



Appeal Decision

Site visit made on 7 March 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 16 March 2023

Appeal Ref: APP/U5930/W/22/3302113

13 Oakhurst Gardens, Walthamstow E17 3PX

- 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 Dr Fazal Mahmood against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 210233, dated 27 January 2021, was refused by notice dated 29 March 2022.
 - The development proposed is the conversion of the existing single family dwelling house into two self contained units involving the construction of a single storey rear infill extension, conversion of the existing domestic garage into habitable room, creation of a first floor terrace and alterations to the fenestration including the installation of replacement windows/doors to the front, side and rear elevations. provision of amenity space, secure cycle/bin storage, two car parking spaces and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Updated plans were provided during the application, which do not appear to have been taken into account in the Council's assessment. As these were provided with the application, and the Council has provided comments as part of the appeal, parties would not be prejudiced by these being taken account of as part of this appeal and I have proceeded on this basis.
3. I have taken the description of development from the Council's decision notice, which is a more accurate representation of the proposal than that provided on the application form.

Main Issue

4. The main issues are: (i) whether the proposal would preserve or enhance the character or appearance of the conservation area; (ii) the effect of the proposal on the living conditions of future occupiers; (iii) whether the proposal would result in the loss of a family sized dwelling; and (iv) the effect of the proposal on car parking and highway safety.

Reasons

Conservation Area

5. The site is a large, detached dwelling at the corner junction of Oakhurst Gardens and College Place. It is in the Forest Conservation Area (the CA), the immediate section of which is largely defined by sizeable, set back dwellings.

While the design of properties varies, there remains an overall level of stylistic coherence due to the shared colour palette and consistent external materials.

6. The proposal seeks to convert the appeal property into two self-contained flats. The main parties agree that the proposed external changes at ground floor level and in the front garden would be acceptable from a design perspective. Based on my observations, I have no reason to disagree.
7. However, a first floor side roof terrace is also proposed. This would be visible from Oakhurst Gardens, bounded by planting and a timber screen, and from College Place enclosed by a metal frame and glass panels. Consistency in external materials among residential properties is a defining feature of the area. The use of glass, metal and timber screening in this manner would be out of place among the more traditional use and placement of materials at other dwellings, visually disrupting the uniformity present in this regard.
8. The terrace itself would also read as an incongruous addition. It would be the first feature of its kind in the immediate surrounds such that it would read as jarring and out of place, neither responding to nor reflecting the wider character. As such, a condition on the approval of materials to be used in the construction of the terrace would do little to address the visual harm caused.
9. For these reasons, the proposal would overall be visually intrusive. It would cause visual harm to the site and the contribution it makes to the surrounding character and appearance. As such, it would neither preserve nor enhance the character or appearance of the CA. Its effect would be localised such that it would be 'less than substantial' harm. Nevertheless, the Framework makes it clear that great weight should be given to the conservation of heritage assets.
10. Paragraph 202 of the National Planning Policy Framework specifies that where development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would provide an additional residential unit, adding to housing mix. Nevertheless, given the modest contribution that would be made in this regard, this would not outweigh the harm identified.
11. For the reasons given above I find that the development would fail to preserve or enhance the character or appearance of the CA. As such, it would fail to accord with Policy CS15 of the Waltham Forest Local Plan Core Strategy 2012 (the Core Strategy), Policies DM4, DM28 and DM29 of the Waltham Forest Local Plan Development Management Policies 2013 (the DMP) and the Residential Extensions and Alterations Supplementary Planning Document (the SPD) insofar as they seek to ensure high standards of development design that responds positively to local context, respects the streetscene and preserves or enhances the character or appearance of conservation areas.

Living Conditions

12. Policy D6 of the London Plan sets out standards of private outside space that apply where there are no higher local standards in the borough development plan. In this regard, Policy DM7 of the DMP provides higher external space standards which, in the case of flatted development, is a minimum of 10sqm of amenity space per bedroom, with an element of private space.
13. The three bedroom ground floor flat would have access to a private rear garden of 60sqm. However, the amenity space for the four bedroom upper flat

would be limited to the 15.35sqm private roof terrace. Even acknowledging that level access to this would be provided and that offsite public spaces are present in the area, the proposal would fail to accord with Policy DM7 in providing suitable external space at the site, unduly impacting living conditions of future residents.

14. A small room in the ground floor flat would be accessed via bedroom 1. While the appellant has argued this could be used as a private storage, it is labelled as 'utility'. Its use as a common utility room would unduly impact the privacy of bedroom 1 occupiers. Similarly, while bedroom 2 is of an appropriate size, its internal access via the living room would negatively affect the living conditions of occupiers of this room with regard to privacy and noise.
15. With regard to the upper flat, the lack of eating space within the kitchen is not in itself harmful. However, the installation of necessary cupboards and appliances, together with the placement of the door, would leave little circulation space such that the kitchen would be unduly cramped and unfit for its general use in a property of this scale. The presence of a shower in bedroom 1 which, although self-contained, would have no separation from the bedroom, would compromise the quality of this room for future occupiers.
16. Policy DM7 is clear that all new residential development, including conversions, should be of the highest quality internally. Taken together, the placement of the ground floor utility room and second bedroom, along with the limited scale of the first floor kitchen and the presence of a shower in the bedroom, and the resulting impacts on the living conditions of future residents, would result in the proposal failing to be of the highest quality.
17. I do not find that the ground floor flat lacks an intuitive access to the rear amenity space, given the doorway in the kitchen leading to this area, nor do I consider the separation of the kitchen and living room would unduly impact living conditions of future occupiers. In addition, while the floor to ceiling height has not been noted on the plans, I observed this to be of an acceptable level throughout the dwelling on my visit.
18. Nevertheless, for the reasons given, I find the development would have a significant adverse effect on the living conditions of future occupiers. As such, it would fail to comply with Policy D6 of the London Plan 2021, Policies CS2 and CS15 of the Core Strategy and Policies DM7 and DM29 of the DMP insofar as they seek to ensure functional and high quality development both internally and externally with appropriate levels of useable, private amenity space. While reference is also made to Policy CS13 of the Core Strategy, this relates to the promotion of health and wellbeing and does not directly relate to this matter.

Loss of a family dwelling

19. The site falls within a Restricted Dwelling Conversion, HMO and Building in Multiple Residential Occupation Ward. Policy DM4 of the DMP states that the conversion of larger homes in such areas to smaller self-contained homes will not be permitted, with reference in the policy to houses of 74sqm with three bedrooms or more being larger homes. Explanatory text sets out that this is due to an identified high demand for large, affordable family housing, with conversions having a detrimental impact on the character of areas.

20. As a sizeable six bedroom dwelling with a floorspace of 301sqm, the appeal property represents a larger home, the conversion of which should be resisted in accordance with Policy DM6. However, the proposed conversion would provide two dwellings which would replace the current property, being a three bedroom and four bedroom dwelling, both of which would exceed 74sqm in floorspace. As such, in principle, the proposal would provide an additional larger dwelling at the site that could meet an identified need. In providing two appropriately sized larger dwellings in the place of one, sizeable property, the proposal would contribute to housing choice and mix in the area.
21. Nevertheless, I have identified that these dwellings would not be of the highest quality, and in particular have found that the external amenity space of the upper flat would not meet the needs of occupants of a large, four bedroom property. As such, notwithstanding the amount of floorspace and bedrooms proposed in these flats, they would not represent a benefit of the scheme that would outweigh the loss of an existing, suitable, larger family home in the area via conversion of the property, contrary to local policy.
22. For the reasons given above, I find that the development would result in the loss of a family dwelling. As such, it would fail to comply with Policy CS2 of the Core Strategy and Policy DM6 of the DMP insofar as they seek to ensure a continuous supply of homes to meet a range of housing needs. While Policies DM4, DM28 and DM29 of the DMP and Policy CS15 of the Core Strategy have also been quoted, these relate to heritage assets and design.

Car Parking and Highway Safety

23. Policy DM16 of the DMP seeks to effectively manage parking and encourages car-free development. It seeks to resist proposals that are likely to hinder pedestrian movement or prove injurious to highway safety, and which reduce on-street parking in areas where existing demand cannot be met. The appeal site is located within a controlled parking zone.
24. At present, there is space for the parking of multiple cars to the front of the property. However, following concerns relating to the safe and free flow of vehicles and pedestrians accessing the flats, updated plans show that the proposal would provide only two off-street parking spaces. Together with the two access points to the site, this would ensure that there would be adequate space to allow for pedestrian access to the flats, in addition to space for the movement of vehicles, without undue collision risk or safety implications.
25. However, while my site visit represents a snapshot in time, I found the area in the vicinity of the site to be heavily parked, and that the free flow of traffic was affected as a result of this. Given the scale of the properties it is reasonably likely that a level parking could arise as a result of the proposal that could not be accommodated in the parking spaces provided. As outlined above, additional parking at the site would raise safety concerns in the site itself. Accordingly, such parking would likely occur in the wider highway, creating further obstructions and increased parking demand within the area.
26. For this reason, I concur with the Council that a section 106 agreement to prevent future occupiers from applying for parking permits would be reasonable and necessary in the interests of highway safety. However, no such agreement has been provided with the appeal.

27. For the reasons given, I find the development has the potential to result in significant adverse effects with regard to highway safety. As such, it would be contrary to Policy DM16 of the DMP and Policies CS7 of the Core Strategy insofar as it seeks to effectively manage parking and restrict proposals that are injurious to highway safety. While reference is also made to Policy CS13 of the Core Strategy, this relates to the promotion of health and wellbeing.

Other Matters

28. The appellant's frustrations with regard to the Council's handling of the application have been noted. However, this does not have any bearing on the planning merits of the appeal.

29. The Council's Decision Notice has, at various stages, referenced Policy DM32 of the DMP. However, this relates specifically to living conditions regarding light, privacy, outlook, and refuse collection, which have not been raised as issues in the appeal.

Conclusion

30. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR