



Appeal Decision

Site visit made on 6 September 2022

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2022

Appeal Ref: APP/U5930/W/22/3297709

110 Valley Side, Chingford E4 7SP

- 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 Safras Abdeen against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 213518, dated 5 November 2021, was refused by notice dated 18 January 2022.
 - The development proposed is the creation of a new dwelling at the side of the property and single storey rear extension to existing house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed new dwelling on the:
 - character and appearance of the area, including its effect on a street tree; and
 - living conditions of the occupants of the proposed and existing dwelling with regard to the adequacy of the garden areas.

Reasons

Character and appearance

3. The appeal site lies within a residential street characterised by semi-detached dwellings of a simple and uniform design and appearance which create a pleasing visual rhythm to the street scene. The site forms the corner at the junction of Valley Side and Waltham Way. Waltham Way in the vicinity of the site has a very different character. It is largely open on both sides and includes a wide, treed grass verge on the side of the appeal site, beyond which are the rear gardens of properties on Valley Side. Consequently, the road has a pleasant and spacious appearance. The front and side garden of the appeal property and that of the dwelling on the opposite corner positively contributes to this spacious character.
4. The corner of the dwelling would have a notable projection almost to the edge of the site. Its two-storey height and proximity to the footway would give rise to a cramped appearance. I note the proposed dwelling has been designed to reflect the appearance of the host property and others on Valley Side. Nonetheless, it would be a substantial, non-subservient addition. Notwithstanding that there are short rows of terraced houses in the wider

locality, such a dwelling type would be at odds with the semi-detached house type of Valley Side. The size and position relative to the front boundary would render the dwelling an intrusive and prominent feature that would unacceptably disrupt the visual rhythm of Valley Side.

5. The rear boundaries along Waltham Way form a strongly defined edge to the grass verge which the appeal proposal would sit forward of. It would also sit forward of the side elevation of the dwelling on the opposite corner. As such the dwelling would be prominently sited in the Waltham Way street scene, particularly in views towards the roundabout junction of Waltham Way and the A112, with little remaining open space between its front corner and the adjoining footpath. This intrusion of built development would result in loss of openness, at odds with the overall pattern of development evident along Waltham Way detracting from its spacious character.
6. A significant proportion of the canopy of the existing street tree overhangs the front garden of No 110. Although the tree is not the subject of any form of statutory protection, along with the other street trees of Valley Side and Waltham Way, it makes a significant contribution to the character and appearance of the locality. I have no evidence before me to demonstrate that the tree would be unlikely to survive for many years.
7. On my visit I noted that the tree is sited within a narrow grass verge, with the kerb of the carriageway and the footpath very close to its trunk at either side thereby constraining its root area. It is apparent from the plans that the boundary feature subdividing the front garden of the proposed dwelling from the host dwelling would be, for a large part, within the canopy and root protection area (RPA) of the tree. The construction of a pedestrian access to the proposed dwelling may also be located within the RPA. In the absence of any assessment or Arboricultural method statement there is no evidence that demonstrates such works would not further constrain the root area and thereby adversely affect the health of the tree. In addition, there is no evidence that demonstrates that protective fencing could be erected and still leave room for building works to be carried out.
8. For these reasons, it is not certain that the development can be carried out whilst ensuring the protection and long-term retention of the tree.
9. The evidence before me therefore indicates that undertaking the proposed development would be likely to risk the health of the existing street tree and it has not been demonstrated that the effect would be minor or could be avoided with protection measures and suitable arboricultural practices. Consequently, leaving such matters to be agreed by condition, as suggested by the appellant, would not provide assurance that harm would not be caused to the tree which would reduce its ability to continue to contribute to the character and appearance of the area.
10. For the reasons given above, the development would have an unacceptable effect on the character and appearance of the area. The development would, therefore, be contrary to Policy D3 of the London Plan 2021, Policies CS2 and CS15 of the Waltham Forest Local Plan Core Strategy 2012 (CS) and Policies DM4 and DM29 Waltham Forest Development Management Policies Local Plan 2013 (DMPLP) which seek to ensure high quality design which respects the character of the area. It would also not achieve the design aims set out in the

Urban Design Supplementary Planning Document 2010 (SPD) and the National Planning Policy Framework (the Framework).

Living conditions

11. The appellant states that the scheme would provide external garden space for the occupants of the proposed dwelling and the host dwelling that exceed standards set out in the development plan. The Council has had the opportunity to comment on this information and has not done so, and as such the information is not in dispute. I have no reason to disagree with this conclusion, noting that the garden area would be broadly similar to No 108 and other dwellings on Valley Side.
12. Consequently, the living conditions of the occupants of the proposed and existing dwelling would be acceptable. The development would therefore accord with CS Policies CS2 and CS15, DMPLP Policies DM7 and DM29, and SPD guidance which seek high quality designed housing that provide appropriate external amenity space.

Other Matters

13. My attention has been drawn to other developments that have been granted planning permission in the area. However, it would appear that these differ from the case before me as, unlike the appeal proposal, they do not affect the spacious character of Waltham Way, nor do they disrupt the uniformity and rhythm of Valley Side. In any event, each proposal should be considered on its individual merits.
14. I note that the Council has referred to paragraph 71 of the Framework, which refers to windfall sites, in the first reason refusal relating to character and appearance. It suggests that consideration is given to setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area. Whilst I have found harm, in the absence of any policies which specifically seek to resist inappropriate development of residential gardens for that reason, I do not consider that this part of the Framework is of relevance to the main issues of this appeal.

Conclusion

15. Whilst I have found that the proposal would provide and maintain appropriate living conditions for the occupants of the proposed and existing dwellings, this is a neutral finding that does not outweigh the harm to the character and appearance of the area that I have identified. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
16. I hereby dismiss this appeal.

Elaine Moulton

INSPECTOR