



Appeal Decision

Site visit made on 16 December 2020

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th February 2021

Appeal Ref: APP/U5930/W/20/3252817

Flats 22-25 Howard Mansions, Forest Road, Walthamstow E17 4NA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Yossi Shahr of Lionrule Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 193662, dated 5 November 2019, was refused by notice dated 13 January 2020.
 - The development proposed is Internal alterations and conversion of existing 4no. Residential Units to form 8no. Residential Units.
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Decision

1. The appeal is allowed, and planning permission is granted for Internal alterations and conversion of existing 4no. Residential Units to form 8no. Residential Units at Flats 22-25 Howard Mansions, Forest Road, Walthamstow E17 4NA in accordance with the terms of the application Ref 193662, dated 5 November 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plan/drawing Refs FR-PP6-01 Rev A, FR-PP6-02 and FR-PP6-03.
 - 3) No new dwellings created by the development hereby permitted shall be occupied until refuse and recycling storage facilities for the development have been provided within the site in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be maintained in accordance with the approved details.
 - 4) No new dwellings created by the development hereby permitted shall be occupied until secure under-cover storage facilities for 8 bicycles for the development has been provided within the site in accordance with details that have been previously submitted to and approved in writing by the Local Planning Authority. The approved facilities shall thereafter be maintained in accordance with the approved details.

Procedural Matters

2. The site address in the original planning application form referred to No 516 Forest Road. The address in the banner heading above is from the Council's decision notice which is similar to that in the appellant's appeal form, identifying the dwellings, the building, and the postcode.
3. While previously not referred to in the decision notice, the Council has set out concerns in respect of external space provision. I have had regard to this in setting out the main issues below. The appellant has had the opportunity to respond to this through the appeal process and would not be prejudiced by this approach.
4. The Council's second reason for refusal relates to internal floor to ceiling heights. The Council's delegated report makes specific reference to the fourth floor ceiling heights only. I have had regard to this in setting out the main issues below.
5. The appellant has provided additional plans with the appeal statement. Ref FR-PP6-04 shows the internal floor to ceiling heights on the fourth floor. Plan/drawing Ref FR-PP4-07 shows a possible location for refuse facilities within the red line on plan/drawing no FR-PP6-01 Rev A. As the plans do not materially amend the proposal and the Council has had the opportunity to comment on these through the appeal process, I have had regard to them in determining this appeal.
6. The Council has provided a copy of plan/drawing Ref. FR-PP6-01, which is not referred to in either the Council's decision notice or information provided by the appellant, as a plan upon which the Council determined the planning application. The Council has not explained why I should consider this plan instead of FR-PP6-01 Rev A. Therefore, the appeal is considered on the basis of FR-PP6-01 Rev A.

Application for costs

7. An application for costs was made by Yossi Shahar of Lionrule Ltd against the Council of the London Borough of Waltham Forest. This application is the subject of a separate Decision.

Main Issues

8. The main issues are:
 - whether the location of the proposed development is acceptable having regard to development plan policies in respect of housing;
 - the effect of the proposed development upon the living conditions of the future occupiers of Nos 22a – 25a with particular reference to internal space provision;
 - the effect of the proposed development upon the living conditions of the future occupiers of Nos 22a – 25a and Nos 22 – 25 with particular reference to external space provision;
 - whether the proposed development would make adequate provision for the storage and collection of refuse and recycling; and,

- the effect of the proposed development on the highway including whether the development would facilitate a car free development and provides for sustainable travel.

Reasons

Policies for housing

9. Policy CS2 of the Waltham Forest Local Plan Core Strategy (2012) (the CS) seeks to facilitate sustainable housing growth through amongst other things, resisting the net loss of accommodation, focussing the delivery of new homes in key growth areas, seeking to optimise housing densities, seeking a range of home sizes and resisting the loss of larger homes. Based upon the bedroom sizes and table 8.2 of Policy DM7 of the Waltham Forest Development Management Policies Local Plan (2013) (the DMPLP), the appeal site currently provides 4no 2 bedroom dwellings, of a size suitable for up to 3 occupiers each.
10. The development would result in the provision of four additional dwellings. As the existing dwellings are not larger dwellings (3 bedrooms or more) Policy CS2 does not expressly object to their loss. The development would alter the balance of dwelling types available in the previously approved development on floors 3 and 4. However, the building as a whole would retain 20no. 2 bedroom dwellings. The Council has not provided substantive up-to-date evidence of an excess of single person dwellings in relation to needs in the Borough. Therefore, while this development would alter the previously approved development, it would overall, not materially diminish it.
11. The conversion would result in the loss of a small amount of hallway and stair space from within the bounds of the dwellings. This space does not provide storage or habitable room space. The small net loss would be necessary to provide for reasonable lobby space allowing safe and convenient access to the dwellings. Therefore, it is justified and would not conflict with Policy CS2A(i).
12. The appeal site location is not mentioned specifically as a key growth area where new homes will be focussed. However, Policy CS2 does not state other locations are considered unacceptable for new dwellings, and the Council previously found a conversion to studio and 1 bedroom flats acceptable in this building in 2019. It is located above and in close proximity to a range of shops, food outlets, other commercial units, and bus stops, centred around the junction of Hoe Street and Forest Road. A short distance further away on Hoe Street are a large number of other services, facilities, and bus stops, within a manageable walking or cycling distance for most abilities. Given the accessibility of services, facilities, and public transport, the development is in a sustainable location.
13. For the reasons set out above, the development would result in a degree of conflict with Policy CS2 of the CS, insofar as it is not within an identified location to focus growth. However, the development is in a sustainable location. Therefore, based upon the evidence before me, there would be no harm from the conflict with Policy CS2 from this appeal proposal.
14. Policy DM7 of the DMPLP states the Council does not support dwellings of the size proposed, so the development conflicts with this aspect of CS2. However, paragraphs 8 and 59 of the National Planning Policy Framework (2019) (the Framework) set out the objective of significantly boosting the supply of homes

and the importance ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. Paragraph 30 of the Framework emphasises the importance of up-to-date evidence.

15. The Housing Needs and Markets Survey (2007) referred to in the subtext of Policy CS2 is some 13 years old. Policy 26 of the Draft Local Plan (2019), suggests there is currently an outstanding need for 1 and 2 bedroom dwellings in the Borough which the Council will support. The policy and evidence has not been the subject of an examination and so attracts limited weight. However, there is no evidence that the draft policy is not underpinned by well-founded evidence and that a significant need for smaller dwellings exists. Therefore, based upon the evidence that is before me, the conflict with the lack of support for single person dwellings in Policy DM7, attracts limited weight.

Internal space provision

16. Plan Ref FR-PP6-04 includes some cross sections of the fourth floor. These indicate approximately 77% of the gross internal floorspace in the fourth floor would be 2.3m in height, of which most of that proportion would be over 2.6m high. I was able to view Nos 22 and 23 at my visit. I saw no evidence the plan was inaccurate, or that there would be inadequate ceiling heights on the either floor, or, that the heights across the third and fourth floor were not uniform.
17. Therefore, the development would not result in harmful living conditions to future occupiers with reference to the internal space. In this regard, the development would not conflict with Policy DM7 of the DMPLP which seeks to ensure developments provide high quality internal space. The development would not conflict with Policy CS2 of the CS insofar as this requires a high quality design of housing. There would not be a conflict with the requirements of the Technical housing standards – nationally described space standard (2015) (the NDSS), which requires the minimum floor to ceiling height is 2.3m for at least 75% of the gross internal area.

External space provision

18. Table 8.3 of Policy DM7 requires flatted developments provide a minimum of 10 square metres of external amenity space per bedroom of which an element must be private. However, paragraph 8.7 of the subtext states that the Council will take a flexible approach to this matter having regard to (amongst other things) access to shops, public transport, community facilities, green spaces, site constraints and financial viability. Based upon the evidence before me and what I saw at my visit, the existing flats do not benefit from useable external amenity space including private space, and there would be no additional space as a consequence of this conversion.
19. The number of dwellings without useable external space including private space would increase. However, the capacity of the existing dwellings is up to 12 persons having regard to the floorspace occupancy standards in Policy DM7 of the DMPLP and the NDSS. As the development would provide capacity for 8 persons in accordance with the aforementioned policies and standards, it is unlikely that the development would result in an overall increase in occupiers and may result in a decrease. Furthermore, there are transport links that could provide access to outdoor space and leisure facilities. It is suggested the Draft

Local Plan, provides a more flexible approach to external space provision. However, I have not been provided with the relevant provisions in this regard.

20. For the reasons set out above the development would result in a conflict with Policy DM7 of the DMPLP which requires all developments meet the minimum external space standards in table 8.3, which includes an element of private space. Therefore, it would not provide satisfactory living conditions to the future occupiers with respect to private amenity space provision. However, given that it is not likely the occupiers would increase, and may decrease, and given the proximity to shops, services and public transport links, on-balance there would be no overall material harm as a consequence of the conflict.

Waste and recycling provision

21. Policy DM32 of the DMPLP requires new development provides accessible, adequate facilities for the storage and collection refuse and recycling. The Council's evidence suggests Policy CS6 of the CS has a similar objective. Representations from neighbours provide photographs of refuse arrangements, setting out concerns due to bins being full or blocked and waste remaining in the car park for long periods, and harm relating to matters such as odour, health, and vermin. The Council suggests the development would be likely to result in the requirement for a further 640 litres of waste storage capacity, although it is not clear how this figure is derived.
22. At the time of my visit the courtyard area was not laid out in accordance with plan Ref FR-PP4-07. The bins were not under the undercroft as set out on the plan and some larger household items were present on the courtyard area. Based upon the evidence before me the refuse arrangements did not meet with the requirements of the additional plan or the development plan policies referenced. The site outlined on plan/drawing Ref FR-PP6-01 Rev A encompasses the courtyard area, so from the evidence before me there is space to make provision for refuse and recycling storage that would secure a policy compliant proposal. This matter could be addressed by a suitably worded planning condition.
23. Subject to the imposition of a condition I have set out, the development would make adequate provision for refuse and recycling facilities. Therefore, it would not conflict with Policy DM32 of the DMPLP, which requires development provides accessible and adequate facilities for the storage and collection refuse and recycling to help ensure that development does not result in harm to the character and appearance of the area or living conditions for neighbouring or future occupiers.
24. The Council has referred to Policy CS7 of the CS in its third reason for refusal. However, as this primarily relates to developing sustainable transport, it is of limited relevance to this main issue.

Highways and parking arrangements

25. Policy CS7 of the CS sets out how sustainable travel will be promoted, including managing parking requirements and by promoting car free and car-capped developments. Policy DM14 of the DMPLP sets out objectives and measures to maintain, promote, and prevent development from having a harmful impact upon sustainable transport modes. Policy DM16 seeks to effectively manage parking and ensure the provision of safe and attractive parking facilities.

Measures to achieve this include encouraging car-free and car-capped development in locations that are highly accessible by public transport, are accessible to opportunities and services, and/or have high levels of parking stress.

26. The site provides a small number of parking spaces within the internal courtyard area. On much of the surrounding highway parking is either prohibited or the subject of Controlled Parking Zones (CPZs). While my visit can only represent a brief snapshot in time, a number of on-street spaces were available in the vicinity at the time of my visit. There is no substantive evidence before me of parking stress in the vicinity of the appeal site.
27. The development is in a location with a PTAL Rating of 3. There is good access to local services and the public transport network, so there would not be a necessity for an occupier to own a car. The development would not be likely to increase the number of residents and could result in there being less residents and any associated vehicles. With the imposition of a planning condition in respect of covered cycle parking facilities, the development would result in a benefit that would be likely to encourage and facilitate the use of sustainable modes of transport. Based upon the evidence that is before me a section 106 agreement to secure car free parking is not necessary or justified.
28. For the reasons set out above, the development would not be likely to result in increased car parking needs or have a harmful impact upon the highway in respect of its operation, safety, or convenience. It is in a location that would encourage the use of walking and public transport and provide additional facilities to encourage and facilitate cycling. Therefore, it would not result in a conflict with Policy DM14 of the DMPLP, which amongst other things requires that development maintains, enhances, and ensures it does not have a harmful impact upon sustainable transport modes, or result in an increase in pollution.
29. The development would conflict with Policies DM16 of the DMPLP and CS7 of the CS insofar as these seek to promote car free parking. However, for the reasons set out above, the development would not be likely to increase and may reduce the number of occupiers, associated parking requirements and vehicular miles on the public highway. Therefore, there would not be likely to be any adverse effect as a consequence of any conflict.

Other Matters

30. The appeal site is located in proximity to the Epping Forest Special Area of Conservation (the SAC). The Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations) require that where a plan or project is likely to result in a significant effect on a European site (in this case the SAC), a competent authority is required to make an Appropriate Assessment (AA) of the implications of that plan or project on the integrity of the European site in view of its conservation objectives. Any likely significant effects arising from a development need to be considered alone and in combination with other development in the area, adopting the precautionary principle.
31. The SAC is designated due to the presence of three qualifying habitats and one species. These are Atlantic beech forest, European dry heaths, Northern Atlantic wet heaths, and the Stag Beetle, respectively. The conservation objectives for the SAC are to achieve the favourable conservation status of the qualifying features by maintaining or restoring the extent, distribution,

structure and function of the qualifying habitats, the population and distribution of the qualifying species, the structure and function of their habitats, and supporting processes on which the qualifying habitats and species rely.

32. Natural England's (NE) interim guidance (March 2019) identifies that development within the 0 – 3km zone of influence (ZOI) is likely to have a significant effect upon the SAC as occupiers of new dwellings would access the SAC for recreational purposes causing recreational disturbance. Additional recreational activity would, alone and in combination with that of other development in the area, be likely to have likely significant effects on the SAC.
33. Natural England has advised that it measures impacts upon the SAC based upon the number of dwellings, regardless of bedrooms. On this basis NE is of the view, that to avoid an adverse impact to the integrity of the SAC this development would normally be required to make a contribution towards Strategic Access Management Measures (SAMMs). However, NE states it has been agreed with the Council that it does not have to collect contributions from minor developments as long as the total expected contribution towards SAMMs from the Council as a whole is delivered. This is because the administrative costs involved are greater than the amount collected. Therefore, NE does not object to the development, and the Council has not raised an objection to the absence of a legal agreement for financial contributions in respect of the SAC.
34. However, the occupancy capacity of the development would reduce from up to 12 persons, to 8 persons. The development would be likely to result in an overall reduction in the number of people living within a short drive of the SAC. Therefore, alone or in combination with other development, it would not be likely to have a significant adverse effect upon integrity of the SAC in view of its conservation objectives, through for example, recreational disturbance. Consequently, the evidence before me indicates the proposal would not adversely affect the integrity of the SAC and its condition would not deteriorate as a consequence of allowing this appeal. Therefore, the proposal would not conflict with the Regulations or paragraphs 174 and 175 of the Framework as there would not be likely to be harm to biodiversity.

Planning Balance

35. The development would result in a conflict with Policy CS2 of the CS and Policy DM7 of the DMPLP in respect of the location and size of dwellings. For the reasons set out above, having regard to the effects of the development and the evidence before me, these conflicts attract limited weight against the scheme. I have also identified a conflict in respect of outdoor space provision and with the objectives of Policies CS7 of the CS and Policies DM14 and DM16 of the DMPLP insofar as they seek car free developments. However, for the reasons set out above, the conflict with these policies attracts very limited weight against the scheme.
36. Subject to the imposition of a suitable planning condition the development would provide adequate refuse facilities and not result in harm to neighbouring or future occupiers. It would provide acceptable living conditions for future occupiers in respect of internal space and there would not be likely to be any overall adverse effect upon the public highway or sustainable travel. The development would not have an adverse effect upon the integrity of the SAC in view of its conservation objectives. These are all neutral factors attracting neutral weight.

37. The development would result in a net increase of four dwellings. It would have a social benefit of contributing to the aspiration to increase the choice of dwellings within the Borough and meet a need for single person dwellings in a sustainable location. There would also be a small economic benefit during construction. These benefits attract significant weight in favour of the scheme, and they outweigh the limited policy conflicts outlined above.

Conditions

38. As well as the standard condition for the commencement of the development, for certainty a condition requiring the development to be carried out in accordance with the approved plans is necessary. I have omitted reference to plan Ref FR-PP6-04 as this does not alter the development from FR-PP6-03. I have omitted plan Ref FR-PP4-07 as this shows an overall courtyard layout which conflicts with the existing site layout and does not detail the size of the bins or the type of waste they would be used for.
39. In the interests of sustainable waste management and the living conditions of neighbouring and future occupiers, a condition is necessary to require the submission and approval of a satisfactory means of refuse and recycling storage and collection. To ensure the development contributes to meeting the sustainable transport objectives of the development plan, it is necessary to require the submission and approval of 8 cycle parking spaces. A condition to secure a planning obligation for car free development is not necessary to make the development acceptable, for the reasons I have set out above.

Conclusion

40. For the reasons set out above, and having regard to all the matters raised, the appeal is allowed, and planning permission is granted.

Dan Szymanski

INSPECTOR