
Appeal Decision

Site visit made on 30 July 2024

by C Livingstone MA(SocSci) (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal Ref: APP/U5930/W/23/3323992

24 Ive Farm Close, Waltham Forest, Leyton E10 5HQ

- 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 Majid Malak against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref is 222144.
 - The development proposed is demolition of existing house and construction of 3 Nos flats, 1 No 3 bedroom (4 persons) flat, 1 No 2 bedroom (3 persons) Flat, 1 No 1 Bedroom (1 persons) studio flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has confirmed that the policies from the Waltham Forest Core Strategy (2012) and the London Borough of Waltham Forest Development Management Policies Local Plan (2013) referred to in the Decision Notice have been superseded by policies from the Waltham Forest Local Plan Part 1 Shaping the Borough 2020-2035, 2024 (LP1). Appeal decisions must be based on the policies from the development plan prevailing at the time of determination. In the case of this appeal, the Council has suggested that Policies 1, 12, 15, 19, 20, 53, 56, 57, 66 and 94 of the LP1 are now the policies relevant to the determination of the appeal. The appellants are aware of the policy and have had the opportunity to comment upon its relevance to the appeal.
3. The name of the applicant on the application form is Mr Majad Malak and on the appeal form the appellant is Mr Majad Malik. The agent acting on behalf of the appellant confirmed that the applicant and the appellant are the same person, that the difference was due to a typographical error and the name of the appellant is Mr Majad Malak.
4. Planning permission was recently granted for the erection of a two storey side extension and first floor rear extension of 24 Ive Farm Close¹. However, based on the information before me, the original property was demolished and replaced with a larger property of a similar size and design to the original

¹ 213780

property with the approved extensions. In the interests of clarity, I consider the original dwellinghouse on the appeal site to be the property that was demolished, prior to any extensions. The existing building is the structure that had been constructed at the time of my site visit, which does not benefit from planning permission as it is a rebuilt structure rather than extensions to the original dwellinghouse.

5. The Council's third reason for refusal relates to the absence of a legal agreement to ensure the development would be car-free and a financial contribution of £1254 towards Strategic Access Management and Monitoring Strategies (SAMMS), which I will address as main issues, as well as a contribution towards sustainable travel, Construction and Logistics Plan Monitoring and works to renew the highway adjacent to the appeal site, which I will cover later in my decision.

Main Issues

6. The main issues are:

- the effect of the development on the supply of family housing;
- whether the proposed development would provide suitable living conditions for future occupants of Flat 3 in regard to internal floor space;
- the effect of the proposal on the safe and efficient operation of the local highway network with regard to parking provision; and
- the effect of the proposal on the Epping Forest Special Area of Conservation (SAC).

Reasons

Family Housing

7. Policy 20 of the LP1 resists the loss of larger family homes to allow for the creation of smaller self-contained residential dwellings, allowing conversions as an exception when they comply with specific criteria. Criterion A ii. of this policy stipulates that conversions will not be allowed where the house has a gross original internal floor area of less than 124 square metres.
8. There is insufficient evidence before me to demonstrate that the original dwellinghouse had a floor area of more than 124 square metres. Within the delegated report the Council state that the floor area of the original dwellinghouse was well below the 124 square metre threshold. Based on the submitted plans it is likely that this is the case. In the absence of any supporting plans or information it has not been demonstrated that the proposal would comply with Policy 20 of the LP1.
9. Planning permission was approved for the original dwellinghouse to be extended and the existing building reflects this approved scheme. The floor area of the property as existing is approximately 191 square metres. However, as detailed above, the existing building is a replacement it does not benefit from planning permission. I consider that unauthorised demolition and replacement of the original dwelling does not negate Policy requirements.

10. The proposal would have a harmful effect on the supply of family housing. It would therefore be contrary to the requirements of Policy 20 of the LP1 which allows for the conversion of family homes, only where the original dwelling has a footprint of less than 124 square metres.

