



Appeal Decision

Site Visit made on 26 January 2021

by Mr I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 12 February 2021

Appeal Ref: APP/U5930/W/20/3257516

162-164 Forest Road, London E17 6JQ

- 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 RVA Property Services Ltd against the decision of Waltham Forest London Borough Council.
 - The application Ref 200191, dated 17 January 2020, was refused by notice dated 3 June 2020.
 - The development proposed is demolition of existing building and rebuilding of a new block of 3 units.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The London Plan Intend to Publish -2020- (the Emerging London Plan) has been sent to the Secretary of State. On 29 January 2021 the Secretary of State wrote to the Mayor to confirm that he is content for the new London Plan to be published, with no further changes. Given the late stage at which the Emerging London Plan has reached it can be afforded significant weight. The parties have had the opportunity to comment on the policies within the Emerging London Plan during the course of the appeal and I have taken those comments into consideration.
3. Following determination of the application, the appellants amended their plans with the intent of resolving the issue of living conditions of future occupiers by amending the ceiling heights of the ground and first floor accommodation, thus lowering the floor level of the second floor accommodation. The revised arrangement is shown on drawings GLA-07L rev. A, GLA 10L rev. A, GLA-11L rev. A, GLA-12L rev A and GLA-14L. These drawings also reconciled a discrepancy in the submitted drawings. The Council have had the opportunity to comment on the revised proposal. I consider the amendments are of a minor nature, being mainly internal and therefore accept the revised plans on the basis that no party would be prejudiced by my doing so and I will return to this matter later.
4. The appellant submitted a completed Unilateral Undertaking (UU) dated 7 August 2020 in relation to access to car parking permits and accompanied by a plan showing the site's red line boundary. The Council has had the opportunity to comment. I have taken account of the UU in my decision.
5. Whilst the application form gives the address of the site as 162 Forest Road, the appellant has stated that the correct address is 162-164 Forest Road. This

address has been used within the UU and so I have used this as the site address within my decision.

Main Issues

6. The main issues are:

- The effect of the proposal on the availability of family sized dwellings in the area,
- The effect of the proposal on the character and appearance of the site and the surrounding area,
- Whether the proposal would provide suitable living conditions for future occupiers, and:
- Whether the proposal makes suitable arrangements for the parking needs of future occupiers.

Reasons

Background

7. The appeal site fronts onto Forest Road, set back behind a forecourt. The buildings in the vicinity are mainly two-storeys in height, although some that front Forest Road are of three storeys, and are predominantly terraced. Some have been extended to provide additional accommodation. Fronting Forest Road several of the buildings have businesses operating from the ground floor, with residential uses above.
8. The rear of 162-164 Forest Road is accessed through an undercroft located below the first floor of the application building. At the time of my visit this area was in use for storage and was secured by a shutter door. The main parties agree that this undercroft has been used as a car repairs workshop and the site is in mixed use. Mixed uses within sites is common in the vicinity.
9. No 162-164 has a single storey extension to the rear covering the area behind the original building. Historically there was a planning permission for a part single part two storey rear extension and a dormer roof extension in connection with the conversion of the building into three flats. However, this permission has not been implemented and has now expired. The building is currently laid out to provide four bedrooms.
10. The proposal would demolish the existing building and replace it with a building of a similar scale containing three residential units. The ground floor and the rear of the first floor would form one three bedroomed flat. The front part of the first floor would be occupied by a one bedroom flat and a final, two bedroom flat would occupy the roof space. To facilitate the use of the roofspace a small rear dormer is incorporated in the west section of the roof and rooflights on the other sections of the roof. External amenity space would be located to the rear of the building. This would be subdivided for use to provide a private space for the three bedroom unit and a shared amenity space for the future occupiers of the upper floor flats.

Effect on availability of family sized dwellings

11. The proposal would replace a large family-size dwelling with three residential flats. Policy CS2 of the Waltham Forest Local Plan Core Strategy -2012- (the Core Strategy) and Policy DM6 of the Waltham Forest Local Plan Development Management Policies -2013- (the DMP) together seek to ensure a continuous supply of land and homes to meet a range of housing needs including family housing. Policy CS2 seeks to provide economically mixed and balanced communities by seeking a range of home sizes in new development. However the Council prioritises the need for larger homes in new developments and resist the loss of any existing larger homes.
12. Policy DM5 seeks to provide a range of dwelling sizes, focussing on the provision of larger family sized homes with three or more bedrooms. The proposal does not contain only smaller dwellings and would provide a range of dwelling sizes.
13. Policy DM6, amongst other things, seeks to protect existing housing stock by preventing the conversion of larger family homes. The proposal, however, is for the demolition and replacement of the building, rather than conversion.
14. Nevertheless, the proposal would remove a larger family home from the local housing stock, albeit that it is replaced by three smaller units, two of which are capable of accommodating families.
15. I therefore conclude that, whilst the proposal would not convert the building, and Policy DM6 of the DMP would therefore not be applicable, it would result in the loss of an existing larger family sized dwelling. It would, therefore, be contrary to CS2 of the Core Strategy.
16. The proposal would, however, provide a range of dwelling sizes and, although not providing any 4 bedroom homes, would comply with the aims of Policy DM5 of the DMP in as much as this seeks to provide a range of dwelling sizes.
17. I do not find Policy CS13 of the Core Strategy, which aims to promote health and wellbeing, particularly relevant in regard to this particular matter.

Character and appearance

18. The buildings along Forest Road are set back varying distances from the road, but roughly follow its alignment. The buildings to the west of the site have a relatively straight frontage, reflecting the straight road alignment on their frontage. To the east the buildings step out regularly on narrow frontages to follow the curve of the road. The existing building is set back behind the buildings adjacent to it and does not reflect either pattern of development.
19. Whilst the scale, form and roof design of the new dwelling would be similar to the design of other residential properties in the area, the proposal would move the line of the front of the building forward to match that of its neighbour at 166 Forest Road (Oak Villa). However, in doing so, the new building would significantly lengthen the width of the frontage forming the step. As such it would accord with neither the relatively straight frontages to the west, nor the pattern of regular, narrow steps to the east. The resultant visual anomaly would form a discordant feature, at odds with the pattern of development on either side. This incongruity would be apparent from the street scene and attract attention by its discord. In this instance this adverse impact upon the streetscene would amount to harm to the character and appearance of the site and the surrounding area.

20. To the rear of the terraced buildings, there is a variety of roof forms and scales, and of later additions. This gives the area a jumbled, incoherent appearance. The rear elevation of the building would present a two storey element with double gable roof design, the gables being at different heights. The main part of the rear elevation is in line with the rear of 160 Forest Road and a minor setting back of the upper part of the rear façade below the smaller gable would step into the proposed building, towards the rear wall of Oak Villa. Whilst the matching materials of the proposal would reflect those of the nearby buildings, providing some degree of consistency, the scale of the double gabled roof, coupled with the overall size of the rear addition, would make it a bulky and dominant addition to the rear of the terraced form, despite the current irregular appearance.
21. I am mindful of the importance placed on good design by the Government and the guidance given in the Framework that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
22. The complex form of the proposed rear elements of the proposal, in combination with its massing would add further discord to the incoherent appearance of the area and this would be clearly visible from rear windows in houses on side streets off Forest Road.
23. Bringing these elements of design together the proposal would create a discordant element in the street scene and fail to take the opportunity to contribute to resolving the discordant appearance of the rear of the terrace. Thus the proposal would be detrimental to the overall appearance of the site and the surrounding area and, given the location at a transition in the alignment of the road and the visibility of the rear of the proposal from nearby properties, the resultant harm would, in this case, be significant.
24. The existing frontage onto Forest Road does not make a positive contribution to the street scene. The proposal would renew the frontage, providing a clearer definition between the public and private space on that frontage. However, there is little substantive evidence before me that this could not be provided by alternative works that would not result in the harm that I have identified to the character and appearance of the site and the immediate area.
25. I therefore conclude that the proposal would result in harm to the character and appearance of the site and the surrounding area, contrary to the aims of Policy CS15 of the Core Strategy and Policies DM4 and DM29 of the DMP in as much as these seek to ensure that development provides high quality architecture and urban design which responds positively to local character and context and promotes distinctiveness and sense of place.
26. For similar reasons the proposal would be contrary to the aims of the Waltham Forest Supplementary Planning Document - Urban Design -2010- (the Urban Design SPD) which provides guidance on how to reflect local character and context to achieve good design solutions and ensure that the essential character of the borough is not lost.

Living conditions of occupiers

27. There is no dispute between the parties that the accommodation on the ground and first floors would satisfy the minimum standards set out in the Department

for Communities and Local Government Technical Housing Standards National Described Space Standards -2015- (the NDSS). However there is dispute in regard to the provision for the unit on the third floor. Subsequent to the determination of the application the appellants have amended their proposal to increase the ceiling height for the unit on the second floor, achieving this by reducing the ceiling heights on the lower units to 2.4 metres.

28. The NDSS sets a minimum ceiling height of 2.3 metres for at least 75% of the gross internal area of the dwelling. In London it is strongly encouraged that at least 75% of the gross internal area has a ceiling height above 2.5 meters to address the heat island effect of London and the effect of that on light, ventilation and sense of space.
29. In amending the ceiling heights of the ground and first floors downwards, the proposal would fail to achieve a ceiling height of 2.5 metres within any of the rooms.
30. The appellants have also reduced the internal area of the proposal to achieve the desired ratio of internal space with a ceiling height of 2.3 metres. The reduction in floor area, as shown on the drawings would retain a total of 61 sq. m. and would thus comply with the minimum requirements of the NDSS, both in total floor area and the required minima for individual rooms. Thus the amended scheme would comply with the NDSS but would fall below the desirable standard for ceiling heights in London.
31. Policy DM7 of the DMP requires a minimum of 10 sq. m. amenity space to be provided per bedroom. The policy requires that all homes, including flatted development, should have access to an element of private amenity space but allows the overall provision to be in the form of both private and communal amenity space. The policy further requires that external amenity space provision should be well-designed, appropriately located and usable. It is agreed that the three bedroom flat, with its private garden space, would satisfy this requirement. However, the proposal would provide only shared external amenity space for the other two units.
32. The Council, in its Officer's Report, accepts that the external amenity space provision is adequate for the proposal in terms of total area. However, the provision for the first and second floor flats is shared, rather than separate. The second floor flat, having two bedrooms, could be occupied by a small family, who would have no available private outdoor amenity space. Further, this space would be overlooked from a window serving the living room/kitchen/diner of the three bedroom unit, undermining its privacy. The proposal would thus not provide a well-designed amenity space suitable for all of the potential future occupiers.
33. The proposed three-bedroom flat would have a combined living room/kitchen/dining room which would get its natural light from a large patio door and a window on the rear elevation of the proposal. The Urban Design SPD (2010) advises that habitable rooms should not be more than twice as long as they are wide to reduce reliance on artificial light. No dimensions have been provided for this room. However, notwithstanding the presence of a staircase in the middle of the room, its main usable width and length appear roughly equal. Further, the windows face south and so occupiers of the room would be likely to enjoy sufficient levels of natural light when using it.

34. The window in the living room/kitchen/dining room, however, looks out over the shared amenity space and is at a height that would engender views between the room and the garden in both directions. Whilst the proposed staircase would, to a degree, obscure views through to the far sides of the room, this would nevertheless result in a loss of privacy for all future occupiers of the proposal.
35. The first floor one bedroom flat would only have windows facing north. The lack of direct sunlight would reduce the natural light within the room and the Urban Design SPD advises against single aspect north facing residential development to avoid gloomy rooms.
36. Both of the bedrooms within the second floor unit would be provided solely with rooflights. These rooms would lack direct views out over the townscape, and this would lack visual interest and be a poor quality of outlook.
37. Bringing these matters together, the proposal would provide a poor quality outdoor amenity space, subject to overlooking and lacking privacy. It would thus not provide an adequate amenity for future occupiers with a small family. The main living space of the three bedroom flat would lack privacy. The one and two-bedroom units would have windows with poor aspect and would experience poor outlook and gloomy rooms. Whilst the ceiling heights would conform with NDSS they would not satisfy local guidance and, in combination with the lack of access to good quality, private outdoor amenity space, would not provide satisfactory living accommodation, which in this instance amounts to significant harm.
38. I therefore conclude that, whilst complying with the standards set out in the NDSS, the proposal would not provide suitable living conditions for future occupiers and would be contrary to Policies CS13 and CS15 of the Core Strategy and Policies DM7, DM23 and DM32 of the DMP. This is because these policies, amongst other things, require development to create an attractive, healthy environment providing well designed external amenity space and ensuring that daylight/sunlight, outlook and privacy is maintained for the intended occupants of new habitable rooms.

Parking

39. The site lies within a Controlled Parking Zone (CPZ) where on-street parking is rigorously managed. At the time of my site visit, although this provides only a snapshot in time, I observed a high take-up of on-street parking.
40. Future occupiers could apply for parking permits to allow them to park within the CPZ and, on the basis of the evidence before me the increased level of households occupying the site would be likely to result in an increase in demand for on-street parking. This would appear in competition with the demand from other, existing households in the neighbourhood and increase pressure on available on-street parking, making it more difficult for residents to find an on-street space close to their homes.
41. The appellants accept that this matter needs to be addressed and has supplied a completed UU to restrict the access of future occupiers, other than the three bedroom unit, to parking permits.
42. I note that the Council is seeking car-free development. However, the Community Infrastructure Levy Regulations 2010 (the CIL Regulations) require

that planning obligations must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development.

43. Making the development car-free would reduce demand for on-street parking in the area, whereas the proposal would only need to prevent an increase in demand to prevent harm from the proposal and thereby make it acceptable in regard to parking impact. The UU would, therefore, address and prevent resultant harm in this regard.
44. I therefore find that, by providing the UU, the proposal would make suitable arrangements for the parking needs of future occupiers. The proposal would, therefore, accord with the aims of Policies CS7 and CS15 of the Core Strategy and Policy DM16 of the DMP in as much as these require development to manage parking requirements effectively across the Borough by managing on street parking, and promoting car-capped developments.

Other Matters

45. Policy H2 of the Emerging London Plan identifies the important role of small sites in meeting London's housing needs. It further recognises that local character evolves over time and will need to change in appropriate locations to accommodate additional housing on small sites.
46. The National Planning Policy Framework -2019- (the Framework) recognises the government's objective of significantly boosting housing supply and supports their best use of land.
47. However, the Framework also recognises the importance of good design, including the importance of being sympathetic to local character and promoting community health and wellbeing. The Framework seeks to balance these aims with housing growth.
48. The proposal would increase the intensity of use of the site and provide two additional dwellings to supplement local housing stock and, in so doing, provide short term benefits to the local economy by supporting jobs in the building industry and supply chain. There would be longer term support to local shops and businesses. The proposal would provide benefits by tidying up a run-down site, albeit that a degree of improvement could be achieved by other means. Taken together and given the scale of the development these benefits carry limited weight.
49. However, the harm from the loss of a larger family home to the Borough's housing stock, the character and appearance of the area, and the overall poor living conditions provided by the proposed dwellings would, together, be significant factors weighing against the scheme.
50. In conclusion the limited benefits provided by the proposal would be outweighed by the identified harm when considered against development plan policies and the Framework when read as a whole.

Conclusion

51. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I Dyer

INSPECTOR