



Appeal Decision

Site visit made on 12 November 2024

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/U5930/W/24/3344971

232 High Road, Leyton, London E10 5PS

- 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 Andrew Wand against Waltham Forest London Borough Council.
 - The application Ref is 240455.
 - The development proposed is erection of a two storey residential building comprising 1no. 1 bed dwelling to the rear of 232 High Road (Use Class C3), with associated works to include refuse and recycling storage, cycle parking and PV panels at roof level.
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Decision

1. The appeal is dismissed and planning permission for erection of a two storey residential building comprising 1no. 1 bed dwelling to the rear of 232 High Road (Use Class C3), with associated works to include refuse and recycling storage, cycle parking and PV panels at roof level is refused.

Background and Main Issues

2. The appeal was submitted following the Council's failure to give notice of its decision within the prescribed period. In its Appeal Statement, the Council has indicated the decision it would have made had it been in a position to do so.
3. Having regard to the Council's Statement, the main issues are:
 - The effect of the proposal on the living conditions of adjacent residents with regards to outlook and light;
 - Whether the proposal would make suitable provision for the collection of waste;
 - The submission of an Outline Construction Logistics Plan;
 - Planning obligations and agreements;
 - The character and appearance of the area, with due regard to the Leyton Town Conservation Area;
 - Contribution to biodiversity and ecological value; and
 - The living conditions of future residents with regard to external amenity space.

Reasons

Living Conditions – Adjacent Residents

4. The proposed 2-storey building would be adjacent to a flat located in the main building on the appeal site. I was unable to gain access to this flat on my visit, but based on a floor plan provided by the Council the windows of the flat which look onto the appeal site serve the living, dining and kitchen area of the flat.
5. The appellant disputes the separation distance quoted by the Council. I saw that there was a partial step-back in the rear elevation of the flat to provide for an external seating area, which the main windows of this room of the flat look onto.
6. However, even allowing for the step-back, the proposed building would be located in very close proximity to the windows serving a main habitable room of the flat, which would lead to an overbearing and oppressive outlook for residents. The proposal would also lead to a significant loss of daylight and sunlight to that room, even allowing for a rooflight which is shown serving the kitchen area. The proposal would also have a similar detrimental effect on the outlook and levels of light of the external seating area of the flat.
7. The appellant refers to planning permission at 234 High Road which they consider sets a precedent for the appeal proposal. However, the plans provided by the appellant indicate that a room of a flat affected by that development had a dual aspect, with some windows looking onto an open flat roofspace. Even allowing for the limited extent of that open roofspace, the outlook and light provided in respect of No 234 is materially greater than the much more restricted and constrained layout that would result from the appeal proposal. The permission at No 234 does not therefore negate my concerns in respect of the appeal proposal, which I have determined on its own merits.
8. I conclude that the proposal would lead to significant harm to the living conditions of residents of the adjacent flat in respect of outlook and light. The proposal would therefore be contrary to the amenity requirements of Policy 57 of the Waltham Forest Local Plan 2024 (the Local Plan).

Collection of Waste.

9. The appeal site is accessed via a rear lane which was gated at the time of my visit. The evidence suggests that this lane provides access to a number of properties, including the movement of waste bins for presentation on collection day. The appeal proposal would lead to an increase in the intensity of residential uses using this lane, with a commensurate increase in the amount of waste storage and disposal requirements. Within that context I consider that it is reasonable to require some details at the application stage to indicate how waste can be presented for collection with regards to both the existing and proposed uses, as there is no certainty that this intensification can be managed without harming access along the lane or the public highway.
10. The appellant submits that this matter could be addressed by a condition similar to that placed on No 234 which required these details to be submitted prior to occupation of the development. I acknowledge that the circumstances of the development at No 234 and the appeal proposal are similar. However, the proposal would lead to a further intensification of uses in this area, and given the relatively unusual access arrangements to the appeal site there is no

reasonable degree of certainty that the effect on waste collection could be addressed by a condition.

11. A letter from the owner of the freehold of No 236 and the access road refers to an easement in respect of the running of services and effective pedestrianisation of the road. However, even with the agreement of the owner of the road in relation to waste storage, given my concerns in respect of intensification I consider that it is appropriate to require some indication of where waste can be placed for collection.
12. I conclude that insufficient evidence has been submitted in respect of the provision for waste collection. The proposal would therefore be contrary to the accessible waste storage and collection requirements of Policies 57 and 93 of the Local Plan.

Construction Logistics Plan

13. The appellant has submitted an outline Construction and Logistics Plan (CLP) which seeks to address matters such as emissions, safety and congestion. The Council considers that the CLP in its current form is not acceptable, and refers to key issues raised by its Highways consultee. However, the Council has not set out what these key issues are or specified its detailed concerns in relation to the CLP.
14. Based on what I have seen and read, the CLP addresses the matters appropriate for such an outline document, and any matters of detail could be addressed by condition.
15. Subject to appropriate conditions, and based on the evidence before me, I conclude that a suitable level of detail in respect of the CLP has been submitted. The proposal would therefore not be contrary to the highways, deliveries and construction logistic considerations of Policy T7 of the London Plan 2021 and Policies 63, 64 and 65 of the Local Plan.

Planning Obligations and Agreements

16. The appeal site is within the 'Zone of Influence' (ZOI) of the Epping Forest Special Area of Conservation. For schemes comprising one or more units of residential accommodation, a Strategic Access Management and Monitoring measures levy is in operation which requires a contribution per unit from all new residential schemes.
17. The Council has also identified that contributions are required towards the monitoring of the CLP as well as improving sustainable modes of transport. An agreement or obligation is also required in respect of car free development.
18. Contributions are also identified in relation to the Council's monitoring and legal costs.
19. Due to the location of the site within the ZOI, the requirement for monitoring of a CLP, sustainable transport and parking considerations, and the reasonable costs of the Council, based on the evidence before me I consider these requirements meet the tests for planning obligations set out in paragraph 57 of the National Planning Policy Framework.
20. The appellant emphasises that they were not made aware of these requirements until they received the Council's Appeal Statement. They have

confirmed that they have no objection to the terms set out by the Council, and have requested further time to prepare a S106 Agreement. However, as I have dismissed the appeal for other reasons, I have not gone back to the appellant on this issue to avoid wasted expense in the preparation of an agreement or obligation.

21. Nevertheless, in the absence of a completed S106 agreement or obligation on the above matters, the proposal would be contrary to Policy 94 of the Local Plan in respect of infrastructure and developer contributions.

Living Conditions – Future Residents

22. The proposal includes an external amenity area to the front of the proposed dwelling, located at the end of the private access lane. The Council contends that this amenity space is not private. However, this external amenity area would be separated from the access lane by a low level brick wall and gate, and it would provide an amenity area solely for residents of the proposal. Although the low wall would enable a view of this external amenity area from the lane, due to the limited number of properties served by the lane and the separation from the wider public realm, the proposal would provide a suitable degree of privacy for users of this external amenity area.
23. Policy 56 of the Local Plan specifies that houses should provide a minimum of 50sqm of private external amenity space per dwelling. The proposal would provide 15sqm of private external amenity space, which is significantly below that required by the Local Plan. However, the Council accepts there is some degree of flexibility due to the town centre location of the site. The proposal would also exceed the minimum area for external amenity space of the London Plan, even allowing for the extent of refuse and recycling storage. On balance, given the provisions of the London Plan and the town centre location, I conclude that material considerations indicate that the proposal should be determined other than in accordance with Policy 56 of the Local Plan in respect of the extent of the external amenity area.
24. I conclude that the proposal would provide a suitable private external amenity area for future residents. The proposal would therefore not be contrary to the amenity space requirements of Policies 53 and 57 of the Local Plan.

Biodiversity and Ecology

25. The Council submits that the proposal fails to incorporate high quality landscaping, tree planting or urban greening measures to maximise biodiversity and ecological value. The Council refers to Policy 77 of the Local Plan, however the provisions of that policy seeking to maximise opportunities for urban greening and landscape infrastructure relate to major developments, rather than the minor development of the appeal proposal.
26. The appellant has submitted a site plan which shows a degree of landscaping, although the Council expresses concerns about whether this would be successful. However, the appeal site is of a limited size and relates to the redevelopment of brownfield land. Although there may be some scope for landscaping and urban greening which would improve on that indicated by the appellant, this will be of a minor scale and is more appropriately addressed by condition rather than representing a reason to withhold planning permission.

27. Subject to appropriate conditions, I conclude that the proposal would make suitable provision in respect of biodiversity and ecology. The proposal would therefore not conflict with the natural environment and biodiversity requirements of Policies 53, 77 and 79 of the Local Plan.

Character and Appearance

28. The proposed building would consist of a flat-roofed 2-storey structure located to the rear of the more substantial host building and terrace. The proposal would be of an understated design, and would complement a 2-storey building which has previously been permitted to the rear of the main terrace. Although the existing 2-storey building may have been permitted under different development plan policies, this does not change the fact that the principle of a 2-storey residential building accessed from the rear lane has been established.
29. Despite its 2-storey scale and proximity to the main building, the proposed building would be clearly subservient due to its lower height. Its differing design would also establish a separate character from the main building and wider terrace. Due to its location set away from the public highway, only glimpsed views of the resultant building would be enabled from the public realm. Given the characteristics of this backland site and adjacent development, the proposal is of a scale and design that would satisfactorily knit into its immediate urban environment.
30. Access to the site would be along a private road, and the appellant has submitted a site plan which indicates a treatment for this lane. Although it may be possible to improve on the indicated treatment for the lane, given the scale of the proposal such improvements would be of a minor nature and could be addressed by condition. Although existing residential development accessed along the lane may be isolated from the public realm and inward connecting, this is inherent in these backland plots and there should be a degree of flexibility on this matter due to the benefits of providing residential development on brownfield land.
31. Due to its understated design, limited prominence, subservient nature to the main building and the context established by adjacent development, I conclude that the proposal would not harm the character and appearance of the area.
32. The appeal site is located within the Leyton Town Conservation Area (the CA). I observed that this part of the CA is characterised by ground floor commercial units with other uses, including residential, above. Its special interest derives from the traditional Victorian architecture facing onto High Road, combined with substantial institutional and public buildings and formal open space. However, the appeal proposal would be located on the edge of the CA, to the rear of the terrace on a backland site which makes little contribution, if any, to the importance of the CA as a designated heritage asset. Given the design and context of the appeal proposal described previously, I conclude that the proposal would preserve the character and appearance of the CA.
33. I therefore conclude that the proposal would not harm the character and appearance of the area and would preserve the character and appearance of the CA. The proposal would therefore not conflict with Policy 53 of the Local Plan in respect of delivering high quality design.

Other Matters

34. The appellant has provided letters in support of the proposal, but the points they raise do not lead me to a different conclusion on the harm I have identified.
35. The proposal would contribute to the supply and mix of housing in the area. However given the limited scale of the proposal the benefits arising from it would be commensurately limited, even allowing for the government objective of boosting significantly the supply of housing.

Conclusion

36. Notwithstanding my conclusions on the other main issues, I conclude that the proposal would lead to significant harm to the living conditions of adjacent residents and that it has not been demonstrated that the proposal would make suitable provision for waste collection. The proposal would therefore be contrary to the development plan when read as a whole in respect of amenity as well as accessible waste storage and collection.
37. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. For the reasons given above, I therefore conclude that the appeal should be dismissed.

David Cross

INSPECTOR