



Appeal Decision

Site visit made on 19 July 2023

by N Kempton BA(Hons) PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21.02.2024

Appeal Ref: APP/U5930/W/23/3316220

1 Russets Close, Chingford, London E4 6UA

- 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 Robyn Mason, RGM Property Management against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 222051, dated 5 August 2022, was refused by notice dated 25 October 2022.
 - The development proposed is the demolition of the existing two storey dwellinghouse (1x2-bed) (Use Class C3) and construction of a two storey building including dormer window to rear roof to provide two self-contained residential units (2x2-bed) (Use Class C3). Associated hard and soft landscaping, one parking space to front, bicycle storage and refuse and recycling storage facilities to rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Both parties were given the opportunity to comment on the amended National Planning Policy Framework, published in December 2023, and I have taken into account representations received.
3. Both parties have advised that the stage of progress the emerging Local Plan has reached should limit the weight given to its policies, and upon which, in any event, neither party has relied.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the street scene within Russets Close and when viewed from Larkshall Road and Hatch Lane;
 - the living conditions of neighbouring occupiers of 2 Russets Close with particular regard to amenity and outlook; and
 - the living conditions of future occupiers of flats 1 & 2 with particular regard to privacy and external amenity space.

Reasons

Street scene

5. The appeal site is an end of terrace property located on the eastern side of Russets Close. The short terrace of which the appeal property forms part, is set

back from the street with a driveway to the front. The consistent ridgeline, building line and form of the terrace, and the established plot widths and proportions- in terms of their scale and massing- of the individual houses within the terrace, are aesthetically coherent. To the south side of the property is a large, paved area which provides direct access to the rear garden. A sizeable, detached outbuilding occupies the rear garden. Russets Close continues to the rear of the terrace, leading to a publicly accessible parking forecourt and two apartment blocks. The surrounding area is predominantly residential in character and comprises largely two and three storey terraced/semi-detached properties. To the south of the property is a commercial car wash and St Annes Church, both of which are on Larkshall Road.

6. The size and massing of the proposed development would fail to reflect the plot widths and proportions of the adjoining properties in the terrace. The proposed development would be excessively deep projecting out beyond the building line of the front elevation and out to the rear. The front projection fails to reflect, or complement, the neighbouring canopy roof and porch.
7. The depth, width and overall height of the rear projection would enclose the existing space at ground, first and roof level and would negatively impact on the street scene. The windows with a horizontal emphasis set in wider apertures further accentuate this insensitively wide façade. The depth would result in an elongated flank wall, lacking articulation- the single window at first floor and the lowered ridge line over the side projection, would do little to relieve the massing and visual impact of this large expanse of walling. The flat roof rear dormer is visually obtrusive when viewed from this side elevation, extending out from the principal ridge.
8. The loss of spaciousness on this particular corner plot would result in an incongruous form of development in its spatial context. The proposed development would fail to assimilate with the terrace to which it would adjoin. Rather it would appear unduly prominent and result in disharmony with the terrace and in the street scene. Further incongruences are evident in the fenestration arrangement and the paired entrance doors. Notwithstanding the incremental and varied alterations to the façade of this terrace, such departures would be accentuated by reason of the property forming part of a terrace.
9. The end terrace location affords views of the side elevation of the property and the bulk and massing of the built form can be fully appreciated. The siting of the appeal property is such that the proposed development will be prominent, occupying a corner plot, views of the rear and roofline projections will not be confined to the rear. Visible from Larkshall Road, Hatch Lane and Russets Close, the proposed development would be conspicuous by reason of its uncharacteristic size, particularly its depth and its massing at roof level.
10. The proposal would result in a bulky and visually dominant structure when viewed within the street scene and from neighbouring properties which does not accord with the established pattern of development within the locality. As such, the appeal scheme would fail to reinforce and enhance local character and distinctiveness.

11. The palette of materials proposed are consistent with the existing dwelling. This does not however, negate the harm I have identified concerning the size, siting and design of the proposed development.
12. The appellant considers that the proposal recreates a dwelling (albeit divided into two self-contained units) which is similar in form and appearance to the existing dwelling. Conversely, I find that, by reason of the size and massing of the proposed development, the form would be atypical. The appellant considers that the prominent gables and chimney features would visually break up the large roof. Rather the large extrusions to the rear and the projections in the roofline would be conspicuous departures from the established form and pattern of development in the locality. As such, I find that the design of the development proposed would be inappropriate in its context and would fail to accord with the guidance contained within the 'Urban Design' Supplementary Planning Document (2010).
13. For these reasons, the proposed development would harm the street scene within Russet's Close and when viewed from Larkshall Road and Hatch Lane. It is contrary to both policy CS15 of the adopted Waltham Forest Local Plan Core Strategy (2012) and policy DM29 of the adopted Waltham Forest Local Plan Development Management Policies (2013), which require high standards of urban and architectural design, that responds to local context and character. Furthermore, it is contrary to the National Planning Policy Framework (the Framework), which says that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve.
14. Additionally, in their reasons for refusal the Council refers to policies D1 and D4 of the London Plan (2021), which concern assessing capacity for growth and delivering good design through masterplanning and design coding. These strategic policies do not form part of my conclusion on this main issue as they have less direct relevance to this specific proposal.

Living conditions of neighbouring occupiers

15. The appeal property forms part of a terrace, as such the property has a close relationship with the adjoining property, 2 Russets Close. By reason of the combined effect of the proximity, excessive depth and overall height of the rearward projections, the proposed development would have a visually intrusive and over-enclosing effect on the occupiers of the adjoining house when they are in their back garden. The proposal's broken form and single storey element would not overcome this effect.
16. It is noted that the proposed extension would be 'set- in' from the boundary, however, the separation distance would be modest and insufficient to mitigate the harm I've found. The proposed extension would be higher than the boundary fence and would have a more imposing effect on the occupiers of 2 Russets Close when using their garden. As such, the visual impact of the extension, viewed from the garden of this adjoining property, cannot be considered minor.
17. For these reasons, the proposed development would be contrary to policy DM32 of the Waltham Forest Local Plan Development Management Policies (2013), which says that new development should ensure that outlook is maintained for existing occupants and their neighbours in their homes and

gardens. The proposal is also contrary to paragraph 135(f) of the Framework, which states that development should create a high standard of amenity for existing and future users.

Living conditions of future occupiers

18. The access to Flat 2 would be immediately adjacent to a window serving a bedroom in Flat 1. The movements of occupants of Flat 2 accessing and egressing the upper Flat, would impact negatively upon the occupants of this bedroom in Flat 1, with potential for noise disturbance and overlooking. Whilst it is recognised that because of the very nature of maisonettes, levels of privacy at entrances have to be interpreted with a degree of flexibility. However, in the appeal scheme, the design and layout would allow direct intervisibility between the entrance to the upper flat and the bedroom of the lower flat, at very close proximity. This would diminish the privacy of the future occupiers in their bedroom by an unacceptable degree.
19. The development would meet the minimum surface areas in terms of garden space. However, the only external access serving Flat 2 is via the front entrance door. Therefore, the rear garden amenity space associated with Flat 2, which would provide some privacy and quiet, as distinct from the front garden, would be via this entrance on the front façade. The access would be past windows serving the two bedrooms in Flat 1, along a passage the length of the side elevation and past the garden of Flat 1, to the gated entrance beyond. The inaccessibility of such a protracted and restricted route- most particularly the mid-section- in a confined alleyway is impracticable and would undermine the purpose of a private garden and detract from the enjoyment of the external amenity area for the occupiers of Flat 2.
20. For these reasons and notwithstanding the minimum internal and private amenity space standards, the development as proposed would be detrimental to the living conditions of future occupiers of Flats 1&2 with particular regard to privacy and external amenity space. As such, the proposed development would be contrary to the following policies of the adopted Waltham Forest Local Plan Development Management Policies (2013): DM7 which requires that external amenity space is well-designed, appropriately located and useable; DM32, which requires development to ensure that privacy is maintained for the intended occupants of new habitable rooms. The proposal is also contrary to paragraph 135(f) of the Framework, which states that development should create a high standard of amenity for existing and future users.
21. The Council refer to policy CS2 of the adopted Waltham Forest Local Plan Core Strategy (2012), which concerns housing land supply and housing growth; and DM23 of the adopted Waltham Forest Local Plan Development Management Policies (2013), which seeks to improve housing quality, health and wellbeing- the policy justification recognises that the provision of outdoor space, which is at least partly private can improve the quality of life. It is considered that these strategic policies have less direct relevance to this specific proposal.

Other Matters

22. The proposed development subject of this appeal case appears similar to that which was previously approved and has since been implemented at 12 Russets Close, nonetheless I observed on site that 12 Russets Close occupies a wider plot and the front elevation of the house is greater in width than the appeal

property. The plot widths are different and the size of the property's footprint is different, as such, I am unable to draw any direct parallels between the two sites. I therefore attribute limited weight to comparison with this previous planning permission.

23. The absence of a planning obligation is not a reason for refusal. However, it is noted that the Council has commented in its appeal statement that contributions are necessary towards: a future consultation of a Controlled Parking Zone (CPZ) in the locality, monitoring of the Construction Logistics Plan and improving sustainable modes of transport in the vicinity of the appeal site; Strategic Access Management and Monitoring Strategies (SAMMS); and to the delivery of Suitable Alternative Natural Green Space (SANGS) in the borough.
24. With regards to the requested Section 106 Agreement to secure a contribution towards a future consultation on a CPZ, monitoring of the Construction Logistics Plan and improving sustainable modes of transport, the Council has not provided adequate justification or evidence that an assessment has been carried out to demonstrate that the obligations are necessary to make the development acceptable. Therefore, the statutory tests of paragraph 57 of the Framework have not been met.
25. The Council has requested a financial contribution towards the SAMMS and the delivery of SANGS levied for 2 residential units. However, this is challenged by the appellant on the basis that there is an existing dwelling on site and therefore the net increase in residential units is 1 unit. In any event, no obligation has been provided, whether for 1 or 2 units. A planning condition is suggested by the appellant as an alternative mechanism for securing SAMMS. However, the Planning Practice Guidance indicates that a condition should not be used to require the payment of money. As I am dismissing on the main issues, I have not considered this matter further as it could not lead me to a different decision on the appeal.

Conclusion

26. I acknowledge that the proposed development would provide an additional dwelling; an important consideration in the context of the Government's objective to boost significantly the supply of homes. It would also bring some uplift to the local economy from construction services and the spending of future occupiers. However, these benefits would not outweigh the harm from the development to the street scene and the harm it would cause to the living conditions of neighbouring and future occupiers.
27. I conclude that the proposed development is contrary to the development plan when read as a whole and to the Framework, and there are no material considerations to indicate that a decision should be taken other than in accordance with that plan.
28. The appeal is dismissed.

N Kempton

INSPECTOR

