



Appeal Decision

Site visit made on 30 November 2020

by **P. D. Biggers** BSc Hons MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 January 2021

Appeal Ref: APP/U5930/W/20/3252573

12-14 (Rear Office) St James Street, Walthamstow E17 7PF.

- 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 Samuel March against the decision of the London Borough of Waltham Forest Council.
 - The application Ref 193052, dated 20 August 2019, was refused by notice dated 9 January 2020.
 - The development proposed is change of use from retail unit (A1) to residential unit (C3) to provide 1 bedroom flat.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are whether the proposed development would:
 - harm the living conditions of present and future occupants of the proposed dwelling in terms of available space, light levels, ventilation, outlook and availability of refuse and cycle storage; and
 - adversely affect highway safety as a result of no provision of parking and the proposal to operate as a car-free development without the means to control a car free development in place.

Reasons

3. The appeal property although carrying a St James Street address actually is located in the rear building to Nos 12-14 St James Street and fronts onto and would be accessed from Leucha Road.
4. The 'parent' address is located within the St James Street Conservation Area and is an attractive 3 and 4 storey Victorian property in brick and stucco with a coffee shop occupying the ground floor front retail unit.
5. The appeal site is located within the Leucha Road Conservation Area which is predominantly a residential street of 2 storey terraced houses with an attractive and largely uniform character and appearance. However, the appeal property itself is in the ground floor of a contemporary rear extension to Nos 12-14 James Street and was previously part of the shop unit on the St James Street frontage. The evidence before me shows that this unit was divided off from the frontage unit some time ago and has been marketed for some time for A1 use without success. The unit sits within a secondary shopping frontage but the Council has not objected to the principle of the change of use.

Living Conditions

6. The application proposes the conversion of the floor space to a single one bedroom dwelling and is a redesign following earlier refused proposals to create 2 dwellings from the available space (Refs 171442, 172727 and 183476).
7. The dwelling would have an open plan living, dining and kitchen space extending to about 10metres in length. It would be lit by glazed patio doors to the courtyard but by no other windows. The courtyard windows would be recessed about 1.5-2 metres under the upper floors of the building and would be around 4-5 metres from the tall gable wall of Nos 1and 3 Leucha Road. The result would be a very poor standard of light to the living space particularly at the kitchen end and a lack of satisfactory outlook. I have been referred to a daylight study carried out for the appellant in which it was concluded light levels were adequate. However, this study was in respect of a former scheme which included windows to the south onto the rear of 16 St James Street and which would have allowed more light into the apartment. No such windows are proposed in the current appeal proposal and no lighting assessment specifically for the current scheme is before me.
8. The bedroom of the property would face north onto Leucha Street and it is proposed that the new window would be recessed from the street frontage to improve privacy and provide a small balcony/terrace area. The bedroom would therefore have the benefit of a window and glazed door accessing the balcony. The window being inset would be under the building's upper storey curtailing light to some extent but I am satisfied that the light levels into the bedroom would be satisfactory.
9. The proposal would create a dwelling with 81 square metres of gross internal floor area and 15 square metres of outdoor space in a small courtyard which would be positioned on the western end. Strictly in terms of the space standards set out in the *Technical Housing Standard*, the *London Plan* and the space standards to Policy DM7 of the *Development Management Policies Local Plan* (DMPLP)the floorspace would be to standard and indeed exceed it by some margin. Individual room sizes would also be acceptable. Moreover, the external private amenity area in space terms would meet standards. I am not therefore persuaded by the Council's argument that the dwelling would be cramped.
10. The building although having no windows on its south side would be dual aspect in terms of having windows and doors onto Leucha Street and patio doors onto the courtyard and side passage between the building and Nos 1 and 3 Leucha road. There would therefore be opportunity for through ventilation of the property and I am not persuaded that this arrangement would be unacceptable.
11. The proposal would include space for a refuse store accessed off the hallway and also from the street which is shown and named on the floorplan as a refuse store and would meet the requirements of Policy CS6B of the *Waltham Forest Local Plan Core Strategy* (WFLPCS). I am not therefore persuaded why the Council has stated that there would be no refuse storage provision. The appellant has also indicated that, although it is not named as such, there would be storage off the hallway which has double doors and would accommodate cycles. I acknowledge the detail of cycle storage is not provided but, as this space would be available close to the main entrance door from the street, this provision could easily be the subject of a condition and would satisfy Policy CS7 of the WFLPCS and policy DM14 of the DMPLP.
12. Notwithstanding that some aspects of the living conditions in the proposed

apartment would be satisfactory, the light levels within the apartment particularly to the main living area and outlook from it are extremely limited such that the quality of life for residents would be compromised. I note that the floorspace is substantially above standard and that proposed floor to ceiling heights would be generous. Nevertheless, this would not compensate for poor levels of natural light and outlook.

13. As such the proposal would conflict with policy CS15 of the WFLPCS which requires development to incorporate design measures that create an attractive, safe, healthy environment and Policy DM32A of the DMPLP which requires adequate daylight, sunlight and outlook for intended occupants of habitable rooms.

Highway Safety

14. The proposed dwelling would not have access to any parking spaces. However, the area has a very good PTAL score of 5 being well served by numerous bus routes to and from St James Street bus station plus London Overground services at St James Street station within a very short walk. The property could therefore operate on a car free basis and indeed such operation would be supported by Policy CS7 of the WFLPCS and Policy DM16 of the DMPLP.
15. However, for this policy approach encouraging car free development to operate successfully in areas where parking cannot be provided and on street parking is limited which, from my observations on site, is the case in Leucha Street, it would be necessary to restrict occupiers from being able to acquire a parking permit or to occupy the dwelling if they have a parking permit.
16. The Council implements this policy approach through the use of S106 planning obligations which require the owner of the development to inform incoming occupiers that they are not eligible for a parking permit for on-street parking or to purchase a space in a Council controlled car park. The wording of the S106 obligation controls the occupation of the residential units by restricting the type of occupier to someone who has no permit and this approach is compliant with recent case law. I note that the applicant is proposing that the unit could be occupied by a disabled person as there would be step free access to the dwelling in which case a parking permit would be allowed. However, there is nothing to guarantee who would occupy the dwelling and therefore an obligation would be required.
17. No planning obligation was proposed at the time the application was being considered and although the appellant has indicated his willingness to complete a planning obligation none is before me.
18. I have considered the requirement for such an obligation in light of the statutory tests contained in Regulation 122 of *The Community Infrastructure Levy (CIL) Regulations 2010* and in respect of the tests set out in the Framework and find that the planning obligation is necessary given the above development plan policies and the absence of parking for the residents. Failure to restrict car use related to the development would contribute to parking stress in surrounding streets and adversely affect highway safety. The obligation is directly related to the development proposed and would be fairly and reasonably related to its scale and nature. It therefore passes the statutory tests of Regulation 122 and the Framework and should have been supplied. The absence of a completed S106 planning obligation is a material consideration in this case and whilst I acknowledge that the Council has not refused the proposal on these grounds it has

made it clear that for the development to operate on a car free basis a planning obligation would need to be in place and as such it must be before me.

Other Matters

19. I accept that the proposal would make effective use of a vacant building for housing making a small contribution to meeting the housing requirement of Waltham Forest. I also acknowledge that the site is in a highly accessible location, close to public transport hubs and services and in that respect the proposed use of the property for accessible housing in principle meets the *National Planning Policy Framework* (the Framework), *London Plan* Policy 3.3 and Policy CS2 of the WFLPCS. However, the Framework is clear that whilst there is a presumption in favour of sustainable development this does not change the statutory status of the development plan and in this case the proposal conflicts with the provisions of the WFLPCS and the DMPLP and the above benefits would not justify a departure from the policies. As the proposal does not accord with the up-to-date development plan part c) of paragraph 11 of the Framework would not apply.
20. Finally, as the property is within a Conservation Area it is incumbent on me to consider the impact of the proposal on the character and appearance of the Conservation Area. As stated above the appeal property sits within a contemporary rear extension to Nos 12-14 and is a plain functional building built in red brick. Inasmuch as the conversion would involve minimal change to the frontage other than to insert a recessed window to the bedroom in place of what would have been a plain shop window plus an additional doorway I am satisfied that the changes would have a neutral effect on the character and appearance of the Conservation Area and as such it would be preserved. I note an Inspector at a previous appeal (ref APP/U5930/2/17/3180639) reached a similar conclusion in respect of character and appearance.

Conclusion

21. In reaching my decision I have had regard to the matters before me. Notwithstanding the benefit the proposal would bring in providing an additional accessible dwelling and that it would at least preserve the Conservation Area, for the reasons above the impact on future occupants' living conditions and highway safety without a planning obligation in place would be unacceptable. Accordingly, the appeal should be dismissed.

P. D. Biggers

INSPECTOR