

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/24/334189141 Sunset Avenue, Waltham Forest, Chingford, E4 7LW

- 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 Feridoon Rayegani against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref is 231531.
 - The development proposed is sub-division of site at 41 Sunset Avenue and construction of a single storey dwelling house with roof accommodation (2-bedroom) (Use Class C3). Works include associated landscaping, provision of one car parking space and bin storage (TBC).
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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of Waltham Forest Development Management Policies Local Plan (2013) referred to in the Decision Notice have been superseded by policies from the Waltham Forest Local Plan Part 1 Shaping the Borough 2020-2035, 2024 (LP1).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 the Policies of the LP1 that are now 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 proposal is described on the planning application form as a two bedroom dwelling and the proposed plans include a rear dormer and staircase to allow for a bedroom in the loft area. Within their Appeal Statement of Case the appellant has stated that the proposal should be assessed as a one bedroom, two person dwelling. However, my assessment is based on the plans as submitted. There are no amended plans before me to indicate that the loft area would not form living accommodation. I will therefore proceed to determine the appeal as a two bedroom dwelling over two stories.
4. The Council's fourth reason for refusal relates to the absence of a legal agreement to secure a financial contribution of £627 towards Strategic Access Management and Monitoring Strategies (SAMMS), which I will address as the

fourth main issue, as well as a contribution towards sustainable travel, Construction and Logistics Plan Monitoring and works to renew the footway adjacent to the appeal site, which I will cover later in my decision.

Main Issues

5. The main issues are:

- the effect of the development on the host property and character and appearance of the area;
- whether the proposal would provide suitable living conditions for future occupants with regard to internal floor space;
- whether the proposal would encourage sustainable modes of transport with particular regard to cycle storage provision;
- the effect of the proposal on the Epping Forest Special Area of Conservation (SAC).

Reasons

Character and appearance

6. Sunset Avenue is an attractive residential street that slopes steeply downwards from south to north. Plot widths are varied and properties on the street are a mix of architectural styles and sizes and include two storey semi-detached and single storey terraces of three dwellings. Extensions and alterations have further increased the variance in built form along the length of the street. The spacing between properties is narrow. However, there is a sense of openness that is derived primarily from topography of the area, the linear pattern of development and the comparative height of the dwellings which allows for a wide, tree-lined street and open vistas.
7. 41 Sunset Avenue (No 41) is single storey and semi-detached and located on the corner of Sunset Avenue and Mount Echo Drive. Due to variance in the ground level the two properties are stepped with 41 being the higher of the two. There are dwellings in the area of a similar design and scale to the appeal property and 39 Sunset Avenue (No 39). However, as detailed above the character of the area is defined by the overall mix of architectural styles. Although they were designed to mirror each other, with matching projecting bays, extensions and alterations to the roof of No 41 has resulted in some disparity between the pair.
8. The proposal is for the demolition of an ancillary garage and outbuilding to allow for the erection of a single storey dwelling with accommodation in the roof. The proposed dwelling would reflect the design of the host property including a projecting bay and matching external materials. Due to the constraints of the plot the proposal would be narrower than No 41 and Nos 39 and 41 would become a terrace of three rather than a mirrored pair.
9. There are terraces of three properties on the street and they form part of the wider context of the site. Like most properties in the area the height of the three properties would be stepped to accommodate the slope of the street. This would break up the built form and as a result the narrower width of the proposed dwelling would not be so prominent. Further, due to the variance in

ground level, the narrower width of the proposed property would be accommodated by a smaller height across the majority of its width. As such the proportions of the proposed property are acceptable and would be in keeping with the neighbouring properties. It is acknowledged that the scheme would result in development of a larger proportion of the plot however a suitable area of external amenity space would be available for No 41 and the proposed property; which as detailed above, would reflect the host property and would not appear incongruous within the street scene.

10. The garden areas of corner plots typically make a positive contribution to the sense of openness in an area. In this instance, ancillary development to the side of the appeal property extends up to the boundary with Mount Echo Drive. While the proposed dwelling would be higher and deeper than the existing development it would be set back from the boundary with Mount Echo Drive and the majority of the rear garden area would remain undeveloped. Further, as detailed above the sense of openness in the area is primarily attributed to its topography and the width of the street. Given the existing development within the appeal site, the proposal would not have a significant impact on the extent of development to the side of the property; and the proposed scheme would not significantly erode the sense of spaciousness within the area.
11. For the reasons detailed above the development would not have a harmful effect on the host property and character and appearance of the area. Therefore, the proposed dwelling would be in accordance with Policies 8 and 53 of the LP1 which allow for modest intensification in areas where there is a robust and desirable character and support development proposals that reinforce local character and distinctiveness and respond positively to their context in terms of scale, height and massing.

Living conditions

12. The annotations on the plans indicate that the loft bedroom would be single and the bedroom on the ground floor would be a double bedroom. However, there is some disagreement between the main parties regarding the floor area of the loft bedroom and whether it should be counted as a double rather than a single. In which instance the proposed property would be a two storey, four person property with a minimum internal floor area requirement of 79 square metres rather than a two storey, three person property with a minimum internal floor area requirement of 70 square metres, as defined within Policy 56 of LP1.
13. The appellant has provided an annotated drawing indicating that the total area of the loft room is 12.25 square metres, and this includes the area under the eaves. They assert that that not including the area under the eaves would result in a floor area of less than 11.5 square metres. However, the submitted drawings do not clearly show that the ceiling height of the areas under the eaves would be below the ceiling height of the room, sufficient to be discounted as part of the bedroom entirely.
14. There is insufficient evidence before me to demonstrate that the proposed bedroom in the loft area would be less than 11.5 square metres and as such it should be considered as a double bedroom. In light of this the proposed dwelling should be considered as a two storey, four person property,

therefore with a proposed internal floor area of 72 square metres it would fall short of the minimum required internal floor area of 79 square metres.

15. The space standards 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.
16. As such the proposal would fail to provide suitable living conditions for future occupants with regard to internal floor space. It would therefore be contrary to Policy 56 of the LP1 which sets a minimum internal space standard.
17. Policy 20 of the LP1 sets the minimum area requirements for communal areas of individuals living independently within a house in multiple occupation and therefore is not applicable in this instance.

Cycle Storage

18. Appendix 1 of the LP1 sets out a minimum requirement of two cycle parking spaces for a two bedroom property. No bicycle storage is shown on the submitted plans. As detailed above the property would provide limited internal space and in light of this it is not feasible that future occupants would have sufficient space to store a bicycle internally. The appellant has stated that appropriate cycle storage could be provided within the front garden. However, the front garden area would include a bin storage area as well as a parking space. In light of this it is unclear where a cycle store could be positioned or how this would impact on the street scene. Therefore, securing cycle storage provision through the use of a planning condition would be unsuitable.
19. The appeal site is within an area with a PTAL rating of 1b and a lack of suitable cycle storage provision would limit the sustainable travel options of future occupants. In light of this the proposal would fail to meet the policy requirements of Policy 61 of LP1 that prioritises cycling as a mode of transportation.
20. For the reasons detailed above the proposal would fail to encourage sustainable modes of transport with particular regard to cycle storage provision. Therefore, the scheme would be contrary to Appendix 1 and Policy LP61 of LP1 which require that development provides for accessible, secure cycle parking facilities and facilitates active travel.

Special Area of Conservation

21. The Council state 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.
22. 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 an additional unit a total contribution of £627 would be required in this instance.

23. The appellant has indicated that they would be content to enter into a planning obligation. 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

24. The Council's third reason for refusal included reference to a legal agreement to secure £1000 toward improving sustainable modes of transport as well as an additional contribution towards the monitoring of the Construction Logistics Plan; as well as a S278 agreement for highway related works for the renewal of the footway at the appeal site. 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.

Conclusion

25. The proposal would provide an additional housing unit, 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. In so doing, the proposal would support the aims of The National Planning Policy Framework and Policy H1 of the London Plan 2021, which amongst other things, set housing targets and encourage the development of small sites in order to meet London's housing needs. There would also be associated economic benefits during construction.
26. I have found that the proposal would not harm the character and appearance of the area, an absence of harm in this respect is a neutral factor weighing neither for nor against the development. However, I have found the proposal would fail to provide acceptable living conditions for future occupants, would fail to support sustainable modes of transport with regard to cycle storage and would fail to make a suitable contribution to the SAMM which is aimed at protecting the SAC. The adverse effects in these respects are considerable and outweigh the benefits detailed above.
27. The development would conflict with the development plan. This conflict is not outweighed by other considerations. Therefore, the appeal is dismissed.

C Livingstone

INSPECTOR