



Appeal Decision

Site visit made on 19 April 2022

by B Phillips BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2022

Appeal Ref: APP/U5930/W/21/3286061

22 Napier Road, Leytonstone London E11 3JR

- 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 Amr Mahir (T-Space) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 203903, dated 23 October 2020, was refused by notice dated 7 May 2021.
 - The development proposed is the conversion of 4 bedroom house to one 1 x 4-bed and one 1 x 1-bed self contained flat, including construction of external staircase at first floor level and installation of one roof light to front roof. Construction of dormer roof extension to main rear roof and extension above two storey outrigger together with installation of four roof lights to front roof slope and single storey infill extension.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council refer to No 22a Napier Road. I understand that this refers to Joiners Mews, which comprises of two dwellings at the rear of the site. Joiners Mews and the appeal site are under the same ownership.

Main Issues

3. The Council's delegated report raises concern with the principle of a loss of a family house in a Restricted Ward. This is not carried through to the refusal reasons and the Council's appeal statement sets out that this issue, which was a refusal reason for a previous scheme¹, has been addressed. This matter is therefore not in dispute between the parties.
4. The red line for the application site is drawn around the development to the rear, Joiners Mews, and includes the access area to these 2 separate residential units. The Council take issue with the lack of clear separation between the two sites. However, given that both are under the same ownership, any alterations to the previously approved permission² for this site, such as to landscaping or bin storage, can be addressed through additional submissions by the appellant, if necessary.
5. The Council's fifth and final refusal reason relates to the failure to illustrate the positioning of the proposed development in regard to the site boundary with Joiners Mews. The Council's appeal statement clarifies that the issue in this

¹ Application reference 193181

² Application reference 153763

case is in relation to uncertainty regarding the provision of amenity space for the new units.

6. As such, the main issues in this case are:

- the effect of the proposal on the character and appearance of the existing property and wider terrace;
- the effect of the proposal on the living conditions of the occupants of the Nos 20 and 24 Napier Road, having particular regard to outlook, light and privacy;
- the effect of the proposal on the refuse facilities of Joiners Mews; and
- whether the proposal would provide adequate living conditions for future occupiers with respect to the quality of the internal space and the provision of outdoor space.

Reasons

Character and Appearance

7. The appeal site is located within a wider residential area of two storey terraced housing. The property is a mid-terraced dwelling, which extends over an undercroft access to Joiners Mews at the rear. This comprises of 2 recently constructed residential units.
8. The proposed rear dormer would extend over the main roof and the rear projecting gable in an L shape, and would be substantial in scale, particularly in width as it would extend from one side of the extended roof plane to the other. The form, window design and proportions of the dormer would relate poorly to the main roof and window style, particularly as the existing first floor only has three windows, and the dormer would have four. It would dominate the rear roof plane and overwhelm the existing rear elevation. The proposed zinc cladding, set against the existing brown roof tiles, would also exacerbate this visual impact. Consequently, the dormer would be harmful to the character and appearance of the existing property.
9. The proposed dormer would be visible from the rear gardens of neighbouring properties. I note that there is a visible rear dormer nearby, however it is evident that unaltered roofs are characteristic of the surroundings. Given the scale and incongruous visual impact of the proposed dormer, it would also detract from the character and appearance of the wider terrace.
10. The proposed rear staircase, sited within the access area to Joiners Mews would have a simple, open design, and when viewed against the context of the building as a whole, its visual impact would be limited. The proposal also includes a single storey rear infill extension and four front rooflights. The Council has not raised any concern with the visual impact of these two elements. From everything I have seen on the site visit and in submissions, I have no reason to disagree.
11. The appellant points to a certificate of lawfulness³ recently granted for the rear dormer and three of the front rooflights. However, I must consider the proposal as a whole, and this includes these elements of the development, against the relevant development plan policies. The dormer is an intrinsic part of the

³ Application reference 191989.

scheme, necessary for the conversion, and as such not separable from it. I therefore consider the lawful development as a fallback position carries only limited weight, which does not outweigh the visual harm identified.

12. Given the development proposed before me includes the subdivision of the property, upon the commencement of development (should this appeal succeed) then such works would not fall under permitted development rights. I do not consider a restrictive condition requiring this element to be carried out first appropriate, as suggested by the appellant, as such a condition would not meet the tests of the Planning Practice Guidance and would not address the visual impact harm that I have identified.
13. Accordingly, I conclude that the proposed dormer would harm the character and appearance of the existing property and the surrounding area. The development therefore conflicts with the requirements of Policy CS15 of the Waltham Forest Local Plan - Core Strategy (2012) (CS), and Policies DM4 and DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) (DM) which require development to relate to the original property and respond positively to the local context and character. There would also be conflict with the Residential Extensions and Alterations Supplementary Planning Document (SPD), which sets out that with regards to L-shaped dormers, permission would not normally be granted because it will have too great a visual impact.
14. The Council also reference CS Policy CS13 which relates to promoting health and well-being. Therefore, this policy is not relevant in this instance.

Living Conditions for existing occupiers

15. The proposed single storey rear extension, infilling the side return of the two-storey rear projection, would be sited on the boundary with No 24. This neighbour has a single storey side addition on the boundary which extends to the end of its two-storey rear projection.
16. The extension of No 24 has a doorway near to the boundary. The nearest window is set away from the boundary, and the views from it would look over the garden area of No 24 and Joiners Mews to the rear. The proposed extension would only project a minor distance past the existing rear projection of this neighbour and would have a limited eaves height. I am therefore satisfied that the extension would not be overbearing on the outlook from the nearest ground floor window and garden area of No 24, and would not result in an undue sense of enclosure. The extension, given its limited scale, would also not lead to a loss of light.
17. The Council's delegated report make it clear that the amendment of the design of the proposed staircase from the previously submitted scheme, which I have not been provided with, addresses any concern with regards to its impact upon light. Again, from everything I have seen on the site visit and in submissions, I have no reason to disagree.
18. Given the existing rear facing fenestration of the neighbouring properties, there is already some intervisibility and mutual overlooking from windows to garden areas. The staircase would be sited close to the boundary with No 20, however, it would be set in from the rear elevation of the two storey rear projections. Whilst direct overlooking would be possible, it would also be oblique and set

further from the rear garden areas than the existing rear facing fenestration of No 26 for example.

19. However, there would also be opportunity for overlooking back into the rear and side elevation fenestration of No 20. Again, the overlooking would be oblique, and the return of the staircase would be set slightly below the first floor window. Whilst the first floor side elevation window is obscure glazed, it would be possible to view into the rear facing first floor window of No 20, which appears to serve a bedroom, in addition to down over the boundary fence into the ground floor side elevation and rear elevation windows.
20. I acknowledge that the staircase is designed for access and not for lingering or use as any outdoor amenity space, however given its proximity, it would result in a sense of being overlooked from nearby and, for the ground floor windows, from above. This would reduce the level of privacy and adversely affect the quality of living conditions available to users of the rooms served by these windows as a result. Given the uncertainty regarding the potential impact of privacy screens upon character and appearance and upon living conditions in terms of outlook or light, a condition to secure their provision is not appropriate.
21. Therefore, I conclude that the development would harm the living conditions of the occupants of No 20 in respect to privacy. Accordingly, I find conflict with CS Policies CS13 and CS15, and DM Policies DM4, DM29 and DM32, which, amongst other matters, seek to ensure development is high quality and well designed, and a healthy environment for residents is provided by managing the impact of developments. There is also conflict with the advice set out in the SPD, which sets out that the amenity of neighbouring residents should be protected.

Refuse Facilities

22. Given the siting of the new access staircase within the existing access area to Joiners Mews, this would result in the relocation of the existing bin storage areas, which I saw on my site visit were located in a similar position. However, the submitted plans show the bin storage areas moved to the other side of the access way, with bike storage area on the side of the staircase. These details are appropriate for these 3 units and would not provide an unacceptable obstruction for access. Whilst not identified on plan, the appellant states that the 4-bed unit would retain the existing bin storage area in front of No 22, and, given that I can see on plan and on my site visit that there is sufficient space, a suitable condition can secure these details.
23. I therefore consider that there is no conflict with the high quality design requirements of CS Policies CS13 and CS15, DM Policies DM4, DM29 and DM32 and the SPD.

Living Conditions for Future Residents

24. CS Policy CS15 and DM Policies DM6 and DM7 require development to create healthy and sustainable places, ensure a high quality of design and provide satisfactory levels of amenity for future occupiers.
25. The Council's appeal statement raises issue with the amount of light provided to the living room and kitchen areas of the 4-bed unit. Given the depth of the

- property, both rooms have deep layouts and given the proposed rear infill extension, no side elevation fenestration is possible.
26. However, the kitchen is served by patio doors at the rear and two rooflights. The dining/living room would be served by a large front bay window. Such an arrangement is not uncommon in mid-terrace properties, and I am satisfied that the level of light provided to each room, and the outlook to the front and rear, would be sufficient.
27. The submitted plans (drawing 130) and appeal statement set out that over 75% of the gross internal area (GIA) would have a headroom of 2.3m or higher. It is unclear whether this relates only to the 4-bed unit or to both units as no further information is provided. This would meet the requirements of the Technical Housing Standards – nationally described space standard (2015) which requires the minimum floor to ceiling height is 2.3m for at least 75% of the GIA. However, Policy D6 of the London Plan (2021) requires that at least 75 % of the GIA of each dwelling have a ceiling height of a minimum of 2.5m. This is in acknowledgement of the impacts of the urban heat island effect and the fact that the majority of housing developments in London are made up of flats.
28. Neither the appellant nor the Council have set out how much of the units would meet this 2.5m requirement. I note that the plans show the upper floor of the 4-bed unit would have a ceiling height of 2.3m at most in bedroom 4, and bedroom 3, restricted by a sloping roof, is shown as having a maximum height of approximately 2.1m. Therefore, when this space is discounted, I cannot be certain that the proposal would meet the minimum floor space required by the London Plan.
29. No information is provided regarding the ceiling height of the 1-bed unit. The appellant sets out that all of it is at least 1.5m in headroom, however this does not address the 75% at 2.5m minimum requirement, particularly as the bedroom is compromised by a sloping roof. Again therefore, I cannot be certain that the proposal would meet the minimum floor space required by the London Plan.
30. I understand that this London Plan requirement was adopted after the application was submitted, and the previous (2016) London Plan required a ceiling height of 2.3m. However, I must base my decision on the relevant policies at the time of my decision. The age and nature of the existing property are not unusual in this area, and not being able to raise the roof does not justify the provision of substandard accommodation in this respect.
31. The 1-bed unit is described by the appellant on plan as a studio flat. The Council consider that the flat, set over two floors, is a 1-bed unit. The unit would meet the floorspace requirement for a studio flat, and the plans show the bedroom would be sited on a mezzanine. There is no reason why such an arrangement could not be considered a studio flat, making use of the ceiling height would not by itself result in a separate bedroom or accommodation set over 2 floors.
32. DM Policy DM7 sets out that external amenity space is an integral part of the design, and that it is important to ensure that all new residential development provides a minimum amount of outdoor amenity space. This is due to the

significant impact of outdoor amenity space on peoples' physical and mental health.

33. The appellants set out that the 4-bed unit would retain the existing rear garden space. However, this is not shown anywhere on the submitted plans. Drawings 000 and 00 show the overall site but do not identify the garden space for this unit. As such, whilst the garden space may be of acceptable scale for a 4-bed family unit, I have no mechanism to ensure and secure this. In the absence of these details, I cannot be certain that the 4-bed unit would provide adequate external amenity space.
34. This policy also requires a minimum of 10sqm of external amenity space per bedroom for flatted development. The 1 bed unit would not be provided with any external amenity space. Whilst the appellants set out that Langthorne Park is located some 5 minutes' from the appeal property, this does not represent private open space and does not justify under-provision on site. I note that the supporting text to the policy sets out that the Council will take a flexible approach when applying these standards, however there is no overriding justification presented by the appellant why they should not comply with this part of the policy. Therefore, neither unit would provide satisfactory living conditions to the future occupiers with respect to private amenity space provision.
35. To conclude, I find that, given that it has not been demonstrated that either unit would meet the internal ceiling height requirements, or be provided with suitable external amenity space, the proposal would not provide adequate living conditions for future occupiers. There is therefore conflict with the satisfactory living conditions requirements of CS Policy CS15 and DM Policies DM6 and DM7.

Other Matters

36. The development would result in a small economic benefit during construction and a small, sustained benefit to the local economy once occupied. It would contribute to boosting the supply of housing by providing a greater number of dwellings on the site. However, the provision of a single additional dwelling would be a limited social benefit attracting limited weight in favour of the scheme.
37. Therefore, overall, the benefits of the development attract limited weight in favour of the scheme, which do not outweigh the harm to character and appearance, harm to the living conditions of the occupants of No 20 and in respect to ensuring suitable living conditions for future occupiers, which are matters that attract significant weight against the scheme.

Conclusion

38. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. Although I have found that the proposed extension would not harm the provision of refuse storage, the harm identified to character and appearance, the living conditions of the occupants of No 20 Napier Road and the living conditions of future residents, means that the proposal must fail. The appeal is therefore dismissed.

B Phillips, INSPECTOR