

Appeal Decision

Hearing held on 23 August 2016

Site visit made on 23 August 2016

by G D Jones BSc(Hons) DipTP DMS MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 September 2016

Appeal Ref: APP/Q5300/W/16/3144640

216 High Street, Ponders End, Enfield EN3 4EZ

- 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 Swish Estates Ltd against the decision of the Council of the London Borough of Enfield.
 - The application Ref 15/02547/FUL, dated 5 June 2015, was refused by notice dated 28 September 2015.
 - The development proposed is the erection of part 4 and 5 storey buildings with basement comprising 3 commercial units A1 and A2 use class with 20 residential units comprising 3 x 3 bed houses, 3 x 3 bed flats, 8 x 2 bed flats and 6 x 1 bed flats, bicycle storage, refuse storage and landscaping.
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Decision

1. The appeal is dismissed.

Application for Costs

2. At the Hearing an application for costs was made by the Council of the London Borough of Enfield against Swish Estates Ltd. This application is the subject of a separate Decision.

Preliminary Matters

3. For the avoidance of any doubt, I have used the address as it appears in the wider evidence in favour of that which appears on the planning application form given that the appeal site is evidently located in Ponders End rather than central Enfield.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the site and surrounding area;
 - Its effect on the development potential of adjoining sites and on the comprehensive redevelopment of the former Middlesex University site and High Street frontage;
 - Whether the proposed development would provide appropriate spaces and links to the surrounding area, as existing and as planned, including in regard to movement and safety;
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- Whether it would provide an appropriate level of affordable housing having particular regard to viability;
- Whether it would provide an appropriate housing mix;
- The proposal's effect on the vitality and viability of Ponders End Large Local Centre; and
- Its effect on highway safety, including for pedestrians and cyclists.

Reasons

Character and Appearance

5. The appeal site is located on Ponders End High Street. The street scene features a reasonably wide variety of built form giving it a fairly mixed character. There are nonetheless a number of characteristics present that help to provide a degree of cohesion to the townscape in the vicinity of the appeal site. For instance the buildings which line the street tend to be in use as shops or commercial premises at ground floor, typical of this kind of local centre, while the upper floors appear to be largely in residential use. Furthermore, although there is a range of heights and designs, the majority of the buildings are two-storey in scale and are located at the back of the pavement, particularly on the western side of the street.
6. There is a mosque located a little to the north of the appeal site, separated from it by a narrow private vehicular access. This building is something of a local landmark mainly because of its elevated height relative to surrounding buildings, its use and its distinctive central dome, flanked by two smaller dome-capped towers. This is recognised in a number of the Council's adopted planning policy documents, for instance the Ponders End Central Planning Brief SPD 2011 (the PECPB SPD) identifies it as a landmark building. Due mainly to its simple, yet pleasantly balanced front elevation, this building also makes a positive and distinctive contribution to the street scene.
7. The appeal site is located to the west of High Street. Its current appearance is rather at odds with the grain of the street scene in that it contains no buildings, is bounded by reasonably high hoardings and is rather overgrown. The land to the south is also something of an exception as it is partly undeveloped and features a temporary single-storey building. This land forms part of a larger area which the Council is actively seeking to have redeveloped and has been doing so for several years.
8. The proposed building would have five-storeys to the High Street frontage. Consequently, it would be significantly taller than existing nearby buildings including the mosque. Its relative height would, in my view, be at odds with the wider street scene. Given its height and notwithstanding a gap that would be provided between the two buildings, the proposal would also visually dominate the mosque. This would undermine its role as a landmark and also diminish the positive contribution the mosque building makes to the street scene. For these reasons the proposed development would be detrimental to the character and appearance of the area.
9. The front elevation of the proposed building would be staggered in order to accommodate a set of two vehicular access/egress doors to be setback from the street that would lead to the proposed basement car park. This staggered

arrangement would jar visually with the generally strong building line in this part of High Street. It would also limit the proposed retail use to only around half of the ground floor frontage of the appeal building. Consequently, a substantial proportion of this part of the building facing High Street would be largely inactive, giving the appearance of a predominantly dead ground floor frontage. These aspects of the appeal development would also be harmful to the character and appearance of the street scene.

10. I recognise that there are existing vehicular access points elsewhere in the street, including one which serves a reasonably recent development on the east side of High Street close to its junction with Queensway. However, given their alignment and their width relative to that of their host properties, these other examples are not directly comparable to the appeal development. Nor do they involve an uncharacteristic step in the building line to the High Street frontage as would the appeal scheme.
11. I also acknowledge that the Council has recently resolved to grant planning permission for redevelopment of a larger area¹, including the appeal site and the land to the south as referred to above. That scheme would involve some tall structures, including a seven-storey building that would sit partly within the appeal site. While that scheme does not yet have planning permission, given the Council's resolution to grant subject to the completion of a legal agreement, it seems very likely that it will receive planning permission.
12. What is less clear, however, is whether or not that scheme could be fully built-out given the extent of third party land ownership, particularly in respect to the appeal site. While the evidence indicates that the Council is progressing a Compulsory Purchase Order (the CPO) for the land in question, whether or not the Order will be confirmed cannot be predicted at this stage. Consequently, I give only limited weight to the fallback position that would be offered by such a planning permission.
13. In any event, based on what I read, heard and saw during the appeal process, I do not consider that that wider redevelopment scheme would have a detrimental effect on the character and appearance of the area. For instance, in contrast to the appeal scheme the additional height of the proposed seven-storey building appears to be justified given its proposed civic use as a library, which is supported by the Council's adopted planning policy. This seven-storey building would also be set well back from the mosque relative to the proposed siting of the appeal building.
14. Overall, therefore, notwithstanding the current appearance of the appeal site, the proposed development would have a harmful effect on the character and appearance of the surrounding area. Consequently, in that regard, it would conflict with Core Policy 30 (quality of the built and open environment) of the Core Strategy 2010 as well as with Policies DMD8 (standards for new residential development), DMD25 (new retail development) and DMD37 (good design) of the Development Management Document 2014 (the DMD), Policy 10.2 (Ponders End Central) of the North East Enfield Area Action Plan 2016 (the NEEAAP) and with the principles of the PECPB SPD.

¹ Planning application Ref: 15/04518/FUL

Adjoining Sites' Development Potential and Comprehensive Redevelopment

15. The evidence shows that the Council has long standing redevelopment objectives for central Ponders End, including the appeal site and the former Middlesex University site to the west. The most recent proposals are embodied in the scheme that is the subject of the planning application incorporating a seven-storey building as referred to above. The supporting adopted planning policy, such as the PECPB SPD, refers to the need for a comprehensive/holistic approach to be taken to the redevelopment of the land in question.
16. In my view, this kind of comprehensive approach may not necessarily require a single development and/or developer provided that any constituent but separate elements of the greater development are well co-ordinated and complementary. In this case the Council's preferred scheme and the appeal development are not co-ordinated or complementary as they would involve overlapping, conflicting development within the appeal site.
17. Irrespective of those particular proposals for the greater site, I am concerned regarding the effect that the appeal development would have on the general redevelopment potential of this part of the greater site. In particular residential accommodation on the upper floors of the proposed building would have single aspect habitable rooms facing southward. Consequently, in order to preserve reasonable light to and outlook from these flats, development to the south of the site would be constrained thereby inhibiting the scale, siting and type of built form that might be possible on the neighbouring land.
18. These circumstances would conflict with the Council's regeneration objectives for the area as expressed in its adopted planning policy. They would be particularly significant bearing in mind the appeal site's prominent location at the greater redevelopment site's frontage to High Street where the NEEAAP seeks to repair weak building frontages which relate poorly to the street and to ensure that new development is carefully designed so as to terminate views along streets and other public areas with positive building frontages.
19. The appeal scheme would, therefore, unacceptably affect the development potential of adjoining land, which forms part of the former Middlesex University site and High Street frontage thereby undermining their comprehensive redevelopment. In these respects the proposals would conflict with Core Policy 41 (Ponders End policy for places) of the Core Strategy, Policy 10.2 of the NEEAAP and the PECPB SPD.

Spaces, Links, Movement and Safety

20. In the context of the proposed redevelopment of the greater site, the appeal scheme would offer a narrower pedestrian/cycle corridor to the north of the appeal site linking from High Street to the greater redeveloped site relative to the Council's preferred scheme. Consequently, it may be less attractive to users. This space would nonetheless be reasonably wide² such that it appears that it would be capable of serving as a functional cycle/pedestrian corridor while also providing a degree of civic space, for instance to support the mosque use.

² Notwithstanding the written evidence, at the hearing the main parties agreed that this space would be some 9.8m wide

21. The natural surveillance of this area offered by the appeal development would be somewhat limited given the internal layout of the proposed residential units, as well as the position of bin stores and the proposed office units. However, there would be some overlooking from the upper floors such that when combined with wider natural surveillance, including from High Street, a safe environment would be likely to be achieved. The Council has also expressed concerns regarding delineation of the private space associated with the proposed development and neighbouring public space. However, this could be addressed via appropriate boundary treatment.
22. There also appears to be sufficient space for vehicles accessing the proposed basement car park to pull off High Street without materially affecting pedestrian or cycle movements on either High Street or on the planned link to the north of the site. While the proposed location of the bin store would result in refuse vehicle movements on to the planned pedestrian/cycle link this would be likely to be only occasional. Consequently, such an arrangement would be unlikely to act as a significant disincentive or obstacle to the use of this link.
23. The preceding comments are made on the basis of the redevelopment of the greater site proceeding in some form. As described above, there is conflict between the appeal development and the Council's preferred scheme for the greater site. Additionally, the outcome of the CPO process cannot be predicted at this stage. Consequently, it is also appropriate to consider the possibility of the appeal development proceeding ahead of or without any wider planned redevelopment.
24. In these circumstances the pedestrian access from High Street to the proposed residential and office uses would be via a narrow alley between the appeal building and the adjacent commercial premises. Due to the confined nature of this space and the limited natural surveillance, combined with the proximity of the neighbouring use, an unsatisfactory and potentially unsecure/unsafe environment would be provided for users of this space. On this basis the appeal development would not accord, in this regard, with Core Policy 5 of the Core Strategy or Policy DMD37 of the DMD.

Affordable Housing

25. As part of the planning application process the appellant submitted a viability assessment for the appeal development³. This Viability Assessment concluded that the scheme cannot support the provision of affordable housing.
26. In response the Council commissioned its own assessment prior to the determination of the planning application⁴. Although the Council's assessment does not appear to have been communicated to the appellant at the application stage it was shared with them as part of the appeal process as was subsequent evidence commissioned by the Council regarding - among other things - estimated build costs for the proposed development⁵, albeit that this was only produced shortly before the hearing.
27. Having regard to these documents, along with what was said during the hearing, I am concerned that the appellant's Viability Assessment is likely to understate the scheme's viability such that at least some form of affordable

³ Affordable Housing Viability Assessment, CgMs, July 2015

⁴ Douglas Birt Consulting letter and Appendix, dated 26 August 2015

⁵ Report on the Development of 216 High Street, S Robertshaw Consulting Ltd, dated 15 August 2016

housing provision is likely to be affordable without rendering the scheme unviable. In coming to this conclusion I have had particular regard to a number of considerations. For instance, these include the Council's evidence regarding build costs, which suggests that these costs are likely to be over-estimated in the appellant's Viability Assessment. I have also given weight to the fact that the market value used in the Viability Assessment does not appear to take full account of development plan policies, such as DMD1 of the DMD, which seek the provision of affordable housing in association with development of the type proposed.

