



Appeal Decision

Site visit made on 21 September 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2023

Appeal Ref: APP/U5930/W/22/3313318

391C Hale End Road, Woodford Green, London IG8 9LS

- 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 John Coote of Coote Properties Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 213666, dated 19 November 2021, was refused by notice dated 3 November 2022.
 - The development proposed is the retention of single storey building and continuation of use as a dwellinghouse (1x1-bed) (Use Class C3) with refuse/recycling storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The development is retrospective, as the building in residential use, and has been converted for that use as shown on the plans before me. I have determined the appeal on this basis.

Main Issues

3. The main issues are:
 - the loss of the commercial use;
 - the effect of the development on the living conditions of its current and future occupants, with particular regard to outlook, private external space, and cycle storage; and
 - the effect of the development on the character and appearance of the area.

Reasons

Commercial Use

4. The appeal site lies to the rear of No. 391 Hale End Road, being a single storey building with a small front yard, accessed via a gate to the side of the commercial property. An access road leading to a block of garages runs alongside its eastern boundary. The site gained permission in December 2016 for the demolition of the existing single-storey workshop and construction of a replacement single-storey workshop.
5. The appellant states the conversion to a studio flat was completed in December 2018, and so has at least 4 years of residential use and is thus lawful under Section 171(b) of the Town and Country Planning Act. However, alongside no corroborating evidence, even were I to accept December 2018

for residential commencement, less than 4 years had passed by August 2021 when the Council served a Planning Contravention Notice.

6. Policy DM20 of the London Borough of Waltham Forest Development Management Policies Local Plan (DMPLP) (2013) outlines when other uses on non-designated employment land can be supported, with 5 criteria to be met. These include there being clear barriers to the site's future employment use, and there being no reasonable prospect of being the site being re-let or sold for employment purposes having been marketed at a reasonable price with reasonable terms and conditions.
7. The appellant has only provided general assertions that the building failed to attract a commercial tenant, due to its location and size, and concerns regarding disturbance to existing residents. They also reference the impacts of the pandemic, but the pandemic occurred after the 2018 conversion. Therefore, while these factors may have been barriers to the site's employment use, there is no evidence of any marketing for that use, or for how long marketing may have taken place. The proposal therefore does not meet at least one of the criteria of Policy DM20. As such, it has resulted in the harmful loss of a commercial use, contrary to the DMPLP Policy DM20.

Living Conditions

8. The building has a bedroom, bathroom, and main living area with kitchen, and meets the internal space standards required by the Nationally Described Space Standard. However, the window of the living area faces onto the close range rear wall of No. 391 Hale End Road. While an oblique longer distance view is possible, the main impression is of this wall and window to the commercial unit. The bedroom window is obscure glazed, but even were it clear, it also faces a building at relatively close range. While the rooflights provide natural light, they only allow for vertical sky views. Overall, the building has a limited and oppressive external outlook.
9. The DMPLP Policy DM7(B) requires all homes to have access to an element of private external space. this should be well-designed, appropriately located, usable, with a clear role and function, and not awkwardly shaped or very narrow. Table 8.3 as referenced in the Policy identifies that the proposal requires a minimum of 10sqm external space. The location of nearby public open space does not negate the need to provide this onsite.
10. The site location plan includes the front yard area within the red line. The size of this space has not been specified, but in any event, it is narrow in parts and awkwardly shaped. It is also partly used for access to the flats above the frontage buildings, and as bin storage. It would also be further reduced in order to provide adequate bike storage. No details of any improvements have been suggested. Despite the potential to add some visual interest and functionality, overall it would not meet the requirements set by Policy DM7(B).
11. The DMPLP Policy DM16A also requires a minimum of 1 cycle space, for which no details have been provided. Due to the impact it would have on the already limited outdoor space as identified above, it is not appropriate to reserve the consideration of this element to a condition.
12. Overall, the proposal provides unacceptable living conditions for its current and future occupants with particular regard to outlook, private external space, and

cycle storage. This is contrary to the DMPLP Policies DM7, DM29 and DM32, and the Waltham Forest Local Plan – Core Strategy (CS) (2012) Policies CS2, CS13, and CS15. Amongst other things, these require a high standard of urban design, and for satisfactory amenity for future and surrounding occupiers, including outlook. The proposal also conflicts with the National Planning Policy Framework ('the Framework') (2023) paragraph 130 in the need to create places with a high standard of amenity for existing and future users. The appellant references support from the London Plan (2021) for well-designed homes, but I do not find it well designed overall.

Character and Appearance

13. The building's physical changes have been relatively minor, relating to fenestration, and a small porch area removed. Within its immediate context, this has only generated a minimal change to the building's existing scale and mass, plot size, orientation, and layout. Its domestic use is also not visually incongruous within the context of the other nearby dwellings. The development therefore does not have a harmful effect on the character and appearance of the area. As such, it complies with the CS Policy CS15 which seeks for development to respond positively to its local context and character, and the Supplementary Planning Document 'Urban Design' (2010) with regard to its scale, height, and massing, and building composition.

Other Matters

14. The Epping Forest Special Area for Conservation (EFSAC) is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the integrity of the EFSAC. As I have identified above that I am dismissing the appeal on other grounds, I do not need to consider further the implications of the Habitats Regulations, and whether a contribution to a mitigation strategy would adequately mitigate the proposal's effect.
15. The Council highlights that a legal agreement would be required in order to secure that occupiers are not provided car permits to ensure the proposal being a car free development, alongside a monitoring fee and legal fees. No legal agreement has been submitted alongside the appeal. Again, as I am dismissing the appeal on other grounds, I have not considered this to be a main issue.
16. The Framework seeks to significantly boost the supply of homes, and the proposal provides a minor contribution to the Council's housing target. The Framework also provides support at paragraphs 119, 120, 125, and 130, in promoting an effective use of land in meeting the need for homes, and optimising the potential of the site. However, I have not been presented with any detailed evidence to suggest that Waltham Forest has a housing shortfall. The economic and social benefits associated with the construction work and occupation of this additional dwelling is very limited, and so I give each of these matters limited weight. Furthermore, the DMP Policy DM5 seeks housing developments to provide larger family sized homes, with 1 and 2 bed homes not being supported. The proposal is therefore not in accordance with the Borough's identified housing need.

Conclusion

17. I have found there is a moderately harmful loss of a commercial use, and moderately harmful living conditions for the current and future occupants. This harm is not outweighed by the limited benefits in this case. The scheme conflicts with the development plan as a whole. With no other material considerations indicating otherwise, for the reasons given above, I conclude that the appeal is dismissed.

L Hughes

INSPECTOR