



Appeal Decision

Site visit made on 25 April 2023

Decision by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2023

Appeal Ref: APP/U5930/W/22/3303759

41 Blackhorse Road, Walthamstow E17 7AS

- 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 Huang, HZH Developments Ltd against the decision of the London Borough of Waltham Forest.
 - The application Ref 210709, dated 4 March 2021, was refused by notice dated 15 July 2022.
 - The development proposed is construction of a studio flat.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issues are:
 - Whether the future occupiers of the proposed development would have acceptable living conditions;
 - Whether or not the proposal would have adequate provision for cycle and refuse and recycling storage;
 - Whether a necessary obligation for car-free development has been secured by legal agreement; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Living conditions of future occupiers (outlook/daylight/amenity space/storage space/internal height)

3. The dwelling's main living area would have two small, high level windows and a single rooflight window. The rooflight would provide some angled views of the sky and the only other outlook would be from the two high level windows which would provide limited views onto Glenthorne Road. It seems likely to me that future occupiers would obscure any glazing within the front door in order to protect their privacy. In any event, the door would open into the small enclosed hallway area and, as a result, it would be very unlikely to contribute to outlook. In the absence of any outlook from the unit's three other aspects, future occupiers would be likely to find the living environment oppressive.
4. With the exception of the bathroom and small hallway, the accommodation would be arranged within a single room, which would span almost the full width

of the building. The room would be served only by the skylight and two small high level windows on the single southerly elevation. Consequently, and without any detailed evidence that the proposed room would, for example, be BRE compliant, it seems to me, that light to the kitchen area, which is located in a corner away from the windows, would be limited and is likely to result in gloomy and unacceptable living conditions for future occupiers.

5. Policy DM7 of the Waltham Forest Local Plan Development Management Policies (2013) (DMP) requires all homes to have access to an element of private amenity space and sets a minimum of 10 square metres of amenity space per bedroom. Whilst it has been put to me that both Council and appeal decisions have established a precedent for studio units without on-site private external amenity space, I have not been provided with evidence on this matter. Even acknowledging that off-site public spaces are present in the area, the proposal, which would have no external amenity space, would fail to accord with Policy DM7 in providing suitable external space at the site, unduly impacting on the living conditions of future residents.
6. Although not listed in the reason for refusal, the Council's officer report includes reference to Policy D6 of the London Plan (2021) (LP) which requires that dwellings adhere to the internal space standards set by the Nationally Described Space Standards (2015) (NDSS).
7. Whilst the appellant states that a vaulted ceiling is proposed and that precise detailed construction drawings have not yet been prepared, from the information supplied with the planning application, I cannot be certain that the minimum floor to ceiling height would be 2.3 metres for at least 75% of the new dwelling's floor area as is required by the NDSS.
8. The unit's 37.2 square metre floor area would exceed the minimum required by the NSDSS for a one bed, one person unit. The drawings submitted with the application do not identify areas for storage space. However, as the unit would have a conventional, regular layout, it seems to me, that the configuration of the unit would comfortably allow space for the inclusion of 1 square metre storage area whilst maintaining reasonable circulation space and without the dwelling feeling cramped to future occupiers.
9. However, for the above reasons, I conclude that the proposed development would not provide satisfactory living conditions for its occupants. Therefore, in this respect, it would be contrary to Policies CS2, CS13 and CS15 of the Waltham Forest Local Plan - Core Strategy (2012) (CS) and Policies DM7 and DM29 of the DMP insofar as they require that new developments are of the highest quality internally and externally and protect the living conditions of future occupiers.

Cycle and refuse storage

10. Given its small size, occupiers of the dwelling would be unlikely to create demand for a significant amount of refuse storage. DMP Policy DM16 requires residential development to comply with the specific cycle parking standards, which suggest a unit of this size should accommodate a single cycle parking space.
11. The unit does not have any external space for refuse or cycle storage nor is any internal storage indicated on the submitted drawings. Whilst the appellant

suggests that there are innovative storage solutions such as ceiling mounted cycle parking, in the absence of any further details I cannot be certain that there is an appropriate solution for refuse and cycle storage. As I cannot be certain that the storage areas could reasonably be provided internally, a condition requiring the submission of further details would not be appropriate.

12. For the reasons given above I conclude that sufficient detail has not been provided to demonstrate that the proposal would have adequate provision for cycle and refuse storage. Therefore, in this respect, it would be contrary to Policy CS6 of the CS and Policies DM16 and DM32 of the DMP insofar as they seek to ensure development provides facilities for cycle parking and the storage, collection and disposal of refuse.
13. In reaching this decision I note that the Council also alleges a conflict with Policy CS13 of the CS and Policy DM23 of the DMP with regard to this matter. However, my attention has not been drawn to any words in these policies that are relevant to this issue. The policies have therefore not been determinative in my decision

Whether a necessary obligation has been secured by legal agreement

14. The appeal site is located within an area with a Public Transport Accessibility Level (PTAL) of 4, although it is adjacent to an area with a higher PTAL of 5. This indicates good accessibility. It is also located within a Controlled Parking Zone (CPZ) and no on-site parking spaces are provided as part of the proposal.
15. The parties are in agreement that a car-free development is appropriate, and I see no reason to disagree with the Council's requirement for restrictions on the ability for future occupiers to apply for parking permits. However, this is a matter that would need to be controlled by a legal agreement. Whilst the appellant has provided a draft Heads of Terms I am not in receipt of a signed and dated Section 106 agreement or Unilateral Undertaking. Therefore, in the absence of such an agreement, were the development to proceed, there would be nothing to stop future occupiers of the proposal applying for parking permits to enable them to park on local streets.
16. Accordingly, I conclude that in the absence of a signed legal agreement, the proposal would not meet the requirements for car free development. It would therefore conflict with Policy DM36 of the DMP and the Waltham Forest Local Plan Planning Obligations SPD (2017), which set out that, where necessary, the Council will seek a planning obligation in order to facilitate development.

Character and appearance

17. The proposal would replace an existing utilitarian building with a garage door accessed from Glenthorne Road. At the time of my site visit the building appeared to be slightly dilapidated and could not be described as making a positive contribution to the area. However, the existence of a building in this location does contribute to and form part of the character of the area.
18. The appeal scheme would have a similar footprint, scale and design to the existing building which it would replace, albeit it would project slightly closer to the rear of 41 Blackhorse Road. Whilst the proposal would be located forward of the building line of other properties on Glenthorne Road and would not have a front garden or defensible space, it would not be constructed any closer to the pavement edge than the existing building. As there is an existing high level

window of similar design fronting the pavement on the existing building, the two high level windows on the front elevation of the appeal scheme would not be uncharacteristic features. The elevation would also have a front door, providing additional articulation, which would prevent the elevation from being too stark a feature within the streetscene.

19. Whilst the top of the pitched roof would be taller than the existing building, due to its gently hipped roof form it would not appear as a prominent feature within the streetscene. The submitted drawings identify the proposed materials as London yellow stock brickwork on the elevations whilst tiles would be used on the roof. This approach would be appropriate given the use of yellow brickwork and tiles within roofs on many of the nearby buildings on Glenthorne Road. Had the appeal proposal been acceptable in all other respects, a planning condition could have been imposed to ensure that further details of appropriate materials be submitted to the Council for approval prior to construction.
20. Consequently, the proposal would not have an unacceptable impact on the character and appearance of the area. Therefore, in this respect, it would not be contrary to Policies CS15 and CS16 of the CS, Policies DM4, DM29 and DM33 of the DMP or the Waltham Forest Urban Design Supplementary Planning Document (2010) which require that new development responds to local context and character and takes account of pattern of development, urban form and materials, whilst being designed to incorporate principles and practices of 'Designing out Crime'.
21. The Council also alleges a conflict with Policy CS13 of the CS with regards to this matter. However, my attention has not been drawn to any words in it that are relevant to this issue. The policy has therefore not been determinative in my decision.

Other Matters

22. The appellant's frustrations with regard to the Council's handling of the application have been noted. However, this is a matter for the Council and does not have any bearing on the planning merits of this appeal.
23. I also note that the appeal site is in an accessible location and would represent a more efficient use of the land. The proposal may be compliant with various other provisions of the development plan. However, the absence of harm or conflict with other relevant development plan policies is a neutral factor and does not weigh in favour of the proposal.

Conclusion

24. For the reasons given above, 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.

B Pattison

INSPECTOR