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## Appeal Decision

Site visit made on 24 March 2025

by **J Hills MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 April 2025

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**Appeal Ref: APP/U5930/W/24/3351954**

**24 Ive Farm Close, Waltham Forest, London E10 5HQ**

- 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 Majid Malak against the decision of Waltham Forest London Borough Council.
  - The application Ref is 240193.
  - The development proposed is described as “retrospective demolition of existing dwellinghouse (1x5-bed) (Use Class C3) and construction of a two storey building (with rear dormer) to provide two self-contained flats (1x3-bed, 1x2-bed) (Use Class C3). Associated works to include hard and soft landscaping, boundary fencing, one parking space at front, bicycle parking provision and refuse/recycling storage facilities”.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Following the Council’s notice of decision, the National Planning Policy Framework (the Framework) was revised on 12 December 2024. Having regard to the matters that are most relevant to this appeal, there have been few substantive changes albeit that the numbering of paragraphs has changed. Both main parties have also been given an opportunity to comment. Hence, I am satisfied that no one will be prejudiced by the changes to the national policy context.
3. The application form states that the proposed demolition of an existing dwellinghouse to provide 2 self-contained flats started in February 2021. The scheme has been submitted and dealt with retrospectively. In that respect, the evidence shows that the original property has been demolished and the building that exists does not have planning permission. I saw that development at the appeal site was ongoing at the time of my visit with internal arrangements somewhere in-between or different from those shown on the existing and proposed plans. Nevertheless, I have dealt with the appeal on the basis of the plans before me.

### Main Issues

4. The main issues are:
  - the effect of the proposal on the supply of family housing in the local area; and
  - whether the proposal would provide suitable living conditions for future occupants with particular regard to the provision of internal and external space.

## Reasons

### *Family housing*

5. The appeal site is in an area where a recent housing market assessment highlights a 40% requirement for larger homes. The submitted monitoring figures show that there has been a consistent under delivery in this regard. Additionally, and in this respect, in an attempt to address poor quality housing, the Council has an Article 4 Direction in place. This removes certain permitted development rights for conversions of properties to Houses of Multiple Occupation.
6. With that as a background, Waltham Forest Local Plan (WFLP) Policy 20 seeks, amongst other things, to resist the conversion of larger homes to smaller self-contained homes where the house in question has a gross internal floorspace of less than 124 sqm. The evidence shows that it is likely that prior to extensions built or permitted, the original home would not have had sufficient floorspace to gain policy support for such a conversion. Even so, the appellant claims that because this scheme is a new build, WFLP Policy 20 does not apply.
7. In that context, I have paid regard to a recent previous appeal<sup>1</sup> at this site for a similar scheme involving the construction of 3 flats, rather than 2. Based on the evidence available to me with this appeal, I agree with the appellant that this proposal is not technically a conversion, and thus would not conflict with the wording of the policy. However, the scheme still proposes the demolition of an existing dwellinghouse. That demolition of a family home and replacement with smaller flats would have a similar effect to a conversion; in that it would further exacerbate the under delivery of larger homes in the area, where need is shown to be particularly high.
8. The delivery of a sufficient supply of housing is embedded within the Framework, where in this context, it says in paragraph 61 that it is important that the needs of groups with specific housing requirements are addressed. As such, in the round, I agree with the previous Inspector that the proposal would have a harmful effect on the supply of family housing in the local area.
9. I therefore conclude on this main issue that while the proposed development would not conflict with WFLP Policy 20, it would undermine what it seeks to achieve.

### *Living conditions*

10. The combined living/kitchen/dining areas of the proposed first floor flat would fall 1sqm short of the required 27sqm. While there would be extra storage areas on the top floor, the layout of the combined space would include a narrow corridor behind the bathroom. This would be unlikely to form a particularly useful part of this proposed shared space. Therefore, the actual combined area would be somewhat cramped. As such, this element of the proposal would not provide an adequate living arrangement for future occupants.
11. Additionally, the ground floor flat is not shown to include required storage space of 2.5sqm set out in both Policy D6 of the London Plan and Policy 56 of the WFLP. Even though the overall floorspace at the ground floor would just exceed minimum requirements, it is not clear how this necessary space would be accounted for.

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<sup>1</sup> APP/U5930/W/23/3323992

This is of particular relevance given the proposed bike storage area is also of inadequate size to meet the needs of future occupants.

12. Policy D6 of the LP and its supporting text explains that to address the impacts of the urban heat island effect and the fact that the majority of housing developments in London are made up of flats, a minimum ceiling height of 2.5m for at least 75 per cent of the gross internal area is required so that new housing is of adequate quality, especially in terms of daylight penetration, ventilation and cooling, and sense of space.
13. While there would be a good deal of light and ventilation reaching many of the rooms, the proposal falls well short of the required floor to ceiling heights, which conflicts with the aforementioned policy. Moreover, it is not clear whether or not the heights proposed throughout the development would assist in cooling. This, together with the very limited headroom in the upper floor rooms would not promote a good sense of space which should be achievable in new build development such as this. As such, it has not been convincingly demonstrated that the proposed arrangements would be adequate for future occupants.
14. Externally, each flat would be provided with acceptable amounts of garden space. The plans do however show these spaces to be rather unevenly divided. Nevertheless, this matter could be addressed using an appropriately worded condition. In that context, it is conceivable that a well-designed extra cycle storage space could be provided in one of the gardens to avoid conflict with WFLP Policy 61 and LP Policy T5, which, together in this respect, seek to ensure the provision of secure on-site cycle parking facilities for future occupiers and visitors. Be that as it may, overall and for the reasons given, this would not outweigh the harm to the living conditions of future occupants caused by an inadequate internal layout.
15. I therefore conclude on this main issue that the proposed development would not provide suitable living conditions for future occupants with particular regard to the provision of internal space. As such, there would be conflict with WFLP Policy 56 and LP Policy D6. There would also be conflict with paragraph 135 of the Framework which, in respect of this matter, says decisions should ensure that developments create places with a high standard of amenity for future users.

## Other Matters

16. *Special Area of Conservation (SAC)* - The appeal site is said to be within the zone of influence for the SAC, where it has already been decided that all new residential development will have a likely significant effect on it, due to recreational pressures. For schemes comprising one or more units of residential accommodation, a new package of costed Strategic Access Management Measures (SAMM) has been prepared by the City of London Conservators of Epping Forest. It is not clear whether or not this mitigation strategy has been adopted, though it is said to be in operation, requiring a contribution of £627 per unit from all new residential schemes. Moreover, the Council says that Natural England is supportive of this approach. Without such mitigation, the consultation response from Natural England highlights that the proposal would have an adverse effect on the integrity of the SAC.
17. Within the context of this appeal, the responsibility for assessing the effects of the proposal on the European designated site falls to me as the competent authority.

Had I been otherwise minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have been necessary for me to examine this matter further, and to undertake an Appropriate Assessment of the implications of the appeal scheme for the European designated sites. In that context, I would have looked at the appropriateness of a financial contribution towards mitigating recreational pressure on the SAC. However, for the above reasons, I have not pursued this matter further.

18. *Parking pressures* – The Council considers that a planning obligation is necessary to ensure a car free development in an area that is part of a controlled parking zone. The appellant does not dispute that this would be reasonable, though has not provided one and instead suggests that such matters can form part of a condition to accompany a permission. However, conditions requiring the applicant entering into a planning obligation under section 106 of the Town & Country Planning Act 1990 are unlikely to pass the test of enforceability. In any case, as I am dismissing the appeal for other reasons, I have not pursued this matter any further.
19. Within one of its reasons for refusal, the Council has referred to a requirement for a legal agreement to secure £2000 towards improving walking and cycling in the vicinity. It is also suggested that S278 works will be required upon completion of the development and prior to occupation. However, it has not been convincingly demonstrated that either of these requests are necessary to make the development acceptable, directly related to it, or fairly or reasonably related in scale and kind, thus failing the tests set out in paragraph 58 of the Framework.
20. The proposal would provide additional housing in a location with good access to services and facilities, though this would be tempered by the loss of a much-needed larger home. Further modest economic benefits would result from additional spend in the local economy.

### **Planning Balance and Conclusion**

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 says development should be in accordance with the development plan ‘unless material considerations indicate otherwise’, and this is reaffirmed in the Framework.
22. I have concluded above that the proposal would not result in suitable living conditions for future occupants with particular regard to the provision of internal space. While there would be no technical conflict with the Council’s conversion policy, the proposal would nevertheless undermine its intentions. This is a matter that can be afforded moderate weight against the proposal.
23. In summary, the scheme conflicts with the development plan, when taken as a whole. Furthermore, even when considered cumulatively, the weight given to the other considerations would not outweigh the identified harm. Accordingly, other considerations do not therefore indicate that permission should be granted contrary to the development plan. Therefore, the appeal is dismissed.

*J Hills*

INSPECTOR