



Appeal Decision

Site visit made on 13 April 2022

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6TH May 2022

Appeal A: APP/U5930/W/21/3279369

841-843 Capital House, High Road Leytonstone E11 1HH

- 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 Ray Hardy (Bloomfold (Beaux Arts) Ltd) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 210860, dated 22 March 2021, was refused by notice dated 17 May 2021.
 - The development proposed is the construction of third floor rear extension with roof terrace to provide a 1 x 4-bedroom flat.
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Appeal B: APP/U5930/W/21/3286057

841-843 Capital House, High Road Leytonstone E11 1HH

- 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 Ray Hardy (Bloomfold (Beaux Arts) Ltd) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 212495, dated 2 August 2021, was refused by notice dated 24 September 2021.
 - The development proposed is the construction of a third floor rear extension to facilitate the creation of one additional self-contained flat (1 x 3-bed) together with a rear terrace.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matters

3. As set out above there are two appeals relating to this property which involve similar forms of development. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. Appeal B is accompanied by a revised floor plan that reduces the number of bedrooms proposed from 4 to 3. As the changes are minor and internal I am satisfied that determining Appeal B on the basis of this revised drawing would not prejudice the interests of interested parties. To avoid confusion I have amended the description of development provided in the banner heading above to reflect this amendment to Appeal B.

Main Issues

5. The main issues are:

- (i) the effects of the proposals on the character and appearance of the host building;
- (ii) the effects of the proposals on the living conditions of the occupiers of the host building, with particular regard to outlook;
- (iii) whether the proposals would prejudice future development at adjacent properties;
- (iv) whether the proposals would provide adequate provision for refuse storage and collection; and
- (v) in respect of Appeal B only, whether this proposal would provide acceptable living conditions for future occupiers, with particular regard to the quantity of internal space.

Reasons

Character and Appearance

- 6. The appeal property is a 3-storey end of terrace building with accommodation in the roof space. It includes a pair of commercial units on the ground floor facing High Road Leytonstone and self-contained flats on the upper floors. The property is located on a busy commercial street comprising a mix of commercial uses and residential accommodation.
- 7. A second floor level extension has recently been added above the outrigger at the rear of the property to provide 2 flats. The proposals would involve the erection of an additional storey above this recent addition to provide an additional flat. Appeal A would comprise a 4-bedroom flat. Appeal B, as amended, would be slightly smaller in footprint and provide a 3-bedroom unit. These roof additions would be set back from the side and rear elevations of the outrigger and would abut the rear wall of the roof level flat.
- 8. The appeal property forms part of a handsome terrace with a pitched roof on the main front part. To the rear the properties have paired outriggers with flat roofs that are approximately level with the eaves at the rear of the pitched roof. As a consequence of this arrangement, the outriggers are subordinate in height to the main part of the terrace. This subordination and the clear distinction between the front parts of the terrace and the outriggers are key features of the character and appearance of the terrace.
- 9. Both appeal proposals would result in a large addition on top of the 3-storey outrigger. They would be similar in height to the ridge of the pitched roof. Due to their size, height and siting these proposals would result in overly dominant, top-heavy and incongruous additions.
- 10. For these reasons I conclude that Appeal A and Appeal B would have an unacceptable effect on the character and appearance of the host building. The proposals therefore fail to accord with Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012) (CS) and Policy DM29 of the Waltham Forest Local Plan Development Management Policies (2013) (DMP). Amongst other matters these policies expect residential extensions to relate to the original host

property and to respect the surrounding area's character. There is also conflict with the aims of the Council's Urban Design Supplementary Planning Document (UDSPD) and the Residential Extensions and Alterations Supplementary Planning Document (RESPD).

Living Conditions of Neighbours

11. The appeal property includes a 1-bedroom flat within the roof space. This benefits from rooflights and a pair of dormers in the rear roof slope. Whilst the rooflights ensure that the flat gains good levels of natural light the main source of outlook is via the dormers, which currently allow extensive views over the flat roof to the rear.
12. Both appeal proposals would include development directly to the rear of the living room dormer window. This, together with the close vicinity of the flank wall of the tall Barclays Bank building would result in severely constrained levels of outlook from the living room in the top floor flat
13. For these reasons Appeals A and B would have an unacceptable effect on the living conditions of occupiers of the neighbouring flat. The proposals therefore fail to comply with DMP Policies DM4 and DM32 and the guidance in the RESPD which seek to protect the occupants of nearby properties from loss of amenity and to ensure that outlook is maintained.

