



Appeal Decision

Site visit made on 14 June 2023

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 5 July 2023

Appeal Ref: APP/U5930/W/22/3307419

19 Canterbury Road, Leyton E10 6EE

- 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 Abdul Pirbhai against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 203770, dated 30 November 2020, was refused by notice dated 22 March 2022.
 - The development proposed is the demolition of existing dwellinghouse and construction of two storey building and setback third storey roof extension including excavation of basement to create four self-contained flats comprising of 1 x 3, 1 x 2 and 2 x 1 bedroom units, and all associated works including cycle storage and refuse facilities
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Decision Notice, which is a more accurate representation of the scheme. I have taken the appellant's name from the Appeal Form as this was incomplete on the application form.

Main Issues

3. The main issues are: (i) the effect of the development on the character and appearance of the area; (ii) the effect of the development on the living conditions of future occupiers; (iii) the effect of the development on the living conditions of occupiers at No. 21 Canterbury Road; (iv) whether the development would comply with the housing mix requirements of the Council; and (v) whether the development would provide adequate refuse storage.

Reasons

Character and Appearance

4. The site is a two storey dwelling at the junction of Canterbury Road and Ely Road in a residential area. A warehouse is on the opposite side of the junction and a three storey apartment block faces the site on Canterbury Road. The site is part of a terrace that, while not identical in design, shares a consistency in scale and proportion along the front elevation. Other properties in the row have rear outriggers, a feature not present at the site. Nevertheless, an overall simplicity in style and shape exists that is clearly visible from Ely Road.
5. The proposal seeks to demolish the appeal property and erect four self-contained flats. It would have the appearance of a two storey dwelling from

Canterbury Road, constructed in line with the neighbouring houses with an aligned roof pitch. The main parties agree that it would cause no visual harm when viewed from the front and I have no reason to disagree.

6. However, from the rear and side the building would read as complicated. The numerous terraces with various balustrade and screening treatments, the range of roof profiles and fenestration styles, and the significant added built form would fail to respect the original character or dimensions of the property. Even acknowledging that sloped roof outrigger would align with that at No. 21, and the third storey element would be set within the roofscape, the proposal would overall result in a disjointed and sizeable feature from this location.
7. Due to its corner plot the proposal would be readily visible in the immediate surrounds. From Ely Road the added bulk directly abutting the street would be dominant and overwhelming. The site visually relates to its residential terrace, such that its scale and appearance would be neither softened nor justified by the neighbouring commercial building. Even acknowledging the variety of rear forms in the area, experienced from Ely Road alongside the more simplistic rear elevations of its terrace, the scale and fragmented appearance of the proposal would be particularly clear, highlighting its incongruous nature.
8. The three storey apartment block opposite the site is also visually distinct from its immediate terrace. However, unlike the proposal, it retains a simple and coherent design along all elevations so as to not distract from the streetscene. While corner plots can be used as design statements, it remains that the proposal would cause an undue level of visual harm to the site and surrounds.
9. For the reasons given the proposal would have an adverse effect on the character and appearance of the area. As such, it would fail to comply with Policy CS15 of the Waltham Forest Local Plan Core Strategy 2012 (the CS), Policy DM29 of the London Borough of Waltham Forest Development Management Policies Local Plan 2013 (the DMP), and the Urban Design Supplementary Planning Document (the UDSPD) insofar as they seek to ensure good design that responds to and complements the surrounding area, local context, and character. While Policies DM5 and DM7 of the DMP were also referenced, these relate primarily to housing mix and space standards.

Living Conditions – Future Occupiers

10. The proposal would provide four residential units. The main parties agree the internal floorspace and storage would be policy compliant. However, Policy D6 of the London Plan also states 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.
11. Unit 4 on the second floor of the building would have a ceiling height of 2.45m throughout the majority of the dwelling, with a maximum pitch in the living roof of 3.136m, that would reduce to 2m. Accordingly, the ceiling height of this unit would not be 2.5m for at least 75 per cent of the Gross Internal Area. Even acknowledging the amount of internal floorspace provided, this lower ceiling height would lead to a cramped living space that could not comfortably accommodate the day to day needs of future residents, negatively impacting on the useability and enjoyment of the space.
12. For the reasons given, the proposal would have a significant adverse effect on the living conditions of future occupiers with regard to internal floorspace. As

such, it would fail to comply with Policy DM7 of the DMP and Policy D6 of the London Plan 2021 (the London Plan) insofar as they seek to ensure development provides comfortable and functional layouts. While reference is also made to Policy CS15, this relates primarily to design.

Housing Mix

13. Policy DM5 of the DMP seeks housing development to provide a range of dwelling sizes in line with a mix of 20% 1-bedroom, 30% 2-bedroom, 40% 3-bedroom, and 10% 4-bedroom units. The proposal would provide 1 x 3-bedroom, 1 x 2-bedroom and 2 x 1-bedroom flats, failing to meet this mix.
14. In principle the proposal would provide additional units of accommodation. However, Policy DM7 of the DMP is clear that the Council will not support the provision of studio and 1-bedroom, 1-person homes in the area, such as Units 2 and 3 of the proposal. I have also found that Unit 4 would not represent suitable living accommodation due to the limited ceiling height throughout the property. Accordingly, the provision of these dwellings in addition to the retention of a 3-bedroom property at the site would not represent a benefit that would outweigh the conflict with the housing mix outlined in Policy DM5.
15. For the reasons given, the proposal would not comply with the housing mix requirements of the Council. As such, it would conflict with Policies DM5 and DM7 of the DMP in this regard. While reference is also made to Policy CS15, this relates primarily to design.

Living Conditions – Neighbouring Occupiers

16. The proposal would be readily visible from the rear garden of No. 21 Canterbury Road when looking in the direction of the site, inevitably creating a change in outlook from this location due to the added built form.
17. However, while the proposal would extend closer to the rear garden of No. 21, it would not project beyond the rear elevation of this neighbouring dwelling. The boundary sections between these properties that are currently free from built form would remain as such. Taken together with the inset of the third storey elements in the roofscape, this would ensure no undue sense of enclosure in the rear garden of No. 21. While the disjointed rear appearance of the proposal would be evident, from this precise location it would not appear so overwhelming as to harm the living conditions of occupiers of No. 21.
18. For similar reasons the proposal would not unduly harm neighbouring living conditions with regard to light. Its rear wall would sit flush with that at No. 21, with the three storey element set back from the boundary and not exceeding the current roof height of the main dwelling. This would ensure daylight and sunlight would continue to reach the rear gardens and elevation of No. 21 in a similar manner to the current situation. This is supported by the Daylight Impact Assessment. While I note concerns regarding this assessment, in the absence of substantive, technical advice to the contrary, and taken together with my observations, I attach significant weight to its findings.
19. Concerns have also been raised about noise arising from the construction of the proposal. However, given the temporary nature of such disruption, it would not lead to undue impacts on the living conditions of surrounding occupiers. In addition, screening proposed at balconies, and given the built up nature of the surrounds, would ensure no undue overlooking that would harm

the living conditions of neighbouring occupiers. There is also nothing substantive before me to suggest the proposal would impact on the foundations of surrounding buildings.

20. For the reasons given, the proposal would not result in harm to the living conditions of neighbouring occupiers. As such, there would be no conflict with Policies DM29 and DM32 of the DMP and the Residential Extensions and Alterations Supplementary Planning Document insofar as they seek to ensure that development maintains amenity, light and outlook for neighbours. While reference is also made to Policy CS15, this relates primarily to design.

Refuse Storage

21. The proposal would provide 5 x 240l bins to the front of the property. The Council's Waste Management Guidance outlines that where properties have been converted into flats, it may be appropriate for each dwelling to each have their own bins. It references three bins per household, being a 140l refuse bin, a 140l or 240l organic waste bin and a 140l or 240l recycling bin, recommending that households of 2 or more bedrooms should have a 240l recycling bin. The storage proposed would not meet this amount.
22. However, the guidance also refers to communal external waste storage levels, being 100l of refuse and 100l of recycling for 1 bedroom flats, and 120l of refuse and 120l of recycling for flats of two or more bedrooms. This could be accommodated in the proposed storage. While these communal storage levels are said to apply to properties of more than 4 dwellings, this is guidance rather than policy, and there is nothing substantive to suggest that it would be unsuitable for the proposal to provide such communal waste storage.
23. In any event, even if it were deemed the proposal should provide individual waste storage for the dwellings, on the basis of the submitted plans there would be ample space for such provision. While additional bins to the front of the property may have a detrimental impact on the streetscene, the rear communal area could accommodate further storage. This is linked to Ely Road to allow for the placing of bins on Canterbury Road for collection, at a distance that is not unreasonable. As such, had the proposal been acceptable in all other aspects, an appropriate condition could have been attached for the submission and approval of a Waste Management Strategy and plan.
24. For the reasons given, subject to a suitable condition, the proposal would provide adequate refuse storage. As such, there would be no conflict with Policies CS13 and CS15 of the CS, Policies DM23, DM30 and DM32 of the DMP, and the UDSPD insofar as they seek to ensure development provides adequate levels of waste storage that protects amenity and does not cause visual harm.

Other Matters

25. The site lies in proximity to the Epping Forest SAC (the SAC). However, there is no need for me to consider the implications upon the SAC in this case as the proposal is unacceptable for other reasons.
26. The appellant has stated that pre-application advice was positive but I must consider the merits of the case before me and can give only limited weight to such discussions. Reference has been made to comparable development but each case is decided on its own site specific merits and reference to development elsewhere carries limited weight. Efforts would be made to

ensure the efficiency and sustainability of the proposal would be maximised, including the use of solar panels and lack of parking. However, due to its limited scale and the contributions it would make in this regard I attach moderate weight to this benefit. The appellant's frustrations with the Council are noted, but have no bearing on planning merits.

27. The proposal would lead to additional housing in an established residential area, providing housing choice and optimising the use of the site. However, given the limited number of dwellings proposed and my findings on housing mix and living conditions of future occupiers, this carries limited weight. Even when taken together with the weight attributed to pre-application advice, other development examples, and environmental benefits, this would not outweigh the harm identified.

Planning Balance and Conclusion

28. The proposal would not harm the living conditions of neighbouring occupiers and, subject to an appropriately worded condition, would provide adequate refuse storage. This lack of harm is neutral in the planning balance. However, the proposal would harm the character and appearance of the area, the living conditions of future occupiers, and would not meet the Council's housing mix requirements. This harm is not outweighed by identified benefits.
29. As such, 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. The appeal should therefore be dismissed.

C Rafferty

INSPECTOR