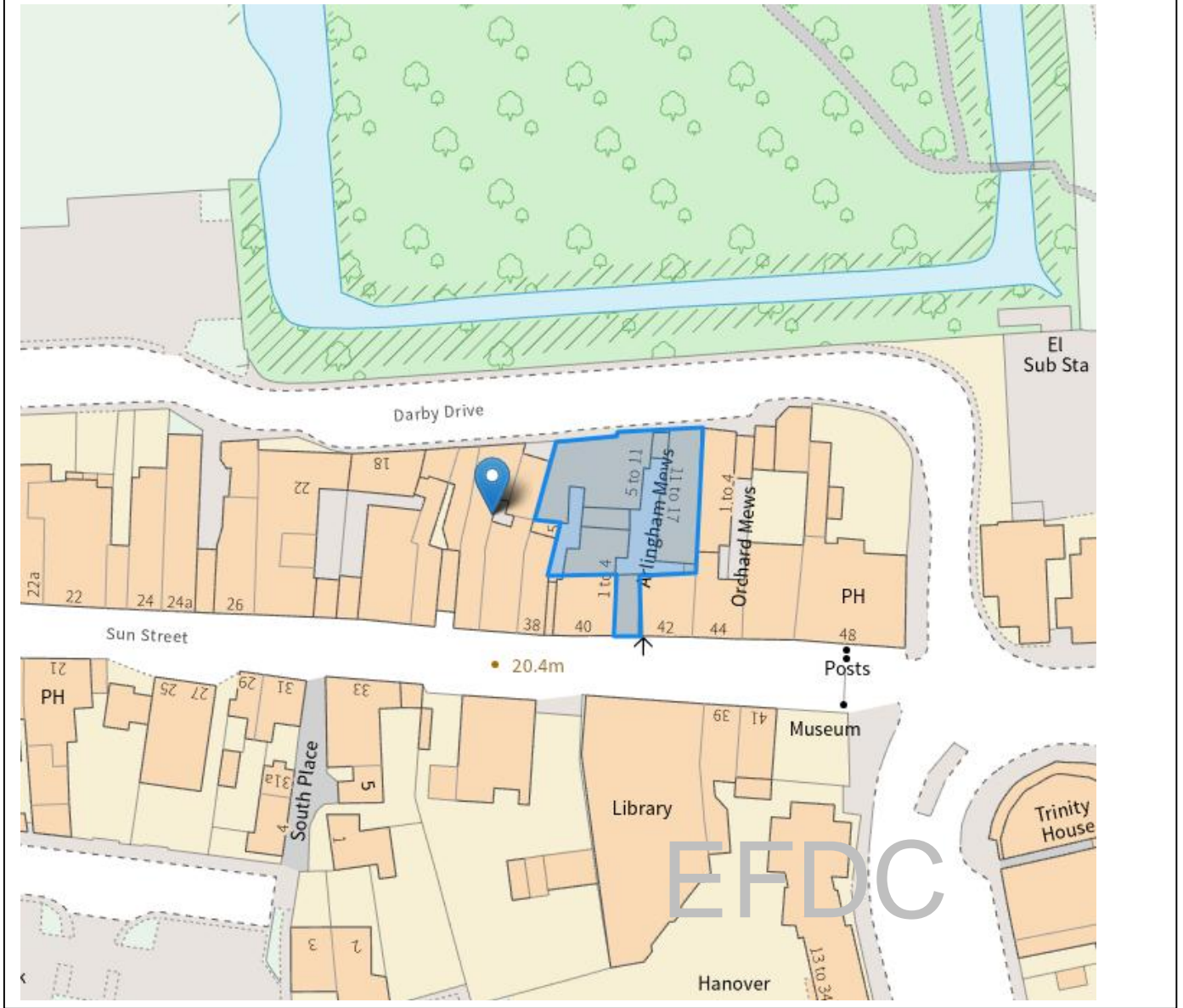




Epping Forest District Council

EFDC



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Application Number:	EPF/1984/22
Site Name:	Units 12,14, and 15 Arlingham Mews, Sun Street, Waltham Abbey, EN9 1ED

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OFFICER REPORT

Application Ref: EPF/1984/22
Application Type: Full planning permission
Applicant: c/o agent Mr D Padalino - DPA (London Ltd)
Case Officer: Kie Farrell
Site Address: Units 12,14, and 15 Arlingham Mews, Sun Street, Waltham Abbey, EN9 1ED
Proposal: Change of use of three vacant retail units, to two one bed flats.
Ward: Waltham Abbey South West
Parish: Waltham Abbey
View Plans: <https://eppingforestdcpr.force.com/pr/s/planning-application/a0h8d000000OhqJ>
Recommendation: Approved with Conditions (Subject to s106 Legal Agreement)

Recommendations/Decisions Required:

(1) That planning permission is granted subject to conditions, completion of a suitable legal agreement to address matters set out below,

(2) Agree for relevant officers to add and/or amend any planning conditions or S106 planning obligations in respect of securing necessary measures to mitigate air pollution and recreational pressure impacts on the EFSAC.

Proposed conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out and retained strictly in accordance with the following approved plans:

Drawing 1464_304 – Location Plan
Drawing 1464_305 – Block Plans
Drawing 1464_305 (sic) – Proposed Site Plan
Drawing 1464_307 – Existing Plans and Elevations
Drawing 1464_308 – Proposed Plans and Elevations
Design, Access and Heritage Statement, dpa
HRA.

Reason: For the avoidance of doubt and to ensure the proposal is built in accordance with the approved plans.

3. Prior to any above ground works, documentary and photographic details of the type and colours of the external finishes of the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory appearance in the interests of visual amenity, in accordance with policies DBE1 and DBE4 of the adopted Local Plan and Alterations 1998 & 2006, policy DM9 of the Local Plan Submission Version 2017, and the NPPF 2021.

4. A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the Local Planning Authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the Local Planning Authority gives its written consent to any variation. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.

B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of the development shall take place, until a detailed land remediation scheme has been completed. The scheme will be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021.

5. No deliveries, external running of plant and equipment or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 08:00 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.

Reason: To ensure that the proposed construction work does not cause undue nuisance and disturbance to neighbouring properties at unreasonable hours and in accordance with policies RP5A and DBE9 of the adopted Local Plan 1998 & 2006, and policies DM9 and DM 21 of the Local Plan Submission Version 2017, and the NPPF 2021.

6. Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.

Reason: The District is classed as being in an area of severe water stress and the reduction of water use is therefore required in the interests of sustainability and in accordance with policy CP2 of the Adopted Local Plan and Alterations and Policy DM 19 of the Epping Forest District Council Local Plan Submission Version 2017.

S106 obligations

- i. Contribution to air quality impact mitigation comprising contribution of £1852.63 per dwelling.**
- ii. Contribution to recreational pressure impact mitigation comprising contribution of £352 per dwelling.**
- iii. Payment of 5% of total financial contribution monitoring fee.**

Report:

1. This application was reported to Area Planning Sub-Committee West on 9th November 2022 with a recommendation to refuse permission on the following grounds:

1. The proposed residential development is not a main town centre use and would result in the loss of ground floor Class E units within Waltham Abbey Town Centre and Waltham Abbey Conservation Area which would harm the vitality and viability of the Town Centre. Insufficient evidence has been provided to demonstrate that the units are not capable of being re-let for a main town centre use. As such the proposal is contrary to policies TC1 and TC3 of the of the adopted Local Plan and Alterations (1998 & 2006), policies E2 and P3 of the emerging Local Plan Submission Version (2017) and the NPPF (2021).

2. By reason of its design and proposed use, the proposed development would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE3, DBE10, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7, DM9 and DM10 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).

3. By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM2 and DM22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

2. Following discussion on the merits of the proposal, Members voted to support the application, subject to conditions and a legal agreement.

3. Since the approval of this development would constitute a departure from Local Plan policy, the application has been referred up to District Development Management Committee for a decision, with a recommendation from Area Planning Sub-Committee West to approve planning consent, subject to conditions and a legal agreement.

ORIGINAL REPORT

This application is before this Committee since it has been 'called in' by Councillor Helen Kane (Pursuant to The Constitution Part 3: Part Three: Scheme of Delegation to Officers from Full Council)).

Address

Units 12,14, and 15 Arlingham Mews, Sun Street, Waltham Abbey, EN9 1ED.

Description of Site

Arlingham Mews is a 1980s shopping/office arcade on two floors with access via a pedestrian courtyard running between Sun Street and Darby Drive.

The application site is located within Waltham Abbey Town Centre and the Waltham Abbey Conservation Area.

Description of Proposal

Change of use of three vacant retail units, to two one bed flats.

The proposed development is similar to that proposed by recently refused application EPF/1213/21.

Three existing ground floor retail (Class E) units would be converted to two ground floor residential units and one further unit (Unit 11) would be reduced in size.

The application form states that 139.3 sq m of existing retail (Class E) floorspace would be lost.

Two residential units are proposed (both 1 bed, 2 person units).

An extension is proposed to the rear of one of the existing units in order to accommodate the living room of proposed Flat 1.

Existing Unit 11 (Shop 1) would be retained but would be reduced in size to accommodate the living room of proposed Flat 2.

An external toilet would be created at the rear of existing Unit 15 / alongside the bedroom of proposed Flat 2.

No off street car parking is proposed. No private amenity space is proposed.

Relevant History (003395)

EPF/1503/22

Two extensions to the existing building
Refused 24.08.2022.

Reason for refusal:

1. By reason of their design and siting, the proposed extensions would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE1, DBE3, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7 and DM9 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).

EPF/1213/21

Change of Use of Ground Floor Retail Units (A1) to 1 x Studio and 2 x 1 bed unit (C3)
Refused 19.4.22

Reasons for refusal:

1. The proposed development would result in the loss of ground floor retail units, including some falling within the Primary Retail Frontage / Primary Shopping Area, that could harm the vitality and viability of Waltham Abbey Town Centre. Insufficient evidence has been provided to demonstrate that the units are not capable of being re-let for a main town centre use. As such the proposal is contrary to policies TC1 and TC3 of the adopted Local Plan and Alterations (1998 & 2006), policies E2 and P3 of the Local Plan Submission Version (2017) as amended by Main Modifications (July 2021) and the NPPF (2021).

2. By reason of its design and proposed use, the proposed development would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE3, DBE10, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7, DM9 and DM10 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).

3. By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

4. In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

9 (Ground and First Floor) & 13 (First floor) Arlingham Mews

EPF/0849/05 (duplicate of EPF/1732/04)

Change of use of Unit 9 (A1 retail) and Unit 13 (B1 office) to residential to form 5 x one bedroom flats. (Resubmitted application)

Refused 03.08.2005 (Committee overturn). Dismissed at appeal 31.01.2006.

Reasons for refusal:

1. The proposal would result in the loss of existing retail units that could harm the vitality and viability of Waltham Abbey Town Centre. As such the proposal is contrary to the provisions of Policy TCR3 of the Essex and Southend on Sea Replacement Structure Plan. It has not been demonstrated that the units are not capable of being re-let and therefore the proposed conversion of the units into residential units would be contrary to the provisions of Policy H10 of the Epping Forest District Local Plan.

2. The proposed flats, by reason of their internal arrangement, would lead to excessive overlooking of neighbouring flats within the development and excessive transmission of noise to bedrooms from adjoining flats and communal areas. They would therefore result in poor living conditions for their occupants contrary to policy DBE9 of the Epping Forest Local Plan.

Relevant extract from Appeal Decision (APP/J1535/A/05/1189854) Paragraphs 7-11:

“Vitality and Viability

7. The Appellants have provided no evidence of a specific marketing campaign, but there is persuasive advice from their letting agents as to a lack of demand for accommodation of this type within the shopping centre. There is nothing before me to suggest that a suitable tenant, or tenants, for the first floor accommodation is likely to be found in the foreseeable future and, in such circumstances, I find the

principle of a change to residential use to be acceptable and in accordance with both SP and LP policies.

8. However, because of its prominent location, the ground floor of Unit 9 represents a key element in the shopping frontage of the mews, the loss of which would materially harm the vitality and viability of the centre. I therefore conclude, notwithstanding my findings with regard to the first floor accommodation, that the proposal is unacceptable in its present form and in conflict with both SP Policy TCR3 and with Planning Policy Statement 6 – Planning for Town Centres, a key objective of which is to promote vital and viable town centres.

Future Occupiers' Living Conditions

9. The internal layout proposed for the residential units would result in kitchens within some flats adjoining bedrooms in others. Separating partitions are illustrated on the plans as being of lightweight construction, creating the clear possibility of unacceptable levels of noise transmission between flats. Whilst a planning condition could be imposed to address this problem, there is other legislation in place that would, in any event, require levels of sound insulation between flats sufficient to minimise any harmful noise transmission...

10. Of greater concern in my view, is the relationship between windows in the various flats. The only window in the living room of Flat 4, for example, would be directly overlooked, from just a few metres away, by two windows in the entrance hall of Flat 3. In addition, the living room in Flat 5 would be almost directly overlooked from the kitchen window in Flat 2, again from relatively close quarters, whilst there would be mutual overlooking between projecting oriel windows to the living rooms of Flats 1 and 2. To my mind and notwithstanding the built up town centre location, residential occupiers are entitled to a reasonable level of privacy which I consider the appeal proposal does not achieve.

11. Whilst LP Policy DBE9 seeks to protect the privacy and other amenities of neighbouring occupiers, I consider that its principles are equally applicable to occupiers of the development itself. My conclusion, therefore, on this issue, is that the proposal would fail to provide acceptable living conditions for future occupiers of the development with particular reference to privacy, in conflict with the objectives of LP Policy DBE9."

9 & 13 Arlingham Mews (First floor units)

EPF/1732/04

Change of use of unit 9 (A1 retail) and unit 13 (B1 office) to residential to form 5 x one bedroom flats.
Refused 20.12.2004 (Delegated)

1. The proposed loss of an existing retail unit would harm the vitality and viability of Waltham Abbey town centre; as such the proposal is contrary to the provisions of Policy TCR3 of the Replacement Essex and Southend on Sea Structure Plan and Government advice in Planning Policy Guidance 6 (Town Centre and Retail Development). It has not been demonstrated that the units are not capable of being re-let and therefore the proposed conversion of the units into residential units would be contrary to the provisions of Policy H10 of the adopted Local Plan.

9 Arlingham Mews

EPF/1322/03

Change of use from A1(retail) to four self-contained one bedroom flats.

Refused 12.09.2003.

Reasons for refusal:

1. The proposed loss of an existing retail unit would harm the vitality and viability of Waltham Abbey town centre, as such the proposal is contrary to the provisions of Policy TCR3 of the Replacement

Essex and Southend on Sea Structure Plan and Government advice in Planning Policy Guidance 6 (Town Centres and Retail Development).

2. The unit is not vacant or under-used and therefore the proposed conversion of a retail unit to four residential units would be contrary the provisions of Policy H10 of the adopted Local Plan.

Unit 17 Arlingham Mews

EPF/878/00

Change of use from office to residential flat.

Approved 06.09.2000.

Policies Applied

The following saved policies within the Council's adopted Local Plan (1998) and Alterations (2006) are relevant:

CP1 – Achieving Sustainable Development Objectives

CP2 – Protecting the Quality of the Rural and Built Environment

DBE3 Design in Urban Areas

DBE9 – Loss of Amenity

DBE10 – Residential Extensions

U3B Sustainable Drainage

DBE8 Private Amenity Space

ST6 Vehicle Parking Standards

ST1 Location of development

ST2 Accessibility of development

H1A Housing Provision.

TC1 Town Centre Hierarchy

TC3 Town Centre Function

HC6 Character, Appearance and setting of Conservation Areas

HC7 Development within Conservation Areas

HC12 Development affecting the setting of Listing Buildings

NPPF (July 2021):

The National Planning Policy Framework (NPPF) states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the framework. The above policies are broadly consistent with the NPPF and should therefore be given appropriate weight.

Epping Forest District Local Plan Submission Version) 2017 (LPSV):

On 14 December 2017, full Council resolved that the Epping Forest Local Plan Submission Version 2017 be endorsed as a material consideration to be used in the determination of planning applications and be given appropriate weight in accordance with paragraph 48 of the NPPF.

Paragraph 48 of the NPPF provides that decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the NPPF, the greater the weight that may be given).

The LPSV has been submitted for Independent Examination and hearing sessions were held on various dates from February 2019 to June 2019.

The appointed Inspector issued her initial advice on 2 August 2019 and since then, the Council has undertaken further work to address the actions identified by the Inspector. This has led to the production of a number of proposed changes to the Local Plan Submission Version 2017 (known as the Schedule of Main Modifications) and additional supporting documents associated with the Main Modifications. These are to address issues of soundness and/or legal compliance identified by the Inspector.

The Main Modifications include changes to some of the supporting text and Policies within the Plan, deletion and amendment to some site allocations, updated Housing Supply data to March 2020, along with associated changes to the mapping contained within the Plan.

The Main Modifications are put forward without prejudice to the Inspector's final conclusions on the Plan. Following the close of the consultation (ended 23rd September 2021), the representations will be passed to the Inspector for her consideration before the publication of the Inspector's final report.

The following policies in the LPSV are considered to be of relevance to the determination of this application:

SP1: Presumption in Favour of Sustainable Development

H1: Housing mix and accommodation types

DM7: Heritage Assets

DM9: High Quality Design

DM10 Housing Design and Quality

E2: Centre Hierarchy/Retail Policy.

Consultation carried out and summary of representations received

Waltham Abbey Town Council – No response received.

26 Neighbours consulted. No responses received.

Issues and considerations

The main issues to consider when assessing this application are the potential impacts on the vitality and viability of Waltham Abbey Town Centre, impact on heritage assets, design, character and appearance and residential amenity.

Loss of Retail / Class E Units

Adopted Plan:

Policy TC1 of the adopted Local Plan defines Waltham Abbey as one of three principal town centres within the district.

Policy TC3 states that residential accommodation will be permitted in appropriate locations in town centres but not at ground floor level and that any proposal that could have a detrimental impact on the vitality and viability of the centre will be refused.

The proposed residential units are at ground floor level within a Town Centre and the proposal is therefore contrary to adopted policy TC3 and is unacceptable in this respect.

Emerging Plan:

Policy E2 of the emerging LPSV defines Waltham Abbey as a 'District Centre'. Map 5.7 shows that the part of the application site / proposed development falls within the Waltham Abbey Primary Shopping Area / Primary Frontage.

Residential development is not a main town centre use as defined by the NPPF glossary.

Parts B, C, D and F of Emerging Policy E2 currently read as follows (Submission Version):

"B - Proposals within defined Town and Small District Centres for retail, leisure, entertainment, offices, arts and culture, tourism and other main town centre uses, as defined by national planning guidance, will be supported where they will maintain and enhance the vitality and viability of the centres.

C - Within defined Primary Retail Frontage ground floor units will be maintained in A1 Class Uses in accordance with Policies P 1 to P 5. Proposals that would not result in a reduction in the specified percentage of A1 Class Uses will be permitted for other main town centre uses where this would support the function, vitality or viability of the Town or District Centre and maintain an active daytime frontage.

D - Within defined Secondary Retail Frontage ground floor units will be maintained in A1 Class Uses in accordance with Policies P 1 to P 5, but a wider range of main town centre uses may be supported where they would maintain the diversity, viability and vitality of the Town or Small District Centre. Proposals for non-A1 Class Uses within Secondary Retail Frontages must encourage active shop fronts, attract a high footfall consistent with other main town centre uses and positively contribute to the function of the Town or Small District Centre.

F - In Town and Small District Centres, the Council may permit residential development in appropriate locations and within Primary or Secondary Retail Frontages where it is above the ground floor and would not lead to a loss of main town centre uses, floorspace or frontage."

Inspector's Note to EFDC, 16 June 2022 – Comments on emerging Policy E2

In his note to EFDC dated 16th June 2022, the Local Plan Inspector provided comments on the existing text of the submitted plan and current main modifications, advising that further changes need to be made in the form of a new schedule of main modifications in order to move forward towards the adoption of the new Local Plan. The Inspector's comments on Retail Policy / Policy E2 were as follows:

"RETAIL POLICY...

"Part B of Policy E2 appears robust enough to work within the context of new Use Class E but the additional vitality and viability test for acceptability should be deleted for effectiveness because these are all uses appropriate to a town centre and there is no clarity for a developer as to what is required to meet such a test.

Action 13: remove the vitality and viability test.

Parts C and D of the policy are no longer effective because Use Class A1 does not exist.

Action 14: in both, all references to "A1" should be replaced by "E". Similarly, "retail" (as in "retail frontage") should be replaced with "commercial, business and service". There should be no attempt to distinguish between different elements within Class E because changes within Use Class E do not constitute development. Part F, including the modifications, has been rendered redundant by Class MA of the Town and Country Planning (General Permitted Development) Order 2015 as amended, which

allows changes of use from Class E to Class C3 (dwellinghouses) subject to certain conditions. The loss of town centre uses, floorspace or frontage is not a condition within MA.2.

Action 15: delete Part F (and do not adopt the previously worded modifications)."

The proposed residential units are at ground floor level within a District (Town) Centre.

Residential development is not a main town centre use as defined by the NPPF glossary.

The changes to emerging Policy E2 recommended by the Local Plan Inspector would update the policy to refer to Class E (commercial, business and service) instead of Class A1 (retail), however it is still considered that the proposed residential development would be contrary to the emerging policy E2 because residential development is not a main town centre use and the proposal would result in the loss of ground floor Class E units within a town centre, harmfully impacting vitality and viability.

The submitted Design and Access Statement states that the units are vacant however no coherent evidence has been submitted to demonstrate that the units have been marketed for Class E / a main town centre use and that they are not capable of being re-let for this purpose.

In his comments set out above, the Local Plan Inspector refers to Class MA of the Town and Country Planning (General Permitted Development) Order 2015 as amended, which allows changes of use from Class E to Class C3 (dwellinghouses) subject to certain conditions.

It is noted that one of the conditions set out in MA.2 which is relevant in this case is that where a building is located in a conservation area and the development involves a change of use of the whole or part of the ground floor, the Local Planning Authority have the opportunity to consider the impact of that change of use on the character or sustainability of the conservation area.

The proposed development is considered to be unacceptable in terms of the loss of ground floor Class E units within Waltham Abbey Town Centre.

Design, Character and Appearance and Impact on Heritage Assets

EFDC Conservation Officer comments 10th October 2022:

"Context & Significance

Units No. 12, 14, and 15, Arlingham Mews are 1980s developments with ground floor retail units and residential use to the first floor, accessed via a historic alleyway and pedestrian courtyard running between Sun Street and Darby Drive. The subject site is located within the Waltham Abbey Conservation Area and sits adjacent to several listed buildings: Nos. 38, 40, 44 and 44A Sun Street. Sun Street is the historic market street that runs through the medieval core of Waltham Abbey. The remains of the narrow burgage plots and lanes leading from Sun Street to the historic open yards behind is one of the main factors that contributes to the character of the conservation area. The subject site is a surviving historic example of this arrangement, and as such, it greatly contributes to the significance of the associated designated heritage assets (Conservation Area and Listed Buildings)

Relevant Planning History

Planning permission was refused (ref EPF/1322/03) in 2003 for change of use from functional to residential to form No. 4 one-bedroom flats. This was primarily due to the harm it would cause to the site's functional purpose within the local area, contrary the local policies.

Planning permission was refused (ref. EPF/1732/04) in 2004 for change of use of the units from functional to residential to form No. 5 one-bedroom flats. This was due to the harm it would cause to the

'vitality and viability' of Waltham Abbey town centre and the wider area. Planning permission was again refused (ref. EPF/0849/05) in 2005 on a duplicate application to the 2004 refusal; an associated appeal on this re-submitted planning application was dismissed in 2006.

Planning permission was refused (ref. EPF/1213/21) in April 2022 for two extensions to the existing building and change of use of the ground floor units from functional to residential. This was primarily due to the proposal's design that would not preserve or enhance the surviving characteristic areas of the site's open yards or the historic use and layout of the town. This application is the subject of an ongoing appeal, not yet determined.

Planning permission was refused (ref. EPF/1503/22) in August 2022 for two extensions to the existing building. This was due to the proposed extensions appearing the same as those that were previously assessed to be unacceptable by the recent refusal (ref. EPF/1213/21), but omitting the previously associated 'change of use.' The current application, the subject of this report, closely follows these two applications refused in 2022

Current Proposal

This application seeks consent for change of use of No. 3 vacant retail units to No.2 one-bedroom flats.

Comments

The current proposal appears nearly identical to previous application EPF/1213/21 and its associated resubmission EPF/1503/22, both refused earlier this year. The scheme still proposes the unsympathetic introduction of new domestic landscaping elements with fencing and gates; alteration of retail frontages within the yard; and loss of area within the yard and lane through modern extensions associated with the proposed conversion.

As such, our previous comments and the case officer's comments from these and similar past applications relating to the site's change of use and/or alteration still apply. A relevant portion of our comments are reproduced below, for clarity:

"... These open yards are very characteristic of the historic layout of the town ... The proposed extensions to Arlingham Mews would ... cause the loss of more of this characteristic enclosed area. In addition to this, the proposed scheme would change the historic character and use of these spaces, from functional to residential, for example through the domestication of the windows and the introduction of boundary treatments."

In line with previous refusals, we do not consider that the current scheme "would maintain the character and appearance of the Conservation Area," as asserted in the Design, Access and Heritage Statement. The proposed external alterations in the form of new boundary treatments and openings would fail to preserve the urban, functional character and distinctiveness of the site by introducing domestic elements and fragmenting the historic open yard. Further to this, the yard has undergone unsympathetic encroachment in the past as a result of modern conversion(s) and extensions. Despite these changes, the surviving area is still readable as a historic burgage plot with pedestrian lane that continues to serve a practical, occupational purpose to the existing market street. No further harm to this layout and its relationship to the designated heritage assets would be found acceptable.

Any future scheme proposing similar alterations or arrangements that fail to sustain or enhance the significance of the site and its setting and without putting it to viable use consistent with its conservation will be found similarly UNACCEPTABLE.

Recommendations

We OBJECT to the proposed scheme due to the harm it could cause to the significance of the designated heritage asset (Waltham Abbey Conservation Area) and its setting.

This is supported by policies HC6, HC7 and HC12 of our Adopted Local Plan and Alterations (1998 and 2006); policy DM7 of our Submission Version Local Plan (2017); and paragraphs 189, 195, 196, 197, 199, 200, 202, 206 and 208 of the NPPF (2021)."

The comments of the Conservation Officer are supported by the case officer and it is considered that the proposed extensions and change of use would have an unacceptable impact on the existing buildings, yard and surrounding Conservation Area.

Quality of Accommodation

Two residential units are proposed and both of these are critically deficient in some way in terms of quality of accommodation to be provided as follows:

Flat 1 – Living room has poor outlook with only a high level window in the side elevation and a small window in the rear elevation. No elevation drawings have been provided showing the side or rear of Flat 1. The bedroom would be overlooked by Flat 2 opposite (5m between facing habitable room windows) and pedestrian passers by using the walkway between Sun Street and Darby Drive leading to unacceptable levels of privacy.

Flat 2 – Habitable rooms overlooked by facing habitable rooms of Flat 1 opposite (5m between facing habitable room windows) and pedestrian passers by using walkway between Sun Street and Darby Drive leading to unacceptable levels of privacy.

By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

Unacceptable in this respect.

Highways and Parking

No off street car parking is proposed.

EFDC Contaminated Land comments:

"I have screened readily available records held by the Council for this site including our GIS database and aerial photographs. From the records I can see the site has acknowledged potentially contaminated land due commercial use. Therefore, in accordance with this land use there is potentially contaminated land at this site.

As this proposal is for residential land use - a sensitive land use, it is necessary to investigate all potential land contaminative issues.

I have reviewed the documents submitted on behalf of this application and I have noted that no contaminated land assessment has been submitted for this application to date. Therefore, in line with Essex Contaminated Land Consortium Land Affected by Contamination Guidance and National Planning Guidance, the applicant is advised to submit a Phase 1 and as necessary, Phase 2 and Detailed Remediation Scheme produced by a National Planning Policy Framework defined "Competent Person" with any application made to develop the site.

Due to the sensitive nature of the proposed residential use, I recommend that the land contamination condition NSCN57 be attached to any approval granted. Once a contaminated land report assessing the site for this application has been received and reviewed, the attached condition may be considered for discharge.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with policy RP4 of the adopted Local Plan 1998 & 2006, and policy DM21 of the Local Plan Submission Version 2017, and the NPPF 2021”.

SAC

In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

Conclusion

Recommended for refusal.

Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest:

Planning Application Case Officer: Kie Farrell
Direct email address: kfarrell@eppingforestdc.gov.uk

or if no direct contact can be made please email: contactplanning@eppingforestdc.gov.uk

Refusal Reason(s): (4)

- 1 The proposed residential development is not a main town centre use and would result in the loss of ground floor Class E units within Waltham Abbey Town Centre and Waltham Abbey Conservation Area which would harm the vitality and viability of the Town Centre. Insufficient evidence has been provided to demonstrate that the units are not capable of being re-let for a main town centre use. As such the proposal is contrary to policies TC1 and TC3 of the of the adopted Local Plan and Alterations (1998 & 2006), policies E2 and P3 of the emerging Local Plan Submission Version (2017) and the NPPF (2021).
- 2 By reason of its design and proposed use, the proposed development would fail to preserve or enhance the existing buildings and yards or the surrounding Waltham Abbey Conservation Area contrary to policies DBE3, DBE10, HC6, HC7 and HC12 of the adopted Local Plan and Alterations (1998 & 2006), policies DM7, DM9 and DM10 of the Local Plan Submission Version (2017), and paragraphs 189, 190, 192, 193, 194, 200 and 201 of the NPPF (2021).
- 3 In the absence of a completed Section 106 planning obligation the proposed development fails to mitigate against the adverse impact that it will have on the Epping Forest Special Area for

Conservation in terms of recreational pressure and air pollution. Failure to secure such mitigation is contrary to policies CP1, CP6 and NC1 of the Epping Forest Local Plan (1998) and Alterations (2006), policies DM 2 and DM 22 of the Epping Forest District Local Plan Submission Version 2017 and the requirements of the Habitats Regulations 2017.

- 4 By reason of its design and layout the proposed development would provide poor levels of outlook and privacy and therefore an unacceptable quality of accommodation for future occupiers. As such the proposal fails to provide suitable living conditions contrary to policies CP7 & DBE9 of the adopted Local Plan 1998 & 2006, policy DM10 of the Local Plan Submission Version 2017 and the NPPF 2021.

Informatives: (2)

- 5 This decision is made with reference to the following plan numbers:

Drawing 1464_304 – Location Plan
Drawing 1464_305 – Block Plans
Drawing 1464_305 (sic) – Proposed Site Plan
Drawing 1464_307 – Existing Plans and Elevations
Drawing 1464_308 – Proposed Plans and Elevations
Design, Access and Heritage Statement, dpa
HRA.

- 6 The Local Planning Authority has identified matters of concern within the officer's report and clearly set out the reason(s) for refusal within the decision notice. The Local Planning Authority is willing to provide post-application advice in respect of any future application for a revised development.