

Appeal Decision

Site visit made on 3 January 2017

by Rory Cridland LLB (Hons), Solicitor

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

Decision date: 10 February 2017

Appeal Ref: APP/F5540/W/16/3157820

Land at and rear of 117 & 119 West Way, Heston, Hounslow TW5 0JE

- 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 Abava Developments Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 01193/Z/P1, dated 1 April 2016, was refused by notice dated 1 August 2016.
 - The development proposed is the erection of 14 dwellings with associated access, drainage, landscaping and car parking, following the demolition of 117 & 119 West Way and all other existing buildings on the site.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (i) the effect of the proposal on the character and appearance of the surrounding area;
 - (ii) the effect of the proposal on the living conditions of neighbouring occupiers with particular regard to outlook and privacy;
 - (iii) the effect of the proposal on the living conditions of future occupiers with particular regard to outlook and outdoor amenity space; and
 - (iv) whether the proposal makes adequate provision for affordable housing.

Reasons

Character and appearance

3. The appeal site consists of a triangular shaped parcel of land located behind the rear gardens of existing residential properties along West Way, Greencroft Road and Sutton Square. It is currently used for storage purposes and includes Nos 117 & 119 West Way as well as a number of single storey structures accessible from an access way alongside Nos 75 & 77 West Way. The surrounding area is mostly residential and is characterised by two-storey dwellings with large rear gardens, some of which have been extended both in the loft and to the rear.
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4. Policy CC1 of the London Borough of Hounslow Local Plan 2015-2030¹ (LP) seeks to ensure that all new development conserves and takes opportunities to enhance the context and character of the borough. Likewise, Policy CC2 supports high quality urban design and expects development proposals to understand, integrate and add to the surrounding context. In addition, Policies 7.1, 7.4 and 7.6 of the London Plan² require new development to be designed so that it integrates well with surrounding land, has regard to the form, function and structure of an area and the scale of surrounding buildings and is of a proportion that enhances the public realm.
5. The proposal would involve the demolition of Nos 117 & 119 West Way and the erection of 14 dwellings - ten houses and four flats. Although the Council accepts the principle of residential development on the site, it raises concerns regarding the height, scale and position of the proposed dwellings - which it considers would result in a cramped and overdeveloped appearance.
6. I agree with those concerns. In terms of their scale and height, drawing 14.175/PP02 indicates that units 1-6 and 11-14 would consist of 2 storey structures which would be in keeping with both the general height and scale of those of the surrounding residential development. However, units 7-10, with their additional storey³, would be somewhat larger than is the norm. Their position at the entrance to the site, with their increased height and limited separation distance between the frontages, would result in a cramped and overdeveloped appearance particularly when entering the site from the new access. They would appear at odds both within the context of the site itself as well as that of the surrounding 2 storey dwellings, failing to integrate well with their surroundings.
7. Furthermore, in terms of their position and number, the parties agree that the overall density would be broadly in line with those set out in the London Plan. However, the western part of the site tapers inwards, considerably restricting the space available for development. Units 1 & 2, being located towards the narrowest part of the site would be located in close proximity to the site boundary and include an area of hard standing to the front. They would appear cramped and at odds with more generous plot sizes of the surrounding residential properties. This would exacerbate the harm identified in paragraph 6 above and provides a further indication that the scheme would result in an overdevelopment of the site.
8. Accordingly, for the reasons set out above, I consider the scheme would result in a cramped and overdeveloped appearance. This would be harmful to the character and appearance of the surrounding area and, as such, would be contrary to LP Policies CC1 & CC2 and London Plan Policies 7.1, 7.4 & 7.6.

Living conditions of future occupiers

9. The Council has also raised concerns in relation to the outlook for plots 7, 8, 9 and 10. I consider these concerns to be well founded. While I note the appellant suggests that a distance of 11m between front to front elevations should be considered acceptable, in this case the limited amount of separation

¹ Adopted September 2015

² March 2016

- would contribute to the development appearing cramped and overdeveloped resulting in a considerably poor outlook for the occupiers of units 7- 10.
10. In the case of unit 7, this would be exacerbated by the close proximity of unit 6 which would be visible from windows on the ground and first floor. At a separation distance of around 8.5m, this neighbouring unit would appear overbearing, further compromising the outlook for the occupiers of unit 7. While I note that only one bedroom in unit 7 would face towards the side elevation of unit 6, I do not consider that this would be sufficient to mitigate the resultant harm.
 11. In relation to outdoor amenity space, although the Council accepts that the proposal meets or exceeds the requisite standards in general, it raises concerns regarding the private amenity space available for units 12 & 13. LP Policy SC5 requires new development to provide a combination of private outdoor space for each flat and communal space. It provides minimum space standards of private outdoor space which can be provided in the form of balconies, roof terraces or private garden space. In addition, it sets out minimum levels of communal space for each flat which, in this case, would amount to around 75m².
 12. I note that the appellant has indicated⁴ that the outdoor amenity space for units 12 & 13 is shared with that of unit 11, which at around 95m² would satisfy the requirements for *communal* space. However, the plans indicate that neither of these units would include any private outdoor space. In the absence of such, the proposal would be contrary to the requirements of Policy SC5.
 13. Consequently, I have found above that the scheme would result in an unacceptable outlook for units 7-10. Furthermore, I have found that the level of outdoor amenity space proposed for units 12 & 13 would not satisfy the requirements of LP Policy SC5. Together, these factors point to a poorly designed scheme which be harmful to the living conditions of future occupiers. As such, I find it contrary to LP Policies CC1, CC2 and SC5 which seek to ensure, amongst other things, that new development is of a high quality design and provides minimum levels of private outdoor amenity space.

Living conditions of neighbouring occupiers

14. The Council considers the proposed scheme would have an unacceptable impact on the outlook and privacy of neighbouring occupiers. However, I note that unit 2 would be located around 20m from the rear elevation of No 83 West Way. Although it would be visible from both the property itself and its garden, at 2 storeys high, it would appear neither overbearing nor create a sense of enclosure for the occupants of that dwelling. In addition, I note that there is a single storey garage located to the rear of No 83. This would partially screen unit 2 from both the garden of that property as well as from within the dwelling itself. Accordingly, I do not consider that there would be any material loss of outlook for the occupiers of that dwelling.
15. Likewise, while I note that plots 8 & 9 would be larger, with a height of around 10 metres, I consider separation distances of around 24m between these units and Nos 115 & 121 West Way would be sufficient to limit any negative impacts on outlook for the occupiers of those properties. Again, there are a number of

⁴ Both within the Design and Access Statement and as part of his written submissions

outbuildings and structures located at the rear of these properties which would partially screen the proposed units, further reducing any negative impacts. Similarly, in respect of unit 14, at a distance of 17m, and with a height of around 7m, there is a sufficient amount of separation to ensure that any impacts on outlook for the occupiers of No 11 Sutton Square would remain within acceptable levels.

16. While I acknowledge that the views currently experienced would alter and the proposal would introduce two storey dwellings to an area which presently only contains single storey structures, the separation distances significantly limit any potential harm to outlook for the occupiers of those dwellings. As such, I do not consider the proposed dwellings would appear overbearing in relation to their neighbours on West Way or Sutton Square and, accordingly, find no harm in this respect.
17. Turning then to the effect on privacy, the rear elevation of unit 4 would include windows at first floor level which face out towards the rear elevations of Nos 99 & 101 West Way. The rear elevations of these neighbouring dwellings include windows which serve habitable rooms and face towards the appeal site. At present there is no direct overlooking to the rear windows of these properties although there are views into their gardens from some of the adjacent properties.
18. Nos 99 & 101 would be separated from unit 4 by around 23 metres. Although there are no set standards set out in the LP for minimum distances between dwellings, the London Plan Housing Supplementary Planning Guidance⁵ indicates⁶ that distances of around 18-21 metres between facing windows of habitable rooms would generally be acceptable. While I note that these properties have extended to the rear and use these extensions as living rooms, at a distance of around 23m, views towards them would be sufficiently distant so as to not result in any unacceptable loss of privacy or outlook. Similarly, in respect of plots 5 & 6, at a distance of around 29m from the rear elevation of Nos 105 & 107 West Way, their impact on the privacy of the occupiers of these dwellings is similarly limited.
19. Accordingly, I do not consider the proposed scheme would result in an unacceptable loss of either outlook or privacy for neighbouring occupiers. As such, I find no conflict with LP Policies CC1 & CC2 or London Plan Policies 7.1, 7.4, 7.5 or 7.6 in this respect. These policies, amongst other things, seek to ensure that new development does not cause unacceptable harm to the privacy and outlook of surrounding residential buildings.

Affordable Housing

20. LP Policy SC2 seeks to maximise the provision of affordable mixed tenure housing. It seeks the maximum reasonable amount of affordable housing to be negotiated on a site specific basis on all sites with a capacity to provide 10 or more homes. Development proposals are required to, amongst other things, deliver a mix of 60% affordable-social rented tenures and 40% intermediate tenures on all qualifying sites.
21. The parties agree that the site is a qualifying site for the purposes of Policy SC2. Furthermore, the appellant has submitted a Unilateral Undertaking as part

⁵ London Plan Housing Supplementary Planning Guidance (March 2016)

⁶ at Para 2.3.26

of this appeal which seeks to secure the requisite contribution (in this case 6 dwellings). However, the Council is concerned with the adequacy of this document and its ability to secure the affordable housing in the form required by Policy SC2. I agree with those concerns. The UU lacks detail and fails to make provision for the mix of affordable housing types required by Policy SC2. In the absence of such details, I cannot be certain that it would deliver the policy objectives. I do not therefore consider it to be sufficient to secure the affordable homes requirements of that policy.

22. Accordingly, I find that the proposal fails to secure the required contribution to affordable housing and, as such, would be contrary to LP Policy SC2.

Other Matters

23. The appellant has suggested that the affordable homes contribution could instead be secured by means of a condition. Although the Council originally appears to have accepted this and has proposed a condition to this effect, it no longer accepts that this method of delivering the affordable homes requirement would be appropriate.
24. I am not aware of any strict legal requirement for affordable housing to be secured by means of a planning obligation. Furthermore, Policy SC2 is silent on the precise mechanism for achieving it. Instead, the question of whether a condition or obligation will be appropriate will depend on the circumstances of the case, with Paragraph 203 of the National Planning Policy Framework indicating that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
25. If the circumstances leading to the grant of planning permission had been present, in the absence of any secured affordable housing, it would have been necessary to give further consideration to whether the issue could be overcome by means of a condition. However, I have found above that the proposal would conflict with a number of LP policies and accordingly, I do not consider that any such assessment is required in this instance.

Planning Balance and Conclusion

26. Although I have found above that the proposal would not have a significant impact on the living conditions of neighbouring occupiers with regard to outlook and privacy, I have nevertheless found that it would result in a poor outlook and provide insufficient outdoor amenity space for future occupiers. Furthermore, I have found that it would be harmful to the character and appearance of the surrounding area and would fail to make adequate provision for affordable housing.
27. Consequently, for the reasons set out above, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR