



Appeal Decision

Site visit made on 22 June 2022

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 30 March 2023

Appeal Ref: APP/U5930/W/22/3290524

227 Hoe Street, Walthamstow E17 9PP

- 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 Sajid Mahmood against the decision of Waltham Forest London Borough Council.
 - The application Ref 203593, dated 18 November 2020, was refused by notice dated 22 July 2021.
 - The development proposed is described as 'conversion of the upper floors of the property to form two self-contained flats along with the construction of dormer roof extension to main rear roof, together with installation of three roof lights to front roof and the construction of ground floor rear extension to provide refuse storage'.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of the upper floors of the property to form two self-contained flats along with the construction of dormer roof extension to main rear roof, together with installation of three roof lights to front roof and the construction of ground floor rear extension to provide refuse storage at 227 Hoe Street, London E17 9PP in accordance with the terms of the application, Ref 203593, dated 18 November 2020, subject to the schedule of conditions attached.

Preliminary Matters

2. It is noted in the planning history that the appeal property was given approval for loft conversion with rear dormer window and first and second floors converted into two flats (one with two bedrooms and one with one bedroom). There have been a number of subsequent conversion changes to the appeal property. The appellant has provided drawings that show the appeal property converted to three flats (Drawing 74-101 titled 'Existing Plans'), and to six flats with associated rear roof dormer extension and second floor rear extension, (Drawing 74-102 'Pre-Existing Plans'). However, there is no evidence to demonstrate that any such subsequent conversions benefitted from planning permission. The Council indicates that it is taking enforcement action against erection of a single storey rear extension and conversion of the dwelling into five flats with associated rear roof dormer extension and second floor rear extension. On the above basis I have considered the proposal on its own merits.
3. Drawing 74-103 'Proposed Floor Plans and Elevations' refers to the first floor flat as both Flat A and Flat 1 and the proposed second floor/loft flat as both Flat B and Flat 2. For clarity I have used the references Flat A and Flat B in this decision.

4. As part of the appeal, the appellant has submitted new Drawing 74-103 Revision A titled 'Proposed Floor Plans and Elevations', 74-110 titled 'Existing Plans', 74-111 titled 'Pre-Existing Plans' and 74-112 Revision A 'Proposed Floor Plans and Elevations'. In terms of Drawing 74-103 Revision A, this now details the gross internal area (GIA) of Flat B and shows the loft floor plan area that has a ceiling height of 2.5 metres or greater. Drawing 74-110 and 74-111 are the same as the application Drawings 74-101 and 74-102. Drawing 74-112 Revision A is the same as application Drawings 74-103 except that it shows proposed kitchen under-counter refuse storage. None of this information specifically changes the proposal but provides further clarification. All parties have had the opportunity to comment on this through the appeal process and I do not consider that any interests would be prejudiced if I take it into account. I have therefore determined this appeal on the basis of the drawings referred to on the decision notice, and the drawings submitted as part of this appeal.
5. It is noted that the Council refers to the Department for Communities and Local Government 'Technical Housing Standards - Nationally Described Space Standards' 2015 (NDSS) within its policies and planning decision. This standard has now been incorporated into the London Plan 2021 (London Plan). Furthermore, reference is made to London Supplementary Planning Guidance 'Housing' (2016) (London SPG Housing) which was updated in 2017. I have used these updated standards in the assessment of this appeal.
6. Since the appeal was lodged the Council updated its requirements regarding protection of the Epping Forest Special Area of Conservation. Consultation with the parties regarding this was completed. Consequently, to address this matter, the appellant has submitted a signed and dated unilateral undertaking (UU) pursuant to section 106 of the Town and Country Planning Act 1990 (as amended). I have taken this additional information into account in the determination of this appeal.

Main Issues

7. The main issues are:
 - whether the living conditions of future occupiers of the proposal would be acceptable in respect of internal space;
 - whether the proposal would provide sufficient refuse and recycling storage; and
 - whether car-free development would be secured, having regard to the proposal's effect on the highway and to sustainable travel.

Reasons

Living conditions of future occupiers

8. Policies CS13 and CS15 of the Waltham Forest Local Plan Core Strategy (2012) (Core Strategy) seek, amongst other matters, for development to be to the highest quality architecture and urban design, both in terms of providing attractive and functional development. Policy DM7 of the Waltham Forest Development Management Policies Local Plan 2013 (Local Plan) seeks, amongst other matters, for new development to meet stipulated minimum internal space standards. While these policies detail internal space standards, they also refer to the London Plan and the London SPG Housing. Both of these provide further

clarification of the implementation of housing policies and minimum space standards for new dwellings.

9. It is agreed by the parties that Flat A meets the minimum internal space standards required. While the Council found Flat B to be acceptable in terms of the bedrooms' internal space, it estimated that the flat provided approximately 64.7 square metres gross internal area (GIA). This GIA was below the minimum internal space standard of 70 square metres required by the London Plan and NDSS.
10. The appellant has confirmed Flat B's GIA within Drawing 74-103 Revision A and this shows it achieving the 70 square metres required. Furthermore, the appellant has also detailed how the flat meets the internal space standard related to ceiling height. The Council has not provided any evidence to demonstrate that the appellant's confirmed areas are incorrect and I see no reason to dispute these.
11. Consequently, I conclude on this issue that both proposed flats meet the internal space standards required and as such the living conditions of future occupiers would be acceptable in respect of internal space. On this basis the proposal would comply with Policies CS13 and CS15 of the Core Strategy, Policy DM7 of the Local Plan, the London Plan and the London SPG Housing. The Council has referred to Policy DM23 and DM32 in the Local Plan in their decision notice, these policies cover health and wellbeing, and managing impact on occupiers. They do not refer to internal space standards and are therefore not relevant to my consideration of this main issue.

Refuse and recycling storage

12. The appellant has submitted clarification of the waste management, refuse and recycling for the proposed flats. The flats are located above a shop and there would be no internal or external areas suitable to allow communal bin storage to be provided. Hoe Street benefits from extra refuse collection which consists of morning and evening waste collection on Monday, Wednesday and Friday of each week. Waste from the proposal would be placed on the street in front of the flats in appropriate sacks for collection. This would therefore reduce the internal waste storage needs of the flats.
13. Internal waste storage to the flats would be provided by kitchen refuse and recycling under-counter bins. The location and typical detail for these are shown on the proposal's drawings. This approach accords with the Council's Waste and Recycling Guidance for Developers. When considered in conjunction with the extra refuse collections, then in all probability, the volume of waste generated between collection days would be relatively small and the associated storage time would be short. On this basis the details provided sufficiently demonstrate that the use of under-counter bins is reasonable and proportionate to meet the proposal's waste storage constraints. If I was minded to allow this appeal, then an appropriately worded condition could be imposed to ensure the flat's waste storage proposal is approved and provided.
14. While rear bin storage is shown not to be flush with the ground, this is for the shop's use only and, as there would be no access for the proposed flats, it would not impact on them.

15. The proposal would therefore provide sufficient refuse and recycling storage and would comply with Policy CS6 of the Core Strategy and Policy DM32 of the Local Plan. These aim, amongst other matters, to reduce waste produced and ensure internal residual and recycling storage is accessible and well designed.

Highway and sustainable mode of travel

16. Policy CS7 of the Core Strategy and Policy DM14 of the Local Plan aim, amongst other matters, to promote sustainable travel. Policy DM16 of the Local Plan seeks to effectively manage parking and ensure car-free and car-capped development is encouraged with three criteria to be considered which are: in locations that are highly accessible by public transport; are accessible to opportunities and services and/or have high levels of parking stress.
17. The proposal is within a controlled parking zone (CPZ) and would not provide any new car parking spaces. The site would have excellent public transport service connectivity (Public Transport Accessibility Level (PTAL) of 6a) and would be accessible to opportunities and services. Therefore, while no details on whether the area has a high level of parking stress have been provided, the proposal would still be expected to be car free with future residents not entitled to parking permits. The appellant contends that the appeal site has no existing car parking restrictions imposed and historically at least one residential unit has existed above the shop. The Council does not dispute this.
18. While the appellant accepts the requirement for restrictions on the ability to apply for parking permits, they consider that this should only apply to the net increase in additional occupants from the proposal. To take account of this the appellant proposes that only one of the proposed flats should have a parking permit restriction applied. On the basis that there is no evidence that there is any existing restriction, then it is reasonable to accept one proposed flat be restricted from obtaining a parking permit to take account of the net increase in additional occupants.
19. The appellant proposes that a planning condition be used to secure the requirement detailing a number of previous appeals where this approach was used. The Council does not dispute that the use of a planning condition would achieve the aim of restricting the proposal's parking. On the basis that the Council's Planning Obligation Supplementary Planning Document (2017) indicates that no financial contribution for CPZs is required, then if I was minded to allow this appeal, I am satisfied that a suitably worded condition can remove the ability of one of the proposed flats to apply for a parking permit.
20. As the proposed flats would be located above a shop with only a stair and narrow entrance and no external area at ground level available, it would not be possible to provide cycle parking that meets Policy T5 of the London Plan requirements. Notwithstanding the lack of such parking provision on the site, I am satisfied that the combination of excellent public transport service connectivity and provision in relation to car free development referred to above, would ensure that the proposal would not conflict with the overarching principles of DM14 and Chapter 10 of the London Plan which seek to actively encourage sustainable travel.
21. On this issue, for the above reasons, I conclude that the proposal would secure sufficient car-free development which would prevent adverse effect on the

highway and would encourage sustainable travel. As such it would not be contrary to CS7 of the Core Strategy and DM14 and DM16 of the DMD.

Appropriate Assessment under the Habitats Regulations

22. The appeal site is located within the 6.2km Zone of Influence (ZOI) for recreational pressure on the Epping Forest Special Area of Conservation (SAC). The SAC hosts a number of designated habitats, including Atlantic acidophilous beech forests with Ilex and sometimes also Taxus in the shrublayer (Quercion robori-petraeae or Ilici-Fagenion). It also hosts the stag beetle (Lucanus Cervus) which is a designated species. The conservation objectives of the site are to ensure that the integrity of its designation is maintained or restored as appropriate.
23. The impacts of recreational disturbance (both at the site-scale and in combination with other development around the Epping Forest) are similar to impacts from direct habitat loss because recreation can cause important habitat to be unavailable for use. The habitat is functionally lost, either permanently or for a defined period, and the impacts of recreational disturbance can be such that they affect the stated conservation objectives of the European site.
24. Consequently, when considered in combination with other plans and projects, this development would have a likely significant effect on the SAC.
25. Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 places a duty on me, before deciding to grant permission for a plan or project which is 'likely to have a significant effect' on a site designated pursuant to European legislation to 'make an appropriate assessment of the implications of the plan or project'.
26. In terms of mitigation, the Epping Forest Strategic Access Management and Maintenance (SAMM) Strategy, and the Council's Suitable Alternative Natural Greenspace (SANG) Strategy (Part 1 of the Waltham Forest Green Spaces and Places SPD dated September 2022) sets out a strategy to prevent and mitigate the impact from additional development on the SAC. These outline an appropriate scale of mitigation for the development as:
 - i) a financial contribution of £627 per new home towards mitigation SAMM measures within the SAC; and
 - ii) A proportion of the Community Infrastructure Levy (CIL) payment would be invested in line with the emerging Waltham Forest SANG strategy. Of the proposed SANGs that this site falls within the catchment of, investment in Town Square and Gardens (ref 21) would mitigate the potential recreational impacts on SAC.
27. In association with discussions with the Council, the appellant has provided a UU to secure the agreed contribution of £627 for the net increase of one dwelling on the site. This is in accordance with the requirements of the SAMM and I have no reason to find differently. The Council has responsibility to ensure that the CIL payment would be invested into the SANGs. Therefore, the above measures will ensure that the likely significant effects on the SAC are adequately mitigated and having undertaken the appropriate assessment, I am satisfied that the scheme would not adversely affect the integrity of the nearby European site.

28. Having regard to the statutory tests in Regulation 122 of the Community Infrastructure Regulations 2010, based on the above, I am also satisfied that the obligations would be necessary to make the development acceptable, directly related and fairly and reasonably related in scale and kind.

Other Matter

29. Concerns have been raised regarding the part demolished status of the rear of the appeal site and associated noise and disturbance from anti-social behaviour. The proposal would necessitate the demolished building to be removed and would assist in enclosing the rear area which would likely reduce the noise and disturbance from anti-social behaviour.

Conditions

30. The Council has requested conditions to be applied in the event that I were to allow the appeal, which I have assessed with regard to the tests set out in the Planning Practice Guidance (PPG). The conditions that would be necessary to be imposed are broadly reflective of those suggested by the Council although I have amended some of the wording in the interests of precision and clarity.
31. For certainty, a condition relating to the time limit for implementation would be necessary along with a condition requiring the development to be undertaken in accordance with the approved plan. This comprises Drawing 74-112 Revision A as this includes the details of the proposal and the proposed waste storage.
32. In the interests of preserving the character and appearance of the surrounding area a condition to ensure matching materials to the existing building would be necessary. A condition requiring the storage of waste in accordance with details provided and then retained/maintained would be reasonable and necessary, to ensure adequacy in the interests of the occupants' acceptable living conditions.
33. A condition for excluding one of the proposed flats from the list of those eligible for residents' parking permits would be both reasonable and necessary to minimise increased vehicle parking in the CPZ and encourage the use of sustainable travel. The Council's suggested wording of this condition has been amended for precision and clarity.
34. The proposal does not include any new walls, gates, fencing, railings and other means of enclosure and so the Council's suggested condition in this regard has been omitted. Furthermore, as the inclusion of cycle storage at the flats is not considered feasible the Council's suggested condition for the details of lockable cycle stores to be approved and provided has also been omitted.

Conclusion

35. For the reasons given above I conclude that the appeal should be allowed.

J Symmons

INSPECTOR

Schedule of Planning Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

2. The development hereby approved shall be carried out in accordance with the Drawing 74-112 Revision A, Date: August 2021 titled 'Proposed Floor Plans and Elevations'.
3. The materials to be used for the external surfaces of the development hereby permitted shall match those of the existing building.
4. Prior to commencing the fit out of the kitchen areas as shown on the approved plans, full details of the refuse and recycling kitchen under-counter bin storage shall be submitted to and approved in writing by the local planning authority. Prior to first occupation, the development shall be carried out fully in accordance with the approved details and shall be thereafter maintained as such for the lifetime of the development.
5. Within 8 weeks from commencement of the development hereby permitted the local planning authority shall be informed in writing of the two properties full postal addresses and the two dwellings hereby permitted shall not be occupied until the Traffic Regulation Order has been amended by removing one dwelling from the list of dwellings for which Resident Parking Permits can be issued.