



Appeal Decision

Site visit made on 15 February 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 March 2021

Appeal Ref: APP/U5930/W/20/3263387
145A Orford Road, Walthamstow E17 9QU

- 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 Ms Carol Pack (Landwood Development Limited) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 202576, dated 26 August 2020, was refused by notice dated 19 October 2020.
 - The development proposed is the partial demolition of the existing garages and the construction of a single storey building at the rear garden, with associated refuse and bicycle storage, and soft and hard landscaping, to provide a business office (Use Class E).
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Decision

1. The appeal is allowed and planning permission is granted for the partial demolition of the existing garages and the construction of a single storey building at the rear garden, with associated refuse and bicycle storage, and soft and hard landscaping, to provide a business office (Use Class E) at 145A Orford Road, Walthamstow E17 9QU in accordance with the terms of the application, Ref 202576, dated 26 August 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents: the site location plan; the block plan at 1:500 scale; the materials and finishes document; and drawing numbers A.1, A.2, A.3, A.4, A.5, A.6, A.7 and A.8.
 - 3) The use hereby permitted shall only operate between the hours of 08:00 and 17:00 on Mondays to Fridays, and at no time on Saturdays, Sundays or Bank Holidays.
 - 4) Other than the surface mounted downlight at the entry door, prior to the commencement of the use, full details of any external lighting including its operating time, shall be submitted to and approved in writing by the local planning authority. The lighting shall thereafter be installed and retained in accordance with the approved details.

Procedural Matter

2. I have taken the description of the proposal from the appeal form, as the appellant states that the revised wording was agreed with the Council, and it is consistent with the decision notice.

Main Issue

3. The main issue is the effect of the proposal on the living conditions at 145C Orford Road, with particular regard to overlooking, outlook, and disturbance.

Reasons

Living conditions

4. The proposed building would be sited to the rear of 145 Orford Road, where it would replace two garages. Its northern elevation would face towards the entrances to the flats at No 145A and No 145C across a proposed 'driveable lawn', which is currently used as an unassigned parking space.
5. Whilst the building's northern elevation would contain four windows, these would be very small and high level. Moreover, one serving the WC would be obscurely glazed, and two would provide light to the building's entry area, from where any limited views out would typically be fleeting. The other window would serve a tea room, but as that space would be small, it would have a functional purpose, rather than being somewhere people would gather.
6. Although No 145C has a glazed door and two windows which would face the building across the driveable lawn, for the above reasons, and notwithstanding the absence of intervening boundary treatment, the proposal would not give rise to significant overlooking of that property.
7. Turning to the outlook from No 145C, the view from the four windows in its western elevation facing the driveway would be unaffected by the scheme. Given the limited height of the proposed building, and that it would not be much closer to the flat than the garages it would replace, it would not significantly harm the outlook from the fewer, mostly smaller, openings in its southern face. For similar reasons, it would not cause a significant loss of light to this flat's garden (depicted as 'existing garden Flat 145B' on the drawings).
8. The door to the proposed building would be adjacent to the driveway, such that people entering it would not need to pass No 145C's southern elevation. To reach that door, pedestrians would walk along the driveway, but in all likelihood, along the carriageway itself rather than its impractically narrow re-worked 'pavement', which borders the windows in No 145C's side wall.
9. The appellant states that the building would be used as an office for the company's one full time, and two part time, staff. The site has good access to public transport, and people would not need to be reliant on private cars to reach it. Given the very limited scale of the proposed building, I have no reason to doubt that movements to and from it, including for deliveries, would be very modest. Consequently, those occasional movements, even in the driveable lawn area and to access the proposed cycle racks, would not give rise to significant noise or disturbance to No 145C, particularly if the scheme's hours of use were suitably controlled.
10. Moreover, planning permission has recently been granted for a mixed-use development at 147 to 161 Orford Road (Ref: 193704) ('mixed-use scheme') accessed via this same driveway. That scheme, which is much larger, and which appeared to be under construction at the time of my visit, is likely to generate significantly greater footfall compared to this proposal.

11. For all those reasons, noise and disturbance to the occupants of No 145C as a result of the proposal would be very limited; as would any overlooking of them, or impact on their outlook.
12. In general terms, and amongst other things, Policies CS13 and CS15 of the Waltham Forest Local Plan Core Strategy 2012, and Policies DM29 and DM32 of the Waltham Forest Development Management Policies Local Plan 2013, seek well-designed buildings; and to ensure that satisfactory amenity is provided for surrounding occupiers, having regard to matters including outlook and privacy.
13. The scheme would not conflict with that approach, nor with the broadly similar stance on privacy and overlooking in the Council's Urban Design Supplementary Planning Document 2010.

Other matters

14. Whilst not raised as an issue in the delegated report or decision notice, in its appeal statement the Council states that the mixed-use scheme could give rise to overlooking and a loss of privacy to the occupants of the proposed building. However, although this scheme's windows would broadly face those at ground floor in the nearby unit opposite, given that these are commercial uses, the resultant limited privacy for both sets of occupants is not a significant concern.
15. The Council points out that as a result of the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, the new Class E includes a broad range of commercial, business and service uses. Be that as it may, I have determined the scheme before me on its planning merits.
16. Finally, the requirements of a lease covenant are not a relevant planning consideration.

Conditions and Conclusion

17. Turning to the matter of conditions, I have considered those suggested against the tests in the National Planning Policy Framework. As well as the standard time limit condition, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans and other documents is necessary. However, as the 'photo montage' comprises pictures of the existing context, and as the 'Planning, Design and Access Statement' is partly an assessment of the proposal, I have omitted reference to those documents in my condition.
18. The appellant has not provided information regarding the proposed hours of opening, nor has she commented on the Council's suggested condition on this matter. On the basis of the evidence before me, a condition limiting the hours of use as suggested is necessary, to ensure suitable living conditions in the adjacent flats with particular regard to periods when the occupants could reasonably expect greater peace and quiet.
19. The Council's fourth suggested condition seeks to control noise levels arising from the proposed use. However, without a requirement for existing background noise levels to be accurately measured, it would be unenforceable. In any event, given the very small scale of the proposal, and my hours of use condition, a condition controlling noise levels is unnecessary to protect nearby residential occupiers' living conditions.

20. The 'materials and finishes' document includes details of an appropriate downlight above the building's entry door, where it would be close to the driveway, and would not face the nearby flats. However, if additional lighting is proposed, in order to protect nearby living conditions, the details shall first be agreed in writing.
21. Additional conditions referred to by internal consultees, and summarised in the delegated report, are not suggested in the Council's appeal statement. Nevertheless, turning to them, whilst I have had regard to the response from the Highways Officer, I have limited evidence to demonstrate that the scheme would have unacceptable highways impacts without a Construction Logistics Plan. Consequently, and considering the very limited scale of this proposal, that condition is unnecessary.
22. With regards the 'condition survey', I am not persuaded that it is necessary for the appellant to survey highway land and all junctions used for vehicle routing prior to the commencement of the development, particularly given its very limited scale; and it is not clear what planning purpose such a condition would serve.
23. I have no evidence before me to indicate that the land is contaminated; and there is other legislation to control the appropriate removal and disposal of asbestos, if indeed it is present. I have not therefore imposed the condition suggested by the Environmental Health Officer.
24. Finally, the Council does not suggest a condition regarding the provision of a bin storage area in its appeal statement. I have no cogent reason to doubt the appellant's view that this small scheme will not generate significant waste, and a communal bin storage area is identified on the approved drawings.
25. For the above reasons, I conclude that the scheme would not impact the living conditions of adjacent occupiers to a harmful degree. Consequently, having regard to all other matters raised, the appeal is allowed.

Chris Couper

INSPECTOR