



Appeal Decision

Site visit made on 25 January 2023

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/W5780/W/21/3267891

4A Frimley Road, Seven Kings, Ilford IG3 9JJ

- 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 Rimon Choudhury (1st Capital Homes) against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 1639/20, dated 5 June 2020, was refused by notice dated 30 July 2020.
 - The development proposed is demolition of, and erection of replacement, dwellinghouse (Class C3)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The evidence before me is that a certificate of lawful existing use was issued in 2019 for use of the existing building on site as a self-contained flat (Council Reference 2830/19). I saw on site that the building was occupied by two people and contained all the facilities needed for occupation as a self-contained unit of accommodation.
3. Since the appeal was submitted, the London Plan 2016 has been replaced by the London Plan 2021 and an updated version of the National Planning Policy Framework (the Framework) has been published. The main parties have had the opportunity to comment on these changes in policy. References to these documents in this decision refer to the latest versions.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the character and appearance of the Bungalow Estate Conservation Area;
 - ii) whether the proposal would provide suitable living conditions for future occupiers of the proposed dwelling with particular regard to internal accommodation and outlook;
 - iii) whether the proposal would provide safe, suitable access for all users;
 - iv) whether the proposal would make suitable provision for cycle parking and for storage and collection of waste; and

- v) the effect of the proposal on the integrity of the Epping Forest Special Area of Conservation (SAC).

Reasons

Character and appearance of the conservation area (CA)

5. The appeal site is just within the CA, which comprises an extensive estate predominantly consisting of bungalows arranged on a regular street plan. The relatively large gardens and set back of buildings from roads creates a spacious character, while trees give the CA a verdant quality. The CA derives considerable significance from this arrangement of buildings and spaces.
6. No 4 and its immediate neighbours are two-storey dwellings, which are out of place in an area characterised by bungalows. They do however share some features with the bungalows, including their position relative to the road and plot sizes. Consequently, the two-storey dwellings do not detract from the character and appearance of the CA.
7. The existing building on the appeal site is screened from public view by a solid gate extending from the main dwelling to the side boundary, and by adjacent houses. It is visible from the main dwelling and close neighbours, and the presence of domestic style windows and a separate garden area indicate that it is a separate unit of accommodation. However, its scale and form are still generally consistent with a domestic outbuilding, and it does not stand out unduly given its position and presence of other outbuildings locally.
8. The proposed building would be slightly larger than the existing, but its scale and general appearance would still be consistent with a domestic outbuilding and markedly smaller than the two-storey houses either side. The large, glazed front and rear doors would be the most obviously residential features, but their position would mean they would not be easily visible. The building would be of simple, functional design, but more coherent than the current amalgamation of buildings. It would also be screened from public view by the existing front gate.
9. The proposal would be close to the boundary with No 8, which would conflict with design guidance for the CA quoted by the appellant¹. The separation of the plot would also be at odds with the typical spaciousness of plots in the CA. These features are also true of the existing situation, however, so this pattern of development would not be altered by this proposal.
10. Consequently, the design, proportions and position of the proposed building, and its relationship to surrounding properties would not be significantly different to the existing situation. Given the presence of screening, its visual impact would also be similar.
11. The off-site trees along the boundary with No 8 are partly visible from the road. Although the individual specimens are relatively poor quality, as a group they make a small but positive contribution to the verdant character of the CA. Consent has been granted to remove one tree and prune others, but even after those works they would still be likely to retain some group amenity value. They would be at risk of damage from demolition and construction of the appeal proposal, and local and national policies seek to resist loss of trees which contribute to the character of an area.

¹ Bungalow Estate Conservation Area: Design Guide (2018)

12. The appellant's arboricultural report suggests that the proposed dwelling would be within their root protection area, but that the majority of the root mass is likely to be off-site due to the presence of the existing building. There does not appear to have been any investigation of the existing foundations however, or whether roots are present in the appeal site, so further information would be needed. The potential for damage could be mitigated by a suitably worded planning condition if the proposal were otherwise acceptable, which would safeguard local character in this respect.
13. For the above reasons, the proposal would not harm the significance or special interest of this part of the CA when compared to what already exists. It would therefore preserve the character and appearance of the CA as a whole.
14. The Council contends that the proposal fails to respect the intrinsic character of the Mayfield Residential Precinct. I have not been provided with a description or definition of that area, or any details of how and where it is designated. In any event, the proposal would not significantly change the character of the site from the existing situation. Therefore, it has not been demonstrated that harm would occur to the character of the Residential Precinct.
15. Accordingly, the proposal would not conflict with Policies LP26 or LP33 of the Redbridge Local Plan 2015-2030 (adopted 2018) (the Local Plan) insofar as they seek to conserve the character and significance of the historic environment and heritage assets, and to have regard to the surrounding area. Nor would it conflict with Policies D3 and HC1 of the London Plan 2021 insofar as they require development proposals to conserve the significance of heritage assets and respond to existing character.

Living conditions

16. Local Plan Policy LP26 requires high standards of accommodation for housing in terms of size, quality and arrangement of internal space and external private space. Policy LP29 states that the Council has adopted the National Internal Space Standards, published in March 2015. This government document is now titled the 'Technical housing standards – nationally described space standard' (NDSS). These standards are now largely incorporated into London Plan Policy D6, which requires housing development to be of high-quality design and provide adequately-sized rooms with comfortable and functional layouts which are fit for purpose. It sets out minimum standards for self-contained accommodation, including internal floor areas and ceiling heights.
17. There is no dispute that the proposal would exceed policy requirements for external private outdoor space and could provide internal storage.
18. The proposed dwelling would have an external footprint of around 41.75 square metres (sqm) and an internal floor area of around 35.4sqm. The bedroom is shown with a double bed and would meet the minimum size requirement for a double or twin bedroom. Therefore, the dwelling could be for two people. While the proposed dwelling would be larger than the floor area of the existing building, it would be significantly smaller than the 50sqm required by Policy D6 for a one bedroom, two-person dwelling. The appellant's Design and Access statement refers to the standard for a one-person, one bedroom property, however the proposal would not meet the 37sqm required for a one-person dwelling either.

19. The appellant also indicates that the dwelling could be occupied by a disabled family member, to be adapted to suit their needs. The NDSS sets out that the gross internal areas in the standard will not be adequate for wheelchair housing where additional internal area is required to accommodate increased circulation and functionality to meet the needs of wheelchair households. Policy D6 does not include this provision but requires minimum space standards to be met for all tenures.
20. The submitted plans also show that the building would be 2250mm high from slab to underside of the eaves, rising to 2800mm at the ridge. Policy D6 requires a ceiling height of 2.5m to be achieved for at least 75 percent of the gross internal area. No internal sections have been provided and, given the low eaves and ridge height, it has not been demonstrated that the proposal as applied for could meet the ceiling height requirement.
21. The proposed bedroom would have large, glazed double doors providing a good outlook to the garden. The lounge/kitchen would benefit from natural light via windows to the front and side and rooflights. The windows would however face boundary fences in very close proximity, and the rear of No 4. There would also be opportunities for overlooking from the rear of No 4 to the front and side windows. Measures to mitigate this such as higher fencing or curtains/blinds would further restrict outlook from this room. Consequently, this main living space would have a poor outlook, further detracting from the standard of accommodation provided for future occupiers.
22. The appellant suggests that they would accept conditions to increase the floorspace or head height of the building and to reduce the size of the bedroom, subject to it still being wheelchair accessible. The Planning Practice Guidance (PPG) states that, depending on the case, it may be possible to impose a condition making a minor modification to the development permitted. It goes on to say that it would not be appropriate to modify the development in a way that makes it substantially different from that set out in the application².
23. In this case I have no details of what such changes would look like, therefore I cannot assess the impacts as the appellant suggests. They would necessarily change the appearance and scale of the building from what is now before me and could potentially be more than minor modifications. It has not been demonstrated how a larger building could be accommodated without adverse impacts on the area or neighbouring occupiers. Furthermore, the resulting development would not be what was considered by the Council and interested parties, raising matters of fairness. Therefore, remedying the deficiencies in the standard of accommodation by condition would not be reasonable and I shall not impose such a condition.
24. Accordingly, the proposed dwelling would be below the required standards in terms of internal floorspace and ceiling heights and would provide a poor outlook. Consequently, it would not provide suitable living conditions for future occupiers of the proposed dwelling in terms of internal accommodation and outlook. The proposal would therefore conflict with Local Plan Policies LP26 and LP29 and London Plan Policies D3 and D6 insofar as they require high quality design, including high standards of accommodation and appropriate outlook.

² Planning Practice Guidance 'Use of planning conditions' Paragraph: 012 Reference ID: 21a-012-20140306

Access

25. Local Plan Policy LP26 requires good design and place making. It requires developers to show how their proposals will achieve high quality inclusive design to ensure an accessible environment. Framework paragraph 110b) requires safe and suitable access to be achieved for all users. Paragraph 130f) requires that developments create places that are safe, inclusive and accessible.
26. The appeal site, as defined by a red line on the submitted plan, stops at the gate level with the front of No 4. It does not include any of the front garden or driveway of No 4 and does not extend to the public highway. The site is currently accessed by walking along the driveway of No 4 to reach the gate.
27. The appellant states that the appeal site and No 4 are currently in the same ownership, however there is no substantive evidence before me to show this. Nor has this area been included within a blue line on the plan, to indicate that the appellant owns or controls the land. The proposed dwelling may be occupied by a family member, however the appellant has made it clear that it could also be occupied by another party, as permission is being sought for an independent dwelling.
28. There is no substantiated evidence before me that a right of access exists over the frontage of No 4 for use by a separate dwelling. I have no details of any right of access or agreement in place for the current tenants of the existing building. Even if such access rights are in place, there is no mechanism before me, such as a legal agreement, to secure them for the proposed dwelling. There is also no mechanism to prevent the site being sold separately.
29. A pedestrian might be able to pass by a parked car on the driveway, depending on the size of the car and how it was parked. However, there is insufficient space along the drive of No 4 for a wheelchair user or someone with mobility issues to pass parked cars comfortably and safely. Moreover, those cars would be associated with a separate dwelling and therefore outside of the occupants' control.
30. The appellant suggests wheelchair and pedestrian access could be achieved by changing the layout of the front of No 4, moving the existing parking and dropped kerb and removing part of a wall, to be secured by condition. This would not ensure that future occupants would have a right of access over the space created. Nor has it been demonstrated that the appellant has control over the land where works would be required.
31. Moreover, I have no plans to show the extent of works necessary. They could well require planning permission. Such changes are likely to impact the CA and the highway, as they would involve removal of part of the front garden and wall. These are issues which the Council and other interested parties would be likely to wish to comment on. Therefore, I cannot be certain that planning permission would be granted for those works.
32. In any event, a condition to secure such access would have to be negatively worded, preventing occupation of the proposed dwelling until the access were achieved. Such a condition would not be reasonable because it is unclear from the evidence before me whether access could actually be delivered in the

relevant timescale. The condition would not meet the Framework tests; therefore I cannot impose it.

33. For the reasons set out above, it has not been demonstrated that there would be no change from the existing access situation, as the appellant contends, or that suitable access could and would be secured. Accordingly, it has not been demonstrated that the proposal would provide safe and suitable access for all users. Consequently, it would conflict with section 1 of Local Plan Policy LP26.

Cycle parking

34. Local Plan Policy LP23 requires provision of secure, accessible and sheltered cycle parking in accordance with the London Plan. Policy T5 of the London Plan sets out a minimum requirement for cycle parking and states that development proposals should help remove barriers to cycling. London Plan Policy D3 requires proposals to encourage and facilitate active travel.
35. The proposal makes no provision for cycle storage or parking. It is in an area with a PTAL score of 2, meaning it has poor public transport accessibility. No car parking is proposed, therefore it is even more important that cycle parking provision is made, to give occupants more choice of transport.
36. There is sufficient space within the appeal site to provide the cycle storage and parking required. The existing outbuildings on site may provide cycle storage for the occupants of the existing building but it is unclear if these are to be retained. In any event, for the reasons set out above it has not been demonstrated that future occupants of the dwelling would have suitable access to the highway, and it has not been demonstrated that this would be the same as the existing arrangement. Therefore, even if storage were provided on site, I cannot be certain occupants would be able to move bicycles off the site. As a result, it would not be reasonable for me to require provision by condition.
37. Consequently, the proposal would not provide suitable, accessible provision for cycle parking and would not facilitate and encourage cycling. It would therefore conflict with Local Plan Policy LP23 f) and London Plan Policy D3.

Refuse and waste

38. There is sufficient space within the appeal site to store refuse and waste. However, as access across the frontage of No 4 has not been secured, there is no provision for future occupants to take it to the highway for collection. Furthermore, as the proposed dwelling could be occupied separately from No 4, there is nothing to ensure that bins could be left within the frontage of No 4 to await collection. This could result in them being left on the public highway. Although for relatively short periods each time, this would obstruct the highway and look unsightly, to the detriment of highway safety and the character and appearance of the area.
39. The appellant states that the existing refuse arrangements will not change, but no details of these have been provided. Given the ownership and access issues discussed above, it would not be reasonable for me to impose a condition to require provision for a collection point within the frontage of No 4.
40. Therefore, while on-site refuse, waste and recycling storage could be achieved, the proposal would not make suitable provision for its collection. Accordingly, it

would conflict with Local Plan Policy LP26 (m) which requires development to provide appropriate facilities for refuse, recycling and servicing.

41. The Council also cites Local Plan Policy LP23 in relation to this main issue, however that policy does not refer to refuse storage or collection, and I have not been directed to which criteria the Council considers relevant to this issue. Consequently, it has not been determinative in my consideration of this main issue.

Epping Forest SAC

42. Local Plan Policy LP39 does not permit development which would adversely affect the integrity of Epping Forest SAC. The existing building can lawfully be occupied as a self-contained unit of accommodation and at the time of my site visit was occupied by two people. The proposed dwelling is also shown with a double bedroom, indicating double occupancy. Consequently, there is no substantive evidence before me to demonstrate that the proposal would increase occupancy compared to the existing situation.
43. Therefore, it has not been demonstrated that the proposal would harm the integrity of the SAC as a result of increased population or any other reason, or that any mitigation is required as a result. Accordingly, I find no conflict with Policy LP39 in this respect.
44. The Council's reason for refusal in relation to the SAC also refers to Local Plan Policy LP33, however that policy relates to heritage, and I have not been directed to any part relevant to the SAC. Policy LP33 has not therefore been determinative in relation to this main issue.

Planning Balance and Conclusion

45. For the reasons set out above, the proposal would preserve the character and appearance of the CA. It would not provide suitable living conditions for future occupiers of the proposed dwelling however, and I give the resulting harm substantial weight. Nor would it provide suitable access, and as a result would not make adequate provision for cycles and collection of waste, which I give significant weight.
46. As the existing building is already a self-contained flat, the proposal would not contribute additional housing towards targets in the development plan. The replacement dwelling would have slightly larger floorspace however, in compliance with London Plan Policy H8. Because it is not in a highly accessible location, it would not benefit from the support of Local Plan Policy LP2 (c) which promotes higher density development in highly accessible areas.
47. Local Plan Policy LP2 (f) supports infill development on previously developed land subject to compliance with criteria in Policies LP7 and LP26. Policy LP7 supports subdivision of existing housing plots and gardens in certain circumstances. However, the appeal proposal would not provide adequate internal space, meet the design requirements of Policy LP26 or have its own independent access. Therefore, it would not be supported by Policy LP7.
48. Due to these design issues, the proposal would not deliver a well-designed new home, and therefore would not benefit from the support for such development on small sites in London Plan Policy H2. The appellant contends that the proposal would comply with London Plan policies D5 and D7, however for the

reasons above it would not achieve the highest standards of accessible and inclusive design required by Policy D5 or accessible housing in accordance with Policy D7.

49. The proposal would provide adequate outside amenity space for future occupiers and would not harm highway safety. Although close to the boundary with No 8 it would not be substantially larger than the existing building and, as a single storey structure, would not harmfully affect light or outlook to that neighbour.
50. Nevertheless, while the proposal would comply with some elements of local policies, it would not achieve the high-quality design required in policies throughout the development plan. Therefore, it would not comply with the development plan when read as a whole, and I give this conflict great weight.
51. The Framework recognises good design as a key aspect of sustainable development, creating better places to live and work. The proposal would not achieve the high standard of design and amenity required by the Framework. Paragraph 134 directs that development that is not well designed should be refused. The conflict with the Framework is a material consideration to which I afford substantial weight.
52. I recognise that the existing building is likely to continue to be occupied should this appeal be dismissed. The current occupants kindly allowed me to view the internal accommodation during my visit, and I saw that it is a small, cramped and relatively dark dwelling with no living area and little circulation space. It is seriously substandard in size and quality of accommodation. This is clearly an undesirable living situation, harmful to the living conditions of the current occupiers.
53. The proposed dwelling would have more glazing, and therefore receive more light than the existing building. The outlook would be similar, as although the front elevation would be set back further from the fence and No 4, the side windows would be closer to the side fence. It would however be a small improvement in the amount of floorspace and the internal layout. It would therefore provide better accommodation than the existing situation.
54. I recognise the harm that would arise from continued occupation of the existing unit. Nevertheless, the proposed dwelling would still be well below the minimum size required and would not provide high quality accommodation for future occupiers. It has not been demonstrated that this poor-quality design is the only option available to replace the current unit, particularly given the size of the site and the appellant's indication that the deficiencies could be rectified. Nevertheless, I afford significant weight to the fallback position of retaining the existing building, and the benefit of replacing it with one of slightly better quality.
55. The appellant indicates that they run a business providing accommodation to homeless services in conjunction with the local authority and private tenants. The proposal would provide a small dwelling at the lower end of the market, contributing to the housing mix in the area. The existing unit already provides accommodation however, therefore I give this limited weight.
56. The appellant indicates that the dwelling would be occupied by a disabled family member and adapted to suit their needs. Permission is however sought

for an independent dwelling, and the appellant is not seeking a permission limited to occupancy by the family member. I understand that the family member is not an occupant of the existing unit, which could continue to be occupied by non-family members as a self-contained flat.

57. I have limited information about the family member's current circumstances, or where they currently live. Provision of a dwelling close to the appellant would ensure that they could continue to provide care. However, it is not clear whether the appellant lives near the appeal site, or that the family member would indeed occupy the proposed dwelling. There is therefore no substantive evidence before me that dismissal of this appeal would result in harm to that person by denying them accommodation or appropriate care. In any event, as set out above, it has not been demonstrated that the proposal would provide suitable accommodation or access for a disabled person. In these circumstances, it would not be necessary or reasonable for me to impose a condition limiting occupation to the family member.
58. I have had due regard to the Public Sector Equality Duty set out under s149 of the Equality Act 2010. I find that the harm resulting from the provision of substandard accommodation without adequate access would outweigh the potential benefit in terms of eliminating discrimination against persons with the protected characteristics of age and disability, advancing equality of opportunity for those persons and fostering good relations between them and others.
59. I recognise that the appellant is unhappy with the way the Council dealt with the application, however that is not a matter within my remit in determining this s78 appeal. It would also be open to the appellant to make a further application to the Council for an alternative scheme incorporating changes, and with additional information regarding access and ownership.
60. Overall, I find that the benefits of the slightly larger replacement dwelling do not outweigh the harm identified above. There are no material considerations that justify granting planning permission for development which is contrary to the development plan. Therefore, I conclude that it is proportionate and necessary to dismiss the appeal.

L McKay

INSPECTOR