



Appeal Decision

Site Visit made on 13 July 2021 by S Witherley CIHCM MRTPI

Decision by Chris Preston BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 November 2021

Appeal Ref: APP/U5930/W/21/3271939

49 Kings Road, LONDON, E4 7HP

- 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 Sam Planning Services against the decision of the Council of the Waltham Forest London Borough Council.
 - The application Ref 203674, dated 25 November 2020, was refused by notice dated 21 January 2021.
 - The development proposed is Conversion of the dwellinghouse into two self-contained flats (1x2 bed and 1x3 bed units) including single storey rear extension.
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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. Since the determination of this application the revised London Plan has been adopted. Both parties were given the opportunity to comment on the changes.

Main Issues

4. The effect of the proposal on:
 - The living conditions of the occupiers of No. 51 Kings Road in regard to loss of light and outlook;
 - The living conditions of future occupiers in regard to outdoor amenity space and internal living standards;
 - The provision of family sized accommodation.

Reasons for the Recommendation

Living Conditions – Occupiers of No. 51

5. The proposal would seek a rear ground floor extension built close to the shared boundary with No. 51. Whilst there is an existing rear extension at No. 49, the bulk of this conservatory is set away from the shared boundary. I noted that the neighbouring property had a projecting rear window located close to the shared boundary and also a lean-to addition set forward of this window. As a result of this arrangement, the proposal would, as a result of its overall height,

form and siting, create an enclosed area which would affect the outlook of the occupiers of No. 51.

6. Furthermore, as a result of the proposal's overall, design, height and form it would result in the loss of light into the rear window of No. 51, which as noted is located close to the shared boundary. The loss of light, when added to the sense of enclosure would cause significant harm, to the detriment of the living conditions of the occupiers of No. 51.
7. The Residential Extensions and Alterations Supplementary Planning Document (2010) seeks single storey rear extensions to be kept low so as not to result in an unacceptable impact to the neighbouring occupiers. The proposal, for the reasons discussed above, fails to deliver on this point.
8. In addition, the proposal does not comply with Policies DM4, DM29 and DM32 of the LP which cumulatively seek to protect and maintain the standard of living conditions of existing occupiers.

Living conditions – Future occupiers

9. Policy DM7 of the LP sets out the internal space standards and external amenity space standards for new developments including conversions. There is dispute between the parties in regard to the acceptable head height of parts of the proposed accommodation.
10. The Council note that the proposal would not achieve 2.3 metres head height across 75% of the overall flat, as set out in the Nationally Described Space Standard (2015)¹. The appellant asserts that the proposal does in fact achieve this standard but has not provided any additional evidence on this point. Nevertheless, there is insufficient information to allow me to make an assessment as to how much of the living space would benefit from the required minimum floor to ceiling height.
11. From the submitted drawings titled *Proposed Section AA* it appears that the head height available in the roof floor would be notably less than that available on the other floors of the property. As such, I consider that the proposal would compromise the standard of living of the future occupiers due to the cramped and uncomfortable living environment, which would only be made worse once furniture is in the space.
12. In terms of outdoor amenity space, I appreciate that the proposal would not deliver the required private outdoor space, as set out in Policy DM7 of the LP. However, as the appellant notes, there are a number of parks and outdoor recreational areas that could be accessed by the future occupiers. The supporting text to Policy DM7 suggests that each application is to be assessed on a site-by-site basis. As such and given the location and number of external community facilities, parks and green spaces, I consider that the living conditions of the future occupiers in terms of accessing external amenity space would not be impacted upon.
13. On this main issue whilst I have concluded that the proposal would not impact on the living conditions of future occupiers in regard to the provision of external amenity area, it would impact on their living conditions in regard to the internal living conditions due to a lack of head room in the roof level. This

¹ Department for Communities and Local Government, March 2015

is to be given substantial weight. Accordingly, it fails to comply with Policy DM7 of the LP which seeks the highest of quality both in terms of internal and external space for new residential development and Policy CS2 of the CS which seeks to ensure that the loss of a family home provides a better quality of accommodation and facilities housing regeneration which this proposal overall does not achieve.

Family accommodation

14. No. 49 is an extended three-bedroom end of terrace dwelling located in a suburban street. The proposal seeks to convert the dwelling into two flats, one of which would have two bedrooms and the other would have three.
15. The proposal would see the loss of the existing three-bedroom family dwelling which Policy CS2 of the Waltham Forest Local Plan Core Strategy (2012) (CS) seeks to resist.
16. The existing floorspace is insufficient to allow for a conversion that would enable a family sized flat to be retained, contrary to policy DM6. Policy DM6 of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) (LP), sets out that conversions of larger homes to smaller ones will be resisted where it has an internal floor space of less than 124sqm.
17. Whilst it is not disputed by the appellant that the existing internal floor space is below this threshold and thereby contrary to Policy DM6. They assert, given the increase in floor area as a result of the ground floor rear extension, accessibility and practical internal arrangements, the proposal would not compromise the living conditions of future occupiers.
18. Whilst the proposed extension would enable a three-bed unit to be provided it would have unacceptable consequences for neighbouring residents, as identified above and therefore, this does not overcome the fact that the original property is less than 124sqm and contrary to DM6. In other words, the original property, as it stands, is below the threshold and incapable of being converted whilst retaining a family sized unit.
19. The requirements of Policy CS2 of the CS and Policy DM6 of the LP seek to protect and prevent the loss of larger family sized homes by converting them into smaller ones. The purpose of this is to ensure there is sufficient family sized accommodation available in the borough. As such, the loss of the family home as a result of the proposal would be contrary to the requirements of both Policy CS2 of the CS and DM6 of the LP.

Other Matters

20. The appellant contends that the Council do not have a 5-year housing land supply and that the proposal would seek to increase the boroughs housing stock.
21. The evidence relating to the 5-year housing supply is extremely limited. However, the Council hasn't provided an appeal statement in response to that point and has therefore failed to demonstrate that it does have a five-year supply.
22. In line with paragraph 11(d) of the National Planning Policy Framework the policies most relevant for determining the application should be considered out

of date. However, the officer report does acknowledge the need for larger family homes within the area and the development plan policies also demonstrate this need. The Framework not only requires Council's to provide a sufficient supply of housing but also to provide housing of the right size to meet local needs. There is nothing to indicate that the need for family sized homes has diminished since policies CS2 and DM2 were adopted.

23. The proposal would result in the loss of a much-needed family home and, in view of the clear local need for that specific type of accommodation, I continue to give significant weight to this matter, notwithstanding the absence of a five-year supply. Whilst two smaller units of accommodation would be created, this would result in a net gain of one unit of accommodation and would not therefore make a significant contribution to the overall supply of housing in the area. I consider this only to be a modest benefit and apply limited weight to it.

Conclusion and Recommendation

24. The proposal conflicts with the most relevant policies in an up-to-date development plan. Due to the Council's failure to demonstrate a five-year supply of housing the policies of the development plan most relevant for determining the application are out of date. However, there is a clearly defined local need for family housing and the proposal would cause harm to the living condition of neighbouring occupiers and fail to provide adequate living conditions for future residents. The Framework requires Councils to provide an appropriate mix and size of housing and also states that development should provide a high standard of amenity for existing and future residents.
25. Consequently, whilst the proposal would result in an additional residential unit, having regard to the policies of the Framework as a whole, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. Accordingly, there are no material considerations which would warrant granting planning permission for the proposal which does not comply with the development plan.
26. 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

27. I have considered all the submitted evidence and the Appeal Planning Officer's report and, on that basis, I agree with the recommendation and shall dismiss the appeal.

Chris Preston

INSPECTOR