

Appeal Decision

Site visit made on 10 October 2016

by R C Kirby BA (Hons) DipTP MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/W5780/W/16/3154172

480-482 Ley Street and land at Lynn Road, Ilford, Redbridge IG2 7BZ

- 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 Ley Properties Ltd against the decision of the London Borough of Redbridge.
 - The application Ref 0215/16, dated 14 January 2016, was refused by notice dated 24 June 2016.
 - The development proposed is to demolish 3 x existing single storey car showroom and MOT workshops, comprising 3050sq m and the redevelopment of the site to provide 71 residential units comprising: 26 x 1 bed; 40 x 2 beds, 3 x 3 beds and 2 x 4 beds within part 3, 4 and 6 storey blocks. The proposal includes an internal courtyard space to be provided on the ground floor and underground car parking and cycle storage facilities together with a resident gymnasium facility measuring 109 Sq m.
-

Decision

1. The appeal is dismissed.

Costs Application

2. An application for costs was made by Ley Properties Ltd against the London Borough of Redbridge. This is the subject of a separate Decision.

Procedural Matter

3. During the course of the planning application, the scheme was amended by the appellant. The Council determined the application on the basis of the revised drawings as set out in its decision notice. Within this list, drawing FLN P3A_SK27 is not referred to. This relates to the proposed fourth floor plan. In the absence of an alternative drawing relating to the fourth floor, I have determined the appeal on the same basis as the Council as well as the aforementioned drawing.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the surrounding area having particular regard to the building's design and scale;
 - the effect of the proposal on the living conditions of nearby occupiers, having particular regard to car parking provision and outlook, and
-

- whether the proposal would result in a balanced community having regard to affordable housing provision.

Reasons

5. The appeal proposal involves the redevelopment of a commercial garage site with residential development comprising 5 townhouses with apartment blocks of part 3, part 4 and part 6 storey heights. An underground basement car park with access off Lynn Road would be provided.

Character and Appearance

6. There is no dispute between the main parties that the principle of residential development on the site is considered appropriate. The site is located within a predominantly residential area, and on the basis of the evidence before me I have no reason to reach a contrary view in this regard.
7. Amongst other matters London Plan (LP) Policy 7.4 requires development proposals to have regard to, the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Policy BD1 of the Borough Wide Primary Policies Development Plan Document (PPDPD) and Strategic Policy 3 of the Council's Local Development Framework Core Strategy Development Plan Document (CS) have similar objectives, requiring, amongst other matters for development to be compatible with and contribute to the distinctive character and amenity of the area in which it is located, and be of a building style, massing, scale, density and design appropriate to the locality.
8. The area surrounding the appeal site is predominantly residential, characterised by 2 storey terraced and semi-detached properties. The wider area comprises a mixture of designs and scale of buildings, including a 4 storey school building at Seven Kings Primary School fronting Ley Street to the south of the site, industrial buildings opposite at Ley Street Depot which are 2 storeys in height and a flatted development on the opposite side of Ley Street which is between 2 and 3 storeys in height.
9. The proposal insofar as it relates to the 2 and 3 storey elements fronting Lynn Road, and a small element fronting Wards Road reflects the character of the area and would result in a form of development that would be compatible with surrounding development.
10. However, the part of the building fronting Ley Street would result in a dominant, prominent building that would be of a significantly greater bulk, mass and height than neighbouring properties. It would not be compatible with neighbouring 2 storey developments in Ley Street, and would not be of mass, scale or design appropriate to the locality.
11. In light of my findings, I conclude that harm would be caused to the character and appearance of the area as a result. This would be in conflict with Policy 7.4 of the LP, CS Strategic Policy 3 and PPDPD Policy BD1. There would also be conflict with the core planning principles of the National Planning Policy Framework (the Framework) relating to high quality design, and the account that should be taken of the different roles and character of different areas. The planning officer's support for this aspect of the scheme does not lead me to conclude differently.

Living Conditions

12. The Council is concerned that the proposed car parking would not be sufficient to cater for the intended future occupiers of the new living accommodation. The appellant proposes to provide 40 car parking spaces to serve the development, of which 35 would be within the basement. A total of 112 covered cycling spaces would also be provided.
13. LP Policy 6.13 seeks to prevent excessive car parking provision which could undermine cycling, walking and public transport use. Policy T1 of the PPDPD seeks to reduce the need to travel whilst promoting the use of public transport and reducing the need to rely on private vehicles. The policy states that new development will be approved in locations close to public transport nodes or where measures are incorporated into the scheme to reduce reliance on private vehicles. PPDPD Policy T3 seeks to encourage walking and cycling and requires that cycle parking is provided in development proposals. The Council's parking standards are expressed as a maximum as set out in PPDPD Policy T5. Where a reduction in off-street car parking is proposed, this policy requires developers to demonstrate that sufficient parking will remain in an area to serve local needs.
14. The appellant submitted a Transport Assessment with the planning application, which included the results of a survey undertaken in respect of the availability of on street parking spaces. The surveys found that of the 58 spaces within 200 metres of the site 81% to 85% were occupied overnight. It is not clear from the submitted evidence on what policy basis the Council's concerns regarding parking stress are based on.
15. The appeal site has a PTAL rating of 3 which represents a medium level of public transport accessibility. This level of accessibility provides the intended future occupiers with a reasonable level of public transport alternatives to the private car, with bus stops less than a 2 minute walk from the site, served by regular day time services and Newbury Park London Underground Station approximately 11 minutes walk away¹. These times are not disputed by the Council. I also note that the appellants submitted a Travel Plan which includes measures to encourage the intended future occupiers to use public transport, foot or cycle. This matter could be controlled by way of planning condition in the event that the appeal was allowed.
16. Taking the above matters into account, I am not convinced that having regard to the proximity of public transport facilities to the site, that the level of car parking proposed would result in significant pressure on the availability of existing parking spaces, to a degree that would be inconvenient to, and harmful to the living conditions of existing residents in the area. I note that a similar conclusion was reached by the planning officer after considering this matter within the committee report. There would be no conflict with the objectives of LP Policy 6.13, or PPDPD Policies T1, T3 and T5 as a result.
17. The part of the building fronting Ley Street would extend to almost the full width of the site. It would be a single block, ranging in height from 4 storeys close to the junction with Wards Road and 6 storeys at the junction with Lynn Road. The building would be sited in close proximity to the party boundary of

