



Appeal Decision

Site visit made on 5 August 2022

by M Russell BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 September 2022

Appeal Ref: APP/U5930/W/21/3283178

First Floor & Second Floor Flat 3, 44 Pembroke Road, Walthamstow E17 9PB

- 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 Colin Cowell against the decision of Waltham Forest London Borough Council.
 - The application Ref 203452, dated 5 November 2020, was refused by notice dated 23 March 2021.
 - The development proposed is described as 'conversion of rear window into French door and erection of external staircase to allow fire escape'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - (i) The character and appearance of the area; and
 - (ii) The living conditions of occupiers of neighbouring residential properties with particular regard to privacy.

Reasons

Character and appearance

3. Pembroke Road is predominantly characterised by semi-detached and terraced residential properties. The architecture on the road has an overriding traditional appearance. No 44 Pembroke Road has been divided into flats. It forms part of a semi-detached pair of properties. From what I saw during my site visit, the form and materials of individual properties are generally of a cohesive design, including to their rear elevations. Consequently, there is a strong degree of order and consistency to the area's built environment.
4. Due to the height and combined depth of the balcony, staircase and associated balustrades, the fire escape would be a bulky addition. Taken together with its predominantly metal composition, the proposal would be of a more industrial design. It would not complement the form or materials of the host building nor integrate well with the prevailing domestic character and appearance of the surrounding built environment.
5. The development would not be discernible from the street. Even so, it would be an incongruous addition which would be prominent in views from neighbouring rear windows and gardens. In any event, I do not consider that the lack of

public visibility obviates the need to achieve good design. Indeed, paragraph 126 of the National Planning Policy Framework (the Framework) states amongst other things that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.

6. I conclude that the development would result in significant harm to the character and appearance of the area and the host property. In that regard, the development would conflict with the high quality design, local character and context requirements of Policies CS2 (Improving Housing Quality and Choice) and CS15 (Well Designed Buildings, Places and Spaces) of the Waltham Forest Local Plan Core Strategy (2012) (CS) and Policies DM4 (Residential Extensions and Alterations) and DM29 (Design Principles, Standards and Local Distinctiveness) of the London Borough of Waltham Forest Development Management Policies Local Plan (2013) (DMP).
7. For the same reasons, the proposal would also conflict with the high quality design aims of the Waltham Forest Residential Extensions and Alterations Supplementary Planning Document (2010) and the Waltham Forest Urban Design Supplementary Planning Document (2010) (the SPDs).

Living conditions of occupiers of neighbouring residential properties

8. I saw on my site visit that the garden to the rear of No 42 Pembroke Road is clearly a well-used space. It includes a patio and seating area to the immediate rear of this neighbouring building close to the boundary with No 44.
9. Given the very close position of the proposal to the boundary with No 42, the balcony and upper section of the staircase would facilitate elevated direct views of a substantial part of this neighbouring rear garden, including the patio and seating area. As a result, the proposal would be likely to have a significant detrimental impact on levels of privacy for users of this neighbouring garden. Anyone standing on the balcony or upper section of the staircase would also be likely to have a conspicuous presence when seen from within the garden of No 42. This would further heighten the perception of being overlooked for these neighbouring occupiers.
10. The proposal would also facilitate views into the neighbouring garden at No 46 Pembroke Road, albeit at a greater distance and more oblique angle due to the position of the development set away from the boundary with this neighbouring property. Even so, there would be a material loss of privacy for occupiers of No 46 when compared with the existing situation.
11. Given the established relationships in terms of the open arrangement of the private outdoor space to the rear of No 44, the privacy of occupiers of other flats within No 44 would not be materially harmed. Nevertheless, this does not overcome the harm I have identified to the privacy of occupiers of Nos 42 and 46.
12. The appellant contends that views of neighbouring gardens are already possible from upper floor windows and suggests that privacy screens could be provided to the sides of the balcony and staircase. However, the balcony and staircase would facilitate more direct external views than those obtainable from the existing windows at No 44. Without precise details of the height, design or materials that could be utilised, I am concerned that privacy screens could add

to the prominence and incongruity of the structure. This has the potential to compound the harm identified under the first main issue.

13. I conclude, the development would result in significant harm to the living conditions of occupiers of neighbouring residential properties with particular regard to privacy. In that regard, the proposal would conflict with the local context and neighbouring amenity requirements, which include the matters of privacy, in Policies CS13 (Promoting Health and Well Being) and CS15 (Well Designed Buildings, Places and Spaces) of the CS and Policies DM4 (Residential Extensions and Alterations), DM29 (Design Principles, Standards and Local Distinctiveness), and DM32 (Managing Impact of Development on Occupiers and Neighbours) of the DMP.
14. The proposal would also conflict with the requirements at Paragraph 130 of the Framework for developments to create places with a high standard of amenity for existing and future users. For the same reasons the proposal would also conflict with the aims to protect the privacy of neighbouring occupiers in the Council's SPDs.
15. The Council's decision also refers to Policy DM23 of the DMP. That particular policy primarily relates to health and well-being associated with physical activity, pollution and food choices. Therefore, it has not been material to my findings under this main issue.

Other Matters

16. I acknowledge that the intention is to provide a means of fire escape for occupiers of the host flat. In that regard, my attention has also been drawn to examples of other fire escapes granted planning permission in the locality.
17. However, it is not clear why the substantial structure proposed, with its substantial balcony and staircase extending a considerable distance from the rear elevation of the host building, are necessary fire safety requirements. Therefore, I am not persuaded the harm identified would be justified.
18. Furthermore, the most recent example provided dates back to 2009 and therefore prior to the adoption of the current development plan policies and SPDs. In addition, I am not aware of the immediate context in those instances or the specific design details in each case. Therefore, I have assessed the appeal proposal on its own merits.
19. The Council has confirmed it does not have an 'in principle' objection to a fire escape. In any case, I have found that in this particular instance, the specific design of the proposal and its relationship with neighbouring living conditions would not be acceptable.

Conclusion

20. The proposal would be harmful to the character and appearance of the area and neighbouring living conditions. In those respects, it would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

M Russell INSPECTOR