



Appeal Decision

Site visit made on 6 December 2024

by **A M Nilsson BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 16 January 2025

Appeal Ref: APP/U5930/W/24/3350767

44 Westdown Road, Stratford, Waltham Forest E15 2BZ

- 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 Vincent Walsh of Urban R+D against the decision of Waltham Forest London Borough Council.
 - The application Ref is 232319.
 - The development proposed is the subdivision of land and construction of three storey building to create a 4-bedroom house with associated refuse/recycle and bicycle storages, soft and hard landscaping.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 12 December 2024 the Government published a revised National Planning Policy Framework (the Framework). The revised Framework was accompanied by a written ministerial statement (WMS). Having regard to the main issues in this appeal, it has not been necessary to invite submissions from the parties on the revisions that have been made to the Framework.
3. I have taken the description of development from the Council's Decision Notice as this is a more accurate description of the proposed development.

Main Issues

4. The main issues are 1) the effect of the proposed development on the character and appearance of the area, 2) whether or not the proposed development would provide satisfactory living conditions for future occupants with particular regard to outlook, size and outdoor amenity space, 3) the highways impacts of the construction phase of the development, and 4) whether or not satisfactory provision would be made for refuse storage and cycle parking.

Reasons

Character and appearance

5. The appeal site comprises an almost triangular shaped plot on the corner of Westdown Road and Nutfield Road. The site currently forms the private outdoor amenity space of an existing two-storey end of terrace dwellinghouse to the side. The surrounding area is primarily formed of two storey terraces of similarly designed properties.

6. The proposed development involves the construction of a four-bedroom dwelling with accommodation over three floors. The dwelling is proposed to be located on land to the side of the existing dwelling which currently forms part of its private outdoor amenity space.
7. The scale and roof form of the dwelling would be consistent with the rest of the terrace and from the Westdown Road elevation would appear as a continuation of the form of the terrace. In addition, the Westdown Road frontage would incorporate similar architectural detailing in the form of two-storey bays and a similar fenestration arrangement. The combination of these aspects is such that they would not cause harm to the character and appearance of the street.
8. This frontage would include a 1.8m high front boundary wall. Although it is consistent with the height and appearance of the existing wall, the existing wall surrounds an area of private amenity space. In the proposed development, the wall would sit directly in front of the proposed dwelling and would be out of character with the rest of the street-scene whereby properties have low boundary treatments to their frontages. This ensures that the frontages of dwellings play an active role in the street. The proposal would run contrary to this established arrangement which is a positive aspect of the street. Due to its overall length, height and solid appearance, when viewed in conjunction with the proposed dwelling, it would appear oppressive and incongruous.
9. The appellant states that the boundary wall is retained as existing. The proposed plans however show a wall of a different appearance to the existing wall, and this would be consistent with the Design and Access Statement which outlines that the wall is proposed to be replaced. Either way, it is not solely the presence of the wall as such to which I have found harm, whether this is retained as existing or proposed, however it is in its relationship with the proposed dwelling and the street-scene to which I have found harm.
10. In a previous appeal¹ an Inspector appreciated that the existing boundary wall was high, and that the proposal would largely reflect this, albeit with an updated design. The Inspector, however, observed that the existing arrangement, in which the garden beyond the high wall is perceivable as such and adds to a sense of space to this corner, the introduction of the front extension (as was proposed) would interrupt the established layout of built form and be an intrusive feature which would create a harmful sense of uncertainty and unfamiliarity. The appeal was dismissed.
11. I do not take this to be a definitive finding that the arrangement was considered acceptable. Furthermore, as the appeal was dismissed, it does not represent a fallback. Either way, I am not bound by the previous decision, and I have reached my own finding and have given reasons for reaching this view.
12. In terms of the Nutfield Road elevation, the proposed dwelling would extend to the pavement edge. Although it would undoubtedly increase the prominence and bulk on the corner, it is an arrangement that is not uncommon in the surrounding area. The proposed side elevation does, however, fail to add any visual interest to the street. The narrow, horizontal windows would provide a minor amount of relief, however even these are somewhat out of character with the appearance of the fenestration in the surrounding built environment. In addition, the proposed rear

¹ APP/U5930/W/22/3312764

elevation, which would be clearly visible from Nutfield Road would provide limited detail, which when combined with the side elevation, would give a somewhat bland and unappealing appearance.

13. The proposal would result in a relatively sizable dwelling on a small plot. When considered against similar dwellings, including no. 45 Etchingam Road, it would appear cramped and contrived in its plot. It would be out of character with the general disposition of the area where most properties, being single bay fronted, have a reasonable amount of private amenity space to the rear.
14. The proposed development would require the removal of an existing tree located in the side garden of the property. The tree is not subject to a preservation order. Policy 80 of the Waltham Forest Local Plan (2024) requires development proposals to retain significant existing trees, and this includes trees with a high amenity value.
15. Although the existing tree is visible above the boundary wall and makes a moderately positive contribution to the character and appearance of the area, due to its overall size and siting, it is not of particularly high amenity value that would prevent the undertaking of the development. Had I allowed the appeal, conditions requiring biodiversity checks and enhancements could have been imposed to ensure such matters were adequately addressed.
16. Therefore, on the matter of character and appearance, whilst I have found that some aspects of the development would not harm the character and appearance of the area, other aspects, particularly the boundary treatment, the overall design, and overdevelopment of the site, would cause harm to the character and appearance of the area. The proposed development would therefore be contrary to Policy 53 of the Waltham Forest Local Plan (2024). This policy requires, amongst other things, that development proposals deliver high quality design and reinforce and/or enhance local character.

Living conditions

17. The proposed development would be constructed on land which currently serves as outdoor private amenity space for 44 Westdown Road. There would be an area of private amenity space to the front of the proposed dwelling which would measure 20sqm.
18. Policy 56 of the local plan requires that proposals for houses should provide a minimum of 50sqm of private external amenity space per dwelling. The proposal represents a significant shortfall from the minimum amount that is required. The amenity space would be of limited size and given the size of the dwelling and the number of residents it could accommodate, including by families as intended, it would not provide any meaningful space for outdoor play, socialising and recreation.
19. The private outside space requirements as set out in the London Plan are only applicable where there are no higher local standards in the borough Development Plan Documents. Given there is a higher requirement in the local plan, this takes precedence over the amount set out in the London Plan.
20. I acknowledge, as the appellant has shown, there are instances in the local area where existing dwellings have amenity space below the requirement of the policy.

Be that as it may, the policy is explicit for 'new homes' and I do not consider that this provides sufficient justification to depart from the policy requirement. Furthermore, the Council have set out a reasonable explanation in terms of extensions and outbuildings to existing properties as to why there is a shortfall in some existing properties.

21. I acknowledge, as the appellant highlights, that there are parks and recreation grounds nearby. These, however, require a specific journey to be made to access them and they do not provide the same type of offering as private on-site amenity space. I do not consider that their presence justifies such a significant shortfall from the amount required by the policy.
22. Part M of Policy 53 of the local plan outlines that development proposals will be supported where they provide an appropriate amount of well designed, suitably located and usable private amenity space. The appellant considers that this means that the amenity provision requirement should only be applied where reasonably appropriate. This is not however what is stated in the policy. Given that Policy 56 seeks specified minimum amounts of amenity space, it would be reasonable to use these amounts as appropriate amounts. The fact that the minimum amount of amenity space can not be provided given the proposed size of the dwelling and the size of the plot is not sufficient justification to depart from the policy requirement.
23. There is some dispute over whether the proposed dwelling would constitute a 5-person or a 6-person property. The dispute centres on bedroom 2 which is a 14sqm room, which the appellant considers is a single/one-person bedroom, and the Council consider is a double/two-person bedroom. The matter is not whether it is the intention for sole or double occupancy, it is, however whether the room is capable and suitable for double occupancy in light of the policy requirements as set out.
24. Policy D6 of the London Plan addresses this matter. It outlines that a double bedroom must have a floor area of at least 11.5sqm. This would be the case in bedroom 2. The appellant outlines how the room is only 2.6m wide at its narrowest point and outlines that this is below the minimum 2.75m wide as required in the policy. Although the policy outlines that a dwelling with two or more bedspaces must have at least one double (or twin) bedroom that is at least 2.75m wide, it goes on to say that every other additional double (or twin) bedroom must be at least 2.55m wide, which would be the case here.
25. I acknowledge the room is an irregular shape, however despite a suggested furniture layout on the proposed plans, it would appear capable of successfully accommodating a double bed. I therefore consider that bedroom 2 would be suitable for a double bedroom and therefore should be considered as a two-person room. The property therefore is capable of forming a 6-person dwelling, with accommodation over 3 floors.
26. Both Policy D6 of the London Plan and Policy 56 of the Waltham Forest Local Plan outline that for such a dwelling, the minimum internal floor space should be 112sqm. The proposed dwelling would have an internal floor area of 107.5sqm and therefore fail to provide the minimum amount required.
27. The Council consider that the proposed dwelling would fail to provide acceptable levels of outlook and light. Concerns were also expressed in relation to ventilation and overheating.

28. In terms of outlook the main living/dining room would have two large bay windows. Although, due to the size and number of windows, these would provide acceptable levels of light, most of the outlook would be onto the 1.8m boundary wall, particularly when residents are in a seated position. This would give a strong sense of enclosure. When combined with the fact that there would be very limited outlook from the kitchen, I find that there would be poor levels of outlook from the main habitable rooms of the property.
29. I do not however share the Council's concerns in relation to light, ventilation and overheating. The proposed dwelling has a generous number of windows and rooflights dispersed across all elevations to ensure that satisfactory levels of light would be received. The ability of these windows to be openable would ensure that adequate ventilation could be provided, and that overheating could be avoided.
30. The proposed development would also result in the significant loss of amenity space for the existing property with the resulting space being a relatively irregular shape. Although I do not consider that the appeal turns on this matter, it is nevertheless a negative aspect that weighs against the development.
31. I therefore find that in terms of outlook, size and outdoor amenity space provision, the proposed development would not provide acceptable living conditions for its future occupants. It would be contrary to Policy 56 of the Waltham Forest Local Plan (2024) and Policy D6 of the London Plan (2021). These policies require, amongst other things, that new dwellings provide prescribed minimum amounts of internal space and private external amenity space. It would also be contrary to the requirement of the Framework that developments deliver a high standard of amenity for all users.

Highways impacts – construction phase

32. The Council refused planning permission for, amongst other reasons, due to the impact on the public highway, in the absence of a satisfactory Outline Construction Logistic Plan.
33. The proposed development of one dwellinghouse would bring a small number of vehicles movements during construction. The Outline Construction Logistic Plan submitted with the application sets out how these will be managed during the construction phase. Given the submission and the size of the development, I do not consider that there would be a severe impact on the public highway during its construction. Whilst some disruption is inevitable during construction, compliance with the submitted plan and through the imposition of appropriately worded planning conditions had I allowed the appeal, would ensure that there would not be a severe impact on the highway.
34. The proposed development would therefore comply with Policy 65 of the Waltham Forest Local Plan (2024) and Policy T7 of the London Plan (2021). These policies require, amongst other things, that the construction phase of developments does not have a significant adverse impact on the highway network.

Refuse storage and cycle parking

35. Amongst other reasons, the Council refused planning permission for the failure to provide adequate refuse storage and cycle parking. Since the decision, the appellant has shown how refuse storage and cycle parking would be provided to

the front of the property. This identifies refuse storage for three containers and cycle parking for three cycles.

36. Given the overall quantum of development and the nature of the use, I consider that the refuse storage and cycle parking which has been identified would be sufficient to ensure that the development does not prejudice highway safety and also make appropriate provision for sustainable forms of travel. It would comply with the required amount of cycle parking as required in Appendix 1 of the Local Plan, that being three spaces for a dwelling of more than two bedrooms.
37. The development would therefore comply with Policy 57 and Appendix 1 of the Waltham Forest Local Plan (2024) and Policy T7 of the London Plan (2021). These policies require, amongst other things, that sufficient facilities for refuse storage and cycle parking are made in developments.

Other Matters

38. The appeal site is located within the 'zone of influence' for the Epping Forest Special Area of Conservation (SAC). This means that under the Conservation of Habitats and Species Regulations 2017 there is a legal duty to ensure that any planning decisions do not adversely impact the SAC. However, as I am dismissing the appeal for other reasons it is not necessary for me, as the competent authority, to consider the matter further.
39. The Council also set out that the proposed development would be unacceptable due to the lack of a legal agreement to secure car-free development, highway works, and contributions towards sustainable transport and the Epping Forest Strategic Access Management and Monitoring Strategy.
40. Although the appellant states that they are happy to enter into an agreement there is not a completed legal agreement before me. Whilst the ability to ensure the development is car-free can, in certain circumstances, be secured by planning condition, the payment of monetary sums is generally not capable of being secured by condition.
41. As I am dismissing the appeal for other reasons the presence of a completed agreement could not, in any event, lead to a different decision. There is therefore no need for me to reach a finding on these matters.
42. The appellant has referred to the conduct of the Council and their handling of the application. Whilst there are separate mechanisms available for the appellant to pursue such matters, I have determined the appeal in terms of land use planning matters.

Planning Balance and Conclusion

43. Section 38(6) of the Planning and Compulsory Purchase Act 2004 outlines that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
44. The Government's objective as set out in the Framework is to support sustainable housing growth. The proposed development would result in a slight increase in the Council's overall housing number, would be in a highly accessible location, and represent the development of a small site. It would also bring a small number of additional residents to the area who would contribute to the local economy.

Collectively, I give these matters moderate weight in favour of the proposed development.

45. However, the harm that would be caused to the character and appearance of the area, and the failure to provide acceptable living conditions for future occupants of the development, attracts significant weight that outweighs the benefits associated with the proposed development.
46. The proposed development would therefore conflict with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
47. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR