



Appeal Decision

Site visit made on 18 August 2023

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2023

Appeal Ref: APP/U5930/W/23/3318241

First Floor Flat 2, 51 Vernon Road, Leytonstone, Waltham Forest E11 4QT

- 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 Ms G Stott against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref 221568, dated 14 June 2022, was refused by notice dated 3 February 2023.
- The development proposed is replacement external staircase.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered from that on the planning application form. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the description given on the original application albeit I have removed a reference to the development being retrospective as this is not an act of development.
3. An external staircase is on site. As shown on the submitted plans, at the top of the stairs is a landing accessed via bi-fold doors which have a retractable awning above. Also as shown on the plans, there is a balustrade to the landing area together with gates at both the top and bottom of the staircase. Unlike the submitted plans, the landing area is enclosed by a privacy screen. For the avoidance of doubt, I have determined the appeal on the basis of the plans submitted.

Main Issues

4. The main issues are the effects of the proposed development upon the living conditions of the occupiers of the ground floor flat at 51 Vernon Road and of neighbouring 53 Vernon Road.

Reasons

5. 51 Vernon Road is a mid-terraced residential property which is divided into flats. The local area is predominantly residential in character with other terraced rows of properties located nearby. The terraced properties on Vernon Road are generally served by small front yard spaces with larger gardens to their rear.

6. Reflective of this, at the rear of No 51, there is a garden area accessible via the external staircase which is in place. Neighbouring No 53 also has a rear garden with access to it from the first floor of that property provided via an external staircase.
7. The replacement staircase as proposed would be a larger structure than the external staircase previously in situ. It would be larger by reason of it having a greater overall length and width, whilst it would have a larger landing area at the top of the stairs. As a consequence of its design and dimensions, the proposed external staircase would be more closely positioned to parts of the back elevation of No 51 and the back of the property of No 53 too, including its garden.
8. The ground floor flat within No 51 includes a set of French doors within its rear elevation. The proposed staircase would be directly opposite these French doors. In views from the room served by the French doors, the significant span of the support columns, the significant size of the landing with its solid underside and, the close proximity of the proposed staircase, would all be experienced. In combination, these factors would harm the outlook from the room served by the French doors and create an unacceptable degree of enclosure.
9. Although I accept it would be set no higher than the one it would replace, the proposed landing area would, nevertheless, be positioned high above the ground level. The 1.1m high balustrade which would enclose the proposed landing would easily permit views over it toward the French doors within the ground floor flat below, the yard space adjacent as well as toward the windows and across sections of the rear garden of No 53. In comparison to the staircase it would replace, the greater area of the landing proposed would result in a more usable space where it would be likely that more time would be spent. Given the combination of this greater proximity, the larger and more useable landing and the availability of the views from it, the proposed staircase would result in an unacceptable infringement upon the privacy of the occupiers of the ground floor flat at No 51 and the occupiers within No 53.
10. I acknowledge that alterations to the ground floor flat within No 51 have taken place in the past including, to its arrangement of doors and windows which are close-by to the proposed siting of the staircase. Although the appellant submits that the French doors were installed after the erection of the external staircase currently on site, the evidence before me to this end is not compelling and, therefore, I can only give this scenario limited weight in my decision. I also have no substantive evidence that any changes made to the ground floor flat at No 51 did not obtain permission or, if not, that permission was necessary. It may also be the case that there are other windows within the ground floor at No 51 which would be less impacted upon by the proposals than the French doors, but regardless, the harmful effects upon outlook and privacy I have identified above would nevertheless result.
11. A form of privacy screen encloses the landing space at the top of the staircase on site. However, these are not shown on the plans which have been submitted for my determination. The provision of a privacy screen, be that of the type currently on site or, an alternative solution as suggested by the appellant, would represent a substantial change from what the submitted plans depict. Therefore, in these circumstances and, if I were minded to allow the appeal, it

would be inappropriate to impose a condition requiring the provision and/or retention of a privacy screen.

12. I accept that the condition and design of the previous staircase may not have been fit for purpose and the proposal would address some of those deficiencies both visually and, by providing a safer access route to the garden for occupants. I have had due regard to Article 8 of the Human Rights Act 1998 which affords the right to respect for private and family life and home and, where those rights apply to a child, their best interests are a primary consideration. I have also had due regard to the Public Sector Equality Duty under the Equality Act 2010 which sets out those with relevant protected characteristics which includes age.
13. However, it has not been shown to me that the proposal is the only design option to provide a safe and suitable replacement staircase and, I am satisfied that the aim of avoiding unacceptable harm to the living conditions of neighbouring occupiers can only be adequately addressed by dismissal of the appeal. Any interference with the human rights of the occupants or effects upon those with protected characteristics is necessary and proportionate in this case.
14. For the reasons given above, the proposed development would result in unacceptably harmful effects upon the living conditions of the occupiers of the ground floor flat at 51 Vernon Road and of neighbouring 53 Vernon Road. Consequently, the proposed development would be contrary to Policies CS13 and CS15 of the Waltham Forest Local Plan Core Strategy, Policies DM4 and DM32 of the Waltham Forest Local Plan Development Management Policies document and, guidance within the Residential Extensions and Alterations Supplementary Planning Document (SPD). Each of these policies and the SPD are relevant to living conditions and, amongst other matters, these policies and provisions require that development responds positively to the local context and protects the occupiers of existing and nearby property occupiers from excessive loss of residential amenity.

Other Matters

15. Access to outside space may provide a range of benefits including those which are health related. However, in this case, these benefits would not outweigh the harm that I have identified in the main issues, particularly where it has not been shown to me that alternative design solutions in order to provide access to the garden do not exist. The landing would provide a sheltered space beneath it but any benefit derived from this would also be insufficient to outweigh the harm I have identified in the main issues.
16. I accept that there are external staircases elsewhere in the area including at No 53 but, I have identified the particular reasons why the appeal proposal would be harmful. Therefore, the presence of other staircases does not justify this particular proposal.
17. It may be that the appellant obtained informal consent for the staircase from the previous owner of the ground floor flat at No 51 and, they may not have been previously aware that planning permission was required for the staircase. However, these matters have little bearing on the merits of the case and, therefore, are of limited weight in my determination.

Conclusion

18. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations including the advice contained within the National Planning Policy Framework, the appeal is dismissed.

H Jones

INSPECTOR