



Appeal Decision

Site visit made on 13 September 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 December 2022

Appeal Ref: APP/U5930/W/22/3293845

Ebi Lodge, 257-265 Forest Road, Walthamstow, E17 6HD

- 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 Forest Road London Ltd against the decision of the London Borough of Waltham Forest.
 - The application Ref 211933, dated 31 May 2021, was refused by notice dated 26 August 2021.
 - The development proposed is erection of additional floor to provide 3 residential units.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the character and appearance of the area,
 - Whether the development would provide an appropriate mix of units,
 - Whether it would provide acceptable living conditions for future occupiers regarding outlook, natural light and internal and external space,
 - The effect on the living conditions of neighbouring occupiers regarding the effect on privacy, the scale of the proposed development and natural light,
 - Whether it would provide safe and convenient access for all persons,
 - Whether it would support sustainable transport measures; and,
 - Whether it would provide suitable arrangements for the collection of waste.

Reasons

Character and appearance

3. Forest Road in the vicinity of the appeal site comprises a mix of commercial and residential properties of varied appearance. These nevertheless form a consistent roofline along the street. The appeal property is an integral part of that consistency, stepping from three storeys next to the taller commercial properties down to two storeys adjacent to the smaller residential properties to its other side.
4. The introduction of an additional storey to the appeal property would result in an abrupt and uncharacteristic rise in the roofline within the street scene. This would interrupt the graceful stepdown that follows the change in levels as Forest Road drops away from the junction with Palmerston Road.

5. This harm would not be offset by the consistency in appearance of the additional storey with the existing building. While the proposed development would maintain the stepped roofline within itself, at its highest point it would be higher than the neighbouring commercial building. The proposed three storey element would be substantially higher than the neighbouring two-storey dwelling, which is already set down from the existing building.
6. The proposed development would therefore form an incongruous element within the established street scene. It would consequently be harmful to the character and appearance of the area. As a result, it would conflict with the requirements of Policy CS15 of the Waltham Forest Core Strategy 2012 (the CS) and Policies DM4 and DM29 of the Development Management Policies 2013 (the DMP). Taken together these require that development respond positively to the local context and character and respect the street scene. It would also conflict with guidance in the Supplementary Planning Document – Urban Design 2010 (the Urban Design SPD) which, amongst other considerations, recommends that the scale and height of proposed development be considered in relation to its surrounding context.

Housing mix

7. Policy CS2 of the CS and Policy DM5 of the DMP collectively seek a mix of housing types in new development, with a particular focus on the provision of larger family sized homes. However, Policy H10 of the London Plan 2021 (the LP) recognises the potential to optimise housing potential on sites, as well as the role of smaller units in freeing up existing family housing.
8. The previous appeal¹ on this site states that the building comprises wholly one-bedroom units. The Council states that it comprises 6 one-bedroom and 2 two-bedroom units. In either case, the proposed development would provide 3 one-bedroom dwellings, so would conflict with Policies CS2 and DM5.
9. However, these policies predate the adoption of the LP, and from the evidence submitted the Council's assessment of housing need dates from 2012. It is not therefore clear that it represents an up-to-date position. Accordingly, the conflict arising from the proposed housing mix attracts limited weight in the overall planning balance, to which I shall return below.

Living conditions of future occupiers

10. One of the proposed units would have a bedroom lit by a single rooflight. This would provide very little outlook for future occupiers. While the room would receive acceptable illumination, the single rooflight would fail to provide acceptable outlook and would result in accommodation of poor quality.
11. The Council state that the proposed units would be below the minimum space standards for two-person dwellings. However, each unit would meet the minimum standard for one-person dwellings set out in Policy D6 of the LP. If I were otherwise minded to allow the appeal, any occupancy of the units would be at the discretion of future tenants.
12. Policy D6 requires that 5 square metres of external amenity space be provided for each 1-2 person dwelling, with an additional 1 square metre per additional occupant. The property has a sizable communal area to the rear of the building which is of sufficient size to accommodate the additional requirements of the new occupiers.

¹ Planning Inspectorate reference APP/U5930/W/20/3247636

13. Overall, therefore, the development would fail to provide acceptable accommodation by reason of the poor outlook to one unit. It therefore conflicts with Policy CS15 of the CS and Policies DM29 and DM32 of the DMP which, amongst other criteria, seek the highest quality architecture providing functional developments and that development ensure outlook for the occupants of new habitable rooms.
14. Policies CS2 of the CS and DM4 of the DMP set out general criteria for new residential development with no specific criteria for the living conditions of future occupiers, so are not determinative in my consideration of this issue.

Living conditions of neighbouring occupiers

15. Two of the bedrooms in the proposed units would directly overlook the properties to the rear of the site on Renness Road, including their back gardens. The rear-facing hallway windows could be fitted with obscured glazing, but it would not be reasonable to require this for windows of habitable rooms. In addition, the increased height of the building would significantly increase the sense of overbearing to the properties to the rear, which would face a substantially larger building at relatively short distance.
16. As the building lies to the south of those properties, and to the east of No 255 Forest Road, the increased height would also cause a loss of natural light to those properties. The submitted Assessment Report indicates that there would be a limited impact to most of the properties on Renness Road, although a greater impact to those to the north of the tallest part of the building. In addition, the Assessment Report does not address No 255, the rear garden of which would experience greater overshadowing from the increased height of the building.
17. The appeal proposal would therefore cause unacceptable harm to the living conditions of neighbouring occupiers. It would conflict with the requirements of Policies CS2, CS13 and CS15 of the CS and Policies DM4, DM29 and DM32 of the DMP and guidance in the Urban Design SPD. Taken together these require that development ensure satisfactory amenity is provided for surrounding occupiers, including ensuring that daylight/sunlight, outlook and privacy is maintained.
18. The Council refers to their Residential Extensions and Alterations Supplementary Planning Document in this reason for refusal. However, this relates to works to individual dwellinghouses rather than blocks of flats as is the case in the appeal proposal. It is not therefore determinative in this appeal.

Access

19. Policy DM30 of the DMP and Policy CS15 of the CS collectively seek to ensure that inclusive design principles are applied at the very outset of any development. The proposed development would not provide means of inclusive access to the upper floors, inhibiting access for those with mobility issues. The appellants have failed to demonstrate that inclusive access can be accommodated within the proposed development, and therefore it would conflict with the identified policies.

Sustainable transport

20. The rear communal area is of sufficient size to provide for the secure storage of bicycles for the proposed flats. It is accessible from the communal hallway on the ground floor, and if I were otherwise minded to allow the appeal suitable

storage could be secured by an appropriately worded condition. The appeal proposal would on this issue not therefore conflict with Policies DM14 and DM16 of the DMP, which collectively seek to ensure that development provide appropriate cycling facilities to encourage sustainable travel.

Waste management

21. Refuse bins are kept on the pavement in front of the site. At the time of my visit 6 bins were sited on the pavement, and 3 more would be required for the proposed units. These could be kept on the pavement without significantly impeding the free and safe flow of pedestrian and cycle traffic given its width, and without harm to the amenities of the occupiers of the ground floor flats as these are set back from the site boundary with the pavement. There would therefore be no conflict with Policies CS6 of the CS and DM32 of the DMP which collectively seek to ensure the provision of facilities for the storage, collection and disposal of refuse.

Other Matters

22. The Council sought a legal agreement that would prevent future occupiers from applying for parking permits in order to promote sustainable transport. The appellant questioned whether an agreement was necessary given the size of the development and the site falling in an area with a Public Transport Accessibility Level of 3. Had I otherwise been minded to allow the appeal, it would have been necessary to determine whether the legal agreement was necessary. However, as I am dismissing on other substantive grounds, I do not need to consider this matter further.
23. The appellant has suggested that it was unreasonable of the Council to refer to development plan policies and the SPD without referring to specific criteria. However, I am satisfied having read all the submissions that the Council's intent in its references is sufficiently clear.

Planning Balance

24. The proposed development would create three additional flats on a previously developed site in a location with good access to public transport as well as day to day services and facilities. These benefits weigh in its favour.
25. However, the development would cause harm to the character of the area, and the living conditions of neighbouring occupiers. It would fail to provide acceptable living conditions for the occupiers of one of the proposed units, or inclusive access for future occupiers. In addition, the proposed housing mix would conflict with that sought in the development plan, although this conflict attracts limited weight as set out above. Overall, the cumulative harm I have identified outweighs the benefits that would arise from the proposed development. Accordingly, there are no considerations to indicate that this appeal should be determined other than in accordance with the development plan.

Conclusion

26. For the reasons set out above, the appeal fails.

M Chalk

INSPECTOR