
Appeal Decision

Site visit made on 16 March 2021

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/U5930/W/20/3260322

Rear of 1-3 Mornington Road, Chingford, E4 7DR

- 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 Design Ventures Highgate Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 193624, dated 22 August 2019, was refused by notice dated 13 May 2020.
 - The development proposed is the demolition of existing buildings and creation of 8 x residential units totalling 485 sq m comprising of 5x 1 beds and 3 x 2 beds.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The fifth reason for refusal concerns the absence of details for the cycle and refuse storage. The proposed layout provides adequate space to accommodate the necessary storage and there is nothing to suggest that appropriate enclosures could not be provided to avoid impacts on the living conditions of neighbouring occupiers. Had I been minded to allow the appeal, the enclosures could have been secured by condition. The Council's statement confirms that it also considers that this matter could be dealt with by condition. As such, this matter is not in dispute and I have framed the main issues accordingly.
3. The applicant submitted a unilateral undertaking (UU) which was intended to prevent future occupiers from obtaining parking permits, thereby ensuring car-free development. The Council has not expressed concern regarding the aims or the mechanisms set out in the UU. Since the matter is not in dispute and the appeal is being dismissed for other substantives reason, it is not necessary for me to consider this matter further.

Main Issues

4. The main issues are:
 - the effects of the proposal on the character and appearance of the area;
 - whether the proposal would provide satisfactory living conditions for future occupiers with particular regard to layout, outlook and level of natural light in the internal areas and the usability of the private external areas;
 - the effects of the proposal on the living conditions of the occupiers of Nos 3-19 Willow Street with particular regard to outlook;
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- whether the proposal would provide a safe and secure access for future occupiers;
- whether the proposal would prejudice the opportunity to secure a high quality redevelopment of the site and adjoining area.

Reasons

Character and Appearance

5. The appeal site occupies a 'backland' location and has very limited visibility from the surrounding streets. It is, however, visible from a significant number of adjoining residential and commercial properties and glimpses of the proposed building would be available along the site access. The existing buildings on the site, whilst nondescript in their appearance, are fairly modest in scale and height. In particular, the buildings adjoining the mainly two storey residential properties to the north are single storey in height. The smaller element of two storey building is to the south adjoining the similarly sized neighbouring commercial buildings. As such, the scale of existing development is consistent with the site's backland location and the character of the surrounding development.
6. The appeal proposal would significantly enlarge the scale of built development across the site. The building would be set back from the northern boundary by just under 2m. However, neither this, nor the limited articulation, fenestration and planting on the northern elevation, would adequately compensate for the abrupt increase in the height of this part of the building, which would span the full width of the site when viewed from the neighbouring residential properties.
7. The three storey element of the building would be an overly imposing presence when viewed from the site access and the confined space of the shared courtyard. Although this part of the building is closest to the town centre along Station Road, it has very limited visual or functional relationship with the buildings which front onto that road.
8. Window openings would be unevenly arranged, resulting in large areas of blank wall on the north and east elevations, in particular. It seems to me that, together, these shortcomings are largely a consequence of the over-intensive scale and form of the development on a constrained backland site.
9. There is no substantive evidence to show that the materials or detailing of the proposed building would be objectionable. Nevertheless, by virtue of its height, scale and layout, I find that the proposal would have a significantly harmful effect on the character and appearance of the area. As such, it would conflict with Policy CS15 of the Waltham Forest Local Plan Core Strategy (2012) (CS) and Policy DM29 of the Council's Development Management Policies (2013) (DM). Amongst other things, these policies require proposals to achieve a high standard of design which recognises local distinctiveness and sensitively addresses matters of height and scale.

Living Conditions of Future Occupiers

10. The ground floor apartments would have fairly large openings facing north and south (west and south in the case of unit 4). However, the outlook on one side would be onto terraces less than 2m wide and bounded on three sides by boundary enclosures of a height necessary to ensure the privacy of

neighbouring occupiers. Whilst limited sky views would be available above the boundary enclosures, the general outlook would be severely constrained. In the same way, the outlook and usability of the terraces as private outdoor spaces would be similarly constrained.

11. The openings on the other side of the apartments would look over the pedestrian access, very small areas of 'front garden' and the shared 'courtyard garden'. I have no reason to doubt that these spaces could be attractively landscaped. However, they are semi-public spaces and, even taken together, are limited in size. Moreover, they are also enclosed by the tall, blank and uninviting brick walls of neighbouring commercial properties. As such, the outlook they would offer would be limited in extent and quality.
12. The Council has expressed concern that the internal layouts of some of the units would be inflexible. Whilst the shape of the rooms in some of the units would have unconventional angles, they appear to be sufficiently well proportioned to accommodate the necessary furniture. The Council also considers that some rooms would not receive adequate natural light. However, the appellant's Internal Daylight Analysis Result (Phase 1), shows that all but one of the rooms meet the tests set out in the BRE Guidance¹ and that the single fail is by a relatively narrow margin.
13. Nevertheless, overall, I find that the outlook from the ground floor units and their terraces would be unduly constrained and would not provide satisfactory living conditions for future occupiers. The proposal would, therefore, conflict with CS Policy CS15 and DM Policies DM7 and DM32. These policies require residential schemes to achieve attractive and functional developments with high quality internal and external layouts and outlooks and appropriately located and usable external amenity spaces.

Living Conditions of Neighbouring Occupiers

14. On its northern side, the appeal site adjoins the rear gardens of the dwellings at 3-19 Willow Street. The Council gives the distance between the rear of these properties and the first floor element of the proposed building as 13-15m. This distance has not been disputed by the appellant. The first floor roof planting and oriel windows would provide some visual relief in the proposed building's north elevation. Nevertheless, the over-riding view from the dwellings directly opposite would be of a very substantial expanse of blank brickwork rising at least 5.8m to 6.9m above ground level and spanning the width of five of the gardens. The insertion into an established residential setting of a building of that scale and proximity would be distinctly overbearing in views from the rear windows and rear gardens of the neighbouring dwellings.
15. Therefore, the proposal would be detrimental to the living conditions of the occupiers of 3-19 Willow Street by reason of loss of outlook. As such, it would conflict with CS Policy 15 and DM Policies DM29 and DM32 insofar as they require proposals to respond positively to local context in terms of height, scale and massing and ensure that the outlook of neighbouring occupiers is maintained.

¹ Building Research Establishment Digest Site Layout Planning for Daylight and Sunlight

Redevelopment Opportunity

16. The Council is concerned that the form of the proposal would prejudice the opportunity for high-quality redevelopment of the site and surrounding area. I have already found that the proposal would have a harmful effect on the character and appearance of the area. Nevertheless, the Council has not provided details of proposals to redevelop the surrounding land. Whilst Chingford is designated as a major/district centre in the key diagram under Policy CS1 of the CS, the appeal site and surrounding area is not identified as a Site Opportunity Location on CS Figure 8. As such, I find that the proposal does not conflict with the location and management of growth strategy set out through Policy CS1.
17. The first reason for refusal also alleges conflict with DM Policies DM1 and DM29. Policy DM1 builds on the growth strategy in Policy CS1, but additionally seeks an appropriate mix of uses. There is no substantive evidence to show that the proposed mix of uses would be inappropriate. Policy DM29 deals with design principles. Whilst I have found that the proposal conflicts with this policy in other respects, conflict in terms of prejudicing other redevelopment opportunities has not been adequately demonstrated.
18. The Council refers to the emerging Local Plan. However, this is at an early stage of preparation and no information has been provided on its proposals for the vicinity of the appeal site. Consequently, I can give limited weight to any conflict with the emerging plan.

Safe and Secure Access

19. Reflecting its 'backland' location, the appeal site has, for practical purposes, pedestrian access only which is potentially vulnerable to abuse and anti-social behaviour. The access comprises a straight, but fairly narrow passage with little natural surveillance from nearby properties. Views along the passage from Mornington Road are fleeting and oblique. However, the proposed development includes three bedroom windows which would look directly along the passage and a further four bedrooms window which would offer oblique views. The appearance of the passage would be improved, and occupation of the development would also create activity and surveillance.
20. Furthermore, had I been minded to allow the appeal, conditions could be used to secure lighting, CCTV and other measures through the 'Secured by Design' initiative. With these conditions in place, I consider that the proposal would provide a safe and secure access for future occupiers. As such, it would accord with CS Policy CS15 and DM Policy DM33 insofar as they seek community safety and cohesion through, amongst other things, the use of Secured by Design standards.

Other Matters

21. Prior approval was given in December 2015 for the conversion of the existing buildings at the appeal site to residential use for nine flats (LPA decision reference 153229). The appellant has advised that operational works to implement the use were undertaken before November 2018. However, the works have not been completed and the buildings are currently vacant. The appellant considers that the consent provides a financially viable scheme and is therefore a realistic fall-back position should the appeal be dismissed. It also

argues that the appeal proposal would provide better living conditions for future occupiers than the prior approval scheme.

22. The Council questions the viability of the prior approval scheme and considers that it does not represent a realistic fall-back position. Neither party has submitted substantive evidence on the relative viabilities of the two schemes. Nevertheless, the existing buildings are in poor condition and significant work would be required to create an attractive residential environment. It is also telling that the fall-back scheme has not been fully implemented more than five years after prior approval was issued.
23. Moreover, whilst I recognise that the outlook from some of the prior approval units would be poor and the scheme does not secure external amenity space, I have also found that the appeal proposal would not provide satisfactory living conditions for future occupiers. In addition, by reason of the increased height and scale of the proposed buildings, the appeal proposal would have significantly harmful effects on the character and appearance of the area and the living conditions of neighbouring occupiers. The same harms would not apply to the prior approval scheme.
24. The appellant argues that the appeal proposal would improve the street scene. However, I have already found that the site has little presence in the street scene. Although the appeal proposal would result in improvement to the external areas, some improvement to those areas would also be necessary to create a commercially attractive residential environment under the prior approval scheme. Any additional improvement under the appeal scheme does not, therefore, weigh significantly in its favour.
25. Both schemes would make a modest contribution to the Council's housing land supply. However, there is nothing to suggest that the Council cannot demonstrate a five-year supply and the potential for the appeal proposal to provide a better mix of units has not been conclusively demonstrated. Consequently, I give this consideration very limited weight.
26. The appellant states that the submitted Transport Statement demonstrates that the absence of on-site parking in the appeal proposal would be an improvement over the prior approval scheme. However, there is insufficient evidence in the Transport Statement to show that the prior approval scheme would lead to an unacceptable impact on highway safety or severe residual impacts on the road network.
27. Taking all of these factors together therefore, I find that the existence of the prior approval scheme does not outweigh the harms caused by the appeal proposal.
28. I have had regard to the other concerns expressed locally, but they have not led me to a different overall conclusion.

Conclusion

29. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR