



Appeal Decision

Site visit made on 16 May 2023

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/U5930/W/22/3306356

10A Napier Road, Leytonstone E11 3JR

- 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 Asad Chaudhry (Essex Estates Investment Ltd) against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 220008, dated 20 December 2021, was refused by notice dated 14 March 2022.
 - The development proposed is the demolition of existing buildings and construction of a two-storey building to provide three self-contained residential units (1x2-bed and 2x1-bed) (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Although the application form describes the proposal as for ground floor flats (1x2-bed and 2x1-bed), the drawings show a two storey building. Therefore, for the banner heading above, I have taken the description of development from the appellant's appeal form as it more accurately describes the proposed development.
3. The elevation labelled 'South Elevation' on drawing A13 Rev A, is the north facing elevation. Conversely the elevation labelled 'North Elevation' on drawing A12 Revision A is the south facing elevation. I have taken this into account in considering the appeal proposal.
4. The Council has confirmed that Policy D6 of The London Plan (2021) (TLP) was missed off the list of policies in the second reason for refusal. The appellant has had an opportunity to comment on the relevance of Policy D6 to this reason for refusal. I am satisfied that assessing the appeal on this basis would cause no prejudice to any party.

Main Issues

5. The main issues are:
 - The effect of the proposed development on the living conditions of the occupiers of nearby properties with particular regard to outlook, access to light and privacy;
 - Whether the proposal would provide appropriate living conditions for future occupiers of the proposed development, with particular regard to outlook, access to light and ventilation;

- Whether or not a legal agreement is required to prevent future occupants from acquiring parking permits to secure car free development; and
- Whether or not there would be adequate cycle parking and refuse storage facilities to serve the proposed development.

Reasons

Living conditions of nearby occupiers

6. The height and extent of the front and rear walls of the proposed building, would be markedly greater than those of the existing boundary treatments and buildings that currently occupy the site. The proposed building would extend a considerable distance along the common rear boundaries of several of the terraced properties that front onto Napier Road and High Road Leytonstone.
7. Several properties fronting High Road Leytonstone have been extended up to the boundary with the appeal site, leaving little if any outdoor amenity space. The drawings and aerial images submitted by the appellant show that 276 and 282 High Road Leytonstone have short rear gardens facing the appeal site. The rear gardens of 4 to 12 Napier Road (Nos. 4 to 12), whilst longer, are also relatively short. I saw on my visit that the first floor windows in the rear outriggers of Nos. 4 to 12, and 282 and 284 High Road Leytonstone, appeared to be clear glazed, whereas all others in the locality appeared to be opaquely glazed.
8. Taking these factors into account, I find that the scale and massing of the proposed building would have a dominant and overbearing effect on the occupiers' outlook in views from the clear glazed rear facing rooms in the outriggers of the aforementioned properties, and from the rear gardens of those properties I have identified.
9. A technical assessment of daylight and sunlight has not been submitted. Nonetheless, the scale, massing and orientation of the proposed building would also be likely to cause a significant reduction in light reaching the short rear gardens and ground floor windows of the aforementioned properties fronting on to High Road Leytonstone and Napier Road, at certain times of day, dependent upon the angle of the sun as it moves through the sky.
10. There are two relatively narrow windows serving the first floor bedroom window in Flat 1. The field of view out of one of those windows would be restricted by the side wall of the proposed building. Views out of the other window and towards opposing windows in the properties fronting Napier Road would be across relatively oblique viewing angles. Even across the short distances shown on the drawings, I am satisfied that views out of this bedroom window would not, given the likely level of occupancy, lead to a harmful loss of privacy for nearby occupiers, particularly given the number of windows in the rear walls of the opposing properties.
11. For these reasons I conclude that the proposal would have a harmful effect of on the living conditions of the occupiers of nearby properties. As such, it would be contrary to Policies CS13 and CS15 of the Waltham Forest Local Plan – Core Strategy (Adopted March 2012) (CS), and Policies DM4 and DM32 of the London Borough of Waltham Forest Development Management Policies – Local Plan (Adopted October 2013) (DMP), which together seek to ensure that

development is of a high quality and well designed, promotes health and well-being, and maintains levels of light and outlook for occupiers of existing properties.

12. The appeal proposal before me is for a new building and not the alteration or extension of a residential building. As such, the guidance in the Waltham Forest Residential Extensions and Alterations Supplementary Planning Document (Adopted February 2010), which I have had regard to, is of limited relevance and does not alter my conclusions on this main issue.

Living conditions for future occupiers

13. The kitchen/living/dining room in Flat 1 is on the ground floor and served by a single glazed window/door opening in the north facing wall. Given the length and narrowness of the floor plan of this room and its north facing aspect, light levels into this room would likely to be harmfully restricted. Furthermore, the outlook from this room in Flat 1, would be harmfully constrained to across the short garden area and towards the blank boundary treatment.
14. The outlook from the kitchen/living/dining room in Flat 2 and the levels of light reaching this room would be harmfully restricted by the room's long and narrow floor plan, including the narrow staircase, which is shown to be fitted with a door between the room and the window.
15. The outlook from the kitchen/living/dining room in Flat 3 and the levels of light reaching this room would also be harmfully restricted by the narrow corridor of the stairs to the garden between the room and windows serving it. The bedroom window serving Flat 2 faces a void in the building and an internal wall. As such, the outlook from this window would be harmfully restricted.
16. The kitchen/living/dining rooms of the proposed flats are single aspect with few window openings and generally long, narrow floor plans. I note the reference to Policy D6 of TLP, which includes a requirement for proposed single aspect residential units to demonstrate adequate passive ventilation and avoidance of overheating. Based on the evidence submitted, I have no certainty that the proposed residential units would be provided with sufficient ventilation to avoid overheating.
17. For these reasons I conclude that the proposal would fail to provide appropriate living conditions for future occupiers of the proposed development, with particular regard to outlook, access to light and ventilation. As such, it would be contrary to Policies CS13 and CS15 of the CS, Policy DM32 of the DMP and Policy D6 of TLP. These policies seek, amongst other requirements, that development is of a high quality design, promotes health and well-being, and that future occupiers are provided with sufficient levels of outlook and light, whilst avoiding overheating.
18. As the Council has confirmed that the proposed development would meet the quantitative external and interior space standards set out in Policy DM7 of the DMP, I find no conflict with this policy. However, compliance with these standards does not outweigh the harm identified above.

Parking permits

19. The appeal site has no on-site parking facilities and is located within a Controlled Parking Zone (CPZ) where on-street parking is reserved for permit-

holders only. Policy CS7 of the CS and Policy DM16 of the DMP seek to encourage car free development to promote walking, cycling and public transport, and avoid exacerbating parking stress.

20. To secure car free development, Policy DM16 of the DMP confirms that the Council will not issue residents of car free developments with on-street parking permits and is seeking a legal agreement that will prevent future occupiers from acquiring parking permits.
21. In the absence of a legal agreement to secure the development as car free, the development would conflict with the sustainable transport objectives of Policy CS7 of the CS and Policy DM16 of the DMP, the requirements of which are specified above.

Cycle parking and refuse storage facilities

22. Cycle parking and refuse storage would be accommodated in the yard area between the access to the appeal site from Napier Road and the entrance door to the proposed building. Given the space available in the yard, I am satisfied that a secure storage facility for the minimum of 5 cycles stated by the Council as being required, could be secured by a suitably worded planning condition.
23. The Council's third reason for refusal refers to insufficient information regarding arrangements for refuse collection and storage. However, the Council Officer's Report states that such details can be secured by condition. Given the space available within the yard area, I am satisfied that adequate details for bin storage could be secured by condition.
24. For these reasons the proposal would comply with the objectives for cycle parking and bin storage set out in Policies CS6, CS7 and CS13 of the CS and Policies DM14, DM16, DM30 and DM32 of the DMP, which seek, amongst other things, to ensure that new development provides well designed storage facilities for waste and recycling, and provides satisfactory cycle parking to encourage cycling as a sustainable mode of transport.

Other Matters

25. The appellant has drawn my attention to a single building containing 2 x 1 bed flats on land to the north at 22A Napier Road (No. 22A), that was built following the grant of planning permission by the Council in 2016. The approved drawings of No. 22A are before me in this appeal. There are some broad similarities between the building at No. 22A and the appeal building in terms of their backland location, scale and form.
26. However, when compared to the appeal site, the gardens of the terraced properties that face No. 22A are longer, and the terraced houses are separated from the building at No. 22A by greater distances. Furthermore, the interior layout in the building at No. 22A is different to the appeal building with regular shaped rooms that are served by large areas of glazing in the end walls, facing out onto the garden areas. As such, the building at No. 22A is materially different in context and design to the appeal proposal and therefore it has limited relevance to my considerations in this appeal.
27. In the context of the development plan, I have found that the proposal would conflict with Policies CS7, CS13 and CS15 of the CS, Policies DM4, DM16, DM32 of the DMP and Policy D6 of TLP. Although these policies pre-date the current

Framework, I have found them to be broadly consistent with its objectives of promoting well-being and providing a high standard of amenity for existing and future occupiers, and promoting sustainable transport and opportunities for travel by cycling and public transport. Therefore, I give the appeal proposal's conflict with these policies significant weight.

28. The socio-economic benefits of the appeal proposal are that it would make efficient use of previously developed land in a location where development plan policy supports new housing and where there is access to a range of services and employment opportunities. It would generate short term employment opportunities and economic activity associated with the construction works, and long-term benefits through residents supporting the economy and services. I have no substantive evidence to cast doubt over the claim that it would meet the Lifetime Homes standards. Energy and water efficiency would exceed Building Regulations standards in accordance with the Council's suggested conditions. However, given the scale of the proposed development, these benefits are small and attract limited weight.
29. I acknowledge that the external appearance of the proposed building would be acceptable. Interior space and outdoor amenity space would adhere to quantitative standards. The proposal would not give rise to harm with regard to bin storage, cycle parking, flooding and heritage assets, and it would meet Building Regulations. However, an absence of harm in these respects does not weigh in favour or against proposal, being requirements of any well designed development.
30. The appellant is willing to agree to any reasonable planning conditions. However, adhering to the conditions suggested by the Council, which include ensuring compliance with energy and water efficiency measures, would not alter my conclusions on the harm found under the main issues above. The conditions would not make the proposed development acceptable.
31. The appellant refers to the Strategic Housing Market Assessment and the objectively assessed housing need in the Borough, including the need for flats of various tenures. The Council has not provided any comments on its housing land supply position.
32. I acknowledge that the proposed development would make a small contribution to the housing supply in the area. Even if I were to conclude that Paragraph 11.d)ii. of the Framework applies and that permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, I have already found that the benefits of the proposal would be small. However, I find there would be conflict with the Framework in so far as the proposal would not provide a high standard of well-being and amenity for existing and future occupiers. Furthermore, it would not facilitate car free development to meet the objectives of promoting sustainable transport.
33. Consequently, the appeal proposal's adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result, the proposed development does not benefit from the Framework's presumption in favour of sustainable development.

Conclusion

34. For the reasons given above and having considered all matters raised, I conclude that the proposed development conflicts with policies of the development plan. Although it may comply with other policies, this results in conflict with the development plan as a whole. There are no material considerations of sufficient weight, including the Framework, to outweigh this finding. Therefore, the appeal should be dismissed.

G Sylvester

INSPECTOR