



Appeal Decision

Site visit made on 24 September 2024

by C McDonagh BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2024

Appeal Ref: APP/U5930/W/24/3338856

Land between 204 and 206 Sinclair Road, London E4 8PT

- 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 and Mrs Kleanthis Charalambous against the decision of Waltham Forest London Borough Council.
 - The application Ref is 230878.
 - The development proposed is 'Demolish existing storage building and construction of single storey 1-bedroom single dwelling house with associated bin storage and landscaping'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application subject to this appeal was determined against the Waltham Forest Local Plan Core Strategy (adopted March 2012) and the London Borough of Waltham Forest Development Management Policies Local Plan (adopted October 2013). Relevant policies from both documents are referred to in the decision notice. Since the refusal of the planning application, these have been superseded by policies from the Waltham Forest Local Plan Part 1 Shaping the Borough 2020-2035 (adopted 29 February 2024) (LP1). Planning decisions must be based on the policies from the development plan prevailing at the time of determination. The appeal has therefore been determined against the policies of the LP. The appellant had the opportunity to assess the relevant policies and their relevance to the appeal proposal during the appeal process as the decision notice was helpfully updated by the Council in their appeal statement. As such they have not been prejudiced by my consideration of the new development plan.
3. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). As the proposed changes do not affect the main issue of this appeal, I have not sought the views of the main parties in coming to my decision.
4. The original decision notice includes 8 reasons for refusal. Reason 4 relates to whether the proposal would have a harmful impact on highway safety relating to the construction phase of the development. This was due to the unsuitability of the draft Construction Logistics Plan (CLP). The appellant argued in their statement of case for this appeal that the details could have been refined if they were given the opportunity during the planning application. As the Council were refusing the application, they did not seek any revisions to the CLP. However, the Council has since agreed that a detailed

CLP could be secured via a suitable planning condition were the appeal to be allowed and this reason for refusal is no longer contested. This would not be unusual and based on all that I have seen and read I agree that further details could have been agreed via a suitable condition. I have proceeded on this basis and matters of highway safety during construction were not part of my assessment.

Main Issues

5. The main issues are as follows:

- The effect of the proposal on the character and appearance of the area;
- Whether the proposal would provide suitable living conditions to future occupiers of the property and resultant effects on living conditions of occupiers of nearby properties;
- The effect of the proposal on trees;
- Whether the proposal promotes sustainable travel options;
- Whether the proposal would provide a safe and suitable access for pedestrians and refuse collection; and
- The effect of the proposal on the Epping Forest Special Area of Conservation (SAC).

Reasons

Character and Appearance

6. The appeal site includes a double garage located at the end of a driveway which is between No's 204 and 206 Sinclair Road. The proposal seeks to remove the garage and erect a single storey dwelling in its place, which would extend further forward into the existing driveway and include a landscaped area to the front with bin storage. The driveway would become vehicular and pedestrian access for the dwelling.
7. Sinclair Road runs east to west between the A1009 and A112 roads and there is little in the way of an established pattern or style of built form. There is a generally consistent set back from the road, with relatively large rear gardens and smaller areas to the front. There is little distance between the properties to either side in the general area of the appeal site, although some properties include driveways with some outbuildings positioned behind the main building line. However, the street is otherwise formed of a variety of detached, semi detached and terraced properties of varying heights, external facing materials and general appearance.
8. The garage was in a dilapidated state at the time of my site visit, and I agree it is somewhat of an eyesore from the street. Gaps between properties vary from my observations on the site visit, although where these are larger, I saw little evidence of backland development. The dwelling would extend forward a significant distance from the current frontage of the garage and due to the increased height of the dwelling, it would be much more apparent in the street scene set against the existing situation.

9. Moreover, the set back of a dwelling in this manner would be uncharacteristic of the street scene. While the appellant informs me there are other instances of this type of development, such as at No's 146, 195 and 201, I have no details of these before me such as planning applications. The dwelling would be set behind the main building line of other houses in the street while it would be tight to either side boundary of its new plot, all of which would be uncharacteristic of the area.
10. While there would be a minor benefit from removing the disused garage to the character and appearance of the area, its replacement with a larger and more prominent structure would outweigh this positive weight. Similarly, while I have no reason to doubt that the proposal would utilise high quality materials, I would expect nothing less
11. Taken together, the proposal would be harmful to the character and appearance of the area. This would be contrary to policy 53 of the LP1, which seeks to ensure development proposals reinforce and/or enhance local character and distinctiveness, taking into account existing patterns of development.

Living Conditions – Future Occupiers

12. The proposed dwelling internally includes one bedroom, an en-suite shower room and toilet and a living/dining/kitchen area. Externally, there is a courtyard to the west elevation which is enclosed by the property itself on 3 sides and by the property boundary to the other. There are no windows to either side elevation or the rear, although the bedroom includes one window looking out to the courtyard with double doors from the living area providing access to that space. There is a window and door to the front elevation.
13. My attention is drawn to the Nationally Described Space Standards ('the standards'), which advises minimum internal and external space requirements for new dwellings based on occupancy. The floor space area of the dwelling would meet the minimum requirements for one occupant, however because there would be no storage space, it does not meet the standards overall. I note the appellant does not dispute this. As such, the internal space would not be suitable for future occupiers and there are no material considerations before me to indicate why this is acceptable.
14. The courtyard area would evidently provide approximately 5.45m² of outdoor space. While this may meet the minimum 5m² requirements of the London Plan (LP) (adopted March 2021) as the appellant points out, policy D6 is clear that this only applies where there are no higher local standards in the relevant Borough development plan. In this case, policy 56 of the LP requires 50m² of external space and the proposal would fall significantly short of this. Although the appellant suggests the front area, which is the existing driveway, would meet this standard, policy 56 of the LP is clear in stating that driveways do not count towards this total.
15. I am advised there are areas of open space nearby, although the appellant has not advised where these are located. The Council suggests these are some distance away due to the route required and, in any event, while public open space is important, it is a supplement rather than a substitute for private external space. The proposal would not be suitable in this regard as a result.

16. The courtyard area would allow some daylight into the living space and bedroom. However, this would likely only be when the sun is overhead in the midday hours. There are no windows on the east elevation, while the courtyard would be significantly screened by the boundary wall on the west side. The window to the north elevation would be subject to reduced light levels due to its position. This would create a somewhat dark and gloomy environment in which to live.
17. Moreover, the lack of windows due to the tight positioning of the dwelling within the site would also dictate that the dwelling would have poor levels of outlook. This would be limited to the front window which overlooks the driveway between the two existing dwellings and the courtyard which is enclosed. This would also mean the dwelling would be overlooked by the adjacent existing properties, with windows to either side elevations and to the rear with views into the front window and into the courtyard from No.206.
18. Overall, proposal would not offer suitable living conditions to prospective future occupiers due to the lack of storage space not meeting the minimum requirements of the standards, insufficient private external amenity space, low natural light levels, poor outlook and a lack of privacy from neighbouring residents. This would be contrary to policies 56 and 57 of the LP1 and D4 and D6 of the LP. These seek, among other things, to ensure proposals for new homes are required to meet the prescribed minimum internal space standards, provide a minimum of 50sqm of private external amenity space and avoiding harmful impacts from overlooking, enclosure and/or the loss of privacy, outlook and daylight/sunlight.

Living Conditions – Occupiers of No’s 204 and 206 Sinclair Road

19. The dwelling would be positioned on the boundaries with both rear gardens of the above properties. No.204 is formed of a dwelling and a rear extension which is in use as a house in multiple occupation (HMO). There is a garden between the existing boundary wall and the HMO.
20. The proposal would involve an increase in height over that of the existing garage, which would be to a height of 3.2m. The east elevation, which would extend along the boundary with No.204, would be some 10m in length which would create an overbearing and enclosing effect, which would be akin to a tunnelling of outlook from the rear windows of No.204. This would harmfully reduce the outlook from the rear of this property as well as from the windows of the HMO, creating an oppressive feature on the common boundary.
21. With regards to No.206, the proposed dwelling would project closer to the rear elevation of that property in a similar manner. However, there is a fence between the two elements and given the single storey scale of the appeal dwelling, overlooking into the rear of No.206 in this manner or from the courtyard of the proposed dwelling into the rear garden of No.206 would be very unlikely and I disagree this would be harmful to the living conditions of the adjoining property.
22. However, due to the increased height of the dwelling over that of the garage, the rear elevation and garden area of No.206 would be subjected to harmful decreased levels of light due to overshadowing from the proposal, particularly in morning hours when the sun would be positioned to the east.

23. Taken together, the proposal would harm the living conditions of No's 204 and 206 Sinclair Road. This would be contrary to policy 57 of the LP1 which seeks to ensure, among other things, that development proposals avoid harmful impacts from enclosure outlook and daylight/sunlight.

Trees

24. There is a band of mature trees located to the south of the appeal site which are evidently covered under a Tree Preservation Order (TPO). The trees are highly visible from the street scene given their height and are a significantly positive feature of the character and appearance of the area.
25. There is little before me to indicate the potential impacts of the proposal on the health of the trees, such as a root protection area or methodology for protecting the health of the trees during construction. While the appellant seeks to secure any mitigation and protection via a suitably worded planning condition, there is nothing before me to indicate whether this is possible. As such, it would not be appropriate in this instance to attach a condition requiring further information.
26. In the absence of sufficient information to address this matter, I must conclude that the proposal could harm the health of nearby trees. This would be contrary to policies 79 and 80 of LP1 which state that development proposals will only be supported where they take particular account of existing trees on the site and on adjoining land would not give rise to any threat, immediate or long term, to the continued well-being of trees of significant amenity, historic or ecological/habitat conservation value.

Sustainable Travel Options

27. Policy 61 of the LP1 requires one cycle parking space to be included within a development of this scale to promote sustainable travel options for residents. The submitted site plan does not show any cycle parking. However, it would not be unusual to provide this information via a suitably worded planning condition and from my viewing of the plans there would be adequate space within the site to provide the necessary parking.
28. As such, this information could be provided were the appeal to be allowed. As I am dismissing the appeal I have not sought this, but the proposal would accord with policies 60 and 61 of the LP1 and T5 of the LP. These seek, among other things, to ensure the provision of secure public and on-site cycle parking facilities for occupiers and visitors.

Whether Safe and Suitable Access

29. The scheme includes one off-street parking space for occupiers of the proposed dwelling. This is illustrated on the proposed site plan, although I agree that it is unlikely that users of the space would park tightly to the wall of No.206 as indicated. There is nothing on the site plan to indicate how much circulation space would be retained to either side of a vehicle parked in this manner. From my observations on the site visit, the driveway was somewhat narrow and without sufficient evidence that a vehicle could park in this location and retain enough space to either or one side to allow bins to be moved from

the storage space to the front area of the dwelling and the footpath, I cannot be certain this would be suitable.

30. Moreover, there is nothing before me to indicate that pedestrians could pass to one side of a parked vehicle. As the Council points out, this would be particularly concerning for wheelchair users. Although the Council advises they would be willing to accept a condition to restrict parking on the driveway for future users of the dwelling, this currently forms part of the proposal before me and this would be difficult to enforce, failing one of the 6 tests of planning conditions.
31. The Council expressed further concern with the parking arrangements proposed given that it would lead to the loss of two designated spaces for the HMO allowed at appeal¹. However, this was not included in the reason for refusal, and I have no further information on this matter before me. This does not mean it is acceptable, but given I am dismissing the appeal on a host of other reasons I have not sought further clarity on this issue.
32. Taken together, there is insufficient evidence that the proposal in its current form would provide a safe and suitable access for pedestrians and refuse collections. This would be contrary to policies 53, 57, 61, 66 and 93 of the LP1 and policies T1, T2, T3, T4, D5 and D6 of the LP. These seek, among other things, to ensure proposals are fit for purpose and demonstrate careful consideration of the needs of all building users and provide 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.
33. Policy 60 of the LP1 is also cited on the revised reasons for refusal, although this relates to promoting sustainable transport and does not relate to the reason for refusal given.

Epping Forest SAC

34. Waltham Forest falls within the 'Zone of Influence' (ZOI) for the Epping Forest 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.
35. For development proposals of 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 requires a contribution of £627 per unit from all new residential schemes.
36. The appellant seeks to agree these details with a planning condition. However, the Planning Practice Guidance² is clear that conditions limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. Ensuring that any planning obligation or other agreement is entered

¹ APP/U5930/W/17/3192835

² Paragraph: 010 Reference ID: 21a-010-20190723

into prior to granting planning permission is the best way to deliver sufficient certainty for all parties about what is being agreed.

37. Although the appellant is willing to pay this contribution, 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

38. I have had regard to the supporting comments submitted by interested parties. These have been largely addressed in the preceding sections of this decision. I am informed that there is also anti-social behaviour occurring at the site, which the proposal would help to abolish. I saw no evidence of this on my site visit and it is not raised by the appellant or Council. As such, I have not considered this further.

Planning Balance

39. The development would have some benefits. As the appellant points out, it would add to the local housing stock. However, there is nothing before me indicate that the Council is not currently meeting its targets in that regard. There is general support for the development of small sites and the efficient use of land in the Framework. However, this is not at the expense of other matters such as the character and appearance of the area and other issues assessed in this appeal. The conflict with the development plan as identified above weighs heavily against the scheme. The benefits would be relatively modest given the scale of the proposal. As such, they do not outweigh the harm.

Conclusion

40. For the reasons set out above, I have found that the proposed development would fail to accord with the development plan as a whole. There are no material considerations before me to indicate that a decision should be made otherwise than against the development plan. On this basis, I conclude that the appeal should be dismissed.

C McDonagh

INSPECTOR