
Appeal Decisions

Site visit made on 19 June 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 18 July 2017

Appeal A Ref: APP/E5330/W/17/3172801 3-5 Tunnel Avenue, Greenwich SE10 0SL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Linea SE10 Ltd against the Royal Borough of Greenwich Council.
 - The application is Ref 16/3858/F, dated 21 November 2016.
 - The development proposed is the demolition of existing commercial buildings and construction of a 4-storey block of 23 Flats, of various sizes and types
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Appeal B Ref: APP/E5330/W/16/3161025 3-5 Tunnel Avenue, Greenwich SE10 0SL.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Linea SE10 Ltd against the Royal Borough of Greenwich Council.
 - The application is Ref 16/2063/F, dated 26 June 2016.
 - The development proposed is the demolition of existing commercial buildings and construction of a 4-storey block of 23 Flats, of various sizes and types.
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Decision

1. Appeal A is allowed and planning permission is granted for the demolition of existing commercial buildings and construction of a 4-storey block of 23 Flats, of various sizes and types at 3-5 Tunnel Avenue, Greenwich SE10 0SL in accordance with the terms of the application, Ref 16/3858/F, dated 21 November 2016, subject to the conditions set out in the schedule to this decision.
2. Appeal B is allowed and planning permission is granted for the demolition of existing commercial buildings and construction of a 4-storey block of 23 Flats, of various sizes and types at 3-5 Tunnel Avenue, Greenwich SE10 0SL in accordance with the terms of the application, Ref 16/2063/F, dated 26 June 2016, subject to the conditions set out in the schedule to this decision.

Application for costs

3. Applications for costs have been made by Linea SE10 Ltd against the Royal Borough of Greenwich Council. These applications are the subject of separate decisions.
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Procedural Matters

4. As set out above there are two separate appeals. In both, the proposal is essentially the same and seeks consent for a contemporary 4 storey building fronting Tunnel Avenue. The only difference between the two schemes is that Appeal B was accompanied by a Financial Viability Assessment (FVA) in relation to affordable housing. Accordingly, I have dealt with both cases in a single decision letter.
5. Both appeals are made against the failure of the Council to determine the applications within the prescribed period. The applications were accompanied by a Design and Access Statement (D&AS) setting out how the appeal schemes would comply with the relevant development plan policies. Despite indicating in both Questionnaires that it intended to submit a Statement of Case, the Council has failed to do so. Moreover, there are no Officer reports or objections from local residents before me. As a result, I have identified the main issues from my site visit and the appellant's submissions.
6. The adjacent building, the former East Greenwich public library, is Grade II listed. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that, when considering development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting.

Main Issues

7. In light of the above, I consider the main issues to be the effect of the development on, firstly, the character and appearance of the area and, secondly, the setting of the adjacent listed building.

Reasons

Character and appearance

8. The appeal site comprises two commercial buildings accessed directly from Tunnel Avenue, located a short distance west of the A102 overpass and north of Woolwich Road. The smaller of the two units is attached to the former library and used as an automobile garage. The larger unit is occupied by a printing business. Both are single storey, flat roof buildings of little aesthetic merit which in my view have a negative effect on the street scene.
9. The wider area comprises a mix of commercial and residential uses with traditional, two-storey dwellings located on the opposite side of Tunnel Avenue. Older industrial and commercial buildings tend to dominate in the area between Woolwich Road, Denham Street and Tunnel Avenue. I saw at the time of my visit that a number of flatted developments are, or have been, completed in the immediate vicinity of the appeal site. That being the case and in view of the condition of the existing buildings, the principle of development is acceptable.
10. The development would take the form of a single 4-storey building the top floor of which would be recessed from the front, side and rear elevations. The external elevations would be constructed from brick, glass and composite panels with rendered elements. The computer generated images show that the set-back of the top storey together with the use of contrasting materials, recessive elements, bays, balconies and distinctive fenestration patterns would

all help provide articulation to the facade. The result would be a striking building with considerable presence which would add a new and vibrant element to the street scene whilst reflecting the proportions of some of the newly constructed buildings to the rear.

11. For the reasons set out above, the proposed development would not harm the character and appearance of the area. I therefore conclude that it would accord with Policies H1, H2, H5 and DH1 of the *"Royal Greenwich Local Plan: Core Strategy with Detailed Policies 2014"* (the CS) and relevant policies of *"The London Plan 2016"* (the LP) mn. Collectively these seek high quality design that respects the character of the surrounding environment and has an understanding of local characteristics.

Setting of listed building

12. The juxtaposition of the garage unit and the former library was all too evident on my site visit. The two buildings relate poorly to each other and therefore the removal of the garage must be seen as a significant benefit. Although the bulk and mass of the proposed building would be greater than the library this would be offset by its physical separation from it. In these circumstances and in the absence of any objection from the Council or Historic England, I am satisfied that the setting of the listed building would be preserved. There would thus be no conflict with Policies DH3 and DH(i) of the CS or the Act.

Other Matters

13. Three disabled undercroft parking spaces would be provided on the ground floor together with cycle and bin storage areas. There is nothing to suggest the level or layout of the parking provision would be deficient and given the site's location in relation to local services and public transport I am satisfied there would be no conflict with the development plan in this regard.
14. The FVA demonstrates that the development cannot support any financial contributions towards affordable housing as the scheme generates a deficit. In the absence of any arguments to the contrary, I am satisfied that a contribution towards affordable housing is not necessary in this instance and the development would accord with Policy H3 of the CS.
15. A detailed Flood Risk Assessment was submitted with the applications. This demonstrates that despite its location in Flood Zone 3 the site would be at low risk of flooding due to existing and planned defences along the River Thames. To reduce the residual flooding risk a range of resilience measures have been incorporated into the design of the building. There is nothing to suggest the Environment Agency has objected to the proposals. It is also pertinent that the Council accepted a similar range of resilience measures at a nearby site¹. As such, I am satisfied that the development would not be placed at an unacceptable risk of flooding. As a result, there would be no conflict with aims and objectives of Policies E2 and E3 of the CS.

Conditions

16. The Council has suggested 30 planning conditions. I have considered these against advice in the *"Planning Practice Guidance"* (PPG). In some instances I

¹ 150-152 Trafalgar Road. LPA ref: 13/2996/F

have amended the conditions provided by the Council in the interests of brevity and to ensure compliance with the PPG

17. I have imposed a condition specifying the approved plans as this provides certainty. I have imposed a condition relating to external facing materials to ensure the satisfactory appearance of the development. A Construction Method Statement is necessary to protect the living conditions of neighbouring occupiers. I have imposed a condition relating to the redundant access points in the interests of pedestrian safety. Renewable energy and water efficiency conditions are necessary to ensure compliance with development plan sustainability objectives in these areas.
18. The Council's suggested condition 17 would require all the flats to achieve zero carbon emissions. CS Policy E1 requires all development to reduce energy demands in the borough. The supporting information to the policy explains that all development should achieve carbon dioxide reductions in line with policy 5.2 of the LP. Part B of that policy sets a requirement upon developers to ensure that major residential development would lead to zero carbon developments from 2016. As the appeal scheme proposed more than 10 dwellings, there can be little doubt that it is a major development to which Part B of Policy 5.2 applies. The appellant argues that such a condition would be unreasonable and unrealistic and that the scheme has been designed to 2010 and 2013 Building Regulations targets. Nonetheless the CS has recently been the subject of examination and was considered to be in general conformity with the LP. As such, Policy E1 it must carry full statutory weight. I therefore find that the suggested condition is both necessary and reasonable.
19. To ensure the requisite proportion of flats are disabled friendly and adaptable, I have imposed conditions to ensure compliance with parts M4(2) and M(3) of the Building Regulations. A further condition relating to details of all access arrangements in the building is however unnecessary. A surface and foul water drainage scheme is necessary to ensure the development does not have an adverse effect on existing drainage infrastructure in the area. Finally, to ensure the land is suitable for the proposed residential use, I have imposed a contaminated land condition.
20. Given the location of the site, I am not persuaded that a landscaping scheme is necessary to make the development acceptable. A cycle storage area is shown on the submitted plans and therefore captured by the plans condition. The Council has not adequately explained why the amenity area would be unacceptable without privacy screens to the ground floor flats. Similarly there is nothing before me to suggest that the development would breach local privacy standards with regards to neighbouring residential properties. Given the levels of noise and pollution generated by the exciting commercial units, conditions relating to plant/transport noise and air quality are unnecessary. A nominal level of on-site parking is proposed and therefore the suggested conditions relating to the submission of a travel and car parking management plan and details of electric charging points are all unnecessary. There is nothing from the Council to rebut the appellant's Parking Stress Survey which points to low levels of parking stress in the area. Consequently, the suggested car free housing condition is unnecessary. There is nothing before me to explain why a Secured by Design condition is necessary or what this might entail. Moreover, given the existing use of the land the Council has not provided any specific evidence to support the attachment of an archaeology

condition. In view of the above, I have omitted conditions 3, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 21, 24, 27 and 30 as suggested by the Council.

Conclusion

21. For the reasons given above and taking into account all other matters raised, I conclude that the appeals should succeed.

D. M. Young

Inspector

SCHEDULE OF CONDITIONS

APPEAL A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans PD01 rev B, PD02 rev B, PD03 rev A and PD04.
- 3) No development above slab level shall take place until full details including samples of all external material and finishes to be used on the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a detailed Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) The parking of vehicles of site operatives and visitors
 - ii) A piling method statement
 - iii) Loading and unloading of plant and materials
 - iv) Storage of plant and materials used in constructing the development
 - v) Proposals for monitoring noise and procedures to be put in place where agreed noise levels are exceeded
 - vi) A scheme for recycling/disposing of waste resulting from demolition and construction works
 - vii) Hours of construction
- 5) Full details of refuse storage and recycling facilities, including height and material of any enclosure, and collection arrangements, shall be submitted to and approved in writing by, the local planning authority and the storage facilities shall in all respects be erected in accordance with the approved details before the development is first occupied, and retained as such thereafter.
- 6) No development shall take place until a risk-based land contamination assessment to determine the nature and extent of any contamination on the site has been carried out, in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority. Should any unacceptable risks be found, a remedial scheme and verification plan shall be submitted to and approved in writing by the local planning authority. The remedial scheme shall be implemented as approved before development begins.

If, during the course of development, any contamination is found which has not previously been identified, additional measures to address it shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved.

- 7) Prior to the occupation of the building, the existing southern vehicular access to the site shall be abandoned with the kerb reinstated and the existing parking bays altered at developer's expense.
- 8) All flats within the development hereby permitted must achieve zero carbon dioxide emissions. No part of the development hereby permitted shall be occupied until evidence of the energy performance standard having been achieved, has been submitted to, and approved in writing by, the Local Planning.
- 9) The development hereby permitted shall comply with Regulation 36(2)(b) of the Building Regulations 2010 (as amended by the Building Regulations (Amendment) Regulations 2015/767) and as set out in section G2 of the Building Regulations Approved Document (110 litres per person per day).
- 10) Full details of on-site renewable energy technologies, which shall provide for no less than a 20% reduction of the development's overall CO2 emissions, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby approved.
- 11) Prior to any development above slab level, details of the wheelchair user units (minimum of 10% of all dwellings within the development), including elevation drawings (1:20) of the kitchen and bathroom including all fixtures, shall be submitted and approved in writing by the Local Planning Authority. The details shall demonstrate that the wheelchair user dwellings comply with Building Regulation requirement M4(3) 'wheelchair user dwellings'. The development shall be completed in accordance with the approved details.
- 12) Prior to any development above slab level, plans details illustrating that 90% of the dwellings in the development hereby permitted comply with Building Regulation requirement M4(2) 'accessible and adaptable dwellings', have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.
- 13) No development shall take place until full details of the proposed surface water drainage scheme and foul water disposal have been submitted to and approved in writing by the Local Planning Authority.

Appeal B

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans PD01 rev B, PD02 rev B, PD03 rev A and PD04.
- 3) No development above slab level shall take place until full details including samples of all external material and finishes to be used on the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a detailed Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) The parking of vehicles of site operatives and visitors
 - ii) A piling method statement
 - iii) Loading and unloading of plant and materials
 - iv) Storage of plant and materials used in constructing the development
 - v) Proposals for monitoring noise and procedures to be put in place where agreed noise levels are exceeded
 - vi) A scheme for recycling/disposing of waste resulting from demolition and construction works.
 - vii) Hours of construction
- 5) Full details of refuse storage and recycling facilities, including height and material of any enclosure, and collection arrangements, shall be submitted to and approved in writing by, the local planning authority and the storage facilities shall in all respects be erected in accordance with the approved details before the development is first occupied, and retained as such thereafter.
- 6) No development shall take place until a risk-based land contamination assessment to determine the nature and extent of any contamination on the site has been carried out, in accordance with a methodology that has first been submitted to and approved in writing by the local planning authority. Should any unacceptable risks be found, a remedial scheme and verification plan shall be submitted to and approved in writing by the local planning authority. The remedial scheme shall be implemented as approved before development begins.

If, during the course of development, any contamination is found which has not previously been identified, additional measures to address it shall be submitted to and approved in writing by the local planning authority and the additional measures shall be carried out as approved.
- 7) Prior to the occupation of the building, the existing southern vehicular access to the site shall be abandoned with the kerb reinstated and the existing parking bays altered at developer's expense.

- 8) All flats within the development hereby permitted must achieve zero carbon dioxide emissions. No part of the development hereby permitted shall be occupied until evidence of the energy performance standard having been achieved, has been submitted to, and approved in writing by, the Local Planning.
- 9) The development hereby permitted shall comply with Regulation 36(2)(b) of the Building Regulations 2010 (as amended by the Building Regulations (Amendment) Regulations 2015/767) and as set out in section G2 of the Building Regulations Approved Document (110 litres per person per day).
- 10) Full details of on-site renewable energy technologies, which shall provide for no less than a 20% reduction of the development's overall CO2 emissions, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development hereby approved.
- 11) Prior to any development above slab level, details of the wheelchair user units (minimum of 10% of all dwellings within the development), including elevation drawings (1:20) of the kitchen and bathroom including all fixtures, shall be submitted and approved in writing by the Local Planning Authority. The details shall demonstrate that the wheelchair user dwellings comply with Building Regulation requirement M4(3) 'wheelchair user dwellings'.
- 12) Prior to any development above slab level, plans details illustrating that 90% of the dwellings in the development hereby permitted comply with Building Regulation requirement M4(2) 'accessible and adaptable dwellings', have been submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with the approved details.
- 13) No development shall take place until full details of the proposed surface water drainage scheme and foul water disposal have been submitted to and approved in writing by the Local Planning Authority.