
Appeal Decision

Site visit made on 9 May 2017

by D Boffin BSc (Hons) DipTP MRTPI Dip Bldg Cons (RICS) IHBC

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

Decision date: 23 May 2017

Appeal Ref: APP/T5150/W/16/3163470

Land to the rear of 270 -288 Neasden Lane, London NW10 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 Pinkrose Limited against the decision of the Council of the London Borough of Brent.
 - The application Ref 16/3367, dated 30 July 2016, was refused by notice dated 25 October 2016.
 - The development proposed is described as "*redevelopment of vacant land to create a residential development of four apartments together with ground floor B1 class (a) office space and associated parking and delivery area*".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Policies from the Brent Unitary Development Plan, 2004 referred to by the Council in its decision notice have been superseded by policies from Brent's Development Management Policies, Development Plan Document (DMPDPD) 2016, which was adopted after the planning application was refused. The Council has provided details of the policies within the DMPDPD which it considers to be relevant, and the appellant has had an opportunity to comment on them and they are not therefore prejudiced by my consideration of them. I have therefore dealt with the appeal on this basis.
3. The appellant has submitted drawing No 829.302 which is a proposed site elevation illustrating the 30 degree rule. However, that drawing appears to include amendments to the scheme as the roof height is shown as 9.400 whereas on the submitted drawings for the planning application the roof height is shown as 9.675. The appeal process should not be used to evolve a scheme and the submitted drawing No 829.302 involves revisions that are not of a minor nature and as such I cannot guarantee that no party would be prejudiced by my consideration of its content. Therefore, I have not taken it into account in the determination of this appeal.

Main Issues

4. The main issues are the effect of the proposed development on:-
 - The living conditions of the neighbouring occupiers with regard to outlook and the living conditions of the future occupiers of the development with regard to outdoor living space and access; and
 - The character and appearance of the area; and
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- Highway safety with regard to car parking provision.

Reasons

Living conditions

5. The appeal sites comprises an undeveloped piece of land fronting an unmade access drive off Cairnfield Avenue that serves the rear yards of properties on Neasden Lane. The access drive is gated and can also be accessed off Neasden Lane. The site has boundaries with dwellings on Chartley Avenue and a block of flats, Cairnfield Court and is presently used for car parking.
6. Both parties have brought to my attention a previous appeal on this site¹. I have not been provided with the full details of the previous scheme. However, the Council have stated that the main amendments to that previous scheme are a reduction in height (removal of the 4th storey), changes in fenestration detailing and reductions in massing to the second floor.
7. The Council's "Design Guide for New Development" Supplementary Planning Guidance (SPG 17) states that whilst encouraging higher density development it is important that the relationships created between buildings, and between buildings and private amenity spaces, does not become detrimental by being over dominant or overbearing in terms of the overall quality of design. It goes on to give guidance on 2 calculations that can be carried out to assess the size and scale of the proposal in relation to the above (the 30 and 45 degree rules).
8. As stated above the appellant has submitted a drawing in relation to the 30 degree rule. However, I cannot take it into account for the reasons given above. Moreover, I noted at my site visit that the gardens appreciably slope down towards the rear elevations of the dwellings in Chartley Avenue. As such, the proposed development would be at an elevated ground level to those dwellings and the submitted drawing does not take into account the differences in ground levels. Consequently, I have no evidence before me to demonstrate that the proposal would comply with the guidance in SPG17.
9. Nevertheless, the proposed building would be 3-storey in height with a flat roof. The top storey of the building would be slightly inset from the side and front elevations of the lower parts of the building. However, the rear elevation would be 3-storey in height, for the majority of its length, adjacent to the boundaries with the dwellings on Chartley Avenue. Furthermore, the proposed building would coincide with the whole of the rear elevations and rear gardens to a number of those dwellings. As a result I consider that the development would be experienced as overbearing and unduly dominant by the occupiers of the adjacent dwellings in Chartley Avenue.
10. The proposal would also be adjacent to the garden/amenity area of Cairnfield Court. The previous Inspector stated that "*whilst Cairnfield Court occupies a marginally elevated position above the appeal site the overall effect of the height and width of the proposed development would be overbearing and dominant in relation to the garden/amenity area*". The overall height has been reduced but due to its proximity I consider that the proposal would still result in a material loss of outlook to the occupiers of those flats when using the garden area.
11. The appellant has drawn my attention to other buildings that have been approved or constructed closer to boundaries elsewhere. However, I do not

¹ APP/T5150/W/15/3136010 – 16 June 2016

have the details of these schemes and I do not know of the circumstances that led to these proposals being accepted and so cannot be sure that they represent a direct parallel to the appeal proposal. Furthermore, I am required to determine the appeal on its own merits.

12. I note that the Council did not object to the proposal in relation to the loss of daylight and sunlight to the neighbouring occupiers. However, a lack of harm in this respect is a neutral consideration and does not outweigh the harm that I have identified above.
13. DMPDPD Policy DMP 19 states that all new dwellings will be required to have external private amenity space of a sufficient size and type to satisfy its proposed residents' needs. Furthermore it states this is normally expected to be 20 square metres per flat. Only one of the flats would have any external private amenity space. The proposed development would clearly not meet the requirements of Policy DMP 19.
14. I acknowledge that in densely developed urban environments such as here, it is not always possible to provide the optimum amount of amenity space. I also note that the nearby parks including Gladstone Park and Neasden Recreation Ground do provide some mitigation for the shortfall. However, there would be no space for 3 of the flats for everyday activities such as hanging washing or sitting outside. I note the findings of the previous Inspector, on this matter, but his decision was based on a different policy background.
15. The Council also have concerns in relation to the security of pedestrian access to the proposal. I acknowledge that the introduction of gates across the access road was required to address issues with anti-social behaviour including fly-tipping and that there is presently limited natural surveillance of the site and access road. However, the development would include windows that would overlook these areas. Moreover, additional lighting and the retention of the gates could improve security. Consequently, I consider that proposal would ensure a secure pedestrian access to the site.
16. Taking into account all of the above the development would materially harm the living conditions of neighbouring occupiers with regard to outlook and of future occupiers in relation to outdoor living space. It follows that it would not comply with DMPDPD Policies DMP 1 and DMP 19 which, amongst other things, seeks development that provides high levels of internal and external amenity and external private amenity space.

Character and appearance

17. The top storey would be slightly inset from the front and side elevations. The commercial properties that front Neasden Lane have numerous extensions to their rear elevations and the block of flats at Cairnfield Court is 4-storeys in height. I acknowledge that the amended design would reduce the height of the building but it would still be 3-storey in height with a flat roof and it would be at an elevated ground level to the domestic properties in Chartley Avenue. As such, the bulk and mass of the building would be visually dominant when seen in context with the scale of those dwellings.
18. Moreover, the previous Inspector stated that "*despite the architectural relief and contemporary use of materials, the overall bulk and massing of the proposed development would still appear cramped given the site specific circumstances*". Given that the footprint of the building would practically fill the site which, is tightly constrained between existing properties, there would

be very little space remaining around it. Consequently, even with the reduction in height I find the previous Inspector's finding persuasive and the proposal would result in harm to the character and appearance of the area. It follows that the proposal would conflict with DMPDPD Policies DMP 1 which, amongst other things, seeks development that provides a siting, layout and scale that provides high levels of external amenity and complements the locality.

Car parking

19. DMPDPD Policy DMP 12 relates to parking, and states that developments should provide parking consistent with parking standards in Appendix 1. Both Policy DMP 12 and the parking standards take account of the accessibility of the development, the type, mix and use of development, the availability of and opportunities for public transport, local car ownership levels and an overall need to reduce the use of high-emission vehicles. The appellant highlights the proximity of local services and public transport which it contends would reduce the reliance of occupants on private vehicles.
20. Application of these parking standards in respect of the appeal proposal would require the provision of a maximum of 0.75 spaces per dwelling and 1 space and a van loading bay for the B1(a) use. The proposal would provide the parking and loading spaces for the B1(a) use but there would be no on-site parking provision for the flats. The Council have stated that taking into account car ownership (using data from the 2011 census) that the demand for parking for the 4 flats would equate to 1-2 cars. I have no reason to dispute this.
21. The site is within the Wembley Stadium Event Day Zone where parking is controlled only on the days when events are staged at that venue. As such, at all other times parking in Cairnfield Avenue and Chartley Avenue is not controlled by permit. I note that the appellant has suggested a condition in relation to a 'car-free' scheme and that a copy of the signed UU agreement that was submitted with the previous appeal has been provided. However, these would only be effective and reasonable in an area within a Controlled Parking Zone that controls parking by permit at all times of the year.
22. I noted at the time of my site visit that there was a high level of parking stress within Cairnfield Avenue, near to the appeal site, with virtually all the available on-street parking spaces being taken and some parked cars within the no-waiting restricted areas. I recognise that my observations provide only a snapshot of local parking conditions. Nevertheless, it is reasonable to consider that this is indicative of the parking situation on a day-to-day basis. Moreover, the evidence provided by the Council and the appellant in relation to parking surveys indicate that Cairnfield and Chartley Avenues are mainly heavily parked during the night.
23. DMPDPD Policy DMP 12 states that development will be supported where it does not add to on-street parking demand where on-street parking spaces cannot meet existing demand such as on heavily parked streets. Notwithstanding the location of the development in relatively close proximity to services and public transport, I consider that the deficiency in parking provision weighs against the proposal on the grounds of an increase in demand for on-street parking in an area where this is currently limited.
24. In light of the parking demand I have highlighted above and given the conditions of the highway in the vicinity of the appeal site, I consider that any increase in demand is likely to result in obstructive or hazardous parking, such

as across driveways, on footways and close to the road junctions that are near to the appeal site.

25. Consequently, additional parking demand resulting from the proposed development would result in an increased risk to the safety of highway users and would conflict with DMPDPD Policy DMP 12.

Other Matters

26. In terms of the three dimensions to sustainability set out in paragraph 7 of the National Planning Policy Framework (Framework), the proposal would make a modest contribution to the local economy including the provision of construction jobs, some additional local spend and New Homes Bonus and Council Tax receipts. I acknowledge that there would be sustainability benefits associated with the proposal. Specifically, the appeal site is within the built up area of London where there is a range of services, facilities and employment opportunities available. An additional 4 dwellings would be created which would have a modest social role by increasing the mix of housing and making a small contribution to the housing supply.
27. The proposal would involve the development of an undeveloped piece of land that has been used in connection with anti-social behaviour such as fly tipping and this would be a benefit of the scheme. However, I have found that the development would materially harm the living conditions of neighbouring occupiers with regard to outlook and of future occupiers in relation to outdoor living space, would have a harmful effect on the character and appearance of the area and that it would result in an increased risk to the safety of highway users. This harm outweighs my findings on the other main issues and the benefits associated with the scheme. As such it would not accord with the environmental dimension and it would not comprise sustainable development.
28. The harm that would be caused also leads me to conclude that the proposal would conflict with the development plan. In accordance with S38(6) of the Planning and Compensation Act 2004, and as set out in paragraph 12 of the Framework, development which conflicts with the development plan should be refused unless other material considerations indicate otherwise. In this case there are no material considerations which indicate that the proposal should be determined other than in accordance with the development plan.
29. I note the appellant's concern regarding the Council's pre-application advice and difficulties communicating with the Council. However, that is not a matter for my consideration in the context of this appeal decision.

Conclusion

30. For these reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

D. Boffin

INSPECTOR