



Appeal Decision

Site visit made on 22 November 2022

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal Ref: APP/U5930/W/22/3292432

583 - 585 High Road, Leyton, London E10 6PY

- 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 Sumal & Sons Properties Limited against the decision of Waltham Forest London Borough Council.
 - The application Ref 211362, dated 23 April 2021, was refused by notice dated 26 August 2021.
 - The development proposed is demolition of the timber shop/storages currently located on the site and construction of apartment block that contains 6 units.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed loss of employment floorspace is justified,
 - the effect of the proposal on the character and appearance of the area,
 - whether satisfactory living conditions would be provided for future occupiers of units A1 and A2, with particular regard to outlook; privacy; light; ventilation; noise and disturbance,
 - whether satisfactory living conditions would be provided for future occupiers of units A2 and A6, with regard to space standards, and
 - whether the proposal would make appropriate provision for promoting sustainable forms of transport.

Reasons

Employment floorspace

3. Policy CS8 of the Waltham Forest Core Strategy 2012 aims to facilitate sustainable economic growth by safeguarding a range of employment sites and premises in accessible locations. For the purposes of the policy, the appeal site constitutes 'non-designated employment land'. The policy sets out a pragmatic approach, which seeks to retain such employment land where it is fit for purpose, whilst allowing it to be released for other productive purposes, where clearly surplus to requirements.

4. Further detail is provided in policy DM20 of the Development Management Policies 2013 (DMP). This policy sets out the circumstances in which proposals for more productive use of non-designated employment land will be supported. Amongst other considerations, policy DM20 requires proposals to demonstrate that there are clear barriers to future employment use, and there is no reasonable prospect of the site being re-let or sold for employment purposes.
5. The appeal site occupies a small gap between existing buildings fronting onto High Road, close to Leyton town centre. The site marks a transition between the lower density, predominately residential uses to the south, and the increasingly commercial nature of the street as it approaches the town centre.
6. I acknowledge that the existing use of the appeal site as a timber yard seems somewhat incongruous in this location, but it is an existing employment site in an accessible location, close to the town centre. No viability or other evidence has been provided to support the claim that the existing business is no longer a viable high street use. The timber yard appeared to be operational when I visited the area, with no clear indication that the existing tenant is likely to vacate the site in the near future. Furthermore, even if the site did become available, there may be demand for other employment uses on the site. In the absence of any marketing information to suggest otherwise, this remains unclear.
7. Policies CS8 and DM20 indicate that, where employment land is released to other uses, preference will be given to mixed use developments. Residential uses are acceptable in this location, but no explanation has been provided as to why an element of employment use, such as a ground floor commercial unit as suggested by the Council, could not be incorporated into the scheme.
8. I find that no convincing justification has been provided for the proposed loss of employment floorspace. It has not been demonstrated that the existing site is surplus to requirements, or that it is no longer fit for purpose. As such, the proposal conflicts with Core Strategy policy CS8 and DMP policy DM20.

Character and appearance

9. In the immediate vicinity of the appeal site, there are a variety of building types and styles. On one side is a row of 2-storey, semi-detached houses with shallow hipped roofs, which are set back from the street behind front gardens. To the other side is a large, 3-storey terrace with commercial units at ground floor level, which fronts directly onto the street. With its large, exposed chimneys and repeating pattern of gabled dormers and box bay windows, the adjacent terrace forms a prominent and distinctive feature in the streetscene, particularly when approached from the south.
10. The proposed flat roofed apartment block would have a contemporary appearance, which would reflect the recently constructed residential development opposite. As such, the style of the proposed building would not look out of place here. However, its relationship with the buildings on either side is also important if the development is to successfully assimilate into the streetscene.

11. The proposed apartment block would be stepped in form, and has been designed to bridge the gap between the adjacent buildings on either side. Its overall height would be lower than the 4-storey development opposite, and similar to the ridge of the adjacent terrace. However, despite the proposed partial set back at fourth floor level, the flat roofed form of the apartment block would result in a much greater mass of built form at roof level, compared with the immediately adjacent terrace. When viewed from the south the block form of the proposal would give the impression of a taller building, which failed to reflect the recessive roofline of the adjacent terrace.
12. At first and second floor level, the front projection of the proposed building would follow the line of the box bay windows on the adjoining terrace. However, by projecting beyond its primary elevation, the proposed apartment block would fail to respect the form of its immediate neighbour. As a result, it would appear overly dominant, both in relation to the adjoining building and the wider streetscene.
13. The proposed set back at ground floor level would create a small area of defensible space for the studio flat, but the resultant overhang at first floor level would visually break up the front elevation and contribute to an incoherent appearance to the building. This would be exacerbated by the central glazed element, which, whilst continuing the stepping, would give the impression of two distinct sections to the building. The resultant asymmetrical appearance would be at odds with the repeating rhythms of the building forms on either side.
14. The appellant has referred to a similar form of development which has been constructed at 189 Lee Bridge Road. However, I have assessed the proposal in relation to its particular context, which is unique to this site, and differs significantly from the example provided.
15. I conclude that, despite the proposed use of high quality materials, the development would cause harm to the character and appearance of the area. The proposal would conflict with Core Strategy policy CS15 and DMP policy DM29. Together, these policies require that new development should ensure the highest quality architecture and urban design, which responds positively to local context and character.
16. The decision notice also refers to policy D4 of the London Plan 2021, which relates to the process of delivering good design through analysis and scrutiny. The policy does not contain particular design requirements, and I have identified no clear conflict with policy D4.

Living conditions - Units A1 and A2

17. The proposed 3-bed flat on the ground floor (unit A1) would have a bedroom at the front of the building, with other main living spaces towards the rear. The front bedroom window would look out towards the rear of the bin storage area, across a small landscaped area. However, the garden area could be landscaped, with screening for the bin store. These measures, which could be secured by a condition, would assist in providing a satisfactory outlook, as well as greater privacy for the front bedroom of unit A1.

18. The front location of a bedroom in unit A1 also raises concerns about potential noise and disturbance, both from the high street and from the shared entrance. The bedroom window would be set back from the street, which would provide some separation. Taken on its own, this matter would not warrant dismissing the appeal. Nonetheless, I agree that an alternative layout, in which all the bedrooms faced towards the rear, would be preferable, and would better comply with guidance in section 5.9.2 of the Urban Design supplementary planning document 2010 (SPD).
19. Unit A2, also on the ground floor, would be a studio flat. With only a limited set back, the main window serving the studio flat would be very close to the back of the pavement on this busy high street. Triple glazing would help to reduce disturbance from noise, but only when the windows were shut. With no other source of natural ventilation, away from the front of the studio flat, occupiers would have to choose between keeping noise out and providing fresh air. This would result in unacceptable living conditions, particularly during hot weather.
20. The proposed railing would assist with privacy to some extent, but people on the street would still be able to see into the large window. Even though the more sensitive, sleeping area would be located further back, away from the window, it is likely that occupiers would keep blinds or curtains closed.
21. The main source of natural light to unit A2 would be through this front facing window. This would be a large window, with an acceptable outlook, although as stated above, occupiers may be tempted to keep blinds shut for privacy reasons. However, even without blinds or curtains, this part of the apartment building would be recessed, and the overhang above would reduce the amount of natural light coming into the studio flat. The proposed layout of the studio flat is deep compared with its width, so the back of the unit would be dark and gloomy. The poor level of daylight to the rear of the flat is acknowledged in the appellant's statement, which recognises that this area would need to be supported by artificial light.
22. Overall, whilst the layout of unit A1 would be broadly acceptable, the proposed arrangement of the unit A2 would not provide satisfactory living conditions for future occupiers in respect of privacy, light and ventilation. The proposal would therefore conflict with Core Strategy Policy CS13, which promotes health and well-being by ensuring satisfactory amenity is provided for future occupiers. There would be further conflict with Core Strategy Policy CS15, which is concerned with providing well-designed buildings that function well.
23. I am satisfied that, subject to appropriate conditions, acceptable provision for refuse storage could be made, which avoided harm to the health and amenity of occupiers of the proposed and neighbouring development. As such, the proposal is capable of complying with DMP Policy DM32.
24. DMP policy DM6 is not directly applicable to the appeal scheme as it is concerned with different forms of housing from that proposed, and I have identified no conflict with the specific requirements for health and well-being contained in DMP Policy DM23.

Space standards

25. Policy DM7 of the DMP seeks to ensure that residential development is of a high quality, and is of an adequate size, internally and externally. Specific internal space standards are set out in Table 8.1, and most of the units comply with these requirements.
26. Units A2 and A6 would both be studio flats, but DMP policy DM7 says that provision of one bed/one person accommodation is not supported in the borough. Accordingly, the internal space standards contained in Table 8.1 do not include this type of unit. However, minimum space standards for one bed/one person dwellings are contained in the Nationally Described Space Standards (NDSS). Whilst not specifically referred to in the policy, the NDSS provides a useful benchmark for assessing the adequacy of accommodation, and are a material consideration in this appeal.
27. In relation to the proposed development, unit A2 would meet the minimum standard for a one bed/one person unit contained in the NDSS, but there is disagreement in relation to unit A6. The NDSS are organised by storey height, to take account of the extra circulation space required for stairs to upper floors. For one bed/one person flats, the space standard relates to a single storey dwelling, which implies that no allowance has been made for stairs.
28. In the case of unit A6, the submitted drawing indicates that 7.2m² of the internal area would be taken up by the stairs from the lower floor. This area does not form part of the usable living space, and if it is excluded from the calculation, unit A6 would not meet the minimum standard as set out in the NDSS. Even with 50% of the storage area included, unit A6 would be deficient in terms of size.
29. I conclude the proposal would fail to provide satisfactory living conditions with regard to internal space standards. The provision of two studio units is not supported by DMP policy DM7, which requires a range of high quality housing choices. The policy also aims to address concerns about inadequate dwelling size, and in this respect, unit A6 would be deficient.
30. There would be further conflict with paragraph 130 of the National Planning Policy Framework (the Framework), which requires a high standard of amenity for future users.

Sustainable travel

31. Policy T6 of the London Plan states that car free development should be the starting point for all development proposals in areas that are well connected by public transport. DMP Policy DM16 also encourages car free development, to avoid over provision of parking, and promote sustainable means of transport.
32. The appeal site has good access to public transport, being on a bus route and close to rail services. Adequate space would be provided on site to securely store bicycles. These factors would help to promote the use of sustainable means of transport by future occupiers of the proposed apartments.

33. The site is within a controlled parking zone, where on street parking is restricted. No dedicated car parking is proposed as part of the scheme, but the proposed 6 additional residential units would have the potential to contribute to parking stress in the area.
34. In order to ensure that the development would not lead to increased pressure for on-street parking, a mechanism is needed to restrict future residents from applying for a parking permit. I agree that a signed legal agreement (section 106 agreement) would be necessary to ensure that the proposal would be car free, and would meet the tests for planning obligations contained in Framework paragraph 57.
35. The Council has indicated that additional agreements are required to secure highway works in the vicinity of the site, and financial contributions towards improving sustainable modes of travel in the area. However, I have been provided with little additional information to support the additional requests, so am unable to comment further.
36. Notwithstanding that, the appellant has indicated that they would be willing to enter into the requested legal agreements, but were not given the opportunity to do so before the application was refused. I appreciate that this may be frustrating for the appellant, but in the absence of a signed legal agreement, the proposal would not meet the requirements for car free development.
37. I conclude that the proposal does not make adequate provision to support sustainable forms of transport. The proposal conflicts with the requirements for residential car parking contained in policies T6 and T6.1 of the London Plan. There is further conflict with Core Strategy policy CS7 and DMP policy DM16, which together seek to manage parking requirements and promote car free housing. The proposal also fails to comply with the objective of creating a sustainable environment throughout Waltham Forest.

Other Matters

38. The proposed additional 6 units of accommodation would contribute towards meeting identified housing needs in the borough. The proposal would make efficient use of previously developed land, in an accessible location, close to services and facilities.
39. Given the small area involved, any benefits to ecology resulting from the introduction of landscaping would be very minor.
40. The appellant has described both ground floor units as being wheelchair accessible and all units as meeting Part M4(2) of the Building Regulations: Accessible and Adaptable dwellings. However, no further explanation has been provided as to how such reasonable provision would be made. Furthermore, whilst access to the ground floor units may be step free, the long and narrow layout of the bathroom in the proposed ground floor studio apartment would not be easy to access for wheelchair users. I therefore give limited weight to this matter.
41. Overall, the modest benefits of the scheme are not sufficient to outweigh the significant harms identified.

Conclusion

42. For the reasons set out, the scheme would conflict with the development plan, and no other considerations outweigh this finding. The appeal is therefore dismissed.

R Morgan

INSPECTOR