

Appeal Decision

Site visit made on 17 January 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 23 February 2017

Appeal Ref: APP/A5270/W/16/3160251

Land rear of Park Parade, Acton W3 9BD

- 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 Ms Julia Schwarzmenn against the decision of the Council of the London Borough of Ealing.
 - The application Ref 162578FUL, dated 1 June 2016, was refused by notice dated 27 July 2016.
 - The development proposed is erection of six one bed duplexes on former open storage (use class B8) land.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed development would provide acceptable living conditions for future occupiers; and
 - the effect of the proposed access arrangements on the safety of vehicular and pedestrian traffic to the rear of Park Parade.

Reasons

Living Conditions

3. The appeal site is located to the rear of Park Parade. An access lane from Gunnersbury Lane serves the rear of commercial properties on Park Parade, workshop units and residential properties on the upper floors of the commercial properties. Servicing for the commercial properties also takes place from the front of Park Parade.
 4. The proposed development would comprise six one-bedroom two storey homes. Vehicular access to the proposed development would be from the access lane whilst pedestrian access would be from an existing route between 14 Park Parade and 114 Gunnersbury Avenue. The proposal does not include any on-site car parking.
 5. A survey undertaken by the appellant's transport consultant indicated that on the days surveyed no HGV serving the commercial units visited the access lane and that the number of vehicle movements was low. However, although I saw no HGVs, during my visit I saw several commercial vehicle movements using
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the access lane. The appellant has indicated that servicing primarily takes place from the frontage to Park Parade but it is clear that the rear access lane is also well used for servicing. This may be more convenient than frontage servicing notwithstanding the restrictions at the rear. In addition, there would also be traffic associated with the workshops.

6. The appellant's noise survey stated that the development fully complies with the noise limits contained within the Council's Supplementary Planning Guidance (SPG) 10. The appellant considered the appeal site suitable for residential development with appropriate sound attenuation measures through scheme design or planning conditions. The Council's pollution officer confirmed this to be the case. Nevertheless I am not convinced that the effect of activity associated with servicing the workshops to the rear in terms of vehicles arriving and leaving and the opening and closing of the roller shutter doors of some premises has fully been addressed. The proximity of the commercial units to the proposed development would also contribute to the level of disturbance to future residents from servicing vehicles.
7. Because of the narrowness of the service lane and the fact that some properties need to be serviced directly from the lane rather than within the premises themselves commercial vehicles would be operating in close proximity to the proposed residential properties. This would potentially lead to disturbance to occupiers of the proposed homes to the extent that the living conditions which occupiers might expect to enjoy would not be met.
8. I have had regard to the fact that private amenity space is proposed to the rear of the proposed dwellings and therefore any disturbance would be limited to some degree by the proposed dwellings. Nevertheless, these private spaces are small and therefore the proposed communal public amenity space would have added importance for residents. Additionally, neighbouring residential properties within Park Parade are generally in an elevated position whereas the proposed development would be at the same ground floor level as the commercial premises. Consequently, I find that the adjoining commercial units would have an adverse impact on the living conditions for future occupiers of the proposed residential properties.
9. A turning head adjacent to the residential properties would allow vehicles to enter and leave the service road in forward gear. Nevertheless, it is not unreasonable to consider that the volume and nature of vehicles using the turning head could be expected to be greater than might otherwise be found using a turning head within other residential cul-de-sacs. This would add further to the disturbance which future residential occupiers might experience.
10. The appellant acknowledged that a kitchen extract fan on the rear of the restaurant at 7 Park Parade contributes audible/noticeable noise to the site in the late evening when traffic begins to reduce. As a result the appellant recommended noise mitigation. Without such mitigation there would be likelihood that the living conditions of future occupiers of the proposed development would be adversely affected. In order to address this matter the appellant proposed mitigation to be secured through a planning obligation under section 106 of the Town and Country Planning Act, 1990. This would provide for a commuted sum to improve the extraction unit of 7 Park Parade to an appropriate standard to be agreed with the Council prior to the commencement of development. However, I have no indication that the owner

of that property would allow the proposed improvements to be made and therefore I have concerns about whether the proposed mitigation could be effectively secured.

11. In addition, the obligation is not signed and dated. As I intend to dismiss the appeal for other reasons I have not pursued this matter with the main parties. Nonetheless, as it stands, I am not satisfied that the planning obligation would make adequate provision to mitigate the impact of disturbance upon the future occupiers of the proposed development.
12. I therefore find that the proposed development would be contrary to Policy 7A of the London Borough of Ealing Development Management Development Plan Document, 2013 (the DMDPD) which seeks to ensure that sensitive uses will only be permitted where acceptable levels of amenity can be achieved. In particular, it has not been adequately demonstrated that the effects of neighbouring development on the proposed use would be properly addressed. The proposed development would also fail to achieve a high standard of amenity for occupiers contrary to Policy 7B of the DMDPD.
13. The proposal would also be contrary to Policy 3.5 of the London Plan, 2015 in that the proposed housing development has failed to properly address the physical context of the site. In addition, it would fail to mitigate and minimise the existing adverse impact of noise in the vicinity of new development contrary to Policy 7.15 of the London Plan.

Access

14. The existing vehicular access route which serves the commercial properties in Park Parade is narrow. The appellant has demonstrated through a vehicle tracking plan that small commercial vehicles could manoeuvre and turn within this access road using the proposed turning head. Provision would also be made for a fire appliance to turn making use of the proposed gates at the end of the turning head.
15. The Council argued that commercial vehicles turning close to the front of the dwellings would create unsafe conditions but brick piers and railings around the turning head would go some way towards limiting the risk to pedestrians as vehicles turned. Although there is no guarantee than vehicles would use the turning head, and therefore the possibility arises that some vehicles would reverse out of this lane, I would expect the turning head to be used where possible. However, refuse vehicles currently reverse into the access road and it is not proposed that this arrangement would change. Such operations occur early in the morning when pedestrian movements can be expected to be at their greatest and therefore add to the safety concerns I have identified.
16. Whilst the number of proposed units is more than a previous scheme which was refused planning permission, each is smaller and therefore in comparison would be likely to result in fewer residents. However, it is the comparison with the existing situation and how pedestrian and vehicular movements arising from the proposed scheme relate to the access arrangements which is of relevance. In that regard I find that although modest, there would be an increase in pedestrian movements along the access lane. As approximately 20% of current pedestrian movements to the rear of Park Parade use the northern access I see no reason why a similar proportion of future residents of

the proposed scheme would not use this route, indicating that the majority would use the shared pedestrian/vehicular lane.

17. The Road Safety Audit (RSA) submitted by the appellant did not identify any issues that would prevent development and indicated that the proposals for traffic movement were an improvement on the previous scheme. Whilst the RSA raised no concerns about non-motorised user provision it did this without addressing the effect of the proposal on such users. In addition the RSA identifies that there are no parking restrictions along the access lane and therefore ad-hoc parking occurs which may restrict the carriageway width resulting in vehicles having to reverse which may increase the risk of collision. The RSA recommended that parking arrangements within the access lane should be formalised but because of the narrowness and the need for servicing in my view it would be difficult to overcome this safety issue.
18. The appellant argued that the low traffic volumes and the width of the service lane make it well suited to a shared road surface. However, the narrowness and alignment of the lane would in my view give rise to safety issues between pedestrians and vehicles. The pedestrian route adjacent to 14 Park Parade is narrow and uninviting for pedestrians. The proposed lighting would still not make it an attractive alternative to the shared access service lane. Moreover, it is likely that pedestrians would wish to use the access lane because it provides a more direct walking route to Acton Town Station.
19. I recognise that the appellant has attempted to address the concerns of the Inspector who considered a previous proposal¹. The proposals to resurface the lane and provide one-bedroom units rather than family accommodation, would help to address concerns about children in pushchairs. I also recognise that existing residents of properties above Park Parade use the access lane. However, this does not mean that it would provide a satisfactory access route for future residents of the proposed development, even as a secondary access. The previous Inspector's concerns about a lack of lighting have also been addressed through the provision of illumination in the current scheme which could be secured through conditions but these proposals do not overcome my concerns about pedestrian safety in respect of either route to the proposed dwellings.
20. Whilst the proposed development will not significantly increase the number of pedestrians using the shared access route the proposal needs to be considered in its own right. The use of different materials to denote vehicle and pedestrian zones, improved lighting and a rumble strip would all assist in improving conditions for pedestrians but would not reduce the likelihood of pedestrian/vehicle conflict to an acceptable degree.
21. The appellant argued that Transport for London (TfL) raises no objection to the proposals yet the Council relied on London Plan transport policies in relation to the second reason for refusal. However, the comments of TfL as noted in the officers' report are only concerned with the effect of the proposal on the Transport for London Road Network (TLRN) rather than transport issues as a whole. Consequently the lack of objection by TfL to matters of detail does not weigh in favour of the scheme.

¹ APP/A5270/A/10/2131874

22. The proposal does not include any on-site car parking and is intended to be car free. However, no mechanism has been proposed to ensure that occupiers of the proposed dwellings do not have cars or prevent them from parking on neighbouring roads which are part of a Controlled Parking Zone.
23. Accordingly I find that notwithstanding that the proposals would not affect safety on the TLRN and that there would be an improvement in safety locally the proposed development would adversely affect safety on the transport network contrary to Policy 6.3 of the London Plan. For safety reasons it would also fail to ensure a high quality pedestrian environment contrary to Policy 6.10.
24. The proposals would also fail to provide a high quality design response which makes people feel comfortable with their surroundings as required by Policy 7.15 of the London Plan.

Other Matters

25. The appellant has identified the benefits of the scheme as comprising the provision of new homes, the development of a vacant site for a productive use with associated environmental improvements, improvements to the management of refuse for existing occupiers of Park Parade and improvements to the access road surface. Whilst these are all benefits which weigh in favour of the proposal they are not sufficient to overcome the harms which I have identified.
26. I have taken into account the concerns raised locally about the impact of the proposed development on the living conditions of residents in Lillian Avenue. However, this has not led me to any different overall conclusion. It has also been stated that a covenant on the appeal site restricts future development but this is not a matter for my consideration which I have determined on the planning merits of the case.

Conclusion

27. For the reasons set out above, the appeal is dismissed.

Kevin Gleeson

INSPECTOR