The Planning Inspectorate

Appeal Decision

Site visit made on 27 July 2017

by A J Mageean BA (Hons) BPl PhD MRTPI

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

Decision date: 17th August 2017

Appeal Ref: APP/W5780/W/17/3174709
61 Cleveland Road, South Woodford, London E18 2AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Altaf Bhuruwala (on behalf of Portvale Estates Limited) against the decision of the Council of the London Borough of Redbridge.
- The application Ref 0091/17, dated 8 January 2017, was refused by notice dated 19 April 2017.
- The application sought planning permission for the development of 15 self-contained flats without complying with a condition attached to planning permission Ref 1475/06, dated 27 July 2006.
- The condition in dispute is No. 2 which states that: *The development hereby permitted shall only be carried out and completed strictly in accordance with the submitted plans hereby approved*.
- The reason given for the condition is: *In order to ensure that the development hereby permitted is carried out in accordance with the submitted drawings*.

Decision

1. The appeal is allowed and planning permission is granted for the development of 15 self-contained flats at 61 Cleveland Road, South Woodford, London E18 2AE in accordance with the application Ref 0091/17 dated 8 January 2017, without compliance with condition number 2 previously imposed on planning permission Ref 1475/06 dated 27 July 2006, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, as set out in the Schedule attached to this decision.

Procedural Matter

2. Whilst the Council states that the two front lightwells, labelled '*Lightwell 2*' and referred to henceforth as the front lightwells, would project forward 0.8m, the appellant has confirmed that the actual size of the recess would be 0.5m, as indicated on drawing number CP_PP_100 rev B. Whilst I agree that there is a small drafting error on this drawing in relation to the size of the front lightwell on the lower ground floor plan, this is not significant and the 0.5m size of the front lightwell is clearly shown.

3. The Council has also identified that in section drawings CR