

Appeal Decision

Site visit made on 16 January 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2024

Appeal Ref: APP/J1535/W/23/3320492

Police Station, 35 Sun Street, Waltham Abbey, Essex EN9 1EL

- 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 Woodgate (UK) Ltd against the decision of Epping Forest District Council.
 - The application Ref EPF/1985/22, dated 25 August 2022, was refused by notice dated 20 December 2022.
 - The development proposed is a two storey side extension, raising the roof height and part conversion of existing building to accommodate 1 commercial unit (Use Class E) and 10 flats, demolition of existing rear structure and erection of new 3 storey apartment block to the rear of the site to accommodate 6 flats, resulting in 16 flats in total. Associated landscaping, car parking and cycle parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework was published on 19 December 2023 and updated on 20 December 2023. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.
3. Since the appeal was submitted, Epping Forest District Council Local Plan 2011-2033 (the LP) was adopted on 6 March 2023. Therefore, the appeal will be considered against the policies from this recently adopted plan.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area, the significance of the non-designated heritage asset the Police Station, the setting of the nearby listed buildings and whether it would preserve or enhance the character or appearance of the Waltham Abbey Conservation Area,
 - whether the proposed development would provide satisfactory living conditions for the future occupiers of the proposed residential units with regard to privacy and outlook; and

- whether the proposed development would provide adequate commercial floorspace.

Reasons

Character and Appearance

5. The appeal site is occupied by a large two-storey detached building which was previously used as a police station. The frontage and main entrance to the building is located on Sun Street, with a private car park and a second smaller detached building to the rear providing access to a public car park on Quaker Lane. Although not locally listed, the Council consider that the former police station is a non-designated heritage asset as it demonstrates clear townscape merit and historic significance. The ornate and traditional design of the building, along with the use of prominent yellow stock brick make a positive contribution to the character and appearance of the surrounding area.
6. The appeal site is also located within the Waltham Abbey Conservation Area, a designated heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. Although limited information has been provided, from my observations on site it would appear that the significance of the Conservation Area relates to its historic nature and the close-knit, urban nature of development within the most southernly section. The age and previous use of the appeal site as a whole forms part of this historic environment and urban nature of the area, with the main building a highly prominent feature which makes a positive contribution to the significance of the Conservation Area.
7. The proposed increase in the height of the police station and the introduction of a crown roof would not be particularly visible when stood directly in front of the building on Sun Street. However, some views of this would be possible when approaching from the side and rear. Whilst the decorative features of this building would remain, the additional height would alter the current proportions of the building, appearing overly tall and at odds with its existing form. Such an alteration from the original form, would result in harm to the building's overall character and appearance and its significance as a non-designated heritage asset. Due to the visibility of these changes from the surrounding area, albeit limited, the uncharacteristic alterations to the height would also be detrimental to the character and appearance of the surrounding area and the Conservation Area in which it is located.
8. Whilst the car parking area to the rear of the police station is less distinctive than the front of the appeal site, it still contributes to the significance of the non-designated heritage asset and the character and appearance of the Conservation Area by providing open and largely unobstructed views of the main building. Although two storeys in height and relatively unremarkable in design, the existing outbuilding within this area appears ancillary and subservient to the main police station. The proposed apartment block in this location would be considerably larger than the existing building with a three-storey height only slightly lower than the current height of the main building and with a much larger volume.

9. Although it has been designed with a staggered building form, the presence of this rear block would not be subservient to the main police station building and would obstruct and overwhelm views of it from the rear of the site. Whilst it may be in keeping with the scale of other residential blocks in this backland location, and therefore not out of character per se, its location, proximity and resultant impact on the police station is vastly different to other nearby buildings. Furthermore, only a small proportion of the site would remain as open communal space, and the division of the site to provide private gardens, bin storage and accessible parking would result in a cramped feel. This would be to the detriment of the current open nature of the site, its positive contribution to the significance of the non-designated heritage asset and the character and appearance of the surrounding area including the Conservation Area as a whole.
10. The proposed extensions to the sides of the police station would be well set back from the front elevation and subservient in height to the host building. Therefore, this aspect of the design would not have an adverse impact on the significance of the non-designated heritage asset, the character and appearance of the host building, the surrounding area or the Conservation Area.
11. The Council and the appellant have highlighted a number of listed buildings within the Conservation Area and in close proximity to the appeal site. These listed buildings include 33 Sun Street, adjacent to the appeal site, 34-40 Sun Street, opposite the appeal site, and 2-3 Quaker Lane, to the rear of the appeal site. Limited information has been submitted regarding these neighbouring buildings. However, it appears that their significance is derived, at least in part, from the antiquity of their structures and from their status as well-preserved examples of vernacular buildings of their age and type. Their historic setting on Sun Street and Quaker Lane and within Waltham Abbey Conservation Area contributes to how these assets are appreciated and this setting makes a positive contribution to the significance of these listed buildings.
12. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest. The Council have not raised any concerns in relation to the impact of the proposed development on any of the listed buildings in the surrounding area. Whilst the appeal site is in close proximity to these neighbouring buildings, the proposal would not obscure any key views of these buildings or significantly alter their historic setting. Whilst these listed buildings contribute to the setting of the Conservation Area as a whole, they are visually separate from the appeal building. As such, the proposed development would not detract from their individual setting. Therefore, whilst it has been found that the proposal would result in harm to the character and appearance of the Conservation Area as a whole, it would have a neutral impact on the setting and significance of these individual listed buildings.
13. Nevertheless, whilst the proposed development would not harm the setting of the nearby listed buildings, it would result in harm to the character and appearance of the Waltham Abbey Conservation area, the significance of the non-designated heritage asset and the overall character and appearance of the

surrounding area. Therefore, it would conflict with Policies DM7 and DM9 of the LP. These policies collectively seek to ensure that development proposed affecting a heritage asset or its setting should preserve and, wherever possible, enhance its significance having regard to the special architectural or historic interest of its character, appearance and the contribution made by its setting. With all new development achieving a high quality of design which relates positively to its context, drawing on the local character and historic environment. The proposal would also be contrary to the Framework's general design objectives and those relating to the historic environment.

14. As the main building on the appeal site and its decorative features would largely be retained, having regard to the Framework, the harm to the significance of the Waltham Abbey Conservation Area is less than substantial. The Framework requires, where there would be less than substantial harm, for it to be balanced against the public benefits of the scheme.
15. The main public benefit from the proposed development would be to make efficient use of brownfield land through the provision of 16 new dwellings, at a time when housing delivery in the area is significantly below the target. However, while the Framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. I consider that the 'less than substantial harm' identified to the character and appearance of the Conservation Area is such that the policies in the Framework relating to heritage assets provide that clear reason for refusing the development. Therefore, this would not weigh in favour of the proposed development.
16. A number of economic, social and environmental benefits of the proposed development have also been outlined by the appellant. These include employment during construction, additional spending at local services by the future occupiers, provision of a commercial unit to boost the vitality of the town centre, repurposing of a heritage asset and energy and carbon savings. Whilst these would undoubtedly be public benefits from the proposed development, due to the scale of the scheme comprised mostly of one bedroom units, these benefits would be minimal and therefore are given limited weight. For this reason, the public benefits of the scheme would not outweigh the less than substantial harm to the heritage asset previously identified.

Living Conditions

17. Flats 1, 2 and 3 include private outdoor areas to the front of the police station which would be separated from the adjacent street by a high boundary. Due to the proximity to this boundary, the outlook from the windows facing these outdoor areas, serving bedrooms, would be severely restricted and would result in a sense of enclosure for the future occupants of these flats. This is particularly true of the proposed bedroom within flat 2 where the amenity space is much smaller and the window is closer to the boundary.
18. The windows on the rear elevation of the police station, serving flats 3 and 8, would be in close proximity to the new building proposed. The proximity and the height of the proposed building would impede the outlook from the windows and provide poor living conditions for the occupiers of these flats. The outlook would be further restricted by the proximity and height of the

neighbouring library building. Furthermore, the proposed balcony serving flat 8 in the main building would be overlooked by the occupiers of flat 7 and therefore would not provide a usable outdoor space.

19. The proposed new building, containing 6 flats would be positioned to the rear of the police station and adjacent to a large brick library building on the neighbouring site. The rear of these flats would be in close proximity to the blank side elevation of this tall neighbouring building. Whilst all of these flats would be dual aspect, the ground floor flats (11 and 12) both have bedrooms which would be solely served by windows that face this neighbouring elevation, excluding a high level window serving the bedroom in flat 12 which provides light but no outlook. Due to the close proximity and height of this neighbouring building, the outlook from these bedroom windows would be significantly impeded and would result in a harmful sense of enclosure to the future occupiers of these flats.
20. It has been submitted that all the proposed units exceed the minimum space standards for residential development. The appellant has also submitted a daylight and sunlight assessment which states that all habitable rooms in the proposed development exceed the minimum target values for natural daylight set out within the BRE Guidelines and the British Standards. Nevertheless, whilst the habitable rooms within the proposed development may provide sufficient levels of daylight to the future occupiers and be sufficient in size, as outlined above, many of the windows serving these rooms do not provide an adequate outlook.
21. Therefore, for the reasons above, the proposed development would not provide satisfactory living conditions for the future occupiers in relation to outlook and privacy and would conflict with policies DM9 and DM10 of the LP. These policies collectively seek to ensure that development proposals take account of the privacy and amenity of the development's occupiers and do not result in an overbearing or overly enclosed form of development which materially impacts on the outlook of the occupiers of the proposed development, with private gardens, balconies and terraces being subject to acceptable amenity, privacy and design considerations.

Commercial Unit

22. The proposed development includes the provision of a commercial unit on the ground floor of the existing building with access from Sun Street, falling under use class E. The appellant has stated that the former use of the building, as a police station, was sui generis. The area surrounding the appeal site is comprised of a number of commercial premises fronting Sun Street and, when in operation, the police station would have contributed to the vibrancy of this area. However, the building is currently vacant and appears to be unlikely to return to its original use.
23. Policy E2 of the LP identifies Waltham Abbey as a District Centre, where proposals for retail, leisure, entertainment, offices, arts and culture, tourism and other main town centre uses, as defined by national planning policy, will be supported. Therefore, additional commercial space in this area would be supported by this policy.
24. The proposed commercial unit would be a small proportion of the overall floorspace and, although the proposed floorplan indicates that storage is

available in an existing basement, no other services have been outlined, such as staff facilities or waste storage. Nevertheless, the proposal would provide additional commercial space fronting Sun Street which would make a small contribution to the vitality of the area. Whilst a larger floorspace or a community use may have been preferable to the Council, there is no evidence to suggest a space of this size would not be viable as a commercial unit in this area and the necessary facilities could be secured by condition.

25. Therefore, whilst small, the proposed development would still provide adequate commercial floorspace and would comply with Policy E2 of the LP as outlined above. It would also comply with the aims of the Framework to ensure the vitality of town centres.

Other Matters

26. The appellant submits that a certain level of development is required to ensure the viability of the proposed development and to secure the future of the existing building. The preservation of the undesignated heritage asset, the Police Station, should be given significant weight. However, it has not been demonstrated that this same level of development could not be achieved without harm to the character and appearance of the conservation area identified, whilst providing suitable living conditions for future occupiers. Therefore, the requirement to preserve the existing building would not outweigh the overall harm found.
27. The Council has stated that the appeal site is located within 6km of the Epping Forest Special Area of Conservation (SAC) and that sufficient information has not been provided to ensure the proposed development would not result in an adverse effect on the integrity of the SAC. They indicate that further information is required from the appellant to ascertain the level of harm on the SAC and to determine whether any proposed mitigation measures would be sufficient to ensure that there is no adverse effect on the SAC, beyond a reasonable scientific doubt. It is noted that the appellant has provided a unilateral undertaking as part of this appeal to secure contributions in relation to the impacts of the proposed development on the SAC, relating to air pollution and the recreational pressures.
28. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.
29. A reason for refusal was also included in relation to the developer's obligations, largely the provision for affordable housing. However, a new viability assessment was submitted as part of this appeal concluding that the provision of onsite affordable housing is not viable. As this new data is similar to the Council's conclusions, they no longer contend this reason for refusal. Therefore, this matter does not form a reason to withhold planning permission.

Conclusion

30. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR