



Appeal Decision

Site visit made on 18 June 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2024

Appeal Ref: APP/U5930/W/23/3326008

Flat 1, 17 Orford Road, Waltham Forest, Walthamstow E17 9LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Ms Helen Hackett against the decision of Waltham Forest London Borough Council.
 - The application Ref is 223029.
 - The development proposed is construction of a single storey ground floor rear extension to Flat 1 including alterations to existing single storey rear projection and extension of rear garden area including reconfiguration of the rear parking area for Flats 1-7 Orford Road including loss of one parking space and reconfiguration of communal refuse/recycling and bicycle parking areas. Construction of single storey outbuilding to extended rear garden area of Flat 1 for use as a garden studio, hard and soft landscaping, boundary fencing and bicycle storage area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Waltham Forest Local Plan Part 1, 2024 (WFLP) was adopted on 29 February 2024. On this basis, the previous Core Strategy, 2012 and Development Management Policies, 2013 are superseded by the WFLP. The Council has provided a copy of the relevant policies, and the appellant has also had the opportunity to comment on the new Local Plan. I have therefore determined the appeal accordingly.

Main Issues

3. The main issues are:
 - Whether sufficient detailing has been provided to be able to assess the proposed development with particular regard to parking, communal amenity space provision and outbuilding elevations;
 - Whether the proposed development would provide acceptable living conditions for future occupiers having regard to internal floor area, outlook and daylight/sunlight;
 - The effect of the proposed development on parking; and
 - The effect of the proposed development on the living conditions of existing occupiers of neighbouring properties with particular regard to noise, disturbance and odour as well as access to the cycle storage.

Reasons

Detailing

4. The appeal site relates to a detached two-storey building comprising 7 self-contained flats located along the southern boundary of Orford Road. Parking associated with the accommodation exists to the rear.
5. Planning consent was granted for the conversion of existing building into seven self-contained flats under reference 080404 which provided for 7 car parking spaces to the rear. It is understood from the officers' report that condition 12 of this consent states that the parking area shown on the approved plan shall be laid out in accordance with the approved details prior to occupation and shall not thereafter be used for any other purpose other than domestic parking associated with the approved scheme. It is understood that this condition was in place to ensure the permanent retention of off street car parking provision for the development to meet the Council's off street parking standards and comply with policies.
6. The proposed development seeks planning consent for amongst other works, the construction of a single storey ground floor rear extension to flat 1 including alterations to existing single storey rear projection and extension of rear garden area including reconfiguration of the rear parking area for flats 1-7 Orford Road including loss of one parking space.
7. There are inconsistencies between the proposed Block Plan and the Proposed Ground Floor Plan in terms of parking layout whereby it is difficult to understand the number of spaces being retained. I have had regard to the appellant's extract drawings showing 6 parking spaces albeit different configurations as well as confirmation that the proposed development would result in the loss of one car parking space. However, the conflict between the plans still makes it difficult to fully assess the acceptability of the proposed parking arrangements which is integral to creating functional, safe, and attractive urban environments whereupon good planning involves consideration of traffic management, aesthetics, pedestrian safety, accessibility, land use planning and the environmental impact onto an area. The existing car parking spaces being demarked would not alter my assessment of this.
8. Notwithstanding the above, the loss of parking spaces would also result in a conflict with the previous consent in terms of parking provision. Despite its minimal loss, it would result in increased parking overspill and increase parking pressure within the surrounding area which is unacceptable and is discussed in further detail below.
9. The proposed reconfiguration would also result in the conversion of the communal amenity space into a private garden for exclusive use to the occupants of flat 1 and the potential new vehicle parking arrangement. It is however unclear from the submitted plans if the entire communal amenity space would be lost as the parking layout on the proposed Block Plan differs from that of the Ground Floor Plan. On this basis, it is not possible to fully assess the acceptability for the loss of external communal amenity space provision from on site to accommodate the proposed scheme. It is also not possible to fully understand the conflict with the previous planning permission whereby It is understood that adequate amenity space was a material consideration. I have little information in relation to the front lawns and

flowerbeds to be able to consider this provision further. I appreciate that further clarification could have been sought through the application process although I must determine the scheme based on the plans before me which conflict with one another making it difficult to fully understand the scheme in relation to parking and amenity space matters.

10. The proposed development would construct a single storey outbuilding to the extended rear garden area of flat 1 for use as a garden studio. There may be a lack of elevation details relating to the proposed outbuilding. However, a number of the submitted plans do show the proposed sections and some side elevations for the outbuilding along with materials detailing and a floor plan is also provided showing openings etc. The Council has already explained within their officers' report that the proposed rear addition and outbuilding represents a modest development in terms of its scale and height as well as its contemporary design and materiality differentiating old from new thereby creating interest. The officer's report explains that being sited at the rear, its design, scale, and materiality is acceptable in terms of the site context. I have no reason to disagree with the Councils' assessment of this and certain detailing could be secured by a planning condition were I minded to allow the appeal.
11. The outbuilding would be single storey and whilst the floor plan shows a door and window facing back towards the host building, the building would form part of flat 1 and such outbuildings are often found within residential contexts such as this without leading to an adverse impact on any neighbouring properties. This is due to its overall nature being ancillary to the host property. There would also be a good separation distance from other neighbouring properties, and I am content that the proposed outbuilding would not lead to an unacceptable loss of privacy for neighbouring properties. This element is therefore of lesser concern to me but would not outweigh the other matters as identified above.
12. For the above reasons, I conclude that whilst sufficient detail has been provided in relation to the outbuilding to be able to assess the current scheme, insufficient detailing has been provided in relation to the proposed parking layout including the amount of external communal amenity space provision lost from the site to be able to fully assess the current scheme. It is therefore not possible to establish whether the development would comply with Policies D4, D6 and T6 of the London Plan, 2021 (LP) and Policies 53, 56, 57, 60, 63 and 66 of the WFLP which together, amongst other matters, requires new development to contribute to the Council's objective to deliver more attractive, accessible, healthy and safe streets, places and neighbourhoods for all residents in Waltham Forest whilst managing vehicle traffic and parking.

Living conditions – future occupiers

13. The officers' report sets out the required space standards having regard to the LP and the now superseded policies of the Local Plan which differ in terms of requirements to one another. Whilst the minimum gross internal floor areas and storage appear unchanged by the new WFLP, I am unable to identify minimum areas for single, double, or twin bedrooms in the same way as the now superseded Policy DM7. On this basis and given the lack of commentary on this matter, I consider it appropriate to assess the scheme based on the LP figures as provided which is the lower requirement of the two. Nonetheless, the

two double bedrooms as illustrated on the plans fall short of the LP requirements resulting in a poor standard of living accommodation for future occupiers. Even if bedroom 3 was not marked as a double bedroom, there would still be a shortfall as one double bedroom would still not meet the requirements and I have no compelling evidence to the contrary of this.

14. I note the Councils' concerns in relation to storage and whilst the required standards are not met, it is indeed noted that the overall internal area exceeds the required standards where adequate storage can be provided to meet the needs of occupiers.
15. The courtyard areas may be substandard in terms of width and floor area although this is not the properties only amenity space provision as the newly created private garden would provide adequate amenity space and this element is therefore of lesser concern to me. It appears that planting within the courtyard to the second bedroom comprises a proportion of the private garden serving flat 4 and thus there would be a conflict with the previously approved plans. That said, matters relating to ownership are not for my consideration.
16. An external door is proposed to bedroom 3 and I am aware of the Councils' concerns in relation to outlook and daylight/sunlight for this room. However, even if there were deficiencies in this regard, it would not be removed completely or be so detrimental as to result in poor living conditions. Occupiers would also benefit from extensive habitable spaces at ground floor level where there are several windows providing for good levels of outlook and daylight/sunlight more generally as well as good access to the amenity area serving the property.
17. French doors are proposed off bedroom 1 facing the rear elevation of the proposed extension. However, again even if there were deficiencies in this regard, occupiers would still benefit from extensive habitable spaces at ground floor level as set out above.
18. For the above reasons, I conclude that although I have found a lack of harm in relation to outlook and daylight/sunlight, I have found harm to the internal floor area which would unacceptably affect the living conditions for future occupiers. The proposed development would therefore be contrary to Policy D6 of the LP and Policy 53 of the WFLP which together, amongst other matters, relates to housing quality and standards. For the same reasons, the proposed development would be contrary to the Department for Communities and Local Government Technical Housing Standards-Nationally Described Space Standard, 2015 and London Plan Supplementary Planning Guidance – Housing, 2016.

Parking

19. The proposed development would result in the loss of off-street parking spaces at the site despite claims regarding its minimal loss. The previous planning consent under reference 080404 provided for 7 car parking spaces to the rear as already set out. It is understood that condition 12 of this consent relates to parking and requires the parking area shown on the approved plan to be laid out in accordance with the approved details prior to occupation and shall not thereafter be used for any other purpose other than domestic parking associated with the approved scheme.

20. The proposed development would therefore be contrary to the planning condition relating to the previous permission. Whilst I am aware of policies relating to car free and car capped development, I understand that this development, under the extant planning permission, does not make provision for a legal agreement to secure a car free scheme. Therefore, homeowners would be able to apply for on-street parking permits which would result in parking overspill and increase parking pressure within the surrounding area. This would still be the case even taking into account cycle rack provision as it cannot be assumed that occupiers would not have a car despite the appellants' claims regarding a preference to use sustainable means of transport. I also have no compelling evidence to be certain that current parking spaces are underused. The appellant confirms that if the occupiers of flat 1 did need a car parking space, then they would request and pay for off street parking which for the above reasons would not be acceptable.
21. I conclude on this matter that the proposed development would result in parking overspill and increased parking pressure within the surrounding area. It would therefore be contrary to Policy T6 of the LP and Policies 60, 63 and 66 of the WFLP which together, amongst other matters, explains that new development will be expected to contribute to the Council's objective to deliver more attractive, accessible, healthy and safe streets, places and neighbourhoods for all residents in Waltham Forest whilst managing vehicle traffic and parking.

Living conditions – existing occupiers

22. The proposed reconfiguration of the parking area includes relocating the bin storage area to the passageway along the western elevation of flat 2, forward of the cycle storage provided for the remaining homeowners.
23. The western elevation of the host building is inset with a number of openings serving flats 2 and 3. The proliferation of storage facilities along this passageway would unduly clutter the space thereby compromising access to cycle storage beyond. It would also increase noise levels and foul odour associated with the use that would have an adverse impact on residential amenity of the nearby flats. Whilst the existing arrangements are noted, the proposed location for the bins would be sited closer to the openings along the western elevation of the host building meaning that its impact would be more apparent and thus would be unacceptable.
24. For the above reasons, I conclude that the proposed development would unacceptably affect the living conditions of existing occupiers of neighbouring properties with particular regard to noise, disturbance and odour as well as compromising convenient access to the cycle storage. It would therefore be contrary to Policies 53 and 57 of the WFLP which together, amongst other matters, explain that new development should respect the amenity of existing and future occupiers, neighbours and the surrounding area by providing sufficient facilities for the storage, collection and disposal of refuse, considering the level and type of provision, its location, and any negative impacts it may have on visual amenity, access, health and security.

Other Matters

25. The French doors to the second bedroom would face onto the existing French doors to flat 4. At my site visit, I was able to see that bedroom two was served

by a high-level frosted glass window which serves to allow for privacy between flat 1 and flat 4. The introduction of a French door in this elevation would however alter this relationship. That said, as matters relating to privacy between bedroom 2 and flat 4 did not form part of the Councils' reason for refusal and that I am dismissing the appeal based on other issues, I do not find it necessary for me to consider this matter further.

26. The Council make reference to the need for a condition survey/construction logistics plan (CLP) to establish potential impacts on the public highway resulting from the proposed development. It is understood that a planning obligation was requested towards monitoring of the CLP which is absent. The Council do not raise this as a reason for refusal and again, as I am dismissing on other grounds, I do not find it necessary for me to consider this matter further.
27. The property is located within the Orford Road Conservation Area (CA) and is a Grade II locally listed building. As such, I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I have also had regard to paragraph 205 of the National Planning Policy Framework which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 209 also sets out that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
28. The Council do not raise any particular concern with regard to the CA or the locally listed building and I have no reason to disagree. This is however a neutral consideration in my overall determination of this appeal and would not be sufficient to outweigh the harm identified. The development would extend a small apartment into a 3-bedroom family dwelling although this would also not alter my findings in relation to the above main issues.
29. I am aware of the appellants' frustrations regarding communications and delays during the application process. However, such matters would not bring me to a different conclusion or change the outcome of this appeal.

Conclusion

30. Bringing everything together, I conclude that although I have found a lack of harm in relation to details of the outbuilding and outlook and daylight/sunlight matters, I have found that insufficient detailing has been provided in relation to the proposed parking layout including the amount of external communal amenity provision lost from the site to be able to fully assess the current scheme. I have also found harm to the internal floor area which would unacceptably affect the living conditions for future occupiers. The proposed development would also result in parking overspill and increased parking pressure within the surrounding area and would unacceptably affect the living conditions of existing occupiers of neighbouring properties with particular regard to noise, disturbance and odour as well as compromising convenient access to the cycle storage.

31. The proposed development therefore conflicts with the development plan when considered as a whole. There are no material considerations, either individually or in combination that would outweigh the identified harm and associated development plan conflict. I conclude that the appeal should therefore be dismissed.

N Teasdale

INSPECTOR