



Appeal Decision

Site visit made on 28 February 2024

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th March 2024

Appeal Ref: APP/U5930/W/23/3329080

6 Epsom Road, Leyton, Waltham Forest E10 6ES

- 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 Feng against the decision of London Borough of Waltham Forest.
 - The application Ref 221967, dated 30 June 2022, was refused by notice dated 10 March 2023.
 - The development proposed is construction of new 2 bedroom terraced home.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (the Framework) was updated in December 2023, and accordingly for the purposes of this decision I have referred to the latest version of the Framework. The content of the Framework has not been materially altered in respect of the main issues which I have considered. Therefore, it has not been necessary to seek further views from the main parties in this instance.
3. Since the planning application was determined the Waltham Forest Local Plan: Part 1 (2024) (WLP1) has been adopted. This supersedes the Waltham Forest Local Plan - Development Management Policies (2013) and the Waltham Forest Core Strategy (2012). Both main parties have had the opportunity to comment on this and I have considered the appeal on this basis.

Main Issues

4. The main issues are:
 - the effect of the proposal on protected trees surrounding the site;
 - whether the future occupiers of the proposal would have acceptable living conditions with particular reference to the adequacy of outdoor amenity space; and
 - the effect of the proposal on the character and appearance of the area and whether the principle of development is acceptable.

Reasons

Trees

5. A number of mature London Plane trees, which are protected by a Tree Preservation Order (TPO), are located within the rear gardens of the neighbouring properties known as 1-12 Nursery Terrace, adjacent to the front of the appeal site. These form a band of mature trees which provide a green buffer within an otherwise reasonably built up section of Nottingham Road. The trees therefore make a positive contribution to the character and appearance of the area.
6. Whilst the trees are located outside the appeal site, at least two of the trees are very close to the site boundary. Substantial excavation works are likely to be required during the construction of the proposal. Given the trees' significant height and proximity to the boundary, it seems to me, likely that their roots may be present within the appeal site.
7. The appellant indicates that an arboricultural expert's preliminary inspection suggested that the new foundations are likely to be located outside of the trees' root protection areas (RPA) and that raft and pile foundation arrangements could further minimise any potential impact on nearby RPAs. However, an Arboricultural Assessment has not been submitted, and no further details have been provided to demonstrate how potential harm to the trees would be mitigated. In the absence of such information, it has not been demonstrated that the health of the trees would be safeguarded.
8. The appellant has indicated that planning conditions could be imposed to require the submission of further details including mitigation measures. However, without an accurately measured assessment of the RPAs or any coherent mitigation measures in place, I cannot be certain that there will not be an adverse effect on the longevity and health of the trees. Given what would need to be known prior to being certain where the footprint of the proposal can go, it would not be possible to deal with this matter through the use of conditions.
9. The Council refer to the potential for significant pressure from future occupiers for the removal or works to the trees on and around this site. The layout of the house would provide light and outlook from a number of aspects, some of which face away from the trees in question. Overall, I am satisfied that the positioning and layout of the dwelling is such that the TPO trees would not be at risk as a result of significant pressure for future pruning or removal.
10. However, for the above reasons, I conclude that it has not been demonstrated that the proposal would not have a detrimental impact on the health of the trees surrounding the appeal site. I therefore find that it conflicts with Policy 80 of the WLP1. Amongst other things, this policy requires that development proposals retain and protect significant existing trees.

Future occupiers

11. The proposal would create a two bedroom house, which is designed with ample rear glazing so that the internal living space opens into the rear garden. Across its front and rear gardens the proposal would provide 23 square metres of external amenity space. Whilst the appellant indicates that an additional 7 square metres could be provided, this does not form part of the proposal

before me. The appellant accepts that the amount of external amenity space would be less than 50 square metres which is the minimum amount of external amenity space required for a house by Policy 56 of the WLP1.

12. I acknowledge that the appeal site is well located with access to shops and green spaces and the appeal site is generally constrained in size. However, whilst some gardens may now have hardstanding, residential properties within the local area are generally served by spacious private outside spaces. Whilst the proposal would meet the external space standard within the LP, Policy D6 of the LP is clear that these standards apply where there are no higher local standards in the borough Development Plan Documents. In this instance the private outside space standard within Policy 56 of the WLP1 is a minimum requirement. Given the proposed house would not meet this minimum requirement, I find that the scheme would not be delivering a home of high quality and that appropriate living conditions would not be provided for the future occupiers.
13. For these reasons, the proposal would result in an unsatisfactory living environment for future occupiers. As such, the proposal would be contrary to Policies 53 and 56 of the WLP1, which require that developments provide an appropriate amount of well designed, suitably located and usable private amenity space.

Character and appearance

14. The application site is a strip of land adjacent to 6 Epsom Road (No 6), a two storey end-of-terrace house, with an outbuilding in the rear garden. The surrounding area is residential in character, predominantly consisting of two storey terraced and semi-detached houses which front the highway and are set back from the road in a largely consistent building line with parking to the front and gardens to the rear. Common external materials in the area are brick, render and pebble dash.
15. The terrace which the appeal proposal would adjoin has an unusual layout. The front of the terrace faces a pedestrian accessway and the rear gardens of 1-12 Nursery Terrace. Unlike the majority of properties on the street, No 6 does not front Nottingham Road, and instead is aligned perpendicular to, and with a blank wall facing, the highway. As a result, the terrace which the appeal proposal would adjoin already has a noticeably different relationship to Nottingham Road than the majority of houses on the street.
16. The proposal's side elevation would be in line with the existing large outbuilding, which already projects forward of the established building line on Nottingham Road. However, prominence in itself does not indicate harm. Given its siting at the end of the row of dwellings which have a different relationship to the majority of properties fronting Nottingham Road, I find that there would be no harm resulting from the proposal not completely following the building line. Although there would be an additional house within the terrace, it would remain a small coherent grouping of buildings which would successfully assimilate with its built context.
17. Furthermore, the submitted evidence and my observations during the site visit, confirm that there are several examples within the local area of end of terrace houses which project forward of prevailing building lines and which contribute

to the character of the area. Examples include those at the corners of Matlock Road and Peterborough Road, and Nottingham Road and Peterborough Road.

18. The design of the proposed end of terrace house would reflect the built form of the neighbouring properties within the terrace, in terms of its finished height and roofscape design. Whilst the proposal would be narrower than the other properties within the terrace, the layout and pattern of fenestration within both the front and rear elevations would reflect that of the other properties within the terrace. Overall, I do not find that the proposal would be significantly narrow to such an extent that it would be an incongruous addition to the terrace. Furthermore, 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. In this particular case, the scheme's design would maintain the rhythm of the terrace which it would adjoin.
19. The proposed external materials and fenestration, whilst of contemporary design, would be consistent with, and therefore reinforce, the character and appearance of this particular street scene and the wider area.
20. The rear garden area would be shorter than the majority of other properties within the terrace. However, due to the presence of the large outbuilding to the rear of the site, No 6 already has a notably shorter garden than the other properties in the terrace. The proposal's garden would be the same depth as No 6's and would not appear cramped.
21. For these reasons, the appeal proposal would not harm the character and appearance of the area with particular regard to scale, massing, design and layout. As I have found the design of the proposal to be acceptable, it follows that the principle of development is also acceptable. I find that the proposal would comply with Policies 15, 53 and 57 of the WLP1 which expect development to reinforce and enhance the character of the area, ensuring that development is appropriate to the surrounding area in terms of its size and scale.

Other Matters

22. The appeal site is located within the zone of influence of the Epping Forest Special Area of Conservation, afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Regulations). I note the appellant's agreement to contribute towards the Strategic Access Management and Monitoring levy. Notwithstanding this, the Regulations require that permission may only be granted after having ascertained that the development would not affect the integrity of a designated habitat. However, consideration of the implications of the proposal upon the protected site is not required because the scheme is unacceptable for other reasons.
23. The appellant has identified development plan policies and Framework paragraphs relating to matters including making the best use of land, which it is contended that the proposed development would accord with. I have also found no harm in relation to matters such as the living conditions of existing residents. However, the absence of harm or development plan conflict with respect to other relevant matters is neutral and weighs neither for nor against the proposal.

24. The concerns expressed regarding the Council's conduct during the processing of the planning application are outside the remit of this appeal decision.

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. It would create temporary employment opportunities during construction and there would be associated spending in the local area on subsequent occupation of the dwelling.
26. There is however insufficient evidence to conclude that the proposal would avoid harm to the nearby TPO trees and it would not provide satisfactory living conditions for future occupiers. These factors do not therefore lead me to determine the appeal other than in accordance with the development plan.
27. Accordingly, the proposal conflicts with the development plan as a whole and there are no material considerations which indicate that a decision should be made other than in accordance with it. The appeal is therefore dismissed.

B Pattison

INSPECTOR