28. Overall, therefore, in the absence of any further evidence it appears likely that the appeal development would be able to support at least some form of affordable housing provision. On this basis the proposed development would conflict in this regard with Core Policy 3 of the Core Strategy, Policy DMD1 of the DMD and Policy 3.11 of the London Plan.

Housing Mix

29. The proposed development would not match the housing mix set out in Core Policy 5 of the Core Strategy. However, this Policy seeks to achieve this mix across the lifetime of the Core Strategy and also across the Borough at large. On this basis and bearing in mind that the appeal scheme is for only 20 residential units in the context of the Council's wider plans for the regeneration of the area, the proposed housing mix would provide a reasonable range of dwelling types in accordance with this Core Strategy Policy and Policy 3.9 of the London Plan.

Vitality and Viability

30. As described above a substantial proportion of the proposed building's ground floor frontage would be largely inactive, due to the planned vehicular access. This would limit the proposed retail frontage. However, in the context of the wealth of retail premises which line much of this section of High Street and given that the site is not currently in use, I have found no reason to believe that the appeal scheme would have a detrimental effect on the vitality and viability of Ponders End Large Local Centre. Accordingly, I have found no conflict in that regard with Core Policy 17 of the Core Strategy, Policy DMD25 of the DMD, Policy 10.2 of the NEEAAP or the PECPB SPD.

Highway Safety

31. The Council has also raised a number of highways related concerns. From what I have read, heard and seen during the appeal process I see no reason why some of these matters, such as off-site parking mitigation and relocation of the existing bus stop to facilitate on-street loading, could not be controlled by way of negatively worded, Grampian type planning conditions thereby safeguarding highway safety. While I have taken the remaining highways matters into account there is no evidence that leads me to conclude that the appeal development would cause any material harm to highway safety or significantly affect movement or traffic flow.
32. On this basis I have found no conflict in those respects with Policies 6.3 (transport capacity), 6.9 (cycling), 6.10 (walking) and 6.13 (parking) of the London Plan, Core Policies 25 (pedestrian and cyclists) and 24 (the road network) of the Core Strategy or DMD Policies DMD8, DMD45 (parking

standards), DMD47 (access and servicing) and DMD48 (transport assessments).

Other Matters

33. I recognise that the proposed development would bring a number of benefits under all three dimensions of sustainable development as identified by the appellant, including - but not only - the delivery of market housing and the regeneration of an underused and rather unsightly property. Notwithstanding the appellant's evidence regarding the Council's past record on housing delivery, the information before me indicates that the Council can demonstrate a National Planning Policy Framework compliant supply of housing land. In this context, all of the benefits that have been brought to my attention do not outweigh the substantial identified harm and planning policy conflict.

Conclusion

34. For all of the reasons given above, I conclude that the appeal should be dismissed.

G D Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Jon Durbin	Direct Planning Ltd
Omiros Mavrouviotis	Swish Estates Ltd
Frixos Kyriacou	FPS Planning

FOR THE LOCAL PLANNING AUTHORITY:

Claire Williams	Planning, the London Borough of Enfield Council (LBEC)
Anand Bhandari	Urban Design, LBEC
Paul Gardner	Regeneration, LBEC
Anna Jakacka	Highways, LBEC
Ismail Mulla	Planning, LBEC
Stewart Robertshaw	S Robertshaw Consulting Ltd
Doug Birt	Douglas Birt Consulting Ltd

INTERESTED PERSONS:

None

DOCUMENTS SUBMITTED AT THE HEARING

- 1 'Planning History Drawing' Appendix E to the appellant's appeal statement
- 2 Statement of Common Ground
- 3 Drawings of the proposals under planning permission Ref P12-02677PLA
- 4 Extract from 'Financial Viability in Planning' guidance note, RICS 2012