



Appeal Decision

Site Visit made on 13 July by S Witherley CIHCM MRTPI

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2021

Appeal Ref: APP/U5930/W/21/3272701

1 Valley Side, Chingford, London E4 7SR

- 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 & Mrs A Kosele against the decision of Waltham Forest London Borough Council.
 - The application Ref 200033, dated 7 January 2020, was refused by notice dated 9 October 2020.
 - The development proposed on the application form is: erection of double storey side and part double storey rear extension to convert existing dwelling into 1-2bed, 1-3bed houses.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. A new London Plan 2021 was published in March 2021 and this post-dates the Council's refusal notice. I afforded the main parties an opportunity to advise which policies in the new London Plan are relevant to the development and to comment upon the implications of these for the purposes of determining this appeal. No further comments have been made. The old London Plan policies (7.4, 7.5 and 7.6) referred to in the decision notice are no longer in force and so the proposal has been considered against the development plan policies of the Waltham Forest Local Plan Core Strategy 2012 (CS), and the Waltham Forest Development Management Policies Local Plan 2013 (LP).
4. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (the Framework). Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. No further comments were received by either party.

Main Issues

5. The effect of the proposal on:

- The character and appearance of the appeal property and surrounding area;
- The living conditions of future occupiers in regard to light and outlook;
- Trees.

Reasons for the Recommendation

Character and appearance

6. No. 1 is a two-storey semi-detached property located on the outer edge of a housing estate. It has undergone some modification which includes the addition of a rear conservatory and stone cladding upon its front façade. Nonetheless, it retains the original style and overall form of the dwelling, particularly at first floor. Its style and form is similar to other properties throughout the wider area and, along with the verdant and open front and side gardens, contributes to the pleasant character and appearance of the area.
7. Given the bulky scale of the side and rear additions, particularly as a result of the two-storey addition and the increase in roof mass, the style and form of the original dwelling would be significantly altered. Moreover, when viewed from the rear and side, the proposal would appear as an overly dominant feature which would create an imbalance between the existing pair of semi-detached properties and thus appearing as an incongruous addition. From the front, the proposal would appear cramped as a result of the much narrower proportions of the new dwellings compared with the neighbouring properties. This would create a short terrace which would appear incongruous within the area.
8. Overall, the proposal would harmfully contrast with the original character, form and appearance of the existing dwelling, its neighbour, and also that of other properties seen throughout the surrounding area. The aims of the Urban Design Supplementary Planning Document 2010 would not therefore be achieved.
9. On this main issue the proposal would harm the character and appearance of the appeal property and the surrounding area. Accordingly, the proposed development would conflict with Policy CS15 of the CS, and Policy DM29 of the LP, which together seek to ensure proposals are well designed and contribute positively to the character and appearance of the surrounding area in which they are located.
10. Policies CS15 and DM29 are also referred to in the Council's third refusal reason. This refusal reason mainly refers to the Council's concern that the proposed outdoor communal area would be underutilised leading to issues of maintenance, security/safety and ownership. Although the provision of a communal area in addition to private gardens would be unorthodox, its maintenance and ownership are matters for the appellant to address, and I see no reason why it would have any adverse impact on the safety of the future occupiers given that it appears to be gated, would be overlooked by

the rear windows of both proposed dwellings and would be jointly owned by the future occupiers. As such this part of the proposal would not conflict with the relevant aforementioned policies.

Living Conditions

11. The two houses that would be created are shown as 1 and 1a on the submitted plans. The two-storey rear extension would accommodate No. 1 and would project further back than 1a at first floor level. As such, from the first floor rear bedroom window in 1a, a close view of the flank wall of the rear extension would be possible.
12. The officer's report suggests that this would result in the proposed development impacting upon the 45-degree rule which is set out in the Supplementary Planning Document 'Residential Extensions and Alterations' (2010). This rule is used to assess the suitability of developments in regard to the living conditions of neighbouring occupiers.
13. Although the drawings show the extension would not affect the outlook from the bedroom of the neighbouring property, No. 3 Valley Side, I am satisfied from my own observations, that the proposed two storey element would significantly infringe on the 45-degree rule when taken from the rear bedroom window at No 1a. This would result in the proposed development appearing as an overbearing and dominant feature, thus significantly affecting the light into the proposed upper bedroom of No. 1a and also affecting the occupant's outlook.
14. On this main issue, the proposal would therefore impact on the living conditions of future occupiers in regard to light and outlook. Accordingly, it would not comply with the requirements of Policy DM32 of the LP which seeks to protect the living conditions of future occupiers.
15. The Council have referred to Policies CS2 and CS15 of the CS and also Policy DM7 of the LP in their refusal reasons, however, I do not consider that these policies directly relate to outlook or light and therefore they have not been determinative in my assessment of this main issue.

Trees

16. There are trees beyond, but close to, the site boundaries that may have root systems that extend into the site and so may be affected by the proposed extension. No details of the root protection areas of these trees or their extent have been provided by the appellant. As such, it is unclear whether the proposed development would impact on the root of the nearby trees and so it is not possible to conclude that these trees would be protected. It would not be appropriate to secure information on such a fundamental issue by a planning condition.
17. The Council's reason for refusal refers to Policy CS5 of the CS and Policy DM35 of the LP, however, they have not provided copies of these policies, so I have not had regard to them on this issue. Nevertheless, the Framework at paragraph 131 recognises the importance of trees and the contribution they make to the character and quality of urban areas. As such it seeks to retain existing trees wherever possible. Consequently, I cannot conclude that the proposal would accord with this national guidance.

Conclusion and Recommendation

18. Whilst there are a number of benefits as a result of the proposed scheme, namely, the net increase of one new dwelling and the economic benefits that this would bring; these modest benefits do not outweigh the significant harm which has been found to the character and appearance of the appeal property and the surrounding area, to the living conditions of future occupants and, the potential impact on the nearby trees. There are no material considerations that indicate the application should be determined other than in accordance with the development plan.
19. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

S Witherley

APPEAL PLANNING OFFICER

Inspector's Decision

20. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is dismissed.

Andrew Owen

INSPECTOR