¹ Figures taken from the appellant's Transport Assessment by YES

No 220 Wards Road, a commercial building with a small rear garden. Beyond this, along Wards Road, is a terrace of residential properties which have modest north facing rear gardens.

18. At the time of my visit in the late morning, I observed that the gardens were dark. However, the outlook from them was reasonably open, particularly towards Ley Street, across the appeal site. Having regard to the siting and scale of existing buildings on the site, it is reasonable to assume that these gardens would receive some sunlight, in the early morning and late afternoon, making them pleasant places to sit out in. Indeed the appellant's Daylight and Sunlight Report (DS Report) illustrates this.
19. This open outlook would be severely eroded as a result of the new building fronting Ley Street. Its close proximity to the rear gardens of dwellings on the northern side of Wards Road would result in the proposal having an overbearing and significantly enclosing effect on these spaces. Although the appellant's DS Report found that the sunlight reaching the rear gardens of properties in Wards Road would not be significantly affected as a result of the proposal, this does not alter my finding that the proximity of the new building to the gardens would make them less pleasant areas to use.
20. In light of the foregoing, I therefore conclude that the living conditions of the occupiers of nearby dwellings in Wards Road would be adversely affected by the proposal as a result of loss of outlook. This brings the scheme into conflict with the amenity objectives of CS Strategic Policy 3, PPDPD Policy BD1 and LP Policy 7.4. There would also be conflict with the core planning principle of the Framework, which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

Affordable Housing

21. CS Strategic Policy 8 identifies that 50% of new housing from all sources should be affordable. As part of this objective an element of affordable housing will be sought to meet local needs on all suitable housing developments. The appeal proposal falls within the parameters set under this policy. Policy 3.9 of the LP seeks amongst other matters to secure mixed and balanced communities by tenure and income in developments which foster social diversity and redress social exclusion. LP Policy 3.11 seeks to maximise affordable housing provision and Policy 3.12 states that affordable housing should normally be provided on site.
22. The Council considers that there is a significant need for affordable housing in the area and has drawn my attention to its Strategic Housing Market Assessment (2016). It is concerned that the financial contribution offered by the appellant falls below the 50% target for affordable housing set out in CS Strategic Policy 8. I have no reason to doubt that there is a need for affordable housing within the area, however, both Strategic Policy 8 and LP Policy 3.12 state that as part of the affordable housing negotiations, amongst other matters the viability of the scheme will be assessed. The draft Interim Housing Supplementary Planning Guidance prepared by the Mayor of London reflects this, as does the advice in the Framework in respect of viability and deliverability.
23. The appellants indicate that the scheme would not be viable if they had to provide 50% affordable housing. A viability appraisal was submitted with the

planning application which was assessed by a consultant appointed by the Council. The Council's consultant agreed that the scheme could only viably support a contribution to the value of £463,000, as suggested by the appellant. Whilst I note the Council's concern that the provision of affordable housing would not be provided on the site, policies of the development plan do not preclude off site contributions being made in lieu of on site provision.

24. The Framework makes it clear at paragraph 173 that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. It continues that development should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. On the basis of the evidence before me, whilst the proposal would not provide the level of affordable housing requested by the Council, I am satisfied that the appellant has satisfactorily demonstrated why the scheme cannot accommodate this level. In this regard, I conclude that there would be no conflict with the objectives of CS Strategic Policy 8, LP Policies 3.9, 3.11, 3.12, or the Framework.
25. During the course of the appeal I asked for both main parties comments on the amendments to the Planning Practice Guidance (PPG). These amendments reflect the successful appeal to the Court of Appeal on 11 May 2016², overturning the previous High Court judgement on 31 July 2015 on applications by West Berkshire District Council and Reading Borough Council for judicial review of the Written Ministerial Statement (WMS) of 28 November 2014, in respect of policy changes relating to planning obligations, affordable housing and tariff-style contributions, and circumstances where the vacant building credit (VBC) should be offered to developers.
26. The appellant has not provided me with detailed calculations to support the application of the VBC, and as such I have not been able to consider this matter further.

Conclusion

27. The scheme would be harmful to the character and appearance of the area and the living conditions of nearby occupiers. The planning officer's conclusion in respect of these matters does not lead me to conclude differently.
28. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

R C Kirby

INSPECTOR

² [2016] EWCA Civ 441