



Appeal Decision

Site visit made on 29 June 2022

by Alison Scott (BA Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 August 2022

Appeal Ref: APP/U5930/W/21/3285233

37 Morris Road, Stratford, London E15 2BQ

- 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 Mr Ali Hayirli against the decision of Waltham Forest London Borough Council.
 - The application Ref 211760, dated 27 May 2021, was refused by notice dated 10 September 2021.
 - The development proposed is Conversion and external alterations to provide three (3x) self-contained flats and removal of part of building to create outdoor rear amenity area.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues of the proposal are:
 - Whether or not there is justification for the loss of a B8 warehousing unit;
 - The impact of the proposal on the living conditions of future residents with regards to outlook, light levels and internal ceiling heights;
 - Whether or not the proposal would prejudice future residential development coming forward as a result of overlooking and loss of privacy;
 - The impact of the proposal on the character and appearance of the local area;
 - Whether or not a legal agreement is required to prevent future occupants from acquiring parking permits; and
 - Whether or not there would be adequate cycle parking and refuse facilities.

Reasons

Loss of B8 warehousing unit

3. The appeal site is located on the east side of Morris Road and is a two storey building with the ground floor operating as B8 use with residential accommodation above, accessed via an independent staircase to the side of the main warehouse space.
4. This side of Morris Road is predominantly commercial in nature consisting of amongst other things, small vehicle repair garages, MOT garages and motorcycle sales business. The character of the area is mixed with some

- residential accommodation on this side of Morris Road apparent, and opposite the site is residential modern houses.
5. All parties agree the site is located within a non-designated employment area. Policy CS8 of the Waltham Forest Core Strategy points to making efficient use of employment land and identifies the release of non-designated employment land to other uses where they are surplus to requirements or no longer fit for purpose. In this regard, there is no evidence before me from the appellant to demonstrate the unit is surplus to requirements or not fit for purpose, only their unsubstantiated view on the matter.
 6. Policy DM20 of the Local Plan advocates 'more productive' uses in non-designated employment land provided certain criteria is met. When considering this criteria, my inspection of the building did not lead me to conclude that the internal ceiling heights are inadequate. Nor has the appellant identified any adverse consequences of the existing ceiling heights for me to take into account.
 7. Also, I noticed Morris Road was not restrictively narrow. Even with vehicles parked along both sides of the road, this did not present a significant obstacle to vehicular movement from my time observing the site. Furthermore, there is no evidence presented by the appellant as to how the width of the road negatively impacts on them.
 8. No marketing of the premises has been evidenced to demonstrate that there is a reasonable prospect of the unit being re-let or sold for employment purposes. In addition, the unit was in operation at the time of my visit.
 9. There has been no evidence presented by the appellant as to how the loss of such a use could be mitigated by the likes of further training opportunities. The effect of the design of the proposal on the character and appearance of the local area is explored elsewhere within this decision letter.
 10. How housing development here would be a more viable option than the current use has not been demonstrated by the appellant for me to take into consideration as part of my overall assessment.
 11. They point to another approval at 29A Morris Road that the Council granted permission for redevelopment to residential use. With regards to Number 29A Morris Road, this site has further history associated with it. Whilst I have considered the evidence before me, the information is however limited. It was approved on its own individual merits. In the situation of the appeal before me, I have considered this proposal against the policies in question, to which it does not meet in the round. I apply significant weight to this.
 12. To conclude on this main issue, there is no robust evidence before me to come to a reasoned view that the loss of a warehouse unit in this location is justified. On that basis the proposal would not comply with the objectives of Policy CS8 of the Waltham Forest Local Plan Core Strategy 2012 and Policy DM20 of the Waltham Forest Local Plan Development Management Policies 2013.

Living conditions – future occupiers

13. The independent flats would be stacked on top of one another over three floors. Only one single ground floor window would provide an outlook onto street level serving the combined habitable space of the lounge kitchen/diner of

- Flat 1. The outlook from the other side windows would be very constrained as they would look across the communal path and the blank side wall of the adjacent building. There is nothing before me to indicate that the study space could not be used as a habitable room. Therefore, considering the outlook from this flat as a whole, it would be detrimental for future occupiers.
14. In addition, given the surrounding context of other buildings within close range of the appeal site and its side windows, light levels into this flat would be harmfully restricted for the future occupants.
 15. The first floor flat would have both a front and side outlook. The combined kitchen/diner and lounge would share a large glazed window to the side elevation that would have a part restricted outlook due to the adjacent building. However, this adjacent building has a flat roof and on balance, I consider the outlook and light levels into this residential space would be acceptable to the future occupants.
 16. The loft floor would be served by large areas of glazing allowing the lounge area an acceptable outlook for future occupiers and light levels into this space. The kitchen/diner would rely on light and outlook from roof lights that would afford views of the sky with no sense of context experienced by its occupants. This space as a whole, whilst combined with the lounge, due to the proposed layout would not take advantage of the large area of glazing and its outlook. I am therefore not convinced that the rooflights would provide acceptable outlook from the kitchen/diner space.
 17. Whilst the ceiling heights in particular areas would not meet the Department for Communities and Local Government "Technical Housing Standards-National Described Space Standards" March 2015, and the appellant compares ceiling heights to that of Number 29A Morris Road, nevertheless, I have found overall harm arising to the living conditions of the future occupants.
 18. To conclude on this main issue, I have found detrimental harm arising to the living conditions of the future occupiers of these flats. Therefore, the proposal would not meet the aims and objectives of Policy CS13 and CS15 of the Waltham Local Forest Plan-Core Strategy 2012 and Policies DM7, DM23 and DM32 of the Waltham Forest Local Plan - Development Management Policies 2013 in their combined aims to promote health and wellbeing in development and provide acceptable amenity levels.
 19. In addition, it would not precisely accord with the Department for Communities and Local Government "Technical Housing Standards-National Described Space Standards" March 2015. I however find no direct relevance to London Plan Policy D6 as this refers to the implications of good design, and not living conditions.

Future developments

20. From my inspection of the existing roof level on site, the view from the proposed balconies would be towards other flat roofs and some pitched roofs at a distance.
21. The Council have provided no details of potential sensitive development opportunities within the local area for me to take into consideration. Given the circumstances on the ground that I observed during my visit and without detailed evidence, I am not of the view that the balconies in these proposed

locations could reasonably be concluded to cause an adverse effect on future development.

22. To this end, I find no direct conflict with the aims and objectives of Policy CS13 of the Waltham Forest Local Plan - Core Strategy (2012), and policy DM32 of the Waltham Forest Local Plan - Development Management Policies (2013) in their aims to ensure satisfactory amenity is provided for future and surrounding occupiers.

Character and appearance

23. A three storey building in this mid-row position would not be in character with the context of adjacent single and two storey buildings, to which it closely relates. It would appear as an out of scale, dominant and visually intrusive addition to the street scene as a consequence of its height, scale and massing in this location.
24. Fusion House is a standalone building of a very different scale and character to the appeal building and sits in a corner location positioned away from the appeal site on the corner with Crownfield Road. They cannot be compared to one another.
25. With regards to Number 29A Morris Road, it has been drawn to my attention by the parties that it would be developed for a three storey building. It would be located at the far end of the row away from the appeal site. My observation of the plans submitted with the appeal and from what I viewed on site, that scheme more closely relates in broad context to the larger development of Fusion House. It is not the same circumstances as the proposal before me and therefore I apply limited weight to a comparison with that development.
26. Therefore, to conclude on this main issue, the proposed development would appear uncharacteristically out of scale with the immediate context, detrimental to the character and appearance of the street scene and contrary to the design aims of Policies CS13 of the Waltham Forest Local Plan - Core Strategy 2012 and DM29 of the Waltham Forest Local Plan - Development Management Policies 2013 and broad design aims of Urban Design 2010. However, I find no direct relevance to Policy CS15 of the Waltham Forest Local Plan - Core Strategy 2012 as this relates to promoting health and wellbeing.

Parking permits

27. Due to parking stress within the local area, the Council aim to control the availability of parking permits in circumstances of new residential dwellings to ensure the development is car free. Future occupants are therefore not eligible to obtain a parking permit from the local authority. The Council's preferred means to secure this is via a legal agreement. Potential occupants are not prevented from physically applying for a parking permit however.
28. Paragraph 56 of the National Planning Policy Framework (the Framework) has a general presumption to use planning conditions rather than a legal obligation to mitigate the effects of development.
29. Considering the development would create only three new flats, and this is a small scale development, and taking into account the local plan policies to effectively manage parking as well as the Framework, I agree with the appellant that, should I be minded to allow the appeal, an appropriately

worded planning condition to secure a car free development could be achieved. This in turn would negate the need for a more onerous planning obligation.

30. In light of this, I conclude that the proposal could be acceptably controlled by way of planning condition to prevent future occupants from being eligible to acquire a parking permit, thus the scheme would be in accordance with the managing parking in association with Policy CS7 of the Waltham Local Forest Plan - Core Strategy 2012 and Policy DM16 of the Waltham Forest Local Plan Development Management Policies 2013.

Cycle and refuse provision

31. Cycle parking and refuse provision is indicated to be located within the ground floor rear yard and accessible to all future occupants of the development. I have considered the opportunity to impose planning conditions to agree details of the refuse store and to ensure safe and secure cycle parking can be achieved on site, in the interest of mitigating harm associated with the development. This would meet the requirements of Paragraph 56 of the Framework should I be minded to allow the appeal.
32. Therefore, the proposal would be in general accordance with the cycle and refuse objectives of Policy DM14 of the Waltham Forest Local Plan - Development Management Policies 2013 and recycling which would meet the standards of policies CS6 and DM32 of the Waltham Forest Local Plan - Development Management Policies 2013. The Council have not led me to a precise policy of the London Plan 2021. However, it would meet the broad aims of Policy T5 with regards to cycling.

Other Matters

33. As a benefit, additional housing units would be created in the Borough, and would lead to job opportunities through the construction process, with some social and economic benefits, and I appreciate the consequence of the Coronavirus pandemic and economic conditions. Overall however, this would be only a small contribution and would not mitigate the harm arising from the development.
34. I do not have further details presented by the appellant as how the removal of the rear portion of the building would 'improve the current situation' to comment upon.
35. Energy efficiencies to the new build and its location close to public transport services would not persuade me in favour of the development.
36. The appellant argues the site is previously developed land and therefore a presumption in favour of development arises. However, that does not justify unacceptable development.
37. The site is identified by the Council as being within the Epping Forest Special Area of Conservation, a European protected site. The adverse effects arising by way of occupiers of additional homes would impact upon the natural habitats found here. Consequentially, mitigation measures would be required by way of an off-site financial contribution. However, there is no requirement for me to carry out an appropriate assessment as the Council confirm that this would only apply should a larger number new residential units be sought. There is nothing before me that conflicts with the Council's advice on this matter.

Conclusion

38. The development could be made acceptable to mitigate the impacts of local parking stress, cycle parking and refuse provision by way of planning conditions. I also have no reason to agree with the Council that it would prejudice future residential developments from coming forward within the local area. However, there is no justification for the loss of the building. Furthermore, the harm that would arise to the character and appearance of the local area and to future occupants would occur, I apply significant weight to these harms.
39. To conclude, the proposal would thus lead to conflict with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Alison Scott

INSPECTOR

