



Appeal Decision

Site visit made on 9 October 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2024

Appeal Ref: APP/U5930/W/24/3343426

856 Lea Bridge Road, Walthamstow, Waltham Forest E17 9DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Mohammed Kajee against Waltham Forest London Borough Council.
 - The application Ref is 232263.
 - The development proposed is described as a side extension to provide a self-contained one-bedroom duplex apartment with private amenity, cycle and bin storage.
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Decision

1. The appeal is dismissed, and planning permission refused.

Procedural Matters

2. I am required to make my decision with regard to the most up to date development plan not that which was current at the time the planning application was made. In this instance this includes the London Borough of Waltham Forest Local Plan Part 1 (LP), adopted 29 February 2024.

Main Issues

3. The main issues are the effect of the proposed development on the character and appearance of the area, highway safety, the Epping Forest Special Area of Conservation, and the living conditions of the occupants of the host dwelling with specific regard to privacy of the rear garden; and whether the proposed obligations are necessary and proportionate.

Reasons

Character and Appearance

4. The appeal site is to the side of 856 Lea Bridge Road, the host dwelling, on the junction of Lea Bridge Road and Peterborough Road. The immediate area is characterised by terraces of 2-storey properties which create parameter blocks within a grid of surrounding roads. This creates strong building lines along each road and provides a uniformity to the local area's appearance. Where terraces meet at corners the general pattern is that of the side elevation of one terrace aligning with the front elevation of the next terrace as the corner is turned which emphasises the regularity of built form. Although it is appreciated there is some development beyond the side elevations of terraces at corners, this is generally limited to single storey. The appeal site is an example of this and constitutes an end terrace property with a single storey garage along its side.

5. The proposal would replace the garage with a new dwelling which would have 2-storeys and include accommodation in the roof space, as is already the case with the host dwelling. A terrace is also proposed to serve the roof space accommodation of the host dwelling. The rear garden would be divided to provide private open space for the host and new dwelling, and the front garden reorientated to provide a parking space for the host dwelling, with access from Peterborough Road.
6. The proposed new dwelling would extend beyond the side elevation of the host dwelling and draw 2-storey development up to the pavement edge. It would thereby extend beyond the frontage of the terraced row which faces Peterborough Road behind. Its full height design would be out of character with the pattern of development found at the end of terraces at corners and create a break in the regularity of the parameter block layout which informs the character and appearance of the area. Further to this, the proposed large 2nd storey terrace would be visually dominant due to the corner location of the host dwelling. It would represent a feature more reminiscent of a city centre high density, development rather than a domestically scaled residential area, as is characteristic of this area.
7. As such, the proposal would fail to respond to its surroundings and would represent an example of over-development which would harm the character and appearance of the area. It would therefore fail to comply with LP Policy 53 insofar as it seeks new development to respond appropriately to its context.
8. In terms of cramped forms of development, the Council has also referred to LP Policy 15, which seeks to ensure an appropriate mix of housing sizes across all tenures. It does not however relate to character and appearance, but I will return to this later.

Highway safety

9. The proposal would continue to provide access for off-road parking from Peterborough Road and not Lea Bridge Road, as inferred by the Council. Nevertheless, the proposed new access would be considerably closer to the junction and would be angled in such a way that to be used by cars turning in front of the appeal site from Lea Bridge Road or exiting to access that road would likely require considerable on-road manoeuvring. This would be further restricted by the bollards on the opposite side of Peterborough Road and the parking bays both opposite and adjacent to it.
10. Due to the proximity of the proposed access to the Lea Bridge Road cycle and pedestrian way there is a potential that it could impact the safety of highway users. The potential for on-road manoeuvring, could reduce the free flow of traffic around the junction leading to additional potential safety issues by creating conflict with other vehicles trying to use the junction.
11. Although the roads are relatively straight, the proposal would extend development to the boundary at a 2-storey height. This would limit the intervisibility between users of Peterborough Road and Lea Bridge Road, and so further increase the potential of conflict if vehicles are manoeuvring to enter/exit the proposed access.
12. It is noted that the proposal is not supported by an Outline Construction Logistics Plan (OCLP) as required by LP Policies 63 and 65. Nevertheless, due

to the comparatively modest size of the development proposed and the suburban surroundings, I am satisfied in this instance an OCLP could be conditioned. However, this does not overcome the harm identified in relation to highway safety.

13. Therefore, on the information before me, it cannot be concluded that the proposed new access would not have a harmful impact on highway safety. It would therefore fail to comply with LP Policy 60 which, amongst other things, seeks to reduce road danger.

Epping Forest Special Area of Conservation

14. The appeal site falls within the zone of influence for the Epping Forest Special Area of Conservation (SAC). Regulation 63 of the Conservation of Habitats and Species Regulations 2017 requires an appropriate assessment to ensure that the development would not adversely affect the integrity of the SAC.
15. The habitats of the SAC are sensitive to recreational pressures and so the additional dwelling proposed, whilst minimal on its own, would contribute to an increased population in combination with other plans, projects, and developments in the area. Given the proximity of the development to the SAC, it is likely that its contribution to the increase in population could lead to an increase in visitor and recreational pressure within the SAC. It cannot therefore be concluded that the development would not adversely affect the integrity of the protected sites in combination with other projects.
16. Nevertheless, the Council has a specific mitigation strategy which applies to residential dwelling schemes, and this requires a financial contribution of £627 per unit towards the Strategic Access Management Measures (SAMM) of the SAC. This can be secured by obligation and is considered further below.

Living conditions

17. The rear garden of the host dwelling would be divided to provide a small outside space for the proposed new dwelling. This would be located directly to the rear of the new dwelling and the host dwelling's rear garden would wrap this. Therefore, the proposed ground floor rear facing windows in the new dwelling would look out onto its own garden, with the boundary screening any views of the host dwelling's garden.
18. Due to the existing 2-storey rear extension on the host dwelling and the setback nature of the proposed first floor windows in the new dwelling, the majority of the host dwelling's rear garden would be screened from the new dwelling. A reasonably small section, immediately behind the proposed new dwelling's garden would however be clearly visible. Nevertheless, as this area can already be seen from the upper floor windows of the property to the rear, 1a Peterborough Road, I do not consider this additional overlooking would be to such a level as to make the use of the proposed host dwelling's rear garden untenable.
19. It is noted that the Council raised concerns relating to the proposed roof terrace. However, this element of the scheme would be related to the host dwelling and not the proposed new dwelling, so would benefit the occupants of the host dwelling.

20. Accordingly, the proposal would not harm the living conditions of the occupants of the host dwelling with specific regard to privacy of the rear garden and would comply with LP Policy 57, as far as it seeks to avoid harmful impacts on the living conditions of neighbouring occupiers.

Obligations

21. The Council considers obligations by section 106 of the Town and Country Planning Act 1990 (s106) are necessary in relation to financial contributions towards the SAMM; car-free development assurances; highway condition surveys; a section 278 of the Highways Act 1980 agreement; monitoring of the OCLP and s106 fees; and legal fees.
22. As set out earlier in this decision, the requirement of a financial contributions towards the SAMM would be necessary to mitigate impact on the SAC and the proposed £627 contribution for the proposed 1 new residential unit would be appropriate.
23. Limiting the proposed new dwelling to a car-free development, and thereby preventing future occupants from purchasing car parking permits, would align with LP Policy 60 which promotes sustainable transport methods by, amongst other things, delivering car-free development.
24. The proposed new access would require alterations to the crossover location, car parking zones, and road markings on Peterborough Road. As such, an obligation securing the requirement to enter into a section 278 agreement would be proportionate to ensure the necessary works to the public highway.
25. Equally the monitoring fees for the OCLP (considered necessary as set out above), a s106 agreement which could secure the obligations, and relevant legal fees would comply with the details set out in the Council's Planning Obligations Supplementary Planning Document (SPD).
26. Accordingly, I am satisfied the proposed obligations would be necessary to make the development acceptable in planning terms, and directly, fairly, and reasonably proportionate to the development. Nevertheless, no s106 agreement has been submitted, nor any other mechanism has been proposed to secure these obligations, and to secure by condition would not be appropriate or precise. Therefore, the proposal would not comply with LP Policy 94 and the SPD.

Other Matters

27. The Council reference LP Policy 15 and there being a deficit of family homes in the borough. However, the proposal would not impede the continued use of the host dwelling as a family home and would provide an additional 1-bedroom dwelling. LP Policy 15 allows for a mix of 1 bed, 2 bed and 3 plus bed units for market housing and the housing mix should take into consideration the constraints related to the area, design, and site location. The appeal site is modest in size, constrained by existing development, the existing family home would be retained, and the proposal would represent a mix of 1 and 3 plus bed houses. Were all other matters acceptable, it is possible these factors could be considered in accordance with LP Policy 15.
28. The appellant has brought to my attention 3 schemes which they consider are similar to that proposed. However, with few details submitted I am unable to

conclude whether the circumstances are similar. That the Council consider an approval may start a precedent and, in the appellant's mind, has not acted professionally is acknowledged but does not alter the planning merits of this case.

Planning Balance and Conclusion

29. It is noted that the National Planning Policy Framework (the Framework) seeks to boost the supply of homes and make more efficient use of land in accessible locations. The proposal would provide a net increase of 1 house in an accessible location. Along with the associated economic and social benefits, this contribution to the windfall element of the Council's five-year housing land would constitute positives of the scheme. Nevertheless, this would only attract limited weight based on the number of new houses involved.
30. I have found the proposal would not harm the living conditions of the occupants of the host dwelling. However, a lack of harm is, by definition, incapable of weighing for or against the proposal.
31. However, housing provision should not come at the cost of good design, highway safety, and the protection of protected habitats (the SAC), positions equally supported by the Framework. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.
32. Consequently, for the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed and planning permission refused.

RJ Redford

INSPECTOR