



Appeal Decision

Site visit made on 23 January 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2024

Appeal Ref: APP/U5930/W/23/3323403

841-843 Capital House, High Road Leytonstone, Leytonstone, Waltham Forest E11 1HH

- 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 Ray Hardy, (Bloomfield (Beaux Arts) Ltd) against the decision of London Borough of Waltham Forest.
 - The application Ref 223631, dated 27 December 2022, was refused by notice dated 15 March 2023.
 - The development proposed is extension at third floor, to the rear, of existing building. To provide one additional residential unit.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023, replacing the previous version dating from September 2023. The amendments made did not have any bearing on the issues in this appeal, and it was therefore not necessary to seek comments from the main parties on the updated Framework. Where I have referred to specific paragraphs of the Framework, the numbering used is that of the December 2023 version.

Main Issues

3. The main issues in this appeal are:
 - whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to the floor to ceiling height of the internal space and outlook;
 - the effect of the proposal on the character and appearance of the area; and
 - the effect of the proposal on the living conditions of the occupiers of the host building, with particular regard to outlook.

Reasons

Living conditions for future occupiers

4. Whilst not included in the reason for refusal, the Council's officer report and Statement of Case refer to Policy D6 of the London Plan (2021) (LP). The policy

applies space standards for new residential development. Of particular relevance is the requirement that at least 75 percent of the dwelling has a minimum floor-to-ceiling height of 2.5 metres.

5. The main parties agree that the proposed unit would have a floor to ceiling height of 2.3 metres. Consequently, the floor to ceiling height within the flat would be materially less than that required by Policy D6. Furthermore, Policy D6 is clear that the standard applies to all tenures and all residential accommodation that is self-contained.
6. In dismissing the previous appeal¹ the Inspector noted that outlook from some rooms would be constrained due to the use of directional windows. The current appeal proposal does not include angled windows, and the distribution of windows would ensure that future occupiers would have a satisfactory level of outlook. However, in my view, the low floor to ceiling height across the unit would fail to meet the high quality of design required by the above policy.
7. I acknowledge the proposal appears to comply with other policy criteria, including the Technical Housing Standards - Nationally Described Space Standards (MHCLG, 2015). Be that as it may, this matter does not outweigh the harm I have identified.
8. I conclude that, due to the limited floor to ceiling height within the new unit, the proposal would not provide acceptable living conditions for future occupiers. It would therefore conflict with Policies CS13 and CS15 of the Waltham Forest Local Plan - Core Strategy (2012) (CS), Policies DM7, DM23 and DM32 of the Waltham Forest Local Plan - Development Management Policies (2013) (DMP) and Policy D6 of the LP. Together, these policies seek to ensure that residential development provides a high standard of accommodation for future occupiers, including through providing adequate living space (including headroom).
9. It would also conflict with the London Plan Housing Supplementary Planning Guidance (2016), which outlines that new residential units should provide a minimum floor-to-ceiling height of 2.5 metres for 75 percent of the dwelling.

Character and appearance

10. The appeal property is a three storey end of terrace building with accommodation in the roof space. It includes a pair of commercial units on the ground floor facing High Road Leytonstone and self-contained flats on the upper floors. The property is located on a busy commercial street comprising a mix of commercial uses and residential accommodation.
11. A second floor level extension has recently been added above the outrigger at the rear of the property to provide two flats. The proposal involves the erection of an additional storey above this recent addition to provide an additional flat. When compared to the previous appeal proposals², the current proposal has been reduced in size and its elevations would be set back from the outrigger's parapet wall on three sides.
12. The proposal's roof height would be higher than the outrigger extensions at adjoining properties. However, its recessed footprint, with generous set back

¹ APP/U5930/W/21/3286057

² A PP/U5930/W/21/3279369 and APP/U5930/W/21/3286057

from the side and rear elevations would reduce its bulk closest to the site boundaries and ensure that the extension would remain visually subordinate to both the outrigger and the front of the terrace.

13. The proposal would not be visible from views on High Road Leytonstone. Whilst it would be visible from Kirkdale Road and the service road which runs to the rear of the site, due to its set back from the host building's parapet walls, the proposal would not be an especially prominent addition. There is variation in the roofscape within the local area which includes a mixture of pitched, hipped and flat roofs found at nearby buildings. As such, the design of the proposal, would not appear out of context in this particular part of the street, which is varied. In this regard, it would successfully assimilate with the built context, and I note that Paragraph 135 of the Framework states that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change such as increased densities.
14. The proposed external material, which is primarily natural slate cladding, would match the roof of the host property and would therefore reinforce the character and appearance of this particular street scene and the wider area.
15. In this instance, as I have found that the proposal would cause no harm to the character and appearance of the area it would not create a precedent for other roof extensions that would cause harmful effects in this regard.
16. Accordingly, I find no conflict with Policies CS13 and CS15 of the CS, Policy DM29 of the DMP and the Council's 'Urban Design' Supplementary Planning Document (2010). Taken together, these seek amongst other things, high quality design which integrates effectively with its surroundings, reflecting local distinctiveness and landscape character.
17. The Council also alleges conflict with the Residential Extensions and Alterations Supplementary Planning Document (2010). The introductory text to this document confirms that it provides guidance for people wanting to extend or alter their home, and my attention has not been drawn to any words in it that are relevant to the creation of new dwellings. The document has therefore not been determinative in my reasoning on the issue.

Living conditions of neighbouring occupiers

18. The appeal property includes a 1-bedroom flat within the roof space. This benefits from rooflights and a pair of dormers in the rear roof slope. Whilst the rooflights ensure that the flat gains good levels of natural light the main source of outlook is via the dormers, which currently allow extensive views over the flat roof to the rear.
19. The proposal would include development to the rear of the living room dormer window. Although the proposal would create additional built form, its volume and floor area coverage has been reduced since the previous appeals. As a result, the proposal would not be a prominent feature in views from a large proportion of the living room. Due to the proposal's alignment, views from areas within the room closer to the window would primarily look straight down the side of the proposal and over the adjoining open roofscape which enables wider, relatively unrestricted views. As a result, I am not persuaded that neighbouring occupiers would find the level of outlook across the room to be

dominated by the proposal, nor would they find the impact on their living environment particularly oppressive.

20. Consequently, the proposal would not have an adverse impact on the living conditions of the occupiers of the host building, with particular regard to outlook. Accordingly, I find no conflict with Policies CS2, CS13 and CS15 of the CS and Policies DM4, DM29 and DM32 of the DMP and the Urban Design Supplementary Planning Documents (2010). Taken together, these seek development which would not cause unacceptable effects on the amenity, health or safety of neighbouring occupiers.
21. The Council also alleges conflict with the Residential Extensions and Alterations Supplementary Planning Document (2010). The introductory text to this document confirms that it provides guidance for people wanting to extend or alter their home, and my attention has not been drawn to any words in it that are relevant to the creation of new dwellings. The document has therefore not been determinative in my reasoning on the issue.

Other Matters

22. The Council indicates that the site is within 6.2km of the Epping Forest Special Area of Conservation (SAC). The SAC is protected under the Conservation of Habitats and Species Regulations 2017. The Council has advised that, prior to any permission being granted, a financial contribution would be required to mitigate the effects of the proposed residential development on the SAC.
23. Had I found the proposal to be otherwise acceptable, the Regulations impose a duty to consider within the framework of an Appropriate Assessment whether it would have a significant effect on the conservation objectives of the SAC either alone, or in combination with other plans and projects. As part of this, I would need to consider the likely effectiveness of mitigation proposed. I acknowledge the appellant's willingness to make a contribution towards mitigation, and the submission of a planning obligation by way of an unilateral undertaking. However, given the harm that I have identified above and that I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.
24. The Council has 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. Again, as I am dismissing the appeal for other reasons, it is not necessary for me to consider this matter further as it would not alter my findings on the main issues.

Planning Balance and Conclusion

25. The proposed development would make a contribution to local housing supply. It would provide a dwelling in an existing residential area close to a range of shops, services and transport. The site's accessible location and provision of policy compliant cycle parking would encourage active travel.
26. The Framework and the LP seek to significantly boost housing supply and indicate the value of using suitable land within settlements for homes. They also encourage the optimal use of underutilised land. The proposal would contribute to local housing supply, through the provision of a family sized home and would represent a more efficient use of the appeal site. However, whilst I note the support within the LP for providing new homes on small sites, along

with making efficient use of land, this is subject to them being well-designed. In this instance, I have found that due to the insufficient internal floor to ceiling height the new home would not be well-designed.

27. The proposal would create temporary employment opportunities during construction and there would be associated spending in the local area on subsequent occupation of the dwelling. However, given the small scale of the development, I afford limited weight to these benefits.
28. The harm that I have found leads me to conclude that the proposal would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR