



Appeal Decision

Site visit made on 2 August 2023

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 October 2023

Appeal Ref: APP/J1535/W/22/3302547

Land off Arlingham Mews, Sun Street, Waltham Abbey EN9 1ED

- 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 Duncan Phillips against the decision of Epping Forest District Council.
 - The application Ref EPF/1213/21, dated 9 April 2021, was refused by notice dated 13 April 2022.
 - The development proposed is the change of use of the ground floor retail units (A1) to 1 x studio and 2 x 1 bed units (C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of this appeal the Council adopted the Epping Forest District Local Plan 2011-2033 Part One (March 2023) (the LP). It now forms the development plan and thus supersedes the earlier development plan documents referred to within the Council's decision notice. Both main parties were offered an opportunity to comment on this matter. I have proceeded accordingly.
3. At the time of my site visit, works to convert the retail units were underway, however, it seemed to me that the works were not completely in accordance with the plans submitted with this appeal. For the avoidance of doubt, I have determined this appeal based on the details which were submitted as part of the planning application and this appeal.

Main Issues

4. The main issues are:
 - a) Whether satisfactory living conditions would be provided for future residents, with particular regard to outlook, privacy and internal space;
 - b) The effect of the proposal on the vitality and viability of Waltham Abbey Town Centre;
 - c) The effect of the proposal on the character or appearance of the Waltham Abbey Conservation Area; and
 - d) The effect of the proposal on the Epping Forest Special Area of Conservation.

Reasons

5. The appeal site is located within Arlingham Mews, a commercial arcade which is split over two floors and accessed via an alleyway running from Sun Street to Darby Drive. The proposed residential units would be accessed from, and front onto, the central alleyway of Arlingham Mews.

Living conditions

6. The windows serving the living room of Flat 1 would be obscurely glazed and high level, and those serving the bedspace of Flat 3 would also be obscurely glazed. These habitable rooms would therefore lack an outlook. The remaining habitable rooms of the development would have restricted outlooks from the transparent windows due to their close proximity to facing walls within the alleyway. By virtue of these factors, habitable rooms within each flat would be oppressive and offer a poor overall quality of living. The intended or likely occupiers of the flats does not negate the need to provide a satisfactory outlook.
7. In terms of privacy, habitable rooms, including bedrooms, would front onto the alleyway. Pedestrians using this as a through route from Sun Street to Darby Drive would pass by within very close proximity to these rooms and would therefore have ample opportunities to obtain views into the flats. Further overlooking would occur between flats given the close relationship between windows.
8. With regards to internal space, proposed Flat 1 and Flat 2 would accord with the Technical Housing Standards - Nationally Described Space Standard, March 2015 (the NDSS) for one bedroom units. However, the Council has raised concerns that, overall, the floorspace provided within Flat 3 does not meet the minimum standards for a one bedroom unit. It is important to note that the NDSS does not differentiate between one bedroom units and studios.
9. Neither main party has provided me with the floor area of the bedspace of Flat 3 thus I cannot accurately ascertain whether it would be for one or two people. Provided it is for one person, as indicated on the submitted plans, overall the total amount of space provided by Flat 3 would comply with the NDSS.
10. Nonetheless, for the reasons given, the proposal would fail to provide satisfactory living conditions for future residents in terms of outlook and privacy and thus would conflict with Policy DM10 of the LP. This seeks to achieve quality housing design which meets minimum standards. For similar reasons, the proposal would fail to accord with paragraph 130 of the National Planning Policy Framework (the Framework).

Vitality and viability

11. Waltham Abbey is defined within the LP as a District Centre. The appeal site also falls within the Primary Shopping Area of the centre and the units fronting Sun Street form part of the Primary Commercial, Business and Service Frontage.
12. This appeal concerns the units within the centre of Arlingham Mews, rather than those forming the primary frontage onto Sun Street. Those units would remain in retail use as existing, as would the commercial units fronting Darby Drive, which would also be unaffected by this proposal. Although the appeal

units fall within the primary shopping area, I am in no doubt that they do not form part of the primary or secondary frontages.

13. Nonetheless, Policy E2 of the LP states that the Council will not permit the change of use of shops as identified within Use Class F2, unless it can be demonstrated that: (i) there is no demand for the shop; or (ii) a shop of comparable nature will be provided in the locality; or (iii) the new use would meet an identified need for community facilities or services.
14. There is no evidence before me which indicates that the appeal units have been appropriately advertised or marketed. However, the statements of accounts provided serve to indicate there have been longstanding issues regarding the payment of rents and retention of occupants. Given the set-back position from the primary frontage and the enclosed characteristics of the alleyway, I recognise that the ability to draw trade in from passers-by would be constrained. Indeed, the appeal units have been vacant in recent years, which has undoubtedly had a harmful effect on the vitality of Waltham Abbey.
15. Based on everything I have seen and read, I am satisfied that the units proposed to change to residential accommodation have suffered from high vacancy rates and issues with rent payments and that there is likely to be very limited to no demand for these units for future retail use (even had works to convert the units not already begun).
16. Consequently, I find that the proposal would not have a harmful effect on the vitality and viability of Waltham Abbey Town Centre and thus accords with Policies E2 and P3 of the LP. Along with the Framework, these policies have a collective aim of ensuring that developments support the growth of town centres to promote long term vitality and viability.

Waltham Abbey Conservation Area

17. The appeal site is within the Waltham Abbey Conservation Area (the CA) whose significance, in so far as it relates to this appeal, appears to be derived from the former narrow plots fronting the historic market street and the lanes running to the rear. Many of the historic alleyways remain today however the evidence is clear that overtime this characteristic layout has been encroached upon.
18. The appeal proposal includes the introduction of extensions within the central part of the appeal site. Whilst within a former open yard area, I am satisfied that the small scale and footprint of the proposed extensions, along with their discreet positioning, would ensure that the characteristic through route from Sun Street to Darby Drive and the open space in Arlingham Mews is still predominantly legible. As such, they would not harmfully erode the character of these historic plots as referred to above.
19. It also seems to me that the former functional appearance of the ground floor units within the appeal site has been eroded over the years. I consider that a sympathetic approach to boundary treatments and facades, matters which could be conditioned, would ensure that these elements would not significantly detract from or result in harm to the historic character of this part of the CA.
20. Accordingly, the proposal would not result in harm to the character or appearance of the CA and thus complies with Policies DM7 and DM9 of the LP. Along with the Framework, these policies aim for developments which relate

positively to their context and preserve, and where possible enhance, the significance of heritage assets.

Epping Forest Special Area of Conservation

21. The evidence before me regarding the Epping Forest Special Area of Conservation (the EFSAC) is very limited. Nevertheless, it is clear that the appeal site is within the zone of influence of the EFSAC.
22. Regardless, as I am dismissing the appeal for other reasons there is no need for me, as the competent authority, to carry out an assessment on the likely significant effects of the proposal on the EFSAC or explore the necessity for undertaking an Appropriate Assessment and secure mitigation where required. Even had I done so and found the proposal to be acceptable in this regard, such a finding would not have affected my overall conclusion on this appeal.

Conclusion

23. The proposed development would provide three dwellings close to a range of shops and services. It would create temporary employment opportunities and there would be associated spending in the local area on subsequent occupation of the dwellings. However, given the small scale of the development, I afford limited weight to these benefits. Moreover, as I have found that the dwelling's themselves would fail to provide satisfactory living conditions for future occupiers, this further limits the weight I can afford to the benefits these dwellings make.
24. Accordingly, the proposal conflicts with the development plan when taken as a whole and the other considerations, including the Framework, do not indicate that a decision should be made other than in accordance with it. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR