



Appeal Decision

Site visit made on 17 June 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Appeal Ref: APP/U5930/W/24/3336737

76 Chingford Avenue, Waltham Forest, Chingford E4 6RP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for full planning permission.
 - The appeal is made by Sohail (3JU Ltd) against Waltham Forest London Borough Council.
 - The application Ref is 232214.
 - The development proposed is change of use of existing dwelling to two self-contained flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have determined this appeal on the basis of the Council's failure to determine the planning application within the statutory timescale. There is no decision notice associated with the application although the Council has provided their statement of case setting out their concerns and overall position. The main issues below are therefore taken from the information contained within the Councils' statement of case as well as noting third party representations. I have had regard to the referred to policies within the Councils' statement of case which have been provided and thus concluded against below.

Main Issues

3. The main issues are:
 - Whether the proposed development would provide satisfactory living conditions for future occupiers with particular regard to internal storage, internal arrangement of flat 2, outlook and privacy; and
 - The effect of the proposed refuse and cycle stores on the character and appearance of the area.

Reasons

Living conditions

4. The appeal site relates to a semi-detached, two-storey single family dwelling house located on the northern side of Chingford Avenue, Chingford. The property has been extended by way of a rear single storey extension and roof extension.

5. The proposed development seeks planning consent for the conversion of the existing single-family dwelling to provide 2no. self-contained flats which would comprise 3 bedrooms each. The rear private amenity space of the existing property would be subdivided and would provide private external amenity space for each property.
6. Policy 20 of the London borough of Waltham Forest Local Plan Part 1, 2024 (WFLP) relates to housing in multiple occupation and conversions. Part B is relevant in this case relating to conversions where it explains that the conversion of homes with a gross original internal floorspace of more than 124 square metres to smaller self-contained homes will only be permitted where the proposed development amongst other matters, meets the minimum space standards in Table 14.2 'Minimum Internal Space Standards for New Dwellings' and meets high-quality design standards (Policy 53 'Delivering High Quality Design' and Policy 57 'Amenity').
7. Policy 57 of the WFLP relates to amenity and sets out that new development should respect the amenity of existing and future occupiers, neighbours, and the surrounding area. Policy 56 of the WFLP and Policy D6 of the London Plan, 2021 (LP) also seek high quality and functional layouts that are fit for purpose.
8. There would be two bedrooms serving flat 1 on the ground floor which would each have a window on the east elevation looking out onto the shared access passage which provides access to the garden area serving flat 2. The access route is relatively narrow which would mean that those accessing the garden area serving flat 2 would need to pass within very close quarters of these windows which would result in the loss of privacy for future occupiers of flat 1.
9. Whilst I note the Councils' concerns in relation to outlook from these rooms, it would not be so detrimental as to result in poor living conditions particularly given that occupiers would benefit from extensive habitable spaces at ground floor level where there are several large windows providing for good levels of outlook more generally as well as good access to the amenity area serving the property. In coming to these findings, I have considered changes since the covid 19 pandemic where home working has increased but ultimately this would not alter my findings in terms of outlook.
10. The main living space for flat 2 including its kitchen, living, and dining area is located in the loft on the second-floor level which is considered a poor internal arrangement as occupiers would have to walk two flights of stairs to access their main living space upon entering. Given its location within the loft, it also has restricted ceiling heights where 27.3% of this space would be below 2.3 metre in height – the minimum standard set out under the Technical Housing Standards - Nationally Described Space Standards, including the majority of the kitchen. It would therefore be contrary to the referred to requirements which set a standard of 2.3 metre minimum floor to ceiling height for at least 75% of the gross internal floor area. However, the shortfall is not so significant and at my site visit, I was able to see the internal area serving this space and noted that the floor to ceiling heights serving the kitchen area were not so detrimental to effect usability or result in poor living conditions. It would not therefore conflict with the overall objectives of the space standards in this regard which essentially seeks high quality and functional layouts that are fit for purpose. This would not however overcome its overall poor internal

arrangement in terms of having the main living spaces located within the roof as set out earlier.

11. Table 14.2 as referred to above requires 2.5 square metres of built in storage for 3 bedroomed properties. I appreciate that due to no built-in storage being provided, it would be a breach against Policy 20 and 56 of the WFLP as well as Policy D6 of the LP and the Technical Housing Standards. However, the proposed development would far exceed the minimum gross internal floor areas whereby both properties would still be able to meet the needs of future occupiers in relation to storage. It would not therefore conflict with the overall objectives of the space standards in this regard in terms of ensuring high quality and functional layouts that are fit for purpose.
12. Policy 53 of the WFLP relates to delivering high quality design and explains that development proposals will be supported where they, amongst other matters, respond appropriately to their context in terms of scale, height, and massing as well as using high quality materials and detailing which are attractive, durable, and sustainable. Whilst no elevational plans demonstrating the height, scale, massing, and material finish of the proposed bicycle store are provided, such information could indeed be controlled by an adequately worded planning condition. This would also be the case for the proposed refuse store.
13. My attention has been drawn to other planning applications in the area although details are limited to enable me to provide further comment. It is however likely that their overall configuration would not be comparable, and I must assess the current scheme based on its own individual planning merits.
14. For the above reasons, I conclude that although I have found a lack of harm in relation to internal storage and outlook, I have found harm in relation to the internal arrangement of flat 2 by having the main living spaces located within the roof as well as privacy matters. The proposed development would therefore still be contrary with Policies 20 and 57 of the WFLP and Policy D6 of the LP.

Refuse and cycle stores

15. It is undisputed that the proposed development would provide a sufficient number of cycle parking spaces and whilst the height, scale, massing and material finish of these bicycle stores are not provided, this could be controlled by an adequately worded planning condition as referred to above. This would also be the same for the refuse store where again it is undisputed that sufficient space for refuse bin storage is demonstrated at the front of the building.
16. For the above reasons, I conclude that matters relating to cycle and refuse facilities could be resolved by way of a planning condition were I minded to allow the appeal. It would therefore accord with Policy D4 of the LP and Policy 53 of the WFLP in this regard which together, amongst other matters, seek to deliver good design.

Other Matters

17. It is understood from the Councils' statement of case that Waltham Forest falls within the 'Zone of Influence' (ZOI) for the Epping Forest Special Area of Conservation (SAC). The Council's Habitats Regulations Assessment identifies that all new residential development within this ZOI constitutes a likely significant effect on the sensitive interest features of the SAC through

increased recreational pressure, either when considered 'alone' or 'in combination' with other plans or schemes.

18. It is understood that for schemes comprising one or more units of residential accommodation, a new package of costed Strategic Access Management Measures (SAMM) has been prepared by the City of London Conservators of Epping Forest. This Mitigation Strategy has been agreed by all of the partners in the agreement and is in the process of adoption. A new SAMM levy is now in operation which requires a contribution of £627 per unit from all new residential schemes.
19. Notwithstanding the appellants' acceptance of a legal agreement provided it is policy relevant and compliant and that the quantum is clearly identified, this agreement is still absent and there is no need for me to undertake a HRA because the scheme is unacceptable for other reasons.
20. I am aware of the appellants' frustrations in terms of the application progress and communications with the Council. However, this would not alter my findings on the above main issues. The development would provide additional housing although this would not be sufficient to weigh in favour of the appeal particularly given the small-scale nature of the proposals which would make a very modest contribution to the overall housing supply.
21. The property is not located within the Conservation Area, is not listed, and it is not subject to any Article 4 Direction other than the Borough-wide change of use from Class C3 to C4. The proposed development may also not have an impact in terms of flooding, overshadowing, visibility, noise, lighting issues or residential amenity affecting the surrounding areas and neighbours. Such matters would also not weigh in favour of the appeal nor would matters relating to utilising space efficiently to create flexible living.

Conclusion

22. Although I have found a lack of harm in relation to internal storage, outlook and refuse and cycle matters, I have found harm to the internal arrangement of flat 2 by having the main living spaces located within the roof as well as privacy matters. It follows that the proposal conflicts with the development plan and there are no material considerations which would outweigh this conflict.
23. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR