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# Appeal Decision

Site visit made on 30 November 2022

**by Ryan Cowley MPlan (Hons) MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 21 December 2022**

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**Appeal Ref: APP/U5930/W/22/3300290**

**75 Grove Road, Walthamstow E17 9BU**

- 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 Timucin Oztepe against the decision of Waltham Forest London Borough Council.
  - The application Ref 213946, dated 10 December 2021, was refused by notice dated 15 March 2022.
  - The development proposed is described in the application form as new commercial entrance and new one-bedroom flat to the rear with a separate entrance from the rear. The first floor flat to have its own entrance off Grove Road. Refurbishment of the shop front and internal flats.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The appellant indicates they would accept a split decision in order to gain planning permission for the refurbishment of the shop front, including entrance to the first floor flat. These elements of the scheme do not appear to form part of the reasons for refusal given by the Council. However, based on the plans before me, it would be difficult to adequately define the extent of these elements and distinguish them from the remainder of the scheme. It is also not clear that the different elements of the scheme are clearly severable, either physically or functionally. I have therefore considered the proposal as a whole.
3. From my site visit it was apparent that the space to the rear of the commercial unit has already been converted to residential accommodation and is occupied. The subdivision and change of use of the rear part of the ground floor of the building therefore has already occurred. In addition, the alterations to the shop front shown on the proposed plans have already been carried out. These elements of the appeal scheme are therefore retrospective. However, the remaining elements of the proposal do not appear to have been completed.
4. The entirety of the London Borough of Waltham Forest, and thus the appeal site, is within the Zone of Influence for Epping Forest Special Area of Conservation (SAC) in which proposals including a net gain in residential development have the potential to give rise to significant effects (either alone, or in combination with other proposals). As the appeal is to be dismissed for other reasons, it is not necessary in this instance for me to undertake an appropriate assessment to consider the effect on the SAC.

## **Main Issues**

5. The main issues are:

- Whether the proposed ground floor flat would provide satisfactory living conditions for its future occupiers, with particular regard to internal and external space provision, outlook and natural light;
- Whether the proposal would provide an acceptable level of cycle parking;
- Whether the proposal would provide adequate refuse and recycling storage provision; and
- The effect the development would have on car parking conditions and consequently highway safety.

## **Reasons**

### *Living Conditions*

6. The appeal scheme includes conversion of the rear part of the existing shop at ground floor into a one-bedroom flat. The flat has a separate access at the rear onto a narrow alleyway. I saw on my site visit that internally the flat has restricted outlook and access to natural light, and the hallway in particular is very dark. The proposed kitchen / dining area features a door and window opening onto a small, elongated courtyard. This space is enclosed on all sides by high walls comprised primarily of the exterior walls of the appeal property and neighbouring building. The proposed living room would also look onto this courtyard area and be provided with a new window and door.
7. All the proposed rooms facing this courtyard would have a limited outlook, looking onto a heavily enclosed space or high walls at close distance. Given its position north of the terrace, between two rear extensions, the courtyard and those windows facing it will also receive limited direct sunlight and often be in shadow. The proposed living room would also be an irregular shape and the proposed study would feature an oblique wall. However, I do not consider that this would significantly compromise their useability.
8. The bedroom at the rear of the unit features a small window overlooking the narrow alleyway, beyond which is the high, close board boundary fence of a neighbouring garden. Given the narrowness of the alleyway, its informal and poorly maintained surface, and the presence of commercial waste bins along it at the time of my site visit, it is unlikely that vehicles would park along it. Even if it remains clear however, the rear bedroom window looks onto the neighbouring fence at close distance and so would also have a restricted outlook. Furthermore, the window is on the northern side of the appeal property and so will also receive limited direct sunlight.
9. The appellant has indicated they could install rooflights to enhance light levels within the ground floor flat. However, the appeal process should not be used to evolve a scheme and it is important that what is considered at appeal is essentially what was considered by the Council, and on which interested people's views were sought. Even if such changes were accepted however, this would not overcome the issue of poor outlook for future occupiers.
10. In terms of external space provision, Policy DM7 of the London Borough of Waltham Forest Development Management Policies Local Plan adopted October

2013 (the DMP) requires that a minimum of 10sqm of amenity space be provided per bedroom for flatted development. It also indicates that external amenity space should be well-designed, usable and should not be awkwardly shaped or very narrow. Based on the proposed plans, the courtyard area would meet the minimum space requirement. However, it is narrow, heavily enclosed and overshadowed. The proposed plans also show it used for cycle storage and it is the only place for external storage of refuse. Its useability would therefore be curtailed and, overall, it would not be a well-designed space.

11. The appellant considers that the additional internal space provided would adequately compensate for any perceived reduction in outdoor amenity area. However, given the identified limited outlook and light to internal spaces, this compensatory provision itself would be compromised. While the appellant also notes the proximity to nearby public open spaces, these perform a different function to private amenity space.
12. Policy D6 of The Spatial Development Strategy for Greater London adopted March 2021 (the London Plan) stipulates that the minimum floor to ceiling height must be 2.5m for at least 75 per cent of the Gross Internal Area of each dwelling. The appellant maintains that the ground floor flat would achieve this. However, there is otherwise no compelling evidence before me to demonstrate this or lead me to conclude that the proposal complies with Policy D6.
13. I therefore conclude that the proposal would fail to provide satisfactory living conditions for its future occupiers, with particular regard to internal and external space provision, outlook and natural light. It is therefore contrary to Policies D6 of the London Plan, Policies CS13 and CS15 of the Waltham Forest Local Plan Core Strategy adopted March 2012 (the Core Strategy) and Policies DM7 and DM32 of the DMP. These policies, amongst other things, seek to ensure satisfactory amenity, daylight / sunlight and outlook is provided for future occupiers and create an attractive, healthy and sustainable environment.
14. Policy DM23 of the DMP concerns major applications and the requirement for Health Impact Assessment, the promotion of everyday exercise through modes of transport involving physical activity and hot food takeaways. I therefore do not find any direct conflict with this policy in respect of this main issue.

#### *Cycle Parking*

15. The plans before me show cycle parking within the courtyard area sufficient for two bicycles. Policy DM16 of the DMP requires 1 cycle parking space per one bedroom flat. Policy T5 of the London Plan requires that cycle parking is fit for purpose, secure and well-located.
16. The only access to the courtyard would be through the ground floor flat itself. This would require navigating a bicycle through the front door, around a chicane in the hallway, through the living room, and out into the courtyard via the living room door. This is unlikely to encourage future occupiers to cycle. I therefore do not consider the area for cycle parking to be well-located.
17. The appellant has indicated cycle storage could be provided internally in place of the proposed study. However, as above, the appeal process should not be used to evolve a scheme, and this would not overcome the issue of having to transport a bicycle internally through the flat.

18. I therefore conclude that the proposal would fail to provide an acceptable level of cycle parking. It is therefore contrary to Policy T5 of the London Plan, Policy CS7 of the Core Strategy and Policy DM16 of the DMP. These policies, amongst other things, seek to promote sustainable travel and remove barriers to cycling, require well-designed, high-quality parking facilities, and set out minimum standards for cycle parking.
19. Policy DM15 of the DMP, referred to in the Council's decision notice, concerns private motorised transport and so I do not find this to be relevant in respect of this main issue.

#### *Refuse and Recycling Provision*

20. The proposals do not indicate any formal arrangements for refuse storage. The appellant proposes that the ground floor flat could share the existing waste facilities given the scale of the development or waste bins could be placed within the courtyard and taken out for emptying on collection days.
21. Policy CS6 of the Core Strategy seeks to ensure new development including change of use provides accessible, adequate and well designed internal and external storage facilities for residual waste and recycling. Only limited details of existing waste arrangement are before me and no further information on how sharing of existing facilities could feasibly be achieved has been provided.
22. While waste bins could be stored within the courtyard, this would result in similar issues to those presented by the storage of bicycles in this location, including having to transport waste bins through the interior of the flat. These would then also need to be taken some distance down the alleyway to the public highway for collection. It would also further reduce the usable amenity space of the courtyard. This would not represent an accessible, adequate, or well-designed storage facility.
23. I therefore conclude that the proposal would fail to provide adequate refuse and recycling storage provision. It is therefore contrary to Policy SI7 of the London Plan, Policy CS6 of the Core Strategy and Policy DM32 of the DMP. These policies, amongst other things, seek to ensure developments are designed with convenient, adequate, flexible and easily accessible storage space and collection systems for refuse.

#### *Car Parking and Highway Safety*

24. The appeal proposal does not include any onsite parking provision. The appeal site has a reasonably good PTAL rating of 4, is situated immediately adjacent to several local shops and services and is within a Controlled Parking Zone (CPZ). The Council recommend that in CPZ areas such proposals should be classified as car free, with future residents not entitled to parking permits.
25. Policy CS7 of the Core Strategy seeks to promote sustainable travel and car free developments. Policy DM16 of the Local Plan encourages car-free development in locations that are highly accessible by public transport; are accessible to opportunities and services, and/or have high levels of parking stress.
26. The appeal site is in a location where these policies would promote or encourage car free development and the scheme does not propose any on site car parking. There is no compelling evidence before me to demonstrate that

the proposal would have an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe were occupiers of the dwelling entitled to parking permits. Even if there were, the Council has suggested a planning condition could be used to secure control measures, and the appellant has indicated they would be willing to accept any conditions deemed reasonable and appropriate to the circumstances of the case. In this instance, I am satisfied that a planning condition could otherwise have been used to resolve this matter.

27. I therefore find that the proposal would not have a harmful effect on car parking conditions and consequently highway safety. It is therefore in accordance with Policy CS7 of the Core Strategy and Policy DM16 of the DMP. These policies, amongst other things, seek to effectively manage parking, minimise the negative impacts of traffic and reduce reliance on the car.

### **Other Matters**

28. My observation during my site visit led me to the conclusion that the space to the rear of the commercial unit has already been converted to residential accommodation and is occupied. If so, then dismissing the appeal could have implications for the occupiers' rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. Those are the rights to respect for their private and family life, their home and their correspondence. However, the Council would need to consider the expediency of taking enforcement action before residential use of the property had to cease. This is not a matter for this appeal and consequently the Article 8 rights are not engaged at this stage.

### **Conclusion**

29. The scheme would result in the delivery of one additional housing unit, which would positively contribute to the local housing supply. Furthermore, it is located within an existing urban area with good access to local services and transport and therefore, in principle, is a suitable location for residential development. Some economic and social benefits would therefore occur through construction and occupation. However, this contribution is modest given the scale and context of the development.
30. While the proposal may comply with other parts of the development plan or national policy, the absence of development plan conflict with respect to other relevant matters, and the issue of car parking and highway safety, is neutral and weighs neither for nor against the proposal.
31. I have found no material considerations that indicate the proposal should be determined other than in accordance with the development plan, taken as a whole. Consequently, I conclude that the appeal should be dismissed.

*Ryan Cowley*

INSPECTOR