



Appeal Decision

Site visit made on 28 November 2023

by D Wilson BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 January 2024

Appeal Ref: APP/U5930/W/23/3320730

55 Mornington Road, Leytonstone, London E11 3BG

- 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 Peter Harris against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 220491, dated 12 April 2022, was refused by notice dated 30 November 2022.
 - The development proposed is the subdivision of site and construction of one two storey dwellinghouse with basement (1x2-bed) (use class C3). Ancillary hard and soft landscaping, bicycle parking and refuse/recycling storage facilities.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. An amended version of the National Planning Policy Framework (the Framework) was published in December 2023. In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework, and this has informed my determination of the appeal.

Main Issues

3. The main issues are:
 - the effect of the development upon housing mix in the area with particular regard to the provision of family sized dwellings,
 - the effect of the development upon the character and appearance of the area,
 - whether adequate living conditions would be provided for future occupiers with particular regard to external space standards, privacy, daylight and sunlight,
 - the effect of the development upon the living conditions of neighbouring occupiers with particular regard to existing garden space and privacy,
 - the effect of the development upon highway safety with particular regard to parking; and
 - whether the proposal promotes inclusive design.

Reasons

Housing mix

4. The proposal is not within a back garden and would directly address the street. It would result in a continuation of the terraced housing on Woodville Road and have its own frontage onto the road. I therefore find that the proposal would not constitute backland development and I find no conflict with policy DM4 of the LP which seeks to resist backland development.
5. Policy DM5 of the London Borough of Waltham Forest Development Management Policies Local Plan Adopted October 2013 (LP) seeks to ensure that a range of dwelling sizes are provided and particularly focuses on the provision of family sized homes with three bedrooms or more. Proposals for smaller homes, including one and two bedroom dwellings will generally not be supported by the Council.
6. While the aim of the Policy is to encourage family style homes, it does not prevent smaller one and two bedroom homes. The Policy encourages a percentage mix of bedroom sizes and is directed towards housing developments for multiple dwellings, it is therefore not possible to apply this to a single dwelling.
7. I therefore conclude that the proposal would meet the identified need of housing mix and would not be contrary to policy DM5 of the LP. It would also not conflict with paragraph 123 of the National Planning Policy Framework (the Framework) which seeks to ensure that planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses.

Character and appearance

8. The appeal site is a parcel of land located on the corner of Mornington Road and Woodville Road. The appeal site includes No 55 Mornington Road which is a large building which contains several flats. The wider area is a residential area categorised by rows of terraced, two storey dwellings.
9. The proposal seeks to sub-divide the large plot to create a two-storey dwelling which would front onto Woodville Road and create an end of terraced dwelling next to No 2 Woodville Road. There is a mixture of dwelling shapes, sizes and styles in the wider area. However, terraced are common in the immediate locality, with some semi-detached, most of which have similar building lines and roof heights. The houses also tend to have bay windows and small front garden areas which are bordered by low brick walls. The overall result is a strong uniformity in the street scene.
10. The proposal would have a part flat roof which would be directly attached to No 2 and stepped down from its eaves height. The remainder of the roof would be pitched but would be lower than the apex of No 2's roof. The proposed roof would also have a low pitched gable end that faces the street. The roof form nearby terraces have no gables that front the street and No 55's roof is steeply pitched. The result of the proposed roof would be starkly contrasting and would erode the strong uniformity on the street scene.
11. The proposal would include two windows at first floor level which would generally mirror the scale and positioning of other windows within the first floor

- of the other terraces. However, the proposal includes a large, modern window at ground floor level that would protrude over a lightwell. While this tries to replicate the prevailing bay windows on other dwellings, its scale, modern design and materials would differ from the prevailing style of bay windows result in a stark feature in the street scene.
12. The proposal also includes the use of several different colours of brick with the ground floor and first floor of the proposal using different colours. While the proposed boundary treatment would follow the line of the other boundary treatment it would be another different colour and also include a tall entry arch which is not a feature of other houses on the street. However, I am satisfied that the colour of brickwork and style of the boundary treatment could be controlled by a suitably worded condition.
 13. Overall, the difference in roof heights, roof form and style of the ground floor window would result in the proposal standing out as a stark and awkward feature in the street scene which would erode the strong uniformity which is characteristic of the area.
 14. The Councils Urban Design Supplementary Planning Document Adopted February 2010 (Urban Design SPD) outlines that the Council encourage contemporary design wherever appropriate. However, amongst other things, encourages following common heights which I have found the proposal would not do.
 15. Notwithstanding my finding on backland development, I conclude the proposal would cause harm to the character and appearance of the area. It would be contrary to policies CS2 and CS15 of the Waltham Forest Local Plan Core Strategy Adopted March 2012 (CS) and policy DM29 of the LP. Amongst other things, these seek to ensure development makes a positive contribution to improving the urban environment and gives strong recognition to local distinctiveness and character.
 16. The proposal would also be contrary to guidance contained within the Councils Urban Design SPD which seeks to ensure careful consideration to the immediate surroundings and general context of the area.

Whether adequate living conditions would be provided for future occupiers

17. The appellant accepts that the amount of external amenity space would be less than 50m² which is the minimum amount of external amenity space required by policy DM7 of the LP for a two bedroom dwelling.
18. The supporting text of policy DM7 outlines that external space standards will be considered on a site by site basis and the Council will take a flexible approach. While the appeal site is well located with access to shops and green spaces and the appeal site is generally constrained in size, the prevailing character of dwellings in the area have larger gardens and the appellant has not advanced any reason why a larger garden and smaller house would be financially unviable. Even though the shortfall is small, the proposal would therefore provide substandard external amenity space.
19. The proposal, due to its location next to No 55 which is it a much greater height, would mean that much of the dwelling would be overshadowed which is shown within the appellant's overshadowing study. While the western elevation includes large doors the northern elevation includes a lightwell both elevations

would be overshadowed and therefore, due to the lack of sunlight and daylight it would not provide acceptable living conditions for future occupiers.

20. The proposal includes a lightwell to the front of the property which would be bordered by a low brick wall with the footpath opposite. While close to the footpath, views of the lightwell would be only fleetingly experienced by those passing on foot, which would not be harmful.
21. Notwithstanding my findings on privacy, I conclude the proposal would not provide adequate living conditions for future occupiers with regard to sunlight, daylight and external space. It would be contrary to policies DM7, DM29 and DM32 of the LP and Policy D6 of the London Plan. Amongst other things, these seek to ensure that well-designed amenity space is provided, and that adequate daylight and sunlight is provided for future occupants.

Living conditions of neighbouring occupiers

22. The kitchen would be situated to the rear of the proposal and a large window at ground floor level would face towards the rear garden of No 59 Mornington Road. The Council are concerned that no boundary treatment is shown within this location and as a result, future occupiers would be able to look directly into the garden of No 59 and therefore result in a loss of privacy.
23. There is currently a high wall in this location which separates the boundaries of the properties and would not enable views from the kitchen window of the proposal, and this is not shown to be removed. In any case, I am satisfied that a condition could be imposed to require details of boundary treatment to ensure that the proposal would not result in any harm to the privacy of the occupiers of No 59.
24. I note the Council's consideration that the appeal site would have historically formed part of the garden of No 55. However, it is currently a largely overgrown parcel of land containing a garage that is separated from No 55 by a fence and therefore does not currently form part of its garden. The current external amenity space for No 55 falls below the minimum standards required by Policy DM7 albeit only marginally. However, regardless of the outcome of the appeal the external amenity space for the occupiers of No 55 would remain unaltered and I therefore find the existing external amenity space to be acceptable.
25. I therefore conclude that the proposal would not harm the living conditions of neighbouring occupiers with respect of privacy and that adequate external amenity space would be provided for the occupiers of No 55. I find no conflict with Policy D6 of the London Plan and Policy DM32 of the LP. Amongst other things, these seek to ensure development provides functional layouts and ensure that privacy is maintained for existing occupants.
26. I also find no conflict with guidance contained within the Council's Urban Design SPD which amongst other things, seeks to balance the need for internal privacy of the home from overlooking and the need to retain good natural surveillance of the public realm.

Highway safety

27. Mornington Road and Woodville Road are residential streets with good access to public transport as well as pedestrian walkways and cycle lanes. The site is located within a Controlled Parking Zone (CPZ).
28. The Council have indicated that to ensure that the development would be car free, a planning obligation should be secured to remove the opportunity for future occupiers to apply for a parking permit.
29. The appellant has expressed a willingness to enter into a legal agreement, but no such agreement has been prepared and submitted with this appeal. In the absence of a feasible means of securing the development as car free, the development would likely place undue stress on the parking environment through the additional demand from the development. This would likely result in inconsiderate parking that would unacceptably increase the risk of conflict between vehicles and pedestrians.
30. I therefore conclude that the proposal would harm highway safety with particular regard to parking. It would be contrary to policy CS7 of the CS and policy DM16 of the LP. Amongst other things, these seek to actively encourage walking and cycling and encourage car-free development in locations that are highly accessible by public transport.

Inclusive design

31. The proposed accommodation is set over three floors, with the living accommodation being on the ground floor and a bedroom within the basement and first floor. The appellant has sought to ensure that the proposal would comply with M4 (2) accessible and adaptable dwellings and the lifetime homes guidance.
32. An indicative position of a lift is shown which would allow step free access to all floors. I note that the Council raise concern over the position of the lift which is that it may take up more space than shown which could interfere with the position of a window on the first floor and create an awkward room shape for the basement which could reduce the area required to comply with internal space standards.
33. The lift shown would provide step free access to all floors and while I note the Council's concern over its position, they have provided no evidence to suggest that the space shown would be insufficient in order to provide this. In any case, there is sufficient internal space on each floor and I therefore consider that the indicative position of the lift could be slightly moved if necessary.
34. I therefore conclude that the proposal would promote inclusive design. I find no conflict with policy D7 of the London Plan and policy DM30 of the LP. Amongst other things, these seek to ensure that development provides suitable housing and genuine choice for London's diverse population and be designed so that everyone, including disabled people, can conveniently reach.

Other Matters

35. The appeal site falls within the zone of influence for the Epping Forest Special Area of Conservation. As the competent decision-making authority, if I had been minded to allow the appeal it would have been necessary for me to

complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

36. The appellant has drawn my attention to a planning application that the Council have approved, reference 162084 which related to a similarly described development that has won an award which they consider it to be a precedent case. However, I have not been provided with the full details of this application, so it is difficult for me to draw any direct comparisons to the appeal before me.
37. The proposal would utilise a vacant parcel of land to increase housing supply, however, this benefit does not outweigh the harm I have identified. The appeal site is not within a Conservation Area or adjacent to any Listed Buildings. The proposal would also use energy efficient materials and meet the nationally described space standard. However, these are neutral matters that do not outweigh the harm I have identified.
38. I note that the appellant raises some concern that the Urban Design SPD only relates to large scale development, however, it is clear from section 1.2 that it relates to all development in the district.
39. The Appellant quotes positive pre-application advice from the Council. Such advice is always given without prejudice to the outcome of any subsequent formal application and any appeal is determined on a fresh assessment of the evidence provided.
40. I note the appellant's frustration with the Council during the course of the applications consideration, including the time taken to consider. However, I am only in a position to consider the planning merits of the appeal.

Conclusion

41. For the reasons set out above, while I have not found conflict with all the Policies drawn to my attention, I conclude that there is conflict with the development plan as a whole. I also find conflict with the Framework. I therefore conclude that the appeal should be dismissed.

D Wilson

INSPECTOR