



Appeal Decisions

Site visit made on 9 September 2022

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2022

Appeal A Ref: APP/U5930/W/21/3272794

80 Brunner Road, Walthamstow, London, E17 7NW

- 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 Crown Coast Property Group against the decision of Waltham Forest Borough Council.
- The application Ref 203100 dated 5 October 2020, was refused by notice dated 26 February 2021.
- The development proposed is Demolition of the existing building and erection of an 8 storey building comprising commercial use at ground floor and 9 residential dwellings on the upper floors.

Appeal B Ref: APP/U5930/W/22/3297853

80 Brunner Road, Walthamstow, London E17 7NW

- 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 Crown Coast Property Group against the decision of Waltham Forest Borough Council.
- The application Ref 211657, dated 16 April 2021, was refused by notice dated 29 October 2021.
- The development proposed is Alteration and extension to the existing building to provide a part 1 to 4 storey mixed use development with commercial floorspace at ground floor and basement, and 6 x residential dwellings at first to third floors, with associated refuse and cycle stores.

Decision

1. Appeals A and B are dismissed.

Preliminary Matters

2. I have been provided with a S106 Legal Agreement to secure a financial contribution towards off-site public realm works. The Council confirm this negates the relevant reasons for refusal attached to both planning appeals. I have no reason to contradict this finding. Therefore, this matter does not form part of my assessment.

Main Issues

3. The main issues with regards to both developments are:
 - Whether or not the proposals would prejudice the regeneration prospects for the local area;
 - The effect of the proposed buildings on the character and appearance of the local area;

- The effect on the living conditions of neighbouring residents by virtue of outlook, overlooking and loss of privacy;
- The effect on the living conditions of future residents of the developments by virtue of outlook, external spacing levels and noise levels;
- Whether or not the proposals would lead to flood risk;
- Whether or not the proposals would lead to a pedestrian and highway safety danger with regards to refuse servicing; and
- Whether or not the proposals would lead to a highway safety concern with regards to construction logistics.

Reasons

Whether or not the developments would prejudice future regeneration

4. The appeal site is a former three storey public house, The Artful, that lies vacant and currently in a state of disrepair. It retains some recognised characteristics of a Victorian public house and its purpose as a hostelry was to serve the local work force. It is agreed between the parties that, whilst a reminder of the past history of the area, it is of limited architectural quality.
5. A public pedestrian route adjacent to the site leads to the east, under the raised railway bridge to Walthamstow town centre which is within close walking distance.
6. The site and the surrounding area is undergoing significant redevelopment as an area for growth initiated by the Council for phased comprehensive redevelopment. A Supplementary Planning Document (SPD) New South Grove/James Street 2017 produced by the Council accompanies the regeneration prospects of the local area as a spatial vision.
7. Policy CS1 of the Waltham Forest Local Plan Core Strategy emphasises that growth will be distributed and managed by, amongst other things, resisting development that would have a prejudicial effect on future developments of neighbouring sites and/or larger sites.
8. The regeneration here has seen a total transformation of former warehousing, commercial and industrial buildings into a cohesive and modern landscape of impressive creative architectural built form consisting of residential, health, commercial and cultural developments, interlinked by a vibrant public realm. I could see from my visit to the local area that it has been the catalyst for successful comprehensive change.
9. It was also apparent from my visit that the appellant's site and other land and buildings to the west and to the rear of the site remain undeveloped but retain their existing functions. They also lie within the wider comprehensive redevelopment area.
10. In terms of both appeals, the proposal at Appeal A would constitute complete rebuild of the site to deliver a mixed use of commercial and nine residential flats. Appeal B would entail partial redevelopment to the existing building creating six residential flats at upper floors and commercial floorspace to the basement and ground floors.

11. I could see the constraints of the appeal site given its small site area, position beside other buildings and the pedestrian footpath link. I note the efforts of the appellant to demonstrate their site could come forward for development in a non-isolated approach by way of indicative design 'masterplanning' with adjacent sites.
12. This takes into account scale to other potential developments, active frontages, through-routes, public realm initiatives outside their boundary and safeguarding the living conditions of the occupants of the appeal site and those of the adjacent site. In addition, protecting outlook from the appeal site across private land.
13. Whilst these illustrations and other evidence to go with are informative, they are based on nothing more than speculation on the appellant's part. These other sites are not within their control. As per described in both Design and Access Statements, confirmation of a neighbouring building as 'Site likely to be redeveloped' leads to uncertainty.
14. Moreover, this is further reinforced as they comment within their submission they are in discussions with landowners but there is 'considerable uncertainty' to be able to comprehensively redevelop with the adjacent landowners. I can only conclude that there is no evidence of a commitment to build cohesively with these adjacent sites to enable the potential to bring their concepts forward as a genuine prospect.
15. I note their commitment to financially contribute to public realm improvements has been confirmed through a legal agreement, their indicative illustrations of such carry limited weight as they are outside their control.
16. Building out in a piecemeal fashion goes against the objectives of the redevelopment of the wider regeneration for the area. Considering the overarching aims of Policy CS1 of the Local Plan Core Strategy to boost growth and for development to avoid prejudicing other sites from being developed, I am not convinced that there is no conflict with the aims of local policy to which I apportion significant weight to its expectations.
17. Therefore, to conclude on this main issue, both appeal schemes would undermine the strategic wider growth opportunity of the local area, contrary to Policy CS1 of the Waltham Forest Local Plan Core Strategy (2012) in its aims to manage growth.

Character and appearance Appeals A & B

18. The site is bound by Site C, a consented development currently under construction with the Essex Brewery site located on the opposite side of Brunner Road. Both of these include residential homes. The site however more closely related to Site C given their location, only separated by the pedestrian route.
19. Appeal schemes A and B would broadly encompass built development the full perimeter of the site. I notice this as a commonality with other modern developments in this high-density location. Therefore, I do not consider the proposals would be out of character in this regard.
20. Tall buildings fronting pedestrian routes is a recognised objective of the SPG. Even as Appeal A has been designed at around eight storeys in height, it would

be substantially eclipsed by the scale of Site C that sores above by approximately another four floors. The two buildings positioned side by side with its narrow frontage compared to the proportions of Site C, and overall small-scale nature, would appear out of character in this context.

21. With regards to Appeal B, the retention of the original building is a neutral matter in my view. This scheme would be of a very modest size in comparison to the scale and massing of the multi-storey building adjacent. The discordant height when viewed beside Site C, would only seek to emphasise their lack of integration. Viewed in this context, it would appear incongruous within the street scene made more visually out of character given its location on this prominent corner position.
22. Bringing both schemes together, the pedestrian route would be retained and overlooked, and the off-site public realm initiatives could create a pleasant surrounding environment, but are indicative only. Irrespective of the use of 'quality' finished materials and despite a set back at ground floor to create space in-front of each building, would not be sufficient to lead to successful placemaking in this location. Overall, both schemes would not lead to successful design articulation resulting in the detrimental erosion of the quality of the wider master planning for the local area.
23. Therefore, to conclude on this main issue, the site is a component of the wider regeneration area to which it sits amongst consented developments. Both schemes would appear incongruous and out of character as they would not cohesively integrate as an acceptable design solution. The proposals are therefore contrary to the design aims of Policies CS15 of the Waltham Forest Local Plan Core Strategy (2012) and Policy DM29 of the Waltham Forest Local Plan Development Management Policies (2013). However, I find no direct relevance to Policies CS13 and CS16 of the Waltham Forest Local Plan Core Strategy (2012) as this relates to promoting health and wellbeing and minimising opportunities for crime.

Living conditions adjacent occupants

24. The living conditions of the occupants of adjacent buildings should be safeguarded in accordance with the requirements of Policy DM32 of the Waltham Forest Local Plan, to which I apply significant weight.
25. The Council's SPD states that fifteen metres separation distance is a compromise between safeguarding the living conditions of occupants and the constraints of a densely built environment. Both appeal schemes would fall short of the separation distances of this guidance. The appeal buildings would be within approximately 9.5m and 12m from the existing new builds.
26. Site C has a number of existing windows and pop out balconies above ground floor level that overlook the western elevation of the appeal site. The outlook is currently onto a dilapidated site. However, the redevelopment of this site forms part of the regeneration vision for the area with a high expectation that it would be developed in time.
27. Even though, rightly or wrongly, Site C has been developed as single aspect units, a single window serving bedrooms is identified by the Council and drawn to my attention, to the western elevation.

28. With regards to the effect of Appeal A on the adjacent Site C development in terms of overlooking and loss of privacy, the side windows next to Site C would be obscurely glazed to prevent overlooking and loss of privacy to the occupants of this adjacent new build.
29. Despite the above, single windows of bedrooms on this side, and balconies facing the development at Site C would be harmfully impacted upon by the scale and bulk of the proposal given the short separation distance away, made more severe as the outlook is single aspect only. The occupant's living conditions would therefore be adversely compromised by way of a sense of overbearing.
30. Turning to Appeal B, despite the fact that part of the core of the proposed building of Appeal B would be open in nature, the outlook from a number of sole habitable room windows I have previously identified, and balconies, would be towards an otherwise solid bulk of development, within close range. Therefore, I find that given the scale and bulk of the proposal with short separation distance between sites, to be harmful to the outlook of occupants of Site C from their habitable spaces.
31. In terms of overlooking and loss of privacy to Site C from the western elevation fenestration, given their high-level position and obscure glazing, this would not cause a sense of overlooking or loss of privacy to occupants. In addition, the central core that would be circulation space only, and the location of balconies would only offer oblique views towards Site C. Therefore, I do not consider these occupants would be adversely compromised by overlooking and a loss of privacy.
32. Essex Brewery is designed in residential blocks with some commercial space to ground floor. Turning to the potential effect of both appeal schemes on the living conditions of the occupiers of this development, I could see that the large side windows that look directly onto the appeal site were not the sole window serving habitable space and are secondary windows. Consequentially, even with this close relationship between buildings, no significantly harmful sense of overbearing would arise to the occupants.
33. Whilst there would be a degree of loss of privacy and overlooking from the appeal buildings, I find this would not amount to an adverse impact on the neighbouring occupant's living conditions. They would thus be protected.
34. Therefore, to conclude on this main issue, by virtue of the relationship between the appeal site and Site C only, creating a sense of overbearing arising from both appeal schemes, the proposals would therefore fail to satisfy the living condition requirements of policies CS13 of the Waltham Forest Local Plan Core Strategy (2012) and DM32 of the Waltham Forest Local Plan Development Management Policies (2013).

Living conditions future occupiers

35. At Appeal A, flats to be located to the rear of the building with balconies would rely in the main, on an aspect with a northerly facing outlook, with light levels limited due to this orientation. Despite their sizes, and whether or not they meet Council standards, there is limited other external space to support the proposal. I also note that the external family terrace faces north.

36. Council policy places an emphasis on ensuring 'highest quality' development. To that end, irrespective of whether or not the internal sizes of flats meet or exceed internal spacing sizes, and even where flats have a dual aspect, would not compensate for adverse living conditions the occupants would experience where the rear balconies in the majority, face north. The external public landscaping space would be outside the control of the appellant, and not private space in any case. Nor would access to local parks overcome the harm.
37. At Appeal B, a number of internal balconies would be situated close to the communal staircase and walkways. As a consequence, this space would be subject to noise exposure from occupants and visitors to the building coming and going, as well as overlooking and a loss of privacy. Therefore, the living conditions of the future occupants would be detrimentally compromised.
38. There is virtually no communal external space proposed at Appeal B. Despite sizes of balconies, or triple aspect flats at a size compatible with, or greater than council standards, the need for quality external space to support the development I consider to be high.
39. The importance of high-quality public realm is not disputed by the parties. However, even if the external open space becomes landscaped as indicatively illustrated by the appellant, it is located along the pedestrian route, outside the control of the appellant. It is not private in any case. In addition, accessibility to local public parks does not persuade me as a means to mitigate the harm arising to future occupiers living conditions.
40. All things considered, as a combination of factors, the living conditions of the future occupiers would not be acceptably safeguarded. Therefore, to conclude on this main issue, both appeals would not meet the amenity requirements of Policy CS13 of the Waltham Forest Local Plan Core Strategy (2012) and Policies DM7, DM23 and DM29 of the Waltham Forest Local Plan Development Management Policies (2013). I find no direct relevance to Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012) as this does not directly relate to safeguarding living conditions.

Flood Risk

41. Both appeals include a reason for refusal relating to the effect of the proposal on flood risk. The Council have considered the matter further within their Statement of Case. Both parties conclude that an appropriately worded planning condition would satisfactorily mitigate the effects of the development from flooding impacts. Bearing this in mind and the requirements of Paragraph 56 of the National Planning Policy Framework (the Framework), I conclude this matter could be successfully mitigated by way of planning condition.
42. Therefore, to conclude on this matter, should I be minded to allow the proposals, I consider it could be conditioned to successfully mitigate the effects of flooding. Both schemes would meet the expectations of Policies CS4 of the Waltham Forest Local Plan Core Strategy (2012) to manage flood risk and Policy DM34 of the Waltham Forest Local Plan Development Management Policies (2013). However, I find no direct relevance to Policy CS13 of the Waltham Forest Local Plan Core Strategy (2012) or Policy DM29 of the Waltham Forest Local Plan Development Management Policies (2013) as these do not directly relate to managing flood risk.

Highway safety – Refuse servicing

43. I could see from the lengthy time I spent at the site that this part of Brunner Road was not a busy through-road, mostly used for construction traffic purposes. Occupied residential developments are car-free. Single yellow lines and double yellow lines control parking within the immediate area. Pedestrian movement was however prevalent coming and going along the pedestrian footpath into the town centre.
44. Refuse collection from the site would be regular, but would likely to not be protracted. In light of the Council's suggestion to impose a planning condition to overcome their reasons for refusal, and in light of the requirements of Paragraph 56 of the Framework, if I were minded to allow either or both appeals, I find that an appropriately worded planning condition could be imposed to ensure refuse can be serviced acceptably without causing a highway or pedestrian safety concern.
45. Therefore, on this basis, I conclude that both schemes can be acceptably serviced so as not to cause detrimental impediment to the highway or pedestrian movement. The proposals meet the design aims of Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012). I find no direct relevance to Policy CS13 of the Waltham Forest Local Plan Core Strategy (2012) and Policy DM 23 of the Waltham Forest Local Plan Development Management Policies (2013) as they relate to health and wellbeing, or Policies DM30 and DM32 of the Waltham Forest Local Plan Development Management Policies (2013) as they relate to inclusive design and living conditions.

Highway safety - Construction logistics

46. Both parties agree that an appropriately worded planning condition would overcome any highway safety issues arising as a result of construction practices to the site. With this in mind and considering the requirements of Paragraph 56 of the Framework, I am of the view a condition could be appropriately worded to mitigate harm should either or both appeals succeed.
47. Therefore, on this basis, both appeals would not be contrary to Policy CS7 of the Waltham Forest Local Plan Core Strategy (2012) and Policy DM16 of the Waltham Forest Local Plan Development Management Policies (2013) in their objectives to manage operational impacts. I find no direct relevance to Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012) as it relates to design.

Other Matters

48. Based on the limited evidence before me, I have no reason to agree with the appellant that the development at Site C would compromise a public square from being located at the appeal site. Furthermore, it is the appellant's responsibility to realise the potential growth for their own site. It is not the obligation of the Council to suggest a mechanism as to how to achieve this, that is a private matter. The prospects of the Council entering into compulsory purchase orders of land is not within my scope to comment upon.
49. I acknowledge that the proposal would make effective use of land with residential accommodation contributing to the Borough's housing stock. It would provide a mixed-use building in a location well served by existing facilities, job opportunities and infrastructure with its own cycle facilities and

car free development. I have had due regard to the appellant's commitment to sustainable construction and energy efficiencies that would occur, air quality standards and noise insulation measures. However, all these are limited by the small-scale nature of the proposal and must be considered in that context.

Balance and conclusion

50. I have given careful regard to all of the above considerations and that a number of reasons for refusal can successfully be overcome by way of planning condition. However, whilst this is achievable, it is not sufficient to dissuade me from the conclusion I have reached that the proposal would prejudice the future success of other developments within this strategic location, fail to achieve acceptable design solutions, and fail to provide satisfactory living conditions for neighbouring occupiers and future occupants of both appeal developments. I apply significant weight to these harms.
51. Therefore, to conclude, the proposal would thus lead to conflict with the development plan when 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 Appeal A and Appeal B should not succeed.

Alison Scott

INSPECTOR

Appendix 1

List of those who have appealed

Reference	Case Reference	Appellant
Appeal A	APP/U5930/W/21/3272794	Crown Coast Property Group
Appeal B	APP/U5930/W/22/3297853	Crown Coast Property Group