

Appeal Decision

Site visit made on 7 December 2016

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 12 January 2017

Appeal Ref: APP/G5750/W/16/3157148

West Ham Boys Club, 59-61 High Street, Plaistow, London E13 0AD

- 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 Mr Thomas Friel against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/01635/FUL, dated 27 May 2016, was refused by a notice dated 27 July 2016.
 - The development proposed is the demolition of existing derelict boxing club and erection of a part single/part two storey building to provide four dwellings comprising one 3 bedroom apartment, three 1 bedroom apartments and a refuse store.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing derelict boxing club and erection of a part single/part two storey building to provide four dwellings comprising one 3 bedroom apartment, three 1 bedroom apartments and a refuse store at West Ham Boys Club, 59-61 High Street, Plaistow, London E13 0AD in accordance with the terms of the application, Ref 16/01635/FUL, dated 27 May 2016, subject to the conditions set out in the attached Schedule.

Procedural Matters

2. Policies from The London Borough of Newham Unitary Development Plan, 2001 referred to by the Council in its decision notice have been superseded by policies from Newham's Local Plan, Detailed Sites and Policies Development Plan Document (DSPDPD) 2016 which has been adopted since this appeal was submitted. The appellant has had an opportunity to make further representations, so neither party has been prejudiced. I have determined the appeal on this basis.

Main Issues

3. The main issues in this case are the effect on:
 - Housing need provision within the Borough in the light of relevant local policies; and
 - The character and appearance of the area, including the setting of The Black Lion Public House
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Reasons

Housing need

4. Policy H1 of the Newham's Local Plan, Core Strategy (CS) 2012 deals with Building Sustainable Mixed Housing Communities, including housing mix and type. The supporting text to this Policy acknowledges that many larger family homes have been lost through conversions, and that many new developments provide few houses with three bedrooms or above. Evidence shows a need to improve the rate of provision of family units which will generally be regarded as 3 bedroom. Policy H1 *'seeks 39% of the number of new homes to be 3 bedroom for families subject to the 'mix and tenure considerations' set out in Box H1.'* Considerations include the schemes viability and the individual circumstances of the site in terms of site conditions, local context and site features. Paragraph 6.121 of the reasoned justification to this Policy advises that all development should aim to meet the 39% target with schemes only capable of accepting lower on-site family housing levels incorporating measures to secure provision off site.
5. The proposed development would comprise three, one bedroom units and one three bedroom unit. The single three bedroom unit would therefore only equate to 25% of the new homes. However, I recognise that the overall number of units in this scheme is small, and consequently the under provision of family homes in this instance is marginal. Furthermore, it is clear that the site is constrained by its size and location. It lies within the setting of a non-designated heritage asset and it has an awkward juxtaposition with neighbouring residential properties. I understand that a previous scheme which proposed two family homes on the site, and was therefore policy compliant, was considered to be unacceptable due to its scale. It seems to me that, in view of the site constraints set out above, and taking into consideration the small scale nature of development, then the mix of housing proposed for the site, would in this instance acceptable.
6. The appellant has provided a viability assessment¹ as part of the appeal submissions. The assessment concludes that the proposed development would, with a developer profit of 18%, provide uplift in land value from its existing use value of approximately 9%. It is further concluded that based on that uplift value the proposal is on the limits of viability and that any contribution towards the provision of family housing off-site would make it unviable.
7. Paragraph 173 of the National Planning Policy Framework (the Framework) advises that to ensure viability, the costs of any requirements likely to be applied to development should , when taking account of the normal costs of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. The Council has not rebutted the submitted appraisal, and therefore in the absence of any evidence to demonstrate otherwise, I have no reason to disagree with the appellant that the proposed development would not be viable if a planning obligation was required towards the provision of family housing off-site.
8. I therefore conclude that the proposed development would provide for the housing need requirements for Newham in the light of relevant local policies.

¹ Viability Assessment, The Black Lion Public House, prepared by London Planning Consultancy Ltd, August 2016.

The proposal would therefore accord with the provisions of the development plan, and particular with Policy 3.8 of the London Plan and Policy H1 of Newham's Local Plan Core Strategy, 2012 (CS) which aim, amongst other things, to provide mixed and balanced communities to meet the housing needs of the Borough.

Character and appearance

9. The Black Lion Public House is a locally listed building and its significance is derived from its historic interest. It is therefore a non-designated heritage asset. It occupies a large corner plot at the junction of High Street and Richmond Street and the proposed dwellings would be sited on land formerly occupied by a building previously used as a boxing club. The new dwellings take access from Richmond Street via a pedestrian link and would face towards the rear of the Black Lion Pub where there is a function room and beer garden.
10. The Council has not raised any objections to the layout, scale or form of development proposed, but have concerns over the details of landscaping, boundary treatments, including the proposed boundary wall and entrance gates from Richmond Street. The surrounding development is mixed in its form and appearance and there is no locally distinct character. However, the scale and design of the proposed development responds well to its setting and would create a courtyard form around the rear of the Black Lion. Overall I consider the proposal would be an enhancement to the setting of the Public House, particular in view of the sites existing condition.
11. I agree with the Council that it is necessary to secure a good boundary treatment between the development and adjoining Public House, from both a visual aspect as well as to ensure that the living conditions of future occupiers are safeguarded from noise and disturbance. Similarly, details of the proposed treatment of the pedestrian access point from Richmond Street are also important, to safeguard the character and appearance of the area. However, I see no reason why these details and a landscaping scheme cannot be secured by condition. Indeed the Council Officer's report suggested this, and the appellant has also states that a suitably worded condition would be acceptable. I am satisfied that it is reasonable and necessary to impose a condition requiring details of landscaping and boundary treatments to be agreed, and in doing so the concerns raised by the Council regarding the quality of the proposed development would be mitigated.
12. I conclude that subject to a condition requiring the details set out above, the appeal proposal would not harm the character and appearance of the area, or the setting of the Black Lion Public House. The proposed development would accord with the development plan and in particular Policies 7.1 and 7.4 of the London Plan which are consistent with the Framework in seeking high quality design. I also find no conflict with Policies SP1, SP2, SP3 and H1 of the CS which aim to ensure that new development, amongst other criteria, reinforces local character and the specific attributes of the site, seeking to reinforce local distinctiveness and securing integration and coherence with the local context.

Other Matters

13. I have taken into consideration the wider concerns of third parties in respect of this development relating parking, traffic and loss of daylight and sunlight. The

Council did not consider that the development would harm these interests and from my inspection of the site I concur with their views.

Conditions

14. I have considered the conditions suggested by the Council and consultees against advice in the Framework and Planning Practice Guidance. As a result I have amended some of them for clarity.
15. I have imposed a condition specifying the approved plans as this provides certainty.
16. A pre-commencement condition is necessary to require a written scheme of investigation (WSI), to safeguard the sites archaeological interests.
17. Conditions are necessary requiring details of external materials, landscaping and boundary treatments, including the access gates to safeguard the character and appearance of the area.
18. I have imposed a condition limiting construction and delivery hours to protect the living conditions of the occupiers of neighbouring properties.

Conclusion

19. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be allowed.

Elizabeth Pleasant

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 00 0300 0001 Site Block Plan
 - 00 0001 0001 Area Plan
 - U0 0001 0001 Proposed Area Plans Level 0 (Ground)
 - U1 0001 0001 Proposed Area Plans Level 1
 - U2 0001 0001 Proposed Area Plans Level 2
 - U0 0006 0001 Plans Level 0
 - U1 0006 0001 Plans Level 1
 - U2 0006 0001 Plans Level 2
 - 00 0007 1000 Proposed Elevations East
 - 00 0007 2000 Proposed Elevations North
 - 00 0007 3000 Proposed Elevations West
 - 00 0007 4000 Proposed Elevations South
 - 00 0008 0001 Proposed Sections
- 3) No development, including any demolition shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the local planning authority in writing. For land that is

included within the WSI, no development/demolition shall take place other than in accordance with the agreed WSI and the programme and methodology of site evaluation and the nomination of a competent person (s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved in writing by the local planning authority. For land that is included within the stage 2 WSI, no development/demolition shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person (s) or organisation to undertake the agreed works.
 - B. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. The part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in stage 2 WSI.
- 4) Prior to the commencement of construction works details, including samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted, including doors and windows, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details /samples, and they shall be retained thereafter.
 - 5) Prior to the commencement of construction works details of landscaping for the site, including details of all boundary treatments shall be submitted to and approved in writing by the local planning authority. The approved boundary treatments shall be implemented in full prior to the first occupation of the dwellings hereby permitted.
 - 6) 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.
 - 7) Prior to the commencement of construction, a specification for the street boundary wall and access gates, drawn at Scale 1:20 shall be submitted to and approved in writing by the local planning authority. The approved boundary wall and access gates shall be constructed in full accordance with the approved details prior to the first occupation of the dwellings and shall be retained thereafter.
 - 8) Demolition or construction works, including deliveries to and from the site, shall take place only between 0800hours and 1800hours on Monday to Fridays, 0800hours and 1300hours on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.