



Appeal Decision

Site visit made on 16 December 2020

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th January 2021

Appeal Ref: APP/U5930/W/20/3254205

15 Lambourne Gardens, Chingford E4 7SG

- 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 Miss Sharon Cochrane against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 192985, dated 5 September 2019, was refused by notice dated 18 December 2019.
 - The development proposed is described as sub-division of the property to create one 3-bed dwellinghouse and one 2-bed dwellinghouse. Demolition of rear additions.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the banner heading above is taken from the original planning application form. It was amended by agreement to 'Conversion of the existing single dwellinghouse into two residential units (1x3bed, 1x2bed), together with demolition of extensions to rear of property and alterations to front elevation'. The Council has dealt with the proposal on this basis and so shall I.
3. At my visit the ground floor of the appeal site was not laid out in accordance with the existing floor plans. A small shower room was not present, with kitchen facilities in its place, and there were bathroom facilities in a separate room. The status of the changes is not clear, so I have assessed the appeal proposals as set out on the existing floor plans.
4. The appellant has provided alternative internal layouts to the ground and first floor. The Planning Inspectorate Procedural Guide: Planning Appeals – England 2020 states the appeal process should not be used to evolve a scheme, and what is considered by the Inspector should be essentially what was considered by the Council, and on which interested people's views were sought. Taking into account the Wheatcroft principles¹, it is important that I determine the appeal on the basis on which interested people's views were sought. The layouts on revision C plans indicate minor internal alterations that do not significantly change the external appearance of the development, therefore, I have had regard to these in the consideration of this appeal.

¹ Bernard Wheatcroft Ltd v Secretary of State for the Environment [JPL, 1982, P37]

5. However, the revision D plans show the entrance to be moved on the front elevation. In the context of the appeal scheme and having regard to third party representations received in respect of the application the changes are significant. Therefore, I have not had regard to the revision D amendments in determining this appeal.

Main Issues

6. The main issues are the effect of the proposed development upon:
- the living conditions of the future occupiers of units 1 and 2 with particular reference to private outdoor space provision and internal space provision; and,
 - the supply of family housing in the Borough.

Reasons

Living conditions – external space

7. Being roughly triangular in shape, narrowing at its end and around the conservatory, the private outdoor space to the rear of the existing dwelling has some areas of limited usability. It is below the space standard I have been referred to for such a size of dwelling. However, this space has a reasonable level of outlook and overall, there is enough space for many day-to-day leisure and domestic activities such as drying clothes, sitting outside, play space, leisure activities and reasonable gardening or landscaping opportunities. The demolition of the conservatory and rear extension would increase the size of the garden area available and improve the usability, openness and shape of the space. While below the 60 sqm standard, the increased size and improved shape would provide an adequate space for the 3 bedroom dwelling.
8. The private outdoor space for the 2 bedroom dwelling would be a small triangular area of approximately 14 sqm. It would be over the minimum set out in Standard 26 of the London Plan Housing Supplementary Planning Guidance (2016) (the SPG). However, paragraph 2.3.31 of the SPG also expects space should be of a practical shape and utility and offer good amenity. Paragraph 2.3.32 advises provision for outdoor gardens should be set in the context of local standards. Even if the 2 bedroom dwelling is not defined as family sized in the terms set out in the development plan, it is of a size that could be occupied by a household with a dependant or multiple occupants.
9. The small triangular shape of this space would not be particularly pleasant, or usable for future occupiers, having restricted usability taking into account the room required for a table and chairs, cycle storage, clothes drying, leisure activities, or gardening opportunities. The space would not be of a practical shape or utility required by the SPG, does not offer good quality living conditions, and it would result in harmful living conditions to the future occupiers of unit 2. The level of internal space within the dwelling does not adequately mitigate the harm.
10. Some locations of public open space are indicated in the evidence before me. Even if I were to assume some of the closest spaces were conveniently accessible, such spaces do not have the same level of privacy and functionality as a private outdoor space, and cannot be used for the same purposes and

enjoyment. Therefore, the proximity and nature of the public spaces does not outweigh or replace the low quality of the private outdoor space provision.

11. For the reasons set out above the development would provide adequate living conditions for the future occupiers of unit 1 in respect of private outdoor space provision. However, the low quality size and shape of the private outdoor space would result harmful living conditions for the occupiers of unit 2. Therefore, the development would conflict with Policies CS13 and CS15 of the Waltham Forest Local Plan Core Strategy (2012) (the CS) which seeks to ensure development is of the highest quality design in respect of its functionality, and should create healthy places by ensuring satisfactory amenity is provided for future occupiers.
12. The Council has referred to Policy DM6 of the Development Management Policies Local Plan (2013) (the DMPLP) in its second reason for refusal. This policy primarily sets out criteria against which to consider the principle of converting existing dwellings. This policy is of more limited relevance to this particular reason for refusal, and I have considered the development in relation to this policy further below.

Living conditions – internal space

13. Unit 2 would provide the majority of the accommodation within the tapered ground floor, measuring approximately 5sqm above the minimum requirements for such a dwelling in the Technical housing standards – nationally described space standard (2015). The lounge/dining room provides sufficient space to accommodate the main entrance. The originally submitted layout creates a small angular kitchen, limiting usability around the steeply angled corner, such that it provided a low quality living space with restricted functionality. This would be addressed by the alternative layout creating an open plan living area. Given the front driveway area, based on the evidence before me, I see no harm to living conditions from a ground floor front facing bedroom.
14. The first floor bedroom would be restricted by the stairwell, resulting in a narrow and elongated room for well over half its depth, served by limited daylight along the narrow section. This room would provide a low quality internal space for future occupiers, whether or not it is reconfigured to add storage. Therefore, the development would provide significantly harmful living conditions in this regard.
15. The alternative layout for unit 2 suggests an adequate amount of storage space could be provided. Given the space available and layout of unit 1, were I to have been allowing this appeal, I am satisfied the provision of storage could have been dealt with by means of a suitably worded planning condition.
16. However, for the reasons set out above, the internal space would result in significantly harmful living conditions for the future occupiers of unit 2. Therefore, the development would conflict with Policies CS2, CS13 and CS15 of the CS and Policies DM7 and DM32 of the DMPLP. In combination and amongst other things, these policies require development provides a high quality of design that ensures satisfactory amenity and functionality is provided for future occupiers. The development could provide adequate storage in Unit 2, and subject to storage being provided via a planning condition unit 1 would provide satisfactory living conditions with reference to internal space. However, this does not compensate for or mitigate the other harm to the occupiers of unit 2.

17. Policy DM23 of the DMPLP cited in the Council's third reason for refusal mainly relates to Health Impacts Assessments, promoting exercise and A5 use classes. Therefore, this policy is less relevant to this reason for refusal.

Family housing

18. The appeal site comprises a previously extended five bedroom end of terrace dwelling comprising single and two storey elements. Policy DM6 A) i) of the DMPLP states the Council will not permit the conversion of larger homes into smaller self-contained homes where it has an original gross internal floorspace of less than 124 square metres (sqm). Notwithstanding some references in the justification text to flats, this policy applies to the appeal proposal.
19. Paragraph 7.13 of the justification text explains the floorspace threshold relates to the dwellinghouse as originally built. Based upon the evidence before me, the original dwelling would have been likely to be below 124 sqm. Even if the garage was originally of the size set out by the appellant, paragraph 7.13 explains garages are excluded from the gross internal floor area. Therefore, the development would result in a conflict with Policy DM6A)i).
20. However, paragraph 7.10 of the justification text of DM6 explains the 124sqm threshold was chosen as it would allow a family sized (3 bedroom or larger) flat to be incorporated into a new layout. Given the development would divide the appeal site to include an adequately sized 3 bedroom house, the appeal proposal would not conflict with this intended aim of retaining an adequately sized family dwelling. The development would result in the loss of a 5 bedroom dwelling. However, while the DMPLP points to a decline in family sized dwellings, there is no up-to-date substantive evidence before me of a significant shortfall of 5 bedroom dwellings in the Borough.
21. For the reasons set out above, the development would result in a conflict with Policy DM6 A) i) of the DMPLP, which seeks to limit the conversion of family sized dwellings into smaller homes. However, as the development would not result in the net loss of a family sized dwelling, based on the evidence before me, there would not be any material harm resulting from this conflict.
22. Policies CS13 and CS15 of the CS are referred to in the Council's first reason for refusal. However, as these relate primarily to promoting health and well-being, and the design quality of buildings, these are of less relevance to this main issue.

Other Matters

23. The appeal site is within a Zone of Influence (ZOI) of the European designated Epping Forest Special Area of Conservation (SAC). The Conservation of Habitats and Species Regulations 2017 (as amended) requires where a project is likely to result in a significant effect on a European site, the competent authority is required to make an Appropriate Assessment of the implications on the integrity of the European site. If constructed, this appeal scheme would create an additional dwelling within a short drive of the SAC. However, as the development is not proposing mitigation, or benefits to the SAC that would weigh in favour of the scheme, and I am dismissing this appeal proposal for other reasons, it is not necessary to look at this matter in detail.

Planning Balance

24. The proposal would provide for a net increase of a single dwelling, creating a two and three bedroom dwelling with a good level of access to services, facilities and some public transport. There would be a minor temporary economic benefit during construction, and once occupied there would be likely to be a minor sustained benefit to the local economy. The provision of improved private outdoor space for the 3 bedroom dwelling is a small benefit. The combined benefits of the development attract a small amount of weight in favour of the scheme.
25. The development would provide an acceptable level of internal space for the occupiers of unit 1. The Council raises no objection in respect of parking and refuse storage. There is no evidence any planting pursuant to the Council's suggested planning condition would result in a net benefit to biodiversity. If the development were to comply with the policies in respect of these matters, these are neutral matters attracting neutral weight.
26. However, the benefits and policy compliance of the development do not outweigh the harmful living conditions to the future occupiers of unit 2 with reference to the internal space provision and private external space provision, which are matters that attract significant weight against the development.

Conclusion

27. The proposed development would be contrary to the development plan and there are no considerations advanced, which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR