The Planning Inspectorate

Appeal Decision

Site visit made on 13 December 2016

by L Fleming BSc (Hons) MRTPI

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

Decision date: 13 January 2017

Appeal Ref: APP/A5270/W/16/3156431
Manhattan Business Park, West Gate, Ealing, London W5 1UP

- 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 Manhattan Assets No. 9 Limited against the decision of the Council of the London Borough of Ealing.
- The application Ref PP/2015/6171, dated 19 November 2015, was refused by notice dated 22 February 2016.
- The development proposed is erection of 3 additional storeys on the existing building to accommodate 15 dwellings along with associated car and cycle parking.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposed development on the:

   - living conditions of the future occupants of the proposed development with particular regard to noise and disturbance;
   - integrity of the Strategic Industrial Location (SIL);
   - character and appearance of the area;
   - provision of affordable housing.

Reasons

Living conditions

3. The appeal premises are within the Park Royal Strategic Industrial Location (SIL) and were most recently used as an office.

4. Prior approval was granted in July 2014[1] to change the use of the existing building to 10 dwellings. At the time of my site visit construction had commenced, although no dwellings had been completed on the site.

5. The proposed development is directly adjacent to four railway lines and the A40 which at the point closest to the appeal building has six lanes and an almost continuous flow of traffic for most of the day. Furthermore, there is a builder's merchants to the east and eight small industrial units to the west all

[1] Council Reference: PAN/2014/2624

of which I am told are unrestricted in terms of hours of operation and delivery or loading times.

6. The neighbouring land uses would result in significant vehicle movements, trains passing by, loading and general commercial activities taking place throughout the day, late into the evening and potentially overnight. In my view, these activities in such close proximity to the proposed dwellings would generate significant amounts of noise and disturbance.

7. I have considered the appellant's noise assessment and note the proposed noise mitigation measures including acoustic double glazing and acoustically treated ventilation. However, such measures would be ineffective if the windows or doors of the proposed dwellings are open and would not mitigate any noise and disturbance in the proposed garden areas, balconies and roof terrace.

8. Notwithstanding the comments with regard to whether the prior approval for 10 dwellings has been implemented and or remains extant, the scheme before me seeks approval for an additional 15 dwellings. I find the proposed mitigation measures are insufficient to overcome the significant level of noise and disturbance which would be generated by neighbouring uses and thus the occupants of the additional 15 dwellings would be subject to harmful living conditions with particular regard to noise and disturbance.

9. Thus, the proposal would be in conflict with Policies 3.5 and 7.6 of the London Plan[2] (LP), Policy 1.1 of the of the Ealing Development Strategy 2026 Development Plan Document (2012) (DSDPD) and Policies 7A and 3.5 of the Ealing Development Management Development Plan Document (2013) (DMPD), which taken together, seek to ensure new housing development is high quality and a good standard of design.

Strategic Industrial Location

10. Policies 2.17 and 4.4 of the LP seek to, among other things, avoid the redevelopment of employment land within SIL's to alternative non employment generating uses. Policy 2.17 of the LP states development proposals within SIL's should not compromise the integrity or effectiveness of these locations in accommodating industrial type activities.

11. Even if I were to accept that the office use of the appeal premises has already been lost to residential use the appeal proposal would still introduce additional residential development into the SIL.

12. Given my findings with regard to the first main issue, more people living in the SIL would increase the risk that residents would seek an Abatement Notice to address any noise and disturbance arising from nearby commercial premises operating on the SIL. This in turn would put the viability of individual premises on the SIL at risk, would limit their economic potential and thus would compromise the overall integrity of the SIL.

13. In reaching these conclusions, I acknowledge that the Council have not taken any steps to impose an Article 4 Direction in respect of changes of use to dwellings on the SIL. However, this is not a reason to justify a development which I have found would be harmful to the integrity of the SIL.

[2] The London Plan – The Spatial Development Strategy for London Consolidated with Alterations Since 2011(2016)

14. For the reasons given, I find the proposed development would be in conflict with Policies 1.1, 2.17, 4.1, 4.2, 4.4 of the LP and Policies 1.2, 3.2 , 3.3, 3.4 of the DSDPD which taken together seek to encourage economic growth.

Character and appearance

15. The proposed development would be within an area characterised by modern commercial buildings of a relatively simple and functional character and appearance.

16. Even though the appeal building would be in residential use and taller than the industrial units to the west, the proposed use would not generate any visual harm and there are other taller buildings nearby, such that the proposed development would not appear out of place in its context.

17. Thus, the proposed development would not harm the character and appearance of the area. Therefore in this regard the proposal would comply with Policy 7.4 of the DMDP and Policies 7.4 and 7.6 of the LP which taken together, seek to ensure good design and that new development does not harm the character of an area.

Affordable Housing

18. Policy 1.2 of the DSDPD states that 50% of the housing developed in the Borough up to 2026 will be affordable housing. The justification makes clear that contributions will be negotiated on the basis of seeking the maximum reasonable amount of affordable housing, taking into account the specific circumstances of the site including financial viability.

19. The appellant's viability appraisal concludes that it would be unviable for the scheme to provide any affordable housing. With the absence of any substantive evidence to the contrary, I am led to the conclusion that based on the site specific circumstances the appeal scheme cannot support the provision of any affordable housing.

20. Therefore in this regard the proposal would accord with Policy 1.2 of the DSDPD and Policies 3.11, 3.12 and 3.13 of the LP, which seek to ensure new residential developments deliver appropriate amounts of affordable housing subject to site specific circumstances.

Other Matters

21. I acknowledge that the proposed development would add to the supply of housing in the Borough. I also note that conversions and small sites make up a significant proportion of the Council's historic and projected housing land supply. I have also considered that the proposed dwellings would benefit from good public transport and pedestrian and cycle routes to services and employment close by. However, these matters or any others raised do not outweigh the harm I have identified.

Conclusion

22. Whilst I have found no harm in terms of the character and appearance of the area or affordable housing, I have found harm in terms of living conditions and the integrity of the SIL. Therefore for the reasons set out above and with regard to all other matters raised I conclude that on balance the proposal is in

conflict with the development plan and the appeal should therefore be dismissed.

L Fleming

INSPECTOR