
Appeal Decision

Site visit made on 13 December 2016

by Louise Nurser BA (Hons) Dip UP MRTPI

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

Decision date: 18 January 2017

Appeal Ref: APP/N5090/W/16/3156942

Land north of Garrick Road Industrial Estate, Irving Way, Colindale NW9 6AQ

- 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 Ropemaker Properties Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 15/04144/FUL, dated 3 July 2015, was refused by notice dated 28 July 2016.
 - The development proposed is erection of 2 no. units comprising total of 3020 sq m within flexible Use Class B1, B2 (food processing) and B8, associated parking and other associated works.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The industrial site is referred to by a number of names. I have taken its name from the application form.

Background and Main Issues

3. Part of the appeal site includes a landscaped bund. The trees, bund and area of grass form a visual screen between the existing employment uses operating from Garrick Road Industrial Estate, which is identified as a Locally Significant Industrial Site within Barnet's Local Plan Development Management Policies (LP), and the housing at Colin Gardens and Colin Drive. This landscaping was required as a condition of the original planning permissions¹. However, I must consider the appeal on the basis of the merits of the application before me.
4. The main issues in this case are the effect of the proposed development on living conditions of nearby residents, with reference to outlook, noise and disturbance; and whether the proposed development is acceptable in the absence of a planning obligation relating to a travel plan and highway matters.

Reasons

5. The proposed development of two units, of a similar scale and massing to those within the established industrial would extend the built development in the direction of Colin Gardens and Colin Drive. Further parking would be

¹ W1406V/ HQ792A

introduced at the south west of the site to the north of the Silk Stream and along the site's western boundary, with additional parking within the centre of the site.

Living conditions

6. At my site visit, I noted, for the most part, that the rear gardens of Colin Drive and Colin Gardens do not benefit from mature established trees and shrubs. Consequently, I understand that the existing trees and mound provide a valuable screen between the industrial estate and the area of residential development.
7. No doubt the trees provide an attractive back drop to views from the rear gardens of neighbouring houses. However, from what I saw on site and from the arboricultural evidence which I have been provided, there is nothing to suggest that all the tree specimens are of such significance that they should be considered worthy of retention. In addition, as a result of the proposed changes in ground levels, the northern elevations of both new units would be of a similar height to the eaves levels of the housing that backs onto the industrial estate and the intervening distance between the housing and the proposed units, would be akin to that commonly found between housing within suburban developments. Consequently, the scale of the proposed units would not appear overbearing.
8. Nonetheless, clearly the proposed development of two units would involve blank elevations of an industrial design which would be visible from the nearby houses and gardens. However, with the proposed landscaping, albeit it would be significantly reduced from the existing situation, and the imposition of a condition that both units should include a green wall for the lifetime of the development the impact of the development would be considerably softened.
9. I note that concerns have been raised by interested parties that due to the orientation of the building that the planting which would make up the green wall would not thrive. However, there is nothing before me to suggest, following the imposition of appropriate conditions relating to the maintenance of the screening and planting, that the green wall and proposed detailed landscaping could not be satisfactorily implemented and retained.
10. Consequently, given that the height of the units would appear to be similar to that of nearby housing, following the excavation in levels, and the proposed landscaping, including the use of a green wall as a way to ameliorate the impact of the industrial form of the units, I conclude that the proposed development would result in a satisfactory outlook for residents from within their homes and gardens.
11. Therefore, I conclude that two additional units whilst clearly industrial in nature would not have an adverse impact on the outlook of residents of Colin Drive and Colin Gardens. In coming to this conclusion, I have been mindful that the area of green space which formed a bund, which is for the most part to be lost as a result of the proposed extension within the industrial estate, had been a condition of permissions W1406V/ HQ792A. Its loss, together with some of the trees, which from my site visit I observed made a positive impact on the urban environment, would of necessity alter the outlook experienced by nearby residents. However, I conclude that subject to detailed conditions, including the provision of a suspended wire green wall system on the north elevation of

unit 25, as well as on the northern elevation of unit 26 that the proposed development would accord with the provisions of Policy DM01 of the Barnet's Local Plan Development Management Policies (LP). This requires development to be of a high quality design and not to adversely impact on the outlook of those living in neighbouring properties.

12. The proposed development would extend the employment uses closer to the housing. I understand that residents experience noise and disturbance from the existing operation of the industrial estate. The hours of operation of the two units are proposed to be restricted by condition to between 7 am to 11 pm for uses falling within Class B1 (b) or (c) or B8 of the Town and Country Planning (Use Classes) Order 1987. However, it is proposed that were 24 hour operation of the new units to take place that this would be restricted by condition to use as a bakery.
13. At night, due to the lack of background noise, nearby residents are likely to be more sensitive to noise with associated impacts on their quality of life, such as difficulties sleeping. Indeed, I have been provided by residents with examples of incidences of noise and disturbance which they have experienced.
14. The appellant has provided technical evidence relating to noise from within the proposed units and from the use of the additional car parking spaces. Further information has also been provided relating to the noise impacts of delivery vehicles associated with the bakery during the night. This detailed technical evidence, has not been challenged by the Council's Environmental Health Officer. It demonstrates that subject to strict conditions requiring the implementation of the proposed acoustic barrier and the setting, and monitoring of target noise levels which are not to be exceeded, as well as the implementation of controls to manage noise from delivery vehicles and staff parking through Delivery and Parking Management Plans, that there would be a net improvement in noise levels at night, from that currently experienced.
15. In addition, I am aware from local residents that odours from the existing bakery can be unpleasant. However, I note that an Odour Management Plan has been submitted as part of the application and that this would provide the opportunity to control the impact of odours and that this would be reviewed on an annual basis.
16. From the evidence before me, and subject to the imposition of relevant conditions, I conclude the proposed development would not have a detrimental impact on the living conditions of neighbouring residents and would therefore, in respect of impact on noise and disturbance, including from unpleasant smells, accord with Policy DM04 of the LP.

Planning obligation

17. Policy DM17 of Barnet's Local Plan Development Management Policies (LP) requires developments, over the Transport for London thresholds, to implement and maintain a satisfactory Travel Plan to minimise increases in road traffic and to meet mode split targets, as well as where necessary, to provide highway improvements. The appellant is willing to address the Council's requirements for a planning obligation as a means of overcoming the third and fourth reasons for refusal. Indeed, it has provided a draft planning obligation.

18. From the evidence before me, I consider that the provision of a Travel Plan and highway works are necessary and directly related to the development and would accord with the guidance set out within the Barnet Local Plan Supplementary Planning Document: Planning Obligations² (SPD). In addition, given the particular nature of Travel Plans that the additional duties involved with its monitoring to assess its effectiveness that a financial contribution towards the Council's costs would be appropriate.
19. An unsigned draft planning obligation has been provided by the appellant. I note the appellant's concerns relating to how the Council has handled the drafting of the obligation. Nonetheless, as the obligation would require to be complete before it could take effect, and that there is uncertainty as to who should be party to the undertaking, I am unable to take this into account in my consideration of this appeal. Without a signed, executed and sealed planning obligation the proposal would fail to secure a Travel Plan and appropriate highway works and so would be in conflict with Policy DM17 of the LP and the guidance contained within the Planning Obligations SPD. Therefore, as I have concluded that there is a need for the Travel Plan and highway works to be secured, and that no mechanism has been provided to do so, I conclude that the proposed development would be contrary to Policy DM17 and the Planning Obligations SPD.

Other matters

20. I am aware of the strength of opposition to the proposed development, including to the way in which the development has been promoted. Residents have raised a number of other concerns including, loss of sunlight, impact on wildlife, loss of privacy, light and air pollution. In addition, reference has been made to a potential increase in vermin and crime, as well as the risk of the Silk Stream flooding as a result of the proposed development. However, the consideration of such matters has not been decisive in my consideration of the appeal.
21. Representations were made to the effect that Ana and Ahmed Khalifa's rights under Articles 1 and 8 of the Human Rights Act 1998 would be violated if the appeal were to be allowed. However, as I have decided to dismiss the appeal, I do not need to deal with the question of whether the decision would result in a violation of their rights.

Conclusion

22. I therefore conclude, on balance, whilst the effect of the proposed development on the living conditions of the nearby residents would be acceptable in relation to outlook, noise and disturbance, the adverse impacts of not providing a planning obligation to provide for the required highway works, Travel Plan and associated financial contributions, would not accord with the development plan as a whole.
23. For the reasons above I conclude that the appeal should be dismissed.

L. Nurser

INSPECTOR

² April 2013