



Appeal Decision

Site visit made on 1 September 2023

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 September 2023

Appeal Ref: APP/U5930/W/23/3314470

Garage site next to Fairmead Court, Gordon Road, Chingford E4 6BS

- 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 Julian Williams against the decision of Waltham Forest London Borough Council.
 - The application Ref 220267, dated 28 January 2022, was refused by notice dated 8 December 2022.
 - The development proposed is the demolition of the existing garages and construction of a 4 storey building comprising 4 self-contained flats. Works include hard and soft landscaping, provision of an electrical charging point and associated bin/bicycle storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the Council's Decision Notice as this is more accurate.
3. Since the original decision the Council have designated the Chingford Station Road Conservation Area (SRCA). The appeal site falls within the SRCA. In their statement, the Council have commented that the existing structures on the site have no particular historic interest or architectural merit and there is no objection to their demolition. The Council also comment that the designation of the SRCA is not considered to significantly impact on their criticisms of the design of the building and its relationship with its immediate surroundings, as reflected in their reason for refusal. The appellant has had the opportunity to comment on the Council's statement.
4. The location of the appeal site within the SRCA triggers the requirement in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention is paid to the desirability of preserving or enhancing the character or appearance of that area.
5. During the application the appellant submitted amended plans to the Council. These are drawing numbers 04 Rev D and 06 Rev D. The Council's decision, however, was made based on drawing numbers 04 Rev C and 06 Rev C. The appellant has commented that the appeal is based on drawing numbers 04 Rev C and 06 Rev C. I have therefore determined the appeal based on these plans.

Main Issues

6. The main issues are 1) whether or not the proposed development would preserve or enhance the character and appearance of the SRCA, 2) the effect of the proposed development on the living conditions of occupants of surrounding residential properties with particular regard to outlook and privacy, 3) whether or not the proposed development would provide acceptable living conditions for its future occupants with particular regard to amenity space, and 4) whether or not, having regard to development plan policy, the proposed development would provide an appropriate mix of housing.

Reasons

Character and appearance of the SRCA

7. The appeal site comprises an 'L' shaped block of eight garages. It is located on Gordon Road between two three-storey blocks of residential flats of different designs. There are also other three-storey blocks of flats further along Gordon Road and on the opposite side to the appeal site. The wider area beyond this is predominantly made up of detached and semi-detached properties.
8. The appeal site is located within the Chingford Station Road Conservation Area (SRCA) which is characterised as being formed predominantly of historic residential properties with significant architectural detail with Chingford Station at its centre.
9. The Chingford Station Road Conservation Area Appraisal and Management Plan (Issue 04 January 2023) identifies that the modern infill development at the north end of Gordon Road, including the blocks either side of the appeal site, adopts larger scale and massing, creating a coarser grain of development that does not respond to the fine grain of the historic paired villas.
10. The apartment blocks at the north end of Gordon Road close to the appeal site, namely Fairmead Court, Lockhart Lodge, Cavendish Court, are identified as detracting buildings as they do not reference the typical scale and massing or architectural features of the built heritage within the character area. They are identified as negative contributors to the SRCA.
11. The proposed development would involve the demolition of the existing garages on the site. These are of no particular architectural or historical significance and their loss would not cause harm to the character or appearance of the SRCA.
12. In terms of its external appearance, the proposed building would contain three storeys of yellow brick followed by an additional storey formed of grey zinc cladding that is recessed behind a parapet. It would have a flat roof. On its primary front elevation, the fenestration would appear somewhat irregular with each storey having a different arrangement. This would depart from the more ordered arrangement in the surrounding blocks of flats.
13. The blocks on this side of Gordon Road utilise a red brick, either in part or in whole. The introduction of a yellow brick would be at odds with the established materials with the resulting effect that the building would appear needlessly out of character and incongruous.

14. I find less harm would be caused through the introduction of zinc cladding and the use of a flat roof, despite these not being present in the adjacent blocks. The zinc cladding would appear as a detailed feature and where it is used in the fourth storey would appear more as a roof addition, recessed behind the main building lines. It would not be a dominant or prominent feature. Also, whilst the blocks either side have a combination of hipped and pitched roofs, some of the nearby blocks have flat roofs such as the appeal proposal, and I do not find harm would be caused due to the use of a flat roof.
15. In terms of the building height, the proposed development would sit beneath Lockhart Lodge and be of a similar overall height to Fairmead Court. I acknowledge that each of these properties have sloping roofs, however in the appeal proposal the fourth storey has been designed to appear as a roof addition, set in from the main body of the building. This approach, combined with the use of zinc cladding, would successfully relieve the overall dominance of the building to the extent that its height would not cause harm to the character and appearance of this part of the street.
16. Even though the existing blocks are identified as negative contributors to the SRCA, the siting and height of the proposed development, in between two blocks of similar heights, would result in a neutral impact. This assessment acknowledges the relatively poor contribution the existing garages make to the character and appearance of the SRCA.
17. Therefore, although I have found some aspects of the proposed development would have a neutral impact, I find that the materials and detailed design would cause harm, and thereby fail to preserve or enhance the character and appearance of the SRCA.
18. The proposed development would therefore be contrary to Policy CS15 of the Waltham Forest Core Strategy (2012), Policy DM29 of the Waltham Forest Local Plan Development Management Policies (2013) and Policy D4 of the London Plan (2021). Collectively, these policies require that developments are of high-quality design, use attractive materials and reinforce or enhance features of historic significance.

Living conditions – occupants of surrounding properties

19. The proposed development would sit adjacent to Fairmead Court where there are sole windows to habitable rooms which overlook the appeal site. The evidence sets out that the proposed development would be sited around 8.8 metres from the closest elevation of Fairmead Court containing these windows.
20. Due to this siting and separation, when combined with the scale and mass of the proposed development, it would appear oppressive and overbearing when viewed from these properties and there would be significant harm caused to the outlook from these properties.
21. The appellant has referred to a Daylight and Sunlight Analysis¹ which demonstrates compliance with the BRE guidelines relating to levels of daylight and sunlight. The Council have accepted the findings of the report and did not refuse planning permission due to the impact on levels of daylight or sunlight. I have no reason to form a different view, yet I would highlight that there is a

¹ Technical Report - Daylight & Sunlight Analysis Ref: Z52539A

material difference in seeking to achieve acceptable levels of daylight and sunlight, and as pertinent in this appeal, outlook.

22. The Council's Urban Design Supplementary Planning Document (SPD) (2010) outlines that the Council will normally expect, for three storey buildings, a minimum of 18 metres clearance is achieved between the window of a habitable room and the blank flank wall of an opposing building. In giving significant weight to the SPD, the separation in the proposed development would be considerably less than the 18-metre separation as outlined.
23. I also acknowledge that in a previous appeal² for a three-storey block of flats on the appeal site, the Inspector found that a separation of around 9.7 metres would have a significantly harmful impact on the living conditions of the occupants of Fairmead Court in relation to outlook. Although I am not bound by the previous Inspector's decision, it is a material consideration in this appeal, and I am mindful that the separation in the current appeal is less than that of the previous appeal.
24. The proposed development would include the provision of three balconies on its rear elevation, one on each floor except the ground floor, where a patio and private garden are proposed. These balconies would directly overlook the rear gardens of nos. 2 and 3 Forest Avenue and would be less than 5 metres from the site boundary in the case of the first and second floor balcony, and less than 3 metres in the case of the third-floor balcony.
25. Due to their elevated position and the limited separation from the closest residential gardens I consider that these balconies would result in significant overlooking that would have an unacceptable impact on the privacy currently enjoyed by these residents when using their rear garden.
26. The appellant considers that as these balconies would look directly west, be recessed and screened to the side, that there would not be an adverse impact. I acknowledge that such factors can serve to reduce the impact, however in this case it would be permissible to stand at the edge of the balcony and afford direct views in a downward direction to the rear gardens of nos. 2 and 3 Forest Avenue at a close range.
27. I acknowledge that in dense urban areas such as this, there is often an element of mutual overlooking, and as the appellant highlights views into surrounding gardens are permissible from the adjacent properties. These however are primarily from upper floor windows as opposed to balconies. The use of balconies for purposes of sitting out or standing at, is materially different. Therefore, in this case such aspects do not overcome the harm I have identified.
28. I therefore conclude that the proposed development would cause significant harm to the living conditions of the occupants of surrounding residential properties with regard to outlook and privacy. It would be contrary to Policy CS13 of the Waltham Forest Core Strategy (2012) and Policy DM32 of the Waltham Forest Local Plan Development Management Policies (2013). Collectively, these policies require that satisfactory amenity is provided for surrounding occupants having regard to outlook and privacy.

² APP/U5930/W/17/3181938

29. The proposed development would also be contrary to the guidance contained in the SPD as set out above.

Living conditions – future occupants

30. The Council consider that the proposed first and second floor balconies would not be deep enough to provide a useable space for future occupants, and that the communal garden being of an irregular shape and overlooked by a side window of the proposed ground floor flat, would not be acceptable.
31. Policy D6 of the London Plan (2021) sets out that private outdoor amenity space must achieve a minimum depth and width of 1.5 metres. The appellant states that the balconies for the first and second floor flats would be around 1 metre deep which they consider to be useable for a table and two chairs. The appellant also outlines that how substituting a brick wall for a glazed balustrade would increase the depth to around 1.15 metres, and recessing the French doors slightly further would increase this to 1.25 metres.
32. Regardless, there is a shortfall from the minimum amount required and a conflict with the Policy. There is, however, in addition to the balconies, a shared garden proposed, measuring 50 sqm. Although the Council consider it would be of an irregular shape, it would be perfectly usable to accommodate garden furniture and provide an area for sitting out. The fact that the space would be overlooked by a kitchen window of the ground floor flat would not discourage its use. Such arrangements are commonplace in flats with shared gardens. Furthermore, the window would only overlook a small and narrower part of the garden.
33. Therefore, although the balconies would be slightly less than the amount required in Policy D6, I consider that when combined with the shared garden, it would provide an acceptable amount and quality of amenity space to ensure satisfactory living conditions would be provided for future occupants. It would comply with the amenity space requirements of Policy DM7 of the Waltham Forest Local Plan Development Management Policies (2013).

Housing mix

34. The proposed development would comprise 3no. two-bedroom flats and 1no. one bedroom flat.
35. Policy DM5 of the Waltham Forest Local Plan Development Management Policies (2013) outlines, amongst other things, that the Council will seek all housing development to provide a range of sizes, particularly focusing on the provision of family sized dwellings. It states that the Council will generally not support development containing only smaller homes, namely one and two bedrooms. The aim of the policy is to balance the housing stock and assist in meeting need.
36. The appellant sets out how the language in the policy which states that the Council will 'generally' not support the development of smaller homes suggests some degree of flexibility. The Council acknowledge that such an approach is sometimes taken on other schemes, but have referred to their concerns with the development, the lack of perceived benefits and the previous appeal decision where the provision of only one and two bedroom units was not accepted.

37. The appellant has outlined that the site constraints are such that it is not possible to change the size of the flats and that the development provides a good use of space, adding to the housing stock in a location close to Chingford centre and station.
38. I have not been provided with convincing or substantive evidence that would lead me to conclude that departing from the adopted policy would be justified. The appellant has not expanded on the constraints that would prevent a mix of housing types or the provision of family sized dwelling(s). I acknowledge that there are a number of flats in the area, although no evidence of their sizes is before me, and that there is also, what appears to be a number of family sized homes.
39. I therefore find that, based on the evidence before me, given the conflict with the adopted policy of the development plan outlined above, this would cause minor harm to the aim of achieving a balanced housing stock focusing on family dwellings. This weighs against allowing the appeal.

Planning Balance and Conclusion

40. Having regard to paragraph 202 of the National Planning Policy Framework (2023) (the Framework), I find that as the proposed development would affect a limited part of the conservation area, the harm to the conservation area is relatively localised, and therefore the proposed development would cause less than substantial harm to the significance of the designated heritage asset. I do not, however, find that this harm is outweighed by the provision of additional residential properties, the economic benefits of the scheme or that it is in a relatively accessible location.
41. I have also found harm would be caused to the living conditions of the occupants of surrounding residential properties and the development would be contrary to policies designed to achieve a housing mix in developments.
42. The proposed development therefore conflicts with the development plan and there are no identified other considerations, including the Framework, that outweigh this conflict.
43. 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