



Appeal Decision

Site visit made on 5 June 2024

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 July 2024

Appeal Ref: APP/Z5060/W/23/3332042

429 Porters Avenue, Dagenham, RM9 4ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr W Edmead of M & J Properties Limited against the decision of the Council of the London Borough of Barking and Dagenham.
 - The application Ref is 23/00958/FULL.
 - The development proposed is formation of 2no. self contained flats including loft conversion and rear facing dormer to upper levels of host building and erection of 1no. detached house in place of current commercial garages.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The loss of commercial floorspace in a Neighbourhood Centre;
 - Whether future occupiers of the development would have acceptable standards of internal and external space;
 - The effect of the development on the character and appearance of the area;
 - The effect of the development on occupiers of the adjoining property; and
 - The effect of the development on parking.

Reasons

Loss of commercial floorspace

3. The site is located within 'The Round House' Neighbourhood Centre, where proposals should maintain active ground floor frontages. The site currently comprises a motor vehicle repair garage with an ancillary service desk and a small shop selling car accessories to the front.
4. The proposal seeks to retain the ground floor retail unit in the principal building, which fronts onto Porters Avenue and forms part of the active retail frontage of the neighbourhood centre. The vehicle repair garage to the rear of the main building is not a retail use, and accordingly there is no policy requirement to retain this use or to market the site for 12 months. Moreover, the garage buildings could be demolished without planning permission, subject to an application to determine whether the prior approval of the local authority

would be required to control the method of their demolition or the restoration of the site.

5. I therefore conclude that the loss of the floor space occupied by the garage repair workshops on the rear part of the site would not result in the loss of any retail space or compromise the shopping frontage of the neighbourhood centre. As such, the proposal would accord with Policy E9 of The London Plan, Policies CE1 and CE5 of the Core Strategy 2010 (CS), Policy BE1 of the Development Policies Development Plan Document 2011 (DPD) and Policy DME3 of the Draft Local Plan (DLP), which seek amongst other things to protect retail uses along the frontage of neighbourhood centres. I also find no conflict with the National Planning Policy Framework (the Framework) regarding this matter.

Space standards

6. The Government's technical housing standards nationally described space standard (NDSS) sets out the minimum gross internal floor areas and storage that should be provided in new dwellings. These requirements are repeated in The London Plan and are further endorsed in the development plan for the area.
7. It is undisputed that the proposed flats above the shop would comply with the required internal space standards. However. The proposed new dwelling fails on two points. Firstly, the technical requirements state that a dwelling with two or more bedspaces must have at least one double or twin room measuring at least 2.75m wide and having a floor area of at least 11.5sqm. Secondly, it states that a single bedroom must be at least 2.15m wide and have a floor area of at least 7.5sqm.
8. Bedroom 3 of the proposed detached house would be approximately 6.66sqm, which is below the required minimum standard of 7.5sqm for a single bedroom. None of the bedrooms in the proposed detached house would meet the minimum size standard of 11.5sqm for a double bedroom. The appellant disputes this but has not provided any evidence of these rooms being any greater than the measurements provided by the Council. As the un-dimensioned plans submitted appear to be drawn to scale, I have no reason to doubt the measurements in the Council's report.
9. The detached dwelling would have its own private outdoor space, which would be commensurate to its size. Any overlooking of this from the proposed dormer window would be restricted by the new rear extension. Moreover, some overlooking of rear gardens is expected, particularly in built up urban areas such as this, and is rarely harmful or unacceptable.
10. I acknowledge that the proposed flats would have no outdoor space and, in this respect, would conflict with relevant policies on this matter. However, this is also the case for the existing three-bedroom maisonette above the shop, which is a larger home. Given that these smaller flats are unlikely to be occupied by families and given that there are two substantial public parks only a couple of minutes walk away, the absence of outdoor space for the subdivision of the existing large flat into two smaller ones, would not justify withholding planning permission.
11. The Council's second reason for refusal also suggests that the merging of residential and commercial waste storage areas is unacceptable. Whilst I accept

that the waste storage proposals for the commercial and residential premises could have been made much clearer on the submitted plans, this matter could most likely have been dealt with by a planning condition.

12. I therefore conclude that although waste storage could be conditioned and the conflict with policies relating to outdoor space for the flats would be outweighed by other material considerations, the detached dwelling would fail to provide an acceptable standard of accommodation with regards to bedroom space. As such the proposal is contrary to Policy D6 of The London Plan and paragraph 135(f) of the Framework. I have afforded little weight to the space standards set out in Policies BP5 and BP6 of the DPD given that they pre-date The London Plan, the Framework and the NDSS.

Character and appearance

13. The appeal site is located on the corner of Porters Avenue and Blithbury Road, at the end of a long terrace of similar properties. A gated service road known as Kilsby Walk runs along the rear of the terraced properties. The site comprises a ground floor shop fronting onto Porters Avenue, with two single storey workshops, a waste storage area and parking to the rear. Above the shop, and accessed from within it, there is a three-bedroom maisonette flat.
14. The ground floor frontage of the three-storey terrace is in retail use with residential premises above. To the rear, there are three storey outriggers, which are situated in pairs, and in their original form do not span the full width of the property they are attached to, or project a significant distance from the rear wall of the main building. Inevitably the terrace has been altered and extended in a variety of ways over the years and as such its shop frontages, original plan form and uniformity has been diminished, particularly at the rear. Most of the rear gardens have been taken up by single storey rear extensions, outbuildings, car parking and commercial service areas. Several rear dormer roof extensions exist and a small number of two and three storey rear extensions have been constructed, most notably at Nos. 435 and 445 Porters Avenue. There is also what appears to be a two-storey dwelling in one rear garden.
15. Houses along Blithbury Road are set back from the pavement behind front gardens and parking areas. The side elevation of the existing outrigger to the rear of the appeal property is roughly in line with the front elevation of the houses on the same side of Blithbury Road. The house on the opposite corner of Porters Avenue also follows the strong building lines that exist along the Blithbury Road street scene, except for a small ground floor side extension.
16. It is proposed to demolish the single storey garage workshops at the rear of the site and to increase both the width and projection of the rear outrigger. It is also proposed to introduce a rear dormer and a front roof light. Whilst the proposed alterations to the roof of the main building and extending the projection of the outrigger would not harmfully detract from the traditional character of the original building or its surroundings, extending the width of the outrigger, so that it is in line with the flank wall of the principal building, would result in a visually prominent and bulky addition that would harmfully detract from the scale and form of the original terrace. The fenestration also fails to reflect that of the original building, which has a strong vertical emphasis and a uniformed arrangement. The positioning of windows partially below the eaves of the original hipped roof and partially below the new, slightly lower flat roof

also fails to achieve the design quality expected of new development, particularly on sites in such prominent positions.

17. Although the design and appearance of the proposed detached house would be similar to that of the two-storey semi-detached and terraced houses nearby, and I do not agree its irregular footprint and roof form would result in any harm, its siting close to the pavement would project significantly forward of the strong building line that exists along Blithbury Road, harmfully detracting from the pattern of development in the area and the appearance of the street scene.
18. Whilst the type and appearance of boundary fencing proposed would be similar to that on the opposite side of Blithbury Road, that fencing is set back, whereas the fencing proposed, including the higher-level fencing, would project forward of the flank wall of the original building and would be closer to the pavement. I do however acknowledge that a wall or fence not exceeding one metre high, similar to that on the opposite side of Blithbury Road, could be constructed along the back edge of the pavement, without planning permission and that this would increase the area of amenity space and protect the entrance to the proposed flats.
19. I have had regard to the rear extensions drawn to my attention at Nos. 435 and 445 Porters Avenue. These are within the same terrace and extend the rear outriggers across the whole of the property they are attached to. I note that these are different in that their width is reduced at second floor level. Furthermore, due to these properties being located more centrally within the terrace, they are far less visually prominent than the corner appeal site and do not detract from the building line and street scene of Blithbury Road. As such I afford limited weight to those developments, despite them having some similarities. Having dealt with an appeal at No. 435 Porters Avenue, I am aware that the upper floor flats in that property are accessed via a new independent front entrance from Porters Avenue. That site also has separate waste storage and cycle parking areas for the shop and for residents.
20. I was also referred to nearby Lodge Avenue, which comprises a very similar terrace of properties. I noted that a three-storey extension has been constructed across the rear of the end property in that terrace. However, that property has a gable end and sits adjacent to another three-storey gable ended terrace. Whilst it is adjacent to a car park access and is visible from the park behind it, it does not project further from the rear wall than the original outrigger and it is not on a prominent street corner. As such its scale and visual impact are not comparable to the scheme before me.
21. I acknowledge that the parking and signage associated with the existing garage business do result in a cluttered appearance and that a sympathetic redevelopment of the site could vastly enhance the street scene. However, the scheme currently before me is not sympathetic.
22. I therefore conclude that the scale, siting and appearance of the rear extension and new dwelling would be of poor-quality design that fails to reflect the character and appearance of the area. As such the proposal would not accord with Policies D3 and D4 of The London Plan, Policy CP3 of the CS, Policies BP8 and BP11 of the DPD and Policies SP2 and DMD1 of the DLP. The proposal would also conflict with the Framework in terms of its requirement for high quality design.

Living conditions of neighbouring occupiers

23. The proposal would extend the rear outrigger along the boundary of No. 431 Porters Avenue by approximately 3.7m. I was unable to see any ground floor windows in that property, and any that do exist are likely to serve commercial rather than residential space. The outdoor space to the rear of this property also appears to be parking and commercial service area as opposed to residential garden. The two first floor windows close to the boundary appear to be small bathroom windows. A large second floor window appears to serve a habitable room, but is set away from the boundary, beyond a large flue.
24. Given that the extension would be to the northeast of the suspected habitable room window at No. 431 and given the limited increase in the projection of the outrigger and its separation distance from the window in question, any loss of light to, or loss of outlook from this window would be minimal.
25. I therefore conclude that the proposal would not be detrimental to the living conditions of occupiers of No. 431. As such, it would accord with Policies BP8 and BP11 of the DPD, Policy DMD1 of the DLP and the Framework, in so far as they relate to the amenity of neighbouring properties.

Car and cycle parking

26. The London Plan sets out maximum, not minimum, car parking standards for new developments, allowing up to 1.5 spaces per dwelling. There is already a three-bedroom dwelling on the site, which has no parking. The proposal would increase the number of dwellings on the site by two. One parking space would be provided on-site to serve the proposed three-bedroom detached house. I see no reason why the use of this single private off road car park space would be difficult to control, and the Council has not provided any reasoning for this concern. This would leave a one-bedroom flat and a two-bedroom flat with no parking, which would not be dissimilar to the existing three-bedroom flat with no parking. As these are not family houses, the occupiers are less likely to require parking.
27. I acknowledge that the site has a low PTAL rating. However, it is situated within a neighbourhood centre comprising multiple shops. There are two large public parks nearby and elsewhere along Porters Road, and just off it, there is a pre-school, primary schools, a Doctors Surgery, a youth centre and a church. As such, future occupiers of the flats would not necessarily require a car to meet their general daily needs. Having dealt with another appeal at No. 435 Porters Avenue, I am aware that in relation to the provision of upper floor flats at that site, the Council did not require the scheme to be car free and there was no mechanism restricting future occupiers from applying for resident parking permits.
28. The proposal would result in the relocation of the car repair business on the site, which is likely to generate a significantly greater demand for parking than the proposal. Whilst the garage has some limited off-street parking space, given the unpredictable nature of vehicle breakdowns and repairs, it is reasonable to assume that there will be some overlap between appointments and some unexpected customers. Additionally, there will be staff vehicles and frequent parts deliveries. The removal of the garage business would therefore be likely to alleviate on street parking pressure in the immediate vicinity of the site.

29. I note that there is space between the side of No. 429 and the pavement, which is currently used for informal parking by the garage business. The appellants statement suggests this provides two additional car parking spaces. However, these are not marked up on the proposed drawings, and in addition to there being no existing dropped kerb to these, they are partially obstructed by a streetlight and signage, and would obstruct the proposed new entrance to the flats. This area could however potentially be utilised to provide appropriately designed cycle parking and waste storage facilities.
30. With regard to cycle parking, based upon the evidence before me neither the existing ground floor business nor the existing dwelling above it have this. I noted that there was some limited cycle parking within the public footpath to the front of the shops for use by staff and customers. The appellant should not be required to compensate for existing shortfalls relating to long standing commercial and residential uses that already exist on the site and that are not required as a direct result of the proposal.
31. The submitted plans indicate three cycle parking spaces for future occupiers of the flats. There would also be space to provide separate cycle parking for future occupiers of the house within its curtilage and this could be controlled by a condition.
32. I therefore conclude that subject to conditions, the proposal would not be unacceptable in terms of car or cycle parking and would not have an unacceptable effect on local highways. It would therefore accord with Policies T5, T6 and T6.1 of The London Plan, Policy BR11 of the DPD and Policies DMT3 of the DLP. I also find no conflict with the Framework in respect of this matter.

Other Matters

33. Due to the ground floor of the building, and the attached workshops and parking to the rear, all being let to Autostop Car Care Ltd, who did not require the residential accommodation above, and due to the only access to the residential accommodation being via the ground floor shop, the upper floors cannot be let and as a result have been left unoccupied for a long period of time. This is clearly not an efficient use of the building and I afford significant weight to the opportunity to create a separate entrance to the upper floors, enabling them to be brought back into beneficial residential use. However, there are alternative ways to achieve this, and the benefit of bringing the upper floors back into use does not outweigh the harm that would be caused to the area as a result of a poorly designed scheme.
34. I acknowledge that Autostop are unwilling to release any of their commercial floorspace to accommodate an independent access to the upper floors, and that the disuse of the upper floors resulted in the building falling into a state of disrepair, which began to affect the ground floor. I understand that works to make the property wind and watertight have now been completed, but Autostop still require all of their floor space and are not prepared to surrender their lease unless it is on terms that allow them to relocate to alternative premises without incurring any costs or losses, plus some compensation. It is suggested that the proposal would enable this to be financially achievable. However, as the planning system exists to benefit public rather than personal interests, I afford this only moderate weight. Furthermore, it has not been demonstrated that a more sympathetic scheme could not achieve the same benefits.

35. Whilst I acknowledge that the garage repair business is not a use that would usually be considered acceptable in a residential area due to its potential to cause nuisance in terms of noise and fumes, such businesses do not generally operate at unsociable hours and there is no evidence before me of any complaints or harm being caused by the existing business, which is unsurprising given that it is located in a busy urban location, where noise and fumes are less noticeable. I therefore afford limited weight to the relocation of the garage business.

Conclusion

36. Whilst the proposal would not result in the loss of retail floor space or result in any harm to the neighbourhood centre shopping frontage, and would be acceptable in terms of its limited outdoor space, its effect on living conditions of occupiers of neighbouring properties and in terms of car and cycle parking, it would be unacceptable in terms of its siting, scale and appearance and the inadequate bedroom space provided in the detached house. As such, the proposal conflicts with the development plan taken as a whole and there are no material considerations that outweigh this. Consequently, for the reasons given above, the appeal is dismissed.

R Bartlett

INSPECTOR