Neighbouring Development

14. Appeal A would include bedroom windows in the flank elevations. To varying degrees these would allow views towards the upper floors of the Barclays Bank building on one side and towards windows in the flank wall of the rear part of 845-847 High Road Leytonstone on the other side.
15. There is nothing before me to indicate that there is residential accommodation above the Bank or plans to create flats on the upper floors. In addition, this building is detached, situated on a corner with good outlook and access to natural light and it includes some obscured glazing in the windows facing the appeal property. For these reasons scope exists to create flats on the upper floors of the Bank with adequate levels of privacy. As such I do not consider that Appeal A would prejudice the possible future change of use of the upper floors of the Bank, or its redevelopment. Appeal B would include fewer windows facing the Bank and therefore I conclude the same.
16. I recognise that the upper parts of 845-847 High Road could form residential accommodation in the future with habitable room windows facing the nearby flank elevation of the appeal property. Appeal B would include directional windows thus ensuring no views towards No. 845-847. To ensure the proposal under Appeal A would not unduly prejudice the change of use of No. 845-847 to residential use due to poor levels of privacy the bedroom windows facing No. 845-847 could comprise obscured glazing up to eye level. This could be secured via the imposition of a planning condition were the proposals acceptable.
17. I conclude that the proposals would not constitute an unneighbourly form of development that would prejudice development in adjacent buildings. The proposals therefore accord with the aims of CS Policy CS2 which seeks to maximise housing growth in the borough by making effective and efficient use of land by seeking to optimise housing densities.

Refuse Collection

18. The application drawings indicate that waste bin storage is provided in a courtyard area to the rear of the smaller of the two commercial units. At the time of my site visit there were no refuse bins in this area. The information before indicates that the Council's Waste & Recycling Officer has agreed that waste collection will be by bags left out on the pavement at appointed times. The evidence suggests this system is no place. In these circumstances I see no need for a refuse management plan explaining how refuse would be collected. This would be evident to future occupiers of the proposed additional flats by virtue of the actions of the occupiers of the existing flats.
19. For these reasons I am satisfied that the proposals would make adequate provision for refuse storage and collection. They therefore comply with CS Policy CS6 and DMP Policy DM32 which state that new development should ensure that waste is managed in the most environmentally friendly way in order to protect human health and the environment from pests and other environmentally damaging effects.

Living Conditions of Future Occupiers (Appeal B only)

20. Appeal B, as submitted to and determined by the Council, sought permission for a 4-bedroom flat with a floor area of 88.5sqm. The amended floor plan shows an 88.5sqm, 3-bedroom flat, which accords with the London Plan (2021) (LP) and Technical Housing Standards - Nationally Described Space Standards (2015) in respect of the overall floor area, albeit the main bedroom would be very slightly under the minimum area required. However, the floor to ceiling height within the flat would be materially less than that required under LP Policy D6. This, together with the fact outlook from some rooms would be constrained due to the use of directional windows, would result in unnecessarily cramped and enclosed living accommodation.
21. For these reasons I conclude that Appeal B would provide unacceptable living conditions for future occupiers. Appeal B does not therefore accord with the aforementioned LP Policy and there is conflict also with the aims of CS Policies CS13 and CS15, DMP Policies DM7, DM23 and DM32.

Other Matters

22. I note that the appeal property is in an accessible location close to a range of amenities, that the proposals provide accommodation of suitable size for families and contribute to housing supply. However, these benefits are not sufficient to outweigh the harm identified above.
23. Unilateral Undertakings have been provided to secure the schemes as car-free development. As I have found that the appeals fail, the Undertakings do not require consideration.

Conclusion

24. For the reasons set out above under the first, second and fifth main issues, and having regard to all other matters raised, I conclude that the Appeal A and Appeal B should fail.

S Poole INSPECTOR