
Appeal Decision

Site visit made on 3 October 2016

by Gareth W Thomas BSc(Hons) MSc(Dist) PgDip MRTPI

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

Decision date: 17th October 2016

Appeal Ref: APP/G5750/W/16/3155351

450-462 Barking Road, Plaistow, London E13 8HJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr D Sangar against the decision of the Council of the London Borough of Newham.
 - The application Ref 15/02851/OUT is dated 2 October 2015.
 - The development proposed is for the demolition of existing buildings and construction of 5 storey building containing 3 x 1 bed, 6 x 2 bed and 3 x 3 bed and 3 x bed flats, 10 car parking spaces, 30 cycle spaces, communal amenity area, servicing and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and construction of 5 storey building containing 3 x 1 bed, 6 x 2 bed and 3 x 3 bed and 3 x bed flats, 10 car parking spaces, 30 cycle spaces, communal amenity area, servicing and landscaping at 450-462 Barking Road, Plaistow, London E13 8HJ in accordance with the terms of the application, Ref [15/02851/OUT], dated 2 October 2015, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 2) Details of both hard and soft landscaping (hereinafter called "the reserved matter") shall be submitted to and approved in writing by the local planning authority before any development begins, including a time frame for its implementation and the development shall be carried out as approved.
 - 3) Application for approval of the reserved matter shall be made to the local planning authority not later than three years from the date of this permission.
 - 4) Other than landscaping works, the development hereby permitted shall be carried out in accordance with the following approved plans: 1562 PL006; 1562 PL007; 1562 PL006; 1562 PL004; 1301 P006; 1301 P010; 1301 P009; 1562 PL002; 1562 PL004; 1562 PL005; 1562 PL003; 1562 PL001 and Site Location Plan.

- 5) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 6) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building and all other external surfaces hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 7) No dwelling shall be occupied until the proposed parking areas, access and turning areas together with bicycle and bin storage facilities have been constructed or provided in accordance with the approved plans. Thereafter the parking areas, together with cycle and bin storage facilities, shall be retained for their intended purposes.
- 8) No machinery shall be operated, no process including demolition works shall be carried out and no deliveries taken at or despatched from the site outside the following times 08:00-18:00 Mondays to Fridays, 08:00-13:00 hours Saturdays nor at any time on Sundays, Bank or Public Holidays.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Statement shall be adhered to throughout the construction period.
- 10) The dwellings shall not be occupied until the relevant requirements of level of energy performance equivalent to ENE1 level 4 of the Code for Sustainable Home or an equivalent performance measure have been met and the details of compliance provided to the local planning authority.
- 11) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority

within 28 days of the report being completed and approved in writing by the local planning authority.

Background

2. A previous appeal¹ in 2015 was dismissed by the Inspector on grounds of the effects of the development upon the character and appearance of the area and on the living conditions of the neighbouring Lawrence Hall to the site's rear. I have no reason to disagree in principle with the main issues identified by the Inspector at the time. However as the current appeal seeks to respond to the previous concerns and has been substantially amended as a result, there is a need to reconsider the main issues previously identified again.
3. The Newham Core Strategy, adopted in 2012 (CS), particularly through its saved Unitary Development Plan Policy H17 seeks high quality urban design, which enhances its surroundings thereby helping to protect the area's character and appearance and living conditions. This is also reflected in the London Plan adopted in 2016 and the National Planning Policy Framework.

Main Issues

4. Consequently, I also find the main issues as being: (i) the effects of the proposal on the character and appearance of the area; (ii) its effects on the living conditions of occupiers of neighbouring properties; (iii) the effects on the living conditions of future occupiers, and; (iv) whether the proposal represents sustainable development.

Reasons

Character and appearance

5. The appeal site comprises a terrace of two storey properties that is domestic in scale but has a range of mixed commercial and residential uses, including a tyre depot and repair garage, which have expanded at the rear with ramshackle shed-like structures. The site lies at a point along Barking Road where the character changes from predominantly two storey development to more substantial properties including the adjacent 4 storey police station and other landmark buildings further south.
6. I agree with the previous Inspector's view that stepping the building up from north to south would be an appropriate design response at this location but that some of the elevation details previously proposed were bland and out of character with the area. The design details before me have been substantially revised in so far as there would be a more gradual stepping up to three and four storeys with the fifth storey set back from the front façade and distinguished from the remainder of the brick faced development through use of contemporary facing materials. In addition, a more traditional fenestration design and arrangement is now proposed, including the introduction of some bay windows.
7. Overall, I find that the proposal before me overcomes the previous concerns and both the stepping up of the elevation from north to south together with a more traditional design treatment would represent an appropriate response to the existing character and appearance of the street scene. Consequently, the

¹ App/G5750/A/14/2216099

proposal would comply with the development plan and national guidance identified above.

Living conditions – existing occupiers

8. Clearly the impact on the amenities enjoyed by some of the occupants of Lawrence Hall to the rear was a particular concern of the previous appeal scheme due to the close proximity of intervening habitable windows. The London Plan Housing Supplementary Planning Guidance (SPG) seeks to achieve visual privacy by setting a minimum distance of 18-21m between facing homes. The current proposals omit habitable room windows where, due to the angled position of the two buildings, they would fall below this minimum distance. The remainder are fully compliant with the SPG.
9. Consequently, I do not consider that there would be an unacceptable loss of privacy to any residents of Lawrence Hall and that the aims of the development plan with regard to protecting living conditions are met in full.

Living conditions – future occupiers

10. The previous Inspector found in favour of the previous proposal on this main issue. Since then, The London Plan 2016 (LP) has been adopted. It is noted that the current appeal scheme complies fully with the minimum floor space standards set out in Table 3.3 of the LP. Similarly the scheme would exceed the minimum private open space standards set out in the SPG.
11. In terms of overlooking into the proposed flats and communal garden areas from existing properties, the scheme avoids the use of balconies in those locations where overlooking from Lawrence Hall properties might give rise to problems. In other locations where balconies are used, most notably in the east and road facing elevations, the balconies are screened by the use of etched glazing screens to a minimum height of 1650mm, which protects privacy whilst providing adequate light penetration. There would be some overlooking of communal garden areas but I agree with the appellant that the degree of separation between Lawrence Hall and the proposed development together with the sharply angled views downwards from Lawrence Hall would significantly diminish this potential impact.
12. I am therefore satisfied that the proposal complies with CS policies listed at paragraph 3 and the SPG and that the living conditions of future occupiers would be therefore be acceptable.

Sustainable development

13. The appellant's appeal documentation includes an energy strategy report that was submitted with the 2015 appeal and which indicates that the requirements of CS Policies SC1 and SC2 would be met. These policies seek to mitigate the impact of development on climate change by minimising carbon dioxide emissions. The Council expects new residential development to meet Code of Sustainable Homes 2008 Level 4 or above.
14. On the evidence that is before me, there is no indication that the development would fail to meet the extant planning policies of the Council in terms of energy performance. Neither do I disagree with the previous Inspector that this issue could be resolved by the imposition of a planning condition requiring

compliance with the Council's adopted energy performance requirements. The Council's policies would therefore be met.

Conditions

15. Neither party has suggested any planning conditions but I have had regard to the Planning Practice Guidance on the use of planning conditions. In addition to the condition mentioned above which is necessary in the interests of energy conservation, conditions are necessary specifying commencement of development, the reserved matter of landscaping to be further considered together with the approved plans in the interest of certainty. Conditions specifying prior approval of materials together with hard landscaping are necessary in the interests of protecting the character and appearance of the area. The implementation of any agreed landscaping scheme is necessary to ensure that the character and appearance of the area is enhanced. Conditions are also necessary to ensure that development is carried out in an acceptable manner and at acceptable times of the day in the interests of protecting living conditions of existing occupiers. A condition is also necessary requiring the provision of parking, cycle and bin storage facilities in the interests of both highway safety and amenity. Given the present uses on site, a land contamination condition is necessary in the interests of residential amenity.

Conclusion

16. For the reasons given and having regard to all other matters raised this appeal is allowed.

Gareth W Thomas

INSPECTOR