Living conditions

11. Policy D6 of the London Plan 2021 (LonP) requires that a one person one bedroom studio with a shower, like Flat 3, should have a minimum internal floor area of 37 square metres. Based on the evidence before me, this property would have a floor area of approximately 28 square metres. The space standards in the London Plan are set to enable a home to become a comfortable place to retreat and there is no substantive evidence before me to justify development significantly below the standards set out.
12. For the reasons detailed above the building would fail to provide suitable living conditions for future occupants of Flat 3 with particular regard to internal living space. Therefore, the proposal would be contrary to Policy 56 of the LP1 and Policy D6 of the LonP, which set a minimum internal space standard.

Parking

13. The application site is within a controlled parking zone (CPZ), which is indicative of a level of parking stress as existing. I also noted on my site visit that the front gardens of several properties in the area had been converted to private parking spaces; with driveways restricting opportunities for on-street parking.
14. Whilst future occupants may not be dependant on private cars for day to day transport requirements they might want to own and park a vehicle for those journeys that aren't possible or practical on public transport. This would exacerbate the level of parking stress in the area and encourage travel by private car which has a detrimental impact on air quality, personal health and well being, and the environment.
15. In light of these impacts Policy 66 of the LP1 requires all new residential developments to be car free only allowing car parking in exceptional circumstances. There is no evidence before me to demonstrate that the proposal would be in accordance with any of the criteria listed. Therefore, a planning obligation would be required to prevent the proposed dwellings from being occupied by individuals that hold a parking permit.
16. In the absence of a completed planning obligation to secure the development as car free, I have no mechanism for securing the required restriction. Therefore, the proposal fails to comply with the requirements of Policy 66 of the LP1 which requires that new residential development is car free.

Special Area of Conservation

17. The Council indicate 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 due to increased recreational pressure,

either when considered 'alone' or 'in combination' with other plans or schemes.

18. For schemes comprising one or more units of residential accommodation, a new package of costed Strategic Access Management Measures (SAMM) was prepared by the City of London Conservators of Epping Forest and was adopted in 2022, with the agreement of Natural England. The new SAMM levy is said to require a contribution of £627 per unit from all new residential schemes. As the proposal would include a replacement unit and two additional units a total contribution of £1254 would be required in this instance.
19. However, in the absence of a completed planning obligation to secure the SAMM levy, I have no mechanism for securing the required contribution. Therefore, the proposal fails to comply with the requirements of Policy 94 of the LP1 which requires that planning obligations will be required to secure financial contributions to meet the reasonable costs of provision to support the development and offset its impact. This policy also stipulates that planning contributions to make a particular development acceptable in planning terms, will be secured via a legal agreement.

Other Matters

20. The Council's third reason for refusal included reference to a legal agreement to secure £2000 toward improving sustainable modes of transport, an additional contribution towards the monitoring of the Construction Logistics Plan; as well as a S278 agreement for highway related works. However, the Council has not provided adequate justification or evidence that an assessment has been carried out to demonstrate that these obligations are necessary to make the development acceptable. Therefore, the statutory tests of paragraph 57 of the Framework have not been met.
21. The Council have raised no objection in relation to external amenity space, accessibility, daylight and sunlight. They have also raised no concerns regarding the living conditions of neighbouring occupants in terms of daylight, sunlight and outlook. Further, the appeal site is in an area that is not at risk of flooding. However, the absence of harm in these respects form neutral factors in my assessment of the appeal, weighing neither for nor against the proposal.
22. The scheme would provide two additional housing units, in a suitable location, where there is an identified need. This would maximise the use of the site and make a modest contribution to the housing supply in the area.

Conclusion

23. In light of the conflict I have found with a number of policies, as detailed above, I conclude that the proposal would be in conflict with the development plan as a whole.
24. For the reasons given above the appeal should be dismissed.

C Livingstone

INSPECTOR