



Appeal Decision

Site visit made on 3 September 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 27 September 2024

Appeal Ref: APP/U5930/W/24/3343066

1 Colworth Road, Leytonstone, London, E11 1JA

- 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 Gabriel Lecionte of Gabriel's Classic Upholstery against the decision of Waltham Forest London Borough Council.
 - The application Ref is 230813.
 - The development proposed is conversion of ground and basement floors to a single live-work unit and subdivision of upper floors to create two self-contained dwelling flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application by the Council, and prior to the submission of the appeal, the Waltham Forest Local Plan Part 1, February 2024, (LP) was adopted. Consequently, the policies within the officer report and decision notice are no longer relevant. The Council's statement does, however, list the new LP policies that have replaced them.
3. The appellant refers to revised drawings which were submitted to the Council, but which were not assessed. I have considered these applying the principles established by 'Holborn'¹. However, I consider that they are a fundamental change to the proposal, and it is important that the appeal is determined on the basis of the plans as originally submitted and upon which the Council based its decision. To do otherwise would prejudice the interests of third parties and consultees, who have not been consulted on these revisions. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.

Main Issues

4. The main issues are:
 - The effect of the proposal on the property and the character and appearance of the area;
 - The effect of the proposal on the living conditions of the occupiers of the development with regard to privacy and private external amenity space;
 - The effect of the bin store enclosure with regard to highway safety;

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- The effect of the construction of the building on highway safety; and
- Whether the proposal makes adequate provision for car free housing and would affect highway safety.

Reasons

Character and appearance

5. The appeal site is a triangular plot on the corner between Colworth Road and Poppleton Road. It is occupied by a distinctive, black painted building, with a red tin roof. On the front elevation there is a shop window with a red canopy. An upholstery business occupies the ground floor, with a storage area in the basement and a flat on the 1st floor.
6. The building is at the end of a residential street of period houses characterised by bay windows. This includes the adjoining property, a red brick, three-storey building with a tall chimney stack. Dominating the end of Colworth Road, and opposite the site, is a large church on a substantial plot. Adjacent to Poppleton Road, and hidden from it by a high brick wall, is the A12. Therefore, the area is characterised by a mix of buildings and features.
7. Whilst the existing building is distinctive, it is somewhat of an anomaly in this location. It is not of any architectural merit and appears incongruous adjacent to the tall, three-storey, double bay building next to it, which stands out within the streetscape. Although the site is not in a conservation area, it is a prominent corner location, however, it is constrained because of its shape which tapers to a point at the rear.
8. The proposed development seeks a workshop and storage in the basement area. Three, one-bedroom flats, resulting from the introduction of a further floor, would be created on the ground, 1st and 2nd floors. This would change the current simple building style, to one with three-storey gable projections on the front, with square bay windows. I saw that these would reflect the bay windows that are found on properties in the adjoining streets.
9. Whilst the materials would mirror those found on nearby residential buildings, the proposed drawings do not clearly identify the proportions of brick and render that would be used on the elevations. As the external appearance of the building is essential when determining the overall acceptability of the proposal and its effect on the character and appearance of the area, I do not consider that a condition would be appropriate in this instance.
10. Notwithstanding this, whilst the roof would be raised by 450mm higher than the existing, it would sit well below the height of the adjoining building and so retain the existing scale of the buildings. Furthermore, the clay tiles used for the mansard style roof, would match those found on the adjoining residential property.
11. The National Planning Policy Framework (the Framework) sets out the need to achieve well designed places which are sympathetic to local character. Whilst not replicating what is currently on the site, the proposal, including the use of windows within the gables on the front and side elevations, introduces a more modern design approach, referencing the characteristics of the traditional housing surrounding it. Moreover, it has introduced architectural features, lacking on the current building. This adds interest and raises the design quality

on this important corner site. However, further details on the materials would be required to ensure that the building would contribute to the local character of the area.

12. Therefore, I conclude that the proposed development would harm the character and appearance of the host building and the surrounding area. It would not accord with LP Policy 53 which requires high quality design that reinforces and enhances local character.

Living conditions of occupiers

13. The proposed ground floor flat would have two windows on the elevation next to the boundary with Poppleton Road. These serve the proposed kitchen, living and diner area. As there would be no defensible space between the pavement and the boundary of the development, it would enable passers-by to see into the flat. This would harm the privacy of the occupiers. However, the main parties have agreed that this could be resolved by the use of obscure glazing in these windows.
14. This room would also have two windows within the bay on the front elevation. Therefore, even if the two side windows were obscure glazed, the room would be well-lit. Consequently, I am satisfied that privacy for the occupiers of the ground floor flat could be achieved through a suitably worded condition requiring details of the treatment of the relevant windows. It would, therefore, accord with LP Policy 57 which requires avoiding a loss of privacy by respecting the amenity of future occupiers.
15. LP Policy 56 which sets out residential space standards, requires a minimum of 10m² of external amenity space for one-bedroom flats, some of which should be private. The proposed ground floor and 2nd floor flat provide no amenity space. The 1st floor flat would have an enclosed external balcony, confirmed as open to the front with railings. However, this would provide only 3.5m² of space which would be of limited size and less than the policy requires. Moreover, the only external space within the grounds of the proposal, a small area to the front and a triangular area to the rear, would be utilised for the bike and refuse stores. Therefore, as appropriate external amenity space would not be provided, the proposal would not accord with LP Policy 56.
16. The appellant has referred to three planning approvals² within the borough which have limited or no amenity space. However, I have been provided with little substantive evidence as to the circumstances of these proposals. Consequently, I am unaware as to whether they are comparable to the case before me and so I attach little weight to these.
17. I therefore conclude that the proposal would not harm the living conditions of the occupiers with regards to privacy and would accord with LP Policy 57 as set out above. However, the lack of private external amenity space would harm the occupiers of the proposed development. It would not accord with LP Policy 56.

Bin store and highway safety

18. The bin store would be located at the rear, accessed from a gate opening out onto Poppleton Road. This would cause a highway safety hazard to pedestrians

² Ref 210091, Ref 213504, Ref 220969

using the adjoining pavement. However, the appellant has stated that sliding doors could be used to prevent such an occurrence. Therefore, I am satisfied that a suitably worded condition, which would require details of the design of the doors and the bin store would ensure that appropriate refuse storage would be provided, as well as ensuring a safe access that would not harm highway safety.

19. I therefore conclude that the proposal would accord with LP Policy 57 which requires the amenity of neighbours and the surrounding area to be respected by providing sufficient facilities for the storage, collection and disposal of refuse.

Construction management and the highway

20. LP Policies 63 and 65 require a Construction Logistics Plan (CLP) that sets out the potential impacts of construction traffic and the development in order to agree suitable mitigations and monitoring. The appellant was not aware of the need to submit an outline CLP, and the Highway Authority considers that a detailed CLP could be secured by a planning condition.
21. I saw that Poppleton Rd was relatively wide but with parking bays on the opposite side of the road to the appeal site. Whilst at the time of my visit there was limited traffic passing along the road, the proposed development would have the potential to impact on the highway network. However, I am satisfied that a suitably worded condition for the submission of a CLP for approval by the Council would ensure that the development would not affect highway safety.
22. The monitoring of the CLP would, however, need to be within the terms of a planning obligation. Whilst the appellant has submitted a draught Unilateral Undertaking (UU) which includes £250 for CLP monitoring, the UU has not been signed. Therefore, without a signed obligation, there is no certainty that the required monitoring of the development during construction would take place.
23. I therefore conclude that the construction of the proposed development would affect highway safety. It would not accord with LP Policies 63 and 65 as set out above.

Car free housing and highway safety

24. The site is in a Controlled Parking Zone (CPZ) and is in a Public Transport Accessibility (PTAL) 4 area. In such locations the Council requires development to be car free. For this reason, a planning obligation to prevent parking permit ownership is required, as well as a financial contribution to sustainable transport modes, and a section 278 agreement to address highway issues arising from the development. Whilst a draught UU has been submitted which does provide £3000 towards sustainable transport modes, it does not mention car free development, nor does it cover a section 278 agreement. Moreover, the UU has not been signed.
25. Therefore, I conclude that the proposed development would not provide car free housing and would affect highway safety. It would not accord with LP Policy 94 which states that the Council will support development proposals that provide adequate contributions to suitably mitigate their impacts. It would also not accord with paragraph 57 of the Framework.

Other Matters

26. The Council of the London Borough of Waltham Forest shares a boundary with the Epping Forest Special Area of Conservation (SAC) which is afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitats Regulations). It is also within a wider Zone of Influence (ZOI) based on the distance the majority of visitors will travel to visit the SAC. As such the whole of the Borough of Waltham Forest falls within the ZOI for recreational pressure. All new residential development within the ZOI constitutes a Likely Significant Effect (LSE) on the sensitive interest features of the SAC through increased recreational pressure, whether when considered alone or in combination. Sufficient mitigation measures are required to be in place to ensure that there would not be a harmful impact on the SAC as a result of the LSE.
27. As such, schemes of one or more residential units are subject to Strategic Access Management Measures (SAMM) which has been prepared by the City of London Conservators of Epping Forest (CLC). This has been agreed with Natural England. In this case, the proposal would result in an increase in residential units. Whilst the appellant has set out that it would pay £627 per dwelling towards SAMMS, as required by the Council, the UU is incomplete and so does not provide the required planning obligation.
28. The proposed development would provide adequate bike storage at the front and rear of the building, as expected of all similar development. It would also have a photo-voltaic array on the roof which would contribute to low carbon energy and would provide moderate weight to the proposal.
29. A previous scheme³ for the conversion of the building was refused. Whilst the Council considers that pre-application discussions would have helped to inform the revised application, this is a matter between the main parties and does not affect my assessment of this appeal.

Planning Balance

30. The proposed development seeks to retain a long-standing business which has operated on the site for 25 years. It would provide some short-term economic benefits during the construction of the proposal and contribute to the Framework's objective to boost the supply of housing. However, it would only deliver an additional two units in an area where there is no evidence to suggest that there is a shortfall in housing. Furthermore, clarification of the materials is required, and the scheme would not provide adequate external space for the occupiers of the development. In addition, there is not a signed planning obligation to ensure that the development would be car free, would deal with necessary highway issues and contribute to the management of the SAMMs. Therefore, the benefits of the scheme are not outweighed by the harm and policy conflicts. For these reasons, the appeal should not succeed.

Conclusion

31. For the above reasons I consider that the proposal conflicts with the development plan as a whole. Whilst there are material considerations in favour of the development, these do not outweigh the proposal's conflict with the development plan.

³ Ref 221539

32. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR