text to the policy explains that whilst there is evidence of households with 4 plus people has declined slightly between 2001 and 2011, however there remains continued demand for larger family dwellings.
7. I have had consideration of another recent appeal brought to my attention by the Council<sup>1</sup>. This particular appeal was also located in a Restricted Dwelling Conversion Ward and was intended to subdivide a four bedroom dwelling in order to create two dwellings, each with three bedrooms. The appellant is of the view that there would be no net loss of family accommodation due to the 3 bed flat that would be created.
8. I am mindful that on the basis of loss of family accommodation, the Inspector advised that *'the policy does not include an exception for such circumstances, nor is it explicit or implicit that the policy is only concerned with preventing the conversion of dwellings to small flats and Houses in Multiple Occupation.'* I apply significant weight to this recent appeal decision.
9. An appeal decision has been brought to my attention by the appellant<sup>2</sup> however that development was not a C3 dwelling and was described by the Inspector as a House in Multiple Occupation. It does not share the same circumstances as the appeal proposal before me.
10. The appellant disputes the Council's study in relation to the numbers of conversions within 80m of the appeal site would increase to 46%. There is no evidence presented by the Council to the background or reasoning why an 80m radius has been studied or the means of investigation. However, there is no evidence on the contrary presented by the appellant. Nevertheless, regardless of this survey, the Council's DM6 policy is adopted policy and carries substantial weight.
11. An Article 4 Direction to prevent the permitted use from C3 dwelling house to C4 houses in multiple occupation reinforces the Council's emphasis to retain family accommodation within the area. Whilst the appellant explains that no change of use to an HMO has been sought in this proposal, the intentions of the Council is to retain family units by preventing them from being occupied as

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<sup>1</sup> APP/U5930/W/19/3222098

<sup>2</sup> APP/U5930/C/12/2189610

an HMO, which would otherwise be permitted without the need to apply for planning permission.

12. I therefore find that the proposal would be in conflict with Policy DM 6 of the DMP Local Plan that seeks to resist the conversion of family accommodation. Policy DM 23 of the DMP Local Plan relates to health and wellbeing although it does not relate to this specific change of use, and I can find no direct relevance to the contents of this policy. It would however not be in accordance with Policy CS13 of the Waltham Forest Local Plan Core Strategy 2012 (the CS), insofar as this policy seeks to promote healthy and sustainable places and communities. Finally, it would conflict with the purpose of the Article 4 Direction to maintain family homes in the area.

#### *Character and Appearance*

13. As the appeal site is an end of terrace dwelling and is the highest of the terrace, and higher than the houses that return on Glenthorne Road as well as the dwelling at 39 Blackhorse Road, the roof is already a visually prominent feature within the street scene. The dormer has been erected on site within the rear roof slope. It adds significant bulk to the roofscape due to its projection and width.
14. Regardless of whether or not the ridgeline is altered, or that it is set in from the eaves and sides, and that the Council raises no objections to the hip to gable roof extension, the addition of this dormer adds substantial scale and mass to the dwelling. It is out of proportion with the roof and as a consequence, does not accord with the advice contained within the Council's Supplementary Planning Document Residential Extensions and Alterations 2010.
15. Properties at Northcote Road may have dormer extensions and one may benefit from a certificate of lawfulness, however these properties and the appeal site do not share precisely the same characteristics. They are different sites and locations, with different design circumstances and therefore cannot be directly compared. Moreover it cannot be compared to the dormer at No 37 Blackhorse Road brought to my attention by the appellant as it is considerably smaller, is a mid-terrace dwelling and is much less visible within the street scene. Nor does the proposal meet the requirements of Policy DM29 of the Development Management Policies Local Plan 2013 for development to respond to their context in terms of scale, height and massing.
16. The dormer does not harmonise with the appeal property and is a discordant and visually prominent feature resulting in harm arising to both the host dwelling and the character and appearance of the street scene.
17. It therefore does not comply with the Waltham Forest Local Plan Core Strategy 2012 policies CS13 and CS15 to ensure satisfactory amenity to surrounding occupiers and high quality architecture. Whilst I do not find the Development Management Policies Local Plan 2013 Policy DM 23 to be directly relevant to the proposal as it relates to health and wellbeing, it is however in conflict with Policies DM 4 and DM 29 for development to relate to the host dwelling and achieve a high standard of design including to enhance local character. Finally, it conflicts with the Supplementary Planning Document Residential Extensions and Alterations 2010.

*Living conditions of occupiers*

18. The appeal proposal would result in the creation of 1 no. three bedroom dwelling and 1 no. one bedroom accommodation, arranged over the four floors. Policy 3.5 of the London Plan sets out the minimum requirements for development to correspond with. There are no objections raised by the Council with respect to the size of Flat 1.
19. The internal floor area of Flat 2 would have a Gross Internal Area of 60sq m in size and this exceeds the Nationally Described Technical Housing Standards for a one bed, two person flat. However, the amount of usable floorspace is disputed by the Council due to internal head heights.
20. The London Plan Policy 3.5 explains that the Nationally Described Space Standards sets internal ceiling heights of dwellings that should be a minimum height of 2.3m for at least 75% of the gross internal area of the dwelling. The space within Flat 2 would rely on the inclusion of the dormer. The Council have provided no precise details to demonstrate that the headroom capacity within the space of Flat 2 would be inadequate and would not meet the requirements of the policy.
21. There is no evidence submitted by the Council to demonstrate that the storage space for Flat 2 would not be capable of providing the required amount in line with the technical standards and overall I find no conflict with this part of DMP LP Policy DM 7.
22. The Council explains that the internal heights would not meet policy D4 of the Draft London Plan. However, as this document is not formally adopted, I apply limited weight to its policies.
23. Policy DM 7 of the LP informs that all homes should have access to an element of private space. The supporting text of the policy explains that a minimum of 10sq.m amenity space is required to be provided per bedroom. Policy DM 23 further promotes everyday exercise and access to these. The garden would be used exclusively by the occupiers of Flat 1 and this meets the technical standards required for outdoor space. Flat 2 has no access to outdoor space and therefore fails to meet the requirements of this policy.
24. Whilst the Douglas Eyre Sports Centre and Lee Valley Park may be located within an approximate 5-7 minute walk from the site, it is a public area and does not provide any element of private space, in accordance with the requirements of the policy.
25. I appreciate an outdoor terrace would have its own constraints, and regardless of the PTAL rating to allow access to open spaces, there is no dedicated external space to support the proposal without the need to travel beyond the appeal site. There is no overriding justification presented by the appellant why they should not comply with this part of the policy.
26. Whilst I do not find in conflict with part of LP Policy DM 7 and the London Plan with respect of internal spacing standards, I do however find the proposal in conflict with the relevant part of DM 7 that relates to external amenity space standards associated with Flat 2. Therefore, the proposal does not entirely comply with LP Policy DM 7. It does not comply with LP Policy DM 6 for dwelling conversions or LP Policy DM 23 to promote health and wellbeing. I however find no conflict with Policy DM 32 to manage the impact of development on

occupiers and neighbours. Finally, it would not comply with CS policies CS2 to improve housing quality, CS13 with regards to promoting health and well-being by improving access to health facilities, or CS15 to achieve well designed places and space.

#### *Cycle and refuse storage*

27. There is dedicated space illustrated on the submitted floor plan at lower ground level with independent access into it for refuse and cycle provision. I do not find that this space would be inadequate and should I be minded to allow the appeal, the implementation of this space could be secured by condition.
28. On this basis, the proposal would accord with CS Policies CS6 and CS7 and Policies DM 8, DM 14, DM 16, DM 33 and Appendix 4 of the Local Plan Development Management Policies 2013.

#### **Other Matters**

29. I have had consideration of the letter of objection to the proposal. They comment on issues pertaining to loss of sunlight to their garden and what they consider to be 'unhealthy environmental congestion of buildings at the back'. The Council raises no objections to the effect of the proposed extensions on the amenity of local residents and I can find no reason to disagree with these findings. Although, in any case, as I am dismissing the appeal, there is no requirement to comment further on these matters.
30. The proposal may contribute to increased housing numbers in the area, however this does not alter the view that I have come to.
31. The appellant refers to HMO housing's supporting labour market flexibility. However there is no direct link to this proposal and an HMO use or housing need that would persuade me to allow the appeal.
32. They comment that CS Policy CS2 seeks to increase housing quality and choice. Whilst this proposal may provide housing choice, nonetheless, this is weighed against other planning considerations as I have done.
33. Dual aspect accommodation in line with Policy 3.5 of the London Plan has also been cited as a reason to support the proposal by the appellant; that the Council raises no objections to its effect on neighbouring living conditions; and that there are no issues raised regarding car parking. Nevertheless, these matters do not lead me to justify unacceptable development.

#### **Conclusion**

34. I have balanced the proposal against local policies and taking all matters into account, the appeal is dismissed.

*Alison Scott*

INSPECTOR