



Appeal Decision

Site visit made on 24 July 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 10th August 2017

Appeal Ref: APP/X4725/W/17/3175977
104 Leeds Road, Wakefield WF1 2QD

- 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 Mr M Hale against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/01825/FUL, dated 29 July 2016, was refused by notice dated 5 April 2017.
 - The development proposed is 1 block of 8 No apartments (including demolition of existing buildings).
-

Decision

1. The appeal is allowed and planning permission is granted for 1 block of 8 No apartments (including demolition of existing buildings) at 104 Leeds Road, Wakefield WF1 2QD in accordance with the terms of the application, Ref 16/01825/FUL, dated 29 July 2016, and the plans submitted with it, subject to the conditions set out at the Schedule attached to this Decision.

Main Issue

2. The effect of the proposal on the living conditions of future occupiers with specific reference to outdoor amenity space.

Reasons

3. The appeal site lies adjacent to Leeds Road, to the south of residential properties at Newton Close and immediately adjacent to the Newton Hill Roundabout. The land is currently vacant except for an existing single storey flat roof structure near the southern boundary. The site was formerly in use as a petrol filling station.
 4. Criterion n of Policy D9 of the Council's Development Policies (DP) document (2009) states that proposals shall provide open space and recreational facilities in all new housing developments which is related to the scale, type and density of the development and to the nature of the site and its surroundings. Criterion b of Policy D9 requires proposals to provide a quality setting within the development and criterion K requires proposals to have no significant detrimental impact on existing or prospective users.
 5. Paragraph 5.3.1 of the Council's Supplementary Planning Guidance 2 (SPG2) Residential Design Guide 1996 states that an area of not less than 75m² of garden space, with a minimum depth of 10.5m will be required for each dwelling. However, it states that flats and maisonettes have special design requirements and schemes will be considered on their individual merits. Provision should be made for private communal outdoor space for sitting out and passive recreation.
-

6. Each flat would be served by private balconies and the proposed communal amenity space would cover an area of around 120m². The Council consider that this would provide sufficient space for sitting out and passive recreation and from everything which I have seen in submissions and on my site visit I have no reason to disagree.
7. The Council are concerned that the space would be of a poor quality due to the enclosure of the space by existing commercial buildings to the east, the proposed development and the trees to the south. It also considers that the space would not be easily accessible as residents would have to walk around the building. Whilst this may be the case, I consider that due to the short distance involved, this would only be a very minor inconvenience for future occupiers.
8. The amenity space would be enclosed to the north by the building marked as a transport depot on the plans. Part of the depot is single storey; however the main building has a twin apex roof of some height which would enclose the northern boundary of the open space. The east elevation of the proposed building would be three storeys and would enclose the open space to the east. A public footpath runs along the southern boundary beyond which is a row of tall trees.
9. As acknowledged by the Council, the proposed communal amenity space would provide sufficient space for sitting out and passive recreation. Although it would be enclosed by built development on three sides this would provide an element of privacy and the group of trees would provide an attractive setting. In addition, each flat would have its own balcony and whilst some of these would overlook the adjoining commercial premises and the road, this is to be expected in an urban area.
10. Taking into account the urban location of the appeal site and surrounding residential and commercial uses I consider that, on balance, the combination of the proposed balconies and communal amenity space would provide a sufficient amount and quality of open space for the usual range of activities such as sitting out and passive recreation.
11. I, therefore, conclude that the proposal would make suitable provision for amenity space and would not, therefore, harm the living conditions of future occupiers. The proposal would not, therefore, conflict with criteria b, d and k of Policy D9 of the DP or SPD2. There would also be no conflict with paragraph 17 of the National Planning Policy Framework (the Framework) which seeks to secure a good standard of amenity for future occupants of land. Neither would conflict arise with paragraph 56 of the Framework which states that good design is a key aspect of sustainable development is indivisible from good planning and should contribute positively to making places better for people.

Other matters

12. Concerns have been raised by surrounding residents regarding the capacity of the local highway network, levels of car parking and the effect of the proposal on the operation of the neighbouring commercial premises. The proposal would make provision for 16 parking spaces which would exceed the minimum requirement set out in SPG2 and the information provided by the appellant demonstrates that the development would be adequately serviced.

13. Access to the site would be from the existing main access road off Leeds Road. The Inspector who considered a previous appeal decision¹ considered that the proposal for a Solar Panel Shop which would generate 36 two way trips from the site stated the use is unlikely to generate significant levels of traffic. The current appeal proposal would generate a daily trip rate of around 32 two way trips which is relatively low and slightly lower than the previous proposal. Furthermore, I note that the Council's Highway sections have confirmed that they have no objection to the proposal subject to conditions. From everything which I have seen in submissions and on my site visit, I have no reason to disagree.
14. Concerns are also raised regarding the effect which the proposal could have on the ability of delivery vehicles to access neighbouring commercial properties. However, the existing access to those premises would be maintained and the access would be capable of allowing delivery vehicles to pass. The lack of suitable turning facilities on land outside of the appeal site is not a matter for consideration of this appeal. I am, therefore, satisfied that the proposal would not cause harm to highway safety subject to the suggested conditions.
15. The proposal would comprise a part 2-3 storey elliptical shaped building constructed from render and zinc cladding. Whilst the building would differ from that of neighbouring buildings I note that the character of the surrounding area is mixed. Furthermore, I consider that there is scope for a taller building at this corner location which would provide a gateway feature to Leeds Road. Consequently, I consider that the proposal would not harm the character or appearance of the area.
16. Residents are also concerned that the proposal would cause overlooking to neighbouring properties. The building would be separated from numbers 139-147 Leeds Road by around 21m at the closest point. The proposal would only be two storeys at this point and it would be separated from these properties by Leeds Road.
17. The proposal would not directly align with properties on Newton Close to the north which would be around 33m away at the closest point. Properties to the east on Newton gardens would be located in excess of 40m away. I am, therefore, satisfied that the proposal would not result in overlooking or overshadowing of neighbouring residential properties.
18. Although neighbouring commercial premises have windows in the west facing elevation, there are alternative light sources into the building and consequently, the proposal would not result in an unacceptable loss of light.
19. Issues are also raised relating the right of access across the appeal site to the neighbouring commercial premises. However, these are civil issues which are a matter for the parties to resolve.

Conditions

20. In addition to the standard time limit (1), I have imposed a condition (2) requiring that the development is undertaken in accordance with approved plans in order to provide certainty.
21. Conditions 3 and 5 are required as insufficient details have been provided with the application and in the interests of character and appearance. Condition 4 requires

¹ Appeal reference APP/X4725/A/10/2126573

the submission of finished slab and floor levels and existing ground and finished floor levels in order to protect the living conditions of surrounding occupiers.

22. Condition 6 is required in order to ensure that the site is or can be made safe and stable for the development in light of the location of the appeal site within a Development High Risk Area as defined by the Coal Authority.
23. I have imposed conditions (7, 8) to ensure that risks from ground gases and land contamination to future occupiers are minimised together with those to the environment. A further condition (9) requiring a Construction Method Statement is necessary in order to protect the living conditions of surrounding occupiers. I have not imposed the Council's suggested condition number 9 as I have incorporated the requirement for details of wheel washing facilities into the Construction Method Statement.
24. Condition 10 is required to ensure that the space shown for parking and turning within the site are provided and maintained thereafter to ensure the provision of car parking and in the interests of highway safety. I have incorporated the Council's suggested condition 11 relating to turning areas into condition 10.
25. Finally, condition 11 is required to ensure a suitable means of access and layout in the interests of highway safety.

Planning Balance

26. I have found that whilst enclosed, the proposed communal amenity space together with the balconies serving each flat would, nevertheless, provide a sufficient quantity and quality of amenity space for future residents.
27. The proposal would make a contribution, albeit limited, to housing land supply in an accessible location. It would also have economic benefits during the construction phase and subsequently as future occupiers utilise local services and business. The proposal accords with the development plan and represents sustainable development.

Conclusion

28. For the reasons stated and taking all other considerations into account the appeal should be allowed subject to the conditions set out in the Schedule attached to this Decision.

Caroline Mulloy

Inspector

Schedule

Conditions

- 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: (9-) 002 Site Location Plan; (2-) 005 Ground floor/Site Plan; (2-) 006 Floor Plans and Elevations; 07. 007 (2-) 010 rev A Site plan, floor plans and elevations;
- 3) No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority:
 - (i) The colour, type and texture of all external building materials;
 - (ii) The height, location, design materials and finish of all screening, retaining and boundary treatments and;
 - (iii) The external appearance, colour, type, texture and composition of materials used in constructing the access.

Development shall be carried out in accordance with the approved details, which shall be maintained thereafter.

- 4) No development shall take place until a scheme of details of finished slab and floor levels together with corresponding existing and finished ground levels have been submitted to and approved in writing by the Local Planning Authority.
- 5) No development shall take place until a landscaping scheme shall have been submitted to and approved in writing by the Local Planning Authority. The agreed scheme shall be implemented no later than the first planting season following the first occupation of the development and shall be maintained for a period of five years following its completion. If within this period any tree, shrub or hedge should die, become diseased or be removed, it shall be replaced with others of similar size and species.
- 6) No development shall take place until a site investigation of the nature and extent of any land instability has been carried out in accordance with a methodology which shall have previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development takes place. If any land instability issues are found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development takes place.
- 7) No development shall take place until a remediation strategy that includes the following components to mitigate the risks associated with contamination of the site has been submitted to and approved in writing by the Local Planning Authority:
 - (i) A site investigation scheme based on recommendations in the Phase I Contamination Audit Report [Cromwell Wood Estate Company June 2016 ref 16 05 706] to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- (ii) The results of the site investigation and the detailed risk assessment referred to in (i) and based on these an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

The approved remediation measures must be carried out in accordance with the approved strategy prior to the commencement of any development other than that required to carry out the approved remediation. Any changes to the components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved. Upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the Local Planning Authority before the development is occupied.

- 8) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) Management of construction traffic and routes;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 10) No dwelling shall be occupied until space has been laid out within the site in accordance with the submitted plans for 16 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 11) No dwelling shall be occupied until the means of vehicular access to the site shall have been constructed in accordance with the approved plan (drawing number (2-) 005).