



Appeal Decision

Site visit made on 7 October 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31st October 2024

Appeal Ref: APP/U5930/W/24/3345836

596-598 High Road Leytonstone, Leytonstone, E11 3DA

- 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 Tristar (London) Limited against the decision of Waltham Forest London Borough Council.
 - The application Ref is 230686.
 - The development proposed is described as the demolition of the existing rear extension and garages. Erection of an additional storey to No. 598 to facilitate enlargement of existing flat and a part-two / part-three storey rear extension comprising 3 no. additional flats, provision of Use Class E commercial unit and associated alterations, landscaping, boundary treatments, cycle storage and bin stores.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site is described as 596 – 598 High Road Leytonstone, a semi-detached pair of properties. However, the appeal site only includes No. 598 and the land to the rear of both properties.
3. Amended plans were submitted with the appeal. The proposed alterations are to the internal layout, window treatments and hit-and-miss brick screening. These changes do not fundamentally alter the development, and the appeal process provides opportunity for parties to make comment on them. Therefore, I am content that in this instance no parties would be unfairly disadvantaged if I were to consider amended plans.
4. The proposal would create 4 residential units but are not specifically identified by the main parties. For clarity I have referred to them as set out in the table below within this decision.

	Unit 1	Unit 2	Unit 3	Unit 4
Number of bedrooms	3	2	2	3
Number of occupants	4	4	3	5
Number of floors	2	2	1	2

5. Since the decision notice was issued, the Waltham Forest Local Plan Part 1 (LP) has been adopted. The Council have confirmed which policies are now in place and the appellant has had opportunity to comment.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the appeal site and area;
- the effect of the proposed development on the living conditions of the occupants of 594 and 596 High Road Leytonstone, with specific regard to outlook and privacy;
- whether the proposed development would provide adequate living conditions for future occupants, with specific regard to internal and external space;
- the effect of the proposed development on highway safety and function; and
- the effect of the proposed development on the Epping Forest Special Area of Conservation.

Reasons

Character and appearance

7. High Road Leytonstone is characterised by traditional 3 storey terraced properties with commercial units at ground floor with residential uses above, typical of an urban centre within the London area. There are however multiple examples of modern infill residential development in the area. The appeal site is on the corner between High Road Leytonstone and Micheal Road. Micheal Road is typical of many of the roads extending from High Road Leytonstone, with 2 storey terraces of residential houses and a strong domestic scale.
8. The property on the appeal site, along with the adjacent No. 596, form a semi-detached, 2 storey pair, both with accommodation in the roof and extensions to the rear. The appeal site is currently used as a commercial car garage and has parking, a poor-quality outbuilding, and access to the upper floor flat at the rear and open to Micheal Road.
9. The proposed development would alter the appeal property and remove the outbuilding on the appeal site, to provide a smaller commercial unit and 4 residential units. The proposal would have a modern rectilinear form with an aesthetic articulation. This would ensure it does not appear over bulky when viewed from Micheal Road. The modern design is not dissimilar to other the infill development within the vicinity of the appeal site and elsewhere along High Road Leytonstone.
10. However, when viewed from High Road Leytonstone, the flat roofed, 3 storey form created by extending No. 596 upwards would be highly visible. The proposed additional height and form would crudely abut the tradition pitched roof of No. 596. This would create an awkward and ungainly relationship between the attached properties with the proposal overwhelming No. 596 and giving the impression of an over-developed site.
11. Due to the highly visible corner location, this disparate relationship would have a harmful impact on the character and appearance of the area, as it would be

at odds to the more regular and proportionate relationships between other groups of attached properties within the area.

12. It is acknowledged that the existing semi-detached pair is not of particular merit within the street scene. However, this does not mean that an awkward and disproportionate semi-detached pair, as would be the outcome of the proposal, is acceptable.
13. The proposal would therefore cause harm to the character and appearance of the appeal site and wider area. It would fail to comply with London Plan Policy D4, LP Policies 19 and 53, and the Urban Design Supplementary Planning Document as far as they seek well-designed, high quality new development which reinforces and/or enhances local character.

Living conditions – 594 and 596 High Road Leytonstone

14. No. 596 provides accommodation over 3 levels, with limited outdoor space attributed to it. No. 594 is on the opposite side of No. 596 and also has accommodation over 3 levels but has a reasonable sized rear garden which is located to the side of the appeal site.
15. Although clearly a densely developed area, the rear facing upper floor windows of No 596 enjoy reasonably open views over the existing outbuilding and rear gardens of the properties facing onto Micheal Road. The proposal would introduce a 3-storey element directly to the rear of No. 596. This would physically reduce the existing views from the upper floors of No. 596 and along with the proximity of this element of the scheme would lead to an enclosed and much reduced outlook for all rear facing windows of No. 596, to the detriment of the occupants of that property.
16. Due to the setback nature of the rear elevation of No. 594 behind the rear extensions of No. 596, when considering the location of the proposal I am satisfied it would not have such an impact on outlook to make the occupation of No. 594 untenable. Equally, due to the orientation of the proposed building, and the proposed use of obscure glazing and privacy screening, I am satisfied that although addition windows would face Nos 594 and 596, the level of privacy enjoyed by occupants of these properties could largely be maintained, except in relation to the garden of No. 594.
17. The rear garden of No. 594 enjoys a relatively high level of privacy, with overlooking limited to mainly indirect views from the upper floors of the adjacent properties. The proposal would however introduce a roof terrace for Unit 4 which would entirely overlook the garden of No. 594. It is acknowledged that hit and miss brick would partially enclose this roof terrace. However, this would not prevent direct views out over the garden of No. 594, and the 2nd floor position of the terrace would disproportionately increase the feeling of being overlooked for users of No. 594's garden. Accordingly, the proposal would have a detrimental impact on the privacy of the occupants of No. 594.
18. That the appellant's Daylight, Sunlight and Overshadowing Assessment shows limited impact on access to daylight and sunlight for the properties in question does not overcome the harm identified in relation to privacy and outlook.
19. Consequently, the proposal would fail to protect the living conditions of the occupants of No. 594 in relation to privacy and No. 596 in relation to outlook.

The proposal would be contrary to LP Policy 57 as far as it seeks to avoid harmful impacts on the amenities of existing neighbours.

Living conditions – future occupants

20. LP Policy 56 sets out specific minimum standards for internal floor area, storage space and outdoor space sizes. Units 1, 3 and 4 would comply with the minimum internal floor area and storage.
21. It is noted the Council consider Unit 2 to not meet the minimum standards stating its internal floor space would be 77.5sqm. However, it is unclear where this measurement has come from. Both the original and amended Accommodation Schedules show the unit in question having a 40sqm ground floor and 39sqm first floor, this is also reflected in the measurements on the plans. Therefore, I am satisfied Unit 2 would have an internal floor space of 79sqm and meet the minimum standards set out in LP Table 14.2.
22. Units 1, 2 and 3 would also comply with the minimum private outdoor space requirements for schemes which do not propose any communal outdoor space. However, Unit 4 would only provide 8sqm which is lower than the requirement set out in LP Policy 56, so does not comply with this part of the policy.
23. The proximity of the site to high quality public outdoor space and amenities is acknowledged, but good quality housing is not only quantified by minimum size standards or access to outdoor space. To ensure the privacy of occupants of neighbouring properties, the majority of rear facing windows would be obscure glazed to at least 1.8m, including every window into the main living area for Unit 4. This would mean there would be no outlook from this area, so would create an enclosed and insular internal space. In conjunction with the semi-enclosed and undersized nature of the proposed outdoor space for Unit 4, the living environment created would be oppressive and constrained so would provide poor quality and sub-standard living conditions for future occupants.
24. It is appreciated that all units would be dual aspect and I am satisfied the proximity to No. 596 would not be so impacting as to cause harm to living conditions in terms of privacy. However, this does not overcome the considerable harm identified.
25. The proposal would therefore fail to provide adequate living conditions for the future occupants of Unit 4 with specific regard to internal and external space. It would fail to comply with LP Policies 56 and 57 insofar as they require minimum space standards to be met, and harmful impact on future occupant's living conditions prevented.

Highway safety and function

26. To minimise the impact of construction on highway safety and function LP Policy 65 requires a Construction Logistic Plan (CLP) to support any proposals. The scheme before me is supported by an Outline CLP (O-CLP) which appears to take account of the overarching requirements of LP Policy 65. However, it fails to provide convincing site-specific details and some elements, such as the proposed use of a pit lane, would not be acceptable to the Highways Authority. Nevertheless, it is noted the amendments to the O-CLP as set out in the Decision Notice informative would not be fatal to the proposal and a Detailed CLP would be required by condition. Consequently, were this the only concern

with the proposal, it is likely this could be dealt with by a pre-commencement condition, so comply with LP Policy 65.

27. However, the Council consider several obligations necessary to ensure highway safety and function in accordance with LP Policy 94, which directs the need for infrastructure and developer contributions amongst other things, and the Council's Planning Obligations Supplementary Planning Document (SPD). These are a financial contribution towards sustainable modes of transport; car-free development; highway condition surveys; a section 278 agreement in relation to the Highways Act 1980 and application for highway works; and monitoring of the CLP.
28. Limiting the proposal to a car-free development, and thereby preventing future occupants from purchasing car parking permits, would promote sustainable transport methods, as would a contribution to local sustainable modes of transport. The need to improve sustainable transport is supported by the development plan, SPD, and the National Planning Policy Framework (the Framework), therefore would be reasonable. As would monitoring fees for the CLP.
29. The proposal would alter the current accesses onto the appeal site and require works to reinstate the pavement on Michael Road. As such, an obligation securing the requirement to enter into a section 278 agreement and an application for highway works would be proportionate to ensure the necessary works to the public highway.
30. Accordingly, I am satisfied these proposed obligations would be necessary to make the development acceptable in planning terms. However, no legal agreement has been submitted, nor any other mechanism proposed to secure these obligations, and to secure by condition would not be appropriate. Therefore, the proposal would fail to ensure a lack of harm to highway safety and function as far as it would fail to secure the relevant obligations to ensure compliance with LP Policy 94 and the SPD.

Epping Forest Special Area of Conservation

31. 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 require an appropriate assessment to ensure that the development would not adversely affect the integrity of the SAC.
32. The habitats of the SAC are sensitive to recreational pressures and therefore 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.
33. 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 of the SAC. This can be secured by obligation and would be necessary to mitigate impact on the

SAC. The Council proposed a £1881 contribution for the 3 new residential units, and this would be appropriate.

34. However, as with the above highway issue, no legal agreement has been submitted, nor any other mechanism proposed to secure the SAMM contribution. Therefore, the proposal would fail to provide mitigation against the adverse effect it would have on the integrity of the SAC.

Other Matters

35. Interested parties' concerns relating to the area's drainage infrastructure are noted. However, as I am dismissing the appeal for other matters, I have not pursued this further.

Planning Balance and Conclusion

36. 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 3 dwellings 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 benefits of the scheme.
37. It is noted the Council consider that the proposal would not cause harm to trees, local biodiversity, waste management, and sustainability. I have also found the proposal would not harm the living conditions of future occupants of Units 1, 2 and 3. Nevertheless, a lack of harm is, by definition, incapable of weighing for or against the proposal.
38. However, housing provision should not come at the cost of good design, the living conditions of neighbouring residents and future occupants of Unit 4, the protection of the SAC, and highway safety and function, all positions 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.
39. 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.

RJ Redford

INSPECTOR