



Appeal Decision

Site visit made on 2 December 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2024

Appeal Ref: APP/U5930/W/24/3344020

34-40 Old Church Road, London E4 8DB

- 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 C/O UPP against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref is 223557.
 - The development proposed is change of use of ground floor retail unit (Use Class E) to mixed use retail and residential unit (use classes E/C3) including construction of a ground and first floor rear extension to facilitate the creation of a self-contained flat (1 x 2-bed). Works include construction of an external staircase, boundary treatment, provision of external amenity space, associated landscaping, cycle storage, refuse and recycling facilities.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council adopted the Waltham Forest Local Plan Part 1 (LP1) after the planning application had been refused. The LP1 policies supersede the policies of the Waltham Forest Local Plan – Core Strategy (2012) and the Waltham Forest Local Plan – Development Management Policies (2013). The main parties had the opportunity to comment on the implications of this for the appeal.
3. The revised National Planning Policy Framework (the Framework) was published on 12 December 2024. This does not raise any matters that require me to seek representations from the main parties in this case. I have, however, determined the appeal having regard to the revised Framework.
4. The Council is not defending the fourth reason for refusal relating to insufficient external amenity space, as it was included in the decision due to an error in their assessment of the proposal. I have not considered this issue further.

Main Issues

5. The main issues are the effect of the proposal on the character and appearance of the area; and the suitability of the proposed access arrangements.

Reasons

Character and appearance

6. The appeal site relates to 34-40 Old Church Road, which form part of a three storey terrace located within South Chingford District Centre. The ground floors

of the buildings along this stretch of Old Church Road are generally in commercial use, with flats above. There is a large flat roofed extension to the rear of No 36 which extends almost to the rear alleyway, and a smaller extension to the rear of No 34. A staircase up through No 38 gives access to the rear of the terrace where there are several flats, and an external fire escape provides access from the flat roof of the extension to the rear alleyway.

7. The surrounding area is of mixed character with some variation in building sizes and styles, ranging from two to four storeys in height. While the frontages of properties on this stretch of Old Church Road have a relatively uniform character, the rear of the terrace has a much more diverse appearance due to the various rear extensions, including that to the rear of No 36, though these are generally used in conjunction with the commercial premises fronting Old Church Road, rather than as separate units.
8. The appeal proposal involves the change of use of the ancillary storage space within the extension to the rear of No 36, with associated works, including ground and first floor extensions, to create a two storey, two bedroom self-contained flat.
9. The proposal would be a backland form of development relative to properties on Old Church Road. Other first floor flats have been constructed at the rear of the terrace, including at 26 Old Church Road, but these do not respect the prevailing pattern of development in the area. Moreover, they do not extend so far from the rear of the main buildings as the appeal proposal would and are better related to the terrace. The proposal would be of a notably greater scale than the extensions on either side and appear somewhat isolated from the main buildings. As a result, it would fail to reflect the character of development in the area, where dwellings generally have an active frontage onto a road. That said, the visual effects of the proposal would not be significant given its discreet position at the rear of the terrace, with limited public views available.
10. While the submitted plans do not provide specific details of the external materials, this matter could have been addressed by way of a condition had I been minded to allow the appeal, to ensure materials sympathetic to the character of the area and sustainable in terms of maintenance and longevity.
11. Nevertheless, I find that the proposal would result in minor harm to the character and appearance of the area. It therefore conflicts with LP1 Policies 6 and 53, and the Supplementary Planning Documents 'Residential Extensions and Alterations' (2010) and 'Urban Design' (2010), which amongst other things seek to ensure that development reinforces or enhances local character.

Access arrangements

12. The London Plan Housing Supplementary Planning Guidance (2016) requires main entrances to houses and ground floor flats to be visible, clearly identifiable, and directly accessible from the public realm.
13. Pedestrian access to the proposed dwelling would be from the staircase up through No 38, which gives access to the existing rear flats, and then along the roof top of the rear extensions. Access would also be obtained from the rear alleyway to the ground floor entrances of the dwelling.
14. Both accesses would involve a long, convoluted walk from Old Church Road, with limited external lighting and natural surveillance for much of their length.

While the access from No 38 already serves the existing flats, it is not a particularly convenient one given the steps and lack of lighting. There is no separation between pedestrian and vehicular movement along the rear alleyway which is used for servicing the commercial premises and for bin storage. Therefore, this would not be a welcoming entrance either. Provision of a suitable lighting scheme, even if this could be dealt with by condition given that the whole site is not in the appellant's ownership, would not overcome my other concerns with the proposed access arrangements.

15. Moreover, the proposal does not demonstrate convenient and accessible waste collection arrangements. Carrying refuse bags along the rear alleyway or negotiating stairways and rooftops to the front of Old Church Road, would be inconvenient given the distances involved. The appellant proposes a private refuse collection. However, I do not have substantive details of such arrangements or how they could be secured in the long term given that the rear alleyway is outside the appeal site. Therefore, I am not satisfied that this matter could be resolved by way of a condition.
16. The appellant has referred to previous planning permissions for new flats which involved using entrances from the rear. However, I do not have the substantive details or planning history of these cases before me and so cannot be sure that they are comparable to the appeal proposal.
17. I conclude that the proposal would fail to provide safe, convenient and legible access. The proposed access arrangements are therefore unsuitable. The proposal conflicts with LP1 Policies 6, 16, 48, 53, 57, 60, 61 and 93, and London Plan Policies D3, D6, T2 and T4. Amongst other things, these policies require development to be of high quality design that is accessible, and provide safe and legible physical and visual connections, and adequate and well-designed storage facilities for waste and recycling.

Other Matters

18. The Council suggests a new reason for refusal due to the absence of planning obligations relating to sustainable transport and to mitigate the effects on the Epping Forest Special Area of Conservation, amongst other things. As the appeal is being dismissed for other reasons, it has not been necessary for me to consider this matter further as it would not affect the outcome of the appeal.

Conclusion

19. I have had regard to the benefits of the scheme, including the provision of a new dwelling, efficient use of previously developed land, construction employment opportunities, and biodiversity enhancement arising from the proposed green sedum roof. Given the scale of the proposal, I attach only limited weight to these benefits, and they do not outweigh the harm identified.
20. The proposal does not accord with the development plan and there are no other considerations that outweigh this finding. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

M Ollerenshaw

INSPECTOR