



Appeal Decision

Site visit made on 27 April 2022

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 10 May 2022

Appeal Ref: APP/U5930/W/20/3263343

7 Palmerston Road, London E17 6PQ

- 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 Kedar Mullings, of Landmark East London Limited, against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 201765, dated 10 June 2020, was refused by notice dated 25 August 2020.
 - The development proposed is the redevelopment of the site to create 7 self-contained flats. Construction of a hip-to-gable roof extension, first floor side extension, three storey rear extension, basement extension, 2x front dormer windows, 2x rear dormers, and 4x rooflights on the front roof slope.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. One of the Council's reasons for refusal concerned the lack of a legal agreement to restrict future occupiers of the development from obtaining parking permits. However, a unilateral undertaking was submitted during the appeal. This is dealt with below, as an other matter.

Main Issues

3. The main issues are:
 - the effect of the development on the appearance of the area;
 - the effect of the development on the supply of family housing;
 - whether the development would provide acceptable living conditions for future occupiers, with particular regard to amenity space, privacy, and outlook; and,
 - whether the construction and servicing of the development would have an adverse effect on highway safety, the free flow of traffic, and the logistics of nearby construction sites.

Reasons

The appearance of the area

4. While the surrounding area may be distinctive for the attractive townscape of its historic rows of elegantly dressed, 2-storey terraced houses, with skeletal, double-height bays and capitalised porches, this is not the sole typology which
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characterises it. On the other side of the bridge is a small cluster of flats in what appear as older, 3-storey houses, with a dramatic array of steep gables addressing the street. The 3-storey, gable device is continued across the houses on the other side of the appeal site too.

5. In this context, the 3-storey height of the proposal, and the use of steep gables and a small but steeply pitched front dormer would not be incompatible with the pattern of development in this area. Nor would the width of the building, its siting, the height of its ridges and eaves, and the lateral gaps it would retain, appear out of place in this street. What appear as triangular areas of glazing in the apexes of the gables, and the steep gables themselves, would reflect the form and openings in the end of the church, a listed building, to the north. The end of the church, the gables of the adjoining site, and the frontage of this proposal would appear in the same street view, making an interesting roofscape rhythm in the street.
6. Standing directly opposite the richly detailed historic terraces, the more pared-back design of this frontage would need to use high-quality materials, and to demonstrate an equally high-quality approach to detailing to avoid appearing as their poor cousin. This could be secured by planning conditions. So too, a detailed landscape design, which might fully and formally enclose the street edge, and secure the site boundary at the front, more than the present, porous arrangement suggests, might also be secured by condition.
7. I acknowledge that the terraced house with a long back garden is the prevailing typology in the area. However, this site has a railway cutting behind it which truncates it and which constrains a substantial part of it. Moreover, the detached form of the existing house on a large site, and its recently developed neighbour, already break from that pattern of development. The form of plot subdivision proposed would not undermine the overriding pattern of development in the area.
8. I appreciate that the form of the proposed building would depart from its recently built, immediate neighbour, which now mimics the house on this site. However, I can see nothing in the appearance of the neighbouring building or the existing building which should constrain the design of this proposal, particularly so given the lack of congruence between the isolated, hipped roof forms over these existing buildings and the more characteristic, simple pitches of the distinctive terraces, and the street-facing gables in this section.
9. Notwithstanding this, and despite the positive aspects of the design of this proposal, the size and prominence of the large and extending roof dormer at the back, and the central section build-out at the back of the building, from ground level up to the ridge, would appear an overly dominating, obtrusive and discordant element, out of scale with the rest of the building; a crude arrangement of forms and mass at odds with the finer-grained approach at the front.

10. I have taken into account that this element is at the back of the building. While its impact on the main street scene would be lessened, it would still be visible, particularly from Marias Gardens. I appreciate that the older terraces have outriggers behind the houses too; however, these are very much subsidiary forms, unlike the dominating scale of the rear section in this proposal.
11. Taken together, the lack of architectural coherence between the front and the back of the building, and the sheer size and domination of this central, rear section and rear dormer, would undermine the architectural integrity of the townscape of the building and the scale of elements in the roofscape in this section of the street. Because of this rear central section and dormer, from ground level up to ridge, I conclude that the proposed development would cause very significant harm to the appearance of the area.
12. Policy CS13 of the Waltham Forest Local Plan Core Strategy 2012 (CS) and policies DM4 and DM23 of the Waltham Forest Local Plan Development Management Policies 2013 (DMP) to which the Council refers, which concern health and residential extensions, have less relevance to this issue. Nonetheless, the proposed development would conflict with CS policy CS15 and DMP policy DM29 which set out the highest standards of urban and architectural design that the Council expects from proposals in providing attractive developments, including reinforcing local character and distinctiveness, and responding sensitively to context in terms of scale and massing.

The supply of family housing

13. The Council considered the application against DMP policy DM6, the strategic objective behind which is to maintain a supply of homes to meet a range of housing needs, including family housing. Under this policy, in areas¹ designated as having an over-concentration of family homes already converted to smaller self-contained homes, the Council resists further dwelling conversions by not permitting the conversion of larger homes to smaller self-contained homes. The appeal site lies within one of these areas.
14. I appreciate that many of the walls of the proposal follow the lines of the existing house. However, I am not convinced, given the volume of new enclosed space to be formed beyond the existing building envelope, including significant basement excavations, that the proposal is not more akin to a redevelopment than a conversion. In any event, even if the proposal were considered to be a conversion rather than a redevelopment, it would still re-provide a family-sized dwelling, albeit in a smaller 3-bedroom flat compared to the existing house. More significantly, it would also provide a second, family-sized flat, and a further two, 2-bedroom flats alongside this.

¹ Restricted Dwelling Conversion, HMO and Building in Multiple Residential Occupation Ward

15. Considered against the other criteria in DMP policy DM6 which also prompt the resistance of conversions: the floor area of the original house would be greater than the floor area trigger; there is no evidence that there is an over concentration of conversions in this street; and, while no parking spaces are provided off-street, a car-capped scheme in this location, which would be secured by a planning obligation, would meet other policy objectives. These criteria would be satisfied.
16. Without detailed, up-to-date information on housing needs and the need for very large homes in this location, or any evidence of adverse impact from this proposal in terms of parking, noise, overcrowding and rubbish as described in the supporting text of the policy, I cannot conclude that the proposed development would undermine the supply of homes to meet a range of housing needs, including family housing, or that it would harm the general street scene.
17. Moreover, I note the draft policies in the Council's emerging Local Plan, which omits the ward restriction criterion in its conversions policy, and which promotes the development of small sites by intensifying existing housing in locations like this. While it has not yet completed its examination in public, which limits the weight I can give its policies, they nonetheless indicate the Council's direction of travel in optimising housing development.
18. In these circumstances, and where the development would provide more family-sized dwellings than the existing, I can only attach limited weight to the conflict with paragraph (A)(ii) of DMP policy DM6. It would not conflict with CS policies CS2 and CS13 which seek healthy and sustainable places and to make effective and efficient use of land by optimising housing densities and prioritising the need for larger homes (3-bedroom or more) and resisting the loss of larger homes. Nor, given the particular constraints on this site, would it be at odds with DMP policy DM5 which encourages development to provide a range of dwelling sizes and tenures focusing on 3-bedroom-plus homes and avoiding development containing only 1-bedroom and 2-bedroom homes.

Living conditions for future occupiers

19. The London Plan 2021 requires that where there are no higher local standards, a minimum of 5m² of private outdoor space be provided for a 2-person dwelling, with an additional 1m² per additional occupant. DMP policy DM7 requires new flats to provide at least 10m² of external amenity space per bedroom, some of which must be private.
20. I appreciate that the bedrooms of the basement flats would open into lightwells in the area between the street and the building. This would increase the risk of loss of privacy to the occupiers of those flats from the comings and goings through the main entrance to the building and from activity in the front area. However, the proposal includes thick, defensive planting strips in front of the lightwells. A planning condition could ensure the detailed landscape design incorporated additional planting to soften noise from the flanks of the building

entrance, and to control activity in the areas in front of the lightwells, while maintaining natural surveillance.

21. The 13m² of amenity space for Flat 1 would be split evenly between the front and the back lightwells; an overall area greater than the policy minimum. With 19m² to the back, some of which would be at ground level, and 16m² to the front, Flat 2 would have more than the minimum amenity area required.
22. Though the lightwells would be at basement level they would be of sufficient dimensions to allow a reasonable degree of outlook from the spaces and from the rooms looking onto them. They would also provide different aspects to the amenity spaces. I take into account that these spaces would be overlooked to varying degrees. However, the flats would be in an urban area where a degree of overlooking is not uncommon.
23. Ground floor Flat 4 would provide 20m² of amenity space, split evenly between a private garden and the communal back garden, in accordance with the policy requirement. Each upper floor flat would have a balcony of at least 5m², providing around half of the total amenity area required by the policy as private space, with the communal garden meeting the remainder of the space requirement for each flat. Their balconies would be screened to maintain a reasonable degree of privacy, and they would share a good outlook. Future occupiers would also have access to a large communal garden.
24. I conclude on this issue that the development would provide acceptable living conditions for future occupiers, with particular regard to amenity space, privacy, and outlook. While DMP policy DM23 to which the Council refers, which concerns health, has less relevance to this issue, the proposed development would be in accordance with CS policies CS13 and CS15 and DM policies DM7 and DM32 which seek healthy environments and functional developments of the highest quality including in terms of amenity space, privacy, and outlook.

The construction and servicing of the development

25. The Council is not assured by the appellant's Outline Construction Logistics Plan June 2020 (CLP) that the construction and servicing of the development, which it advises is close to other construction sites in the town centre, would not have an adverse effect on the logistics of these other sites. It has not provided the details of these other sites, their construction programmes, or delivery vehicle routing, or the details of any implications for their implementation from the development proposed on this site. Similarly, there is no substantive evidence on which construction or servicing impacts that might arise from the development of this proposal, would affect highway safety, the free flow of traffic, and the logistics of nearby construction sites.
26. The appellant's CLP has identified roads, cycle routes, schools and community buildings, indicated construction vehicle routes and trip rates, outlined loading,

demolition and construction sequences, and has included a draft construction programme.

27. Having regard to the drawings and reports before me, and in the absence of any substantive evidence to the contrary, I cannot but conclude that subject to the submission of an amended CLP, which could be secured by condition, and which addressed potential impacts with any relevant development sites anticipated to be in construction at the same time as this site, there would be no significant risk to highway safety, the free flow of traffic, and the logistics of nearby construction sites, neither from the construction of this development nor from its servicing. I note that the Council's Highways section, when consulted, recommended a revised outline CLP be secured by a planning condition.
28. There is no evidence that, subject to an appropriate condition, the construction and servicing of the development would have an adverse effect on highway safety, the free flow of traffic, and the logistics of nearby construction sites. Subject to condition, there would be no conflict from the proposed development with CS policies CS7 and CS15 which promote sustainable growth and redevelopment and which require functional developments that create a safe environment in the borough, nor with DMP policy DM16 which requires development to provide sufficient facilities for operational or servicing needs.

Other Matter

29. While the development would be likely to generate some demand for car-parking, it would not include any on-site parking for the future occupiers. There would therefore be potential for the development to lead to on-street parking in Palmerston Road, which is within a controlled parking zone (CPZ) with limited spaces, and significant pressure on them. CS policy CS7 and DMP policy DM16 seek to manage safe and effective parking. They encourage car-free development in locations which are very close to public transport and shops, like this. They describe how the occupiers of car-free development in a CPZ will not be issued with parking permits for on-street parking.
30. To minimise the development's potential effect on parking in the CPZ, the appellant has provided a unilateral undertaking during the course of the appeal. The Council has commented on the undertaking and the appellant has amended it in response. The undertaking would prevent any unit from being occupied by a future occupier with a parking permit unless they are sick or disabled, and obliging the owner to notify future occupiers of this covenant.
31. I am content that the undertaking would be binding on the use of the land relating to the development and would therefore be enforceable. It would be necessary to make the development acceptable in planning terms; directly related to it; and fairly and reasonably related in scale and kind to it. In arriving at this view, I am mindful that no evidence has been supplied which queries either the necessity or the viability of the undertaking. I consider that

the obligation meets the relevant statutory² and national policy³ tests and is therefore a material consideration in my assessment of the appeal. Accordingly, there would be no conflict from the proposal, in this regard, with the development plan.

Conclusion

32. I have found that because the proposed development amounts to the redevelopment rather than the conversion of a house, and because, in any event, it would provide more family-sized dwellings than the existing building, I can give only limited weight to its conflict with development plan policy concerning the conversion of larger homes. The development would provide acceptable living conditions for future occupiers, and, subject to condition, its construction and servicing would not have an adverse effect on highway safety, the free flow of traffic, and the logistics of nearby construction sites.
33. It would increase the number of homes, including family-sized homes, to the supply of which the Government anticipates a significant boost. It would make efficient use of an existing housing site, in a sustainable location. Its occupation would bring economic benefits too, from the spending of future occupiers in the local area, as well as from its construction, which would stimulate employment and the commissioning of services.
34. Notwithstanding all the positive factors of the development which attract substantial weight, these benefits would not outweigh the very significant harm to the appearance of the area from the design of its back elevation. The proposed development would be contrary to the development plan considered as a whole, as well as one of the fundamental objectives of planning described in the National Planning Policy Framework; the creation of high-quality, beautiful and sustainable buildings and places.
35. There are no other material considerations which suggest that the decision should be taken other than in accordance with the development plan. For the reasons above the appeal is dismissed.

Patrick Whelan

INSPECTOR

² Regulation 122(2) of the Community Infrastructure Levy Regulations 2010

³ Paragraph 57 of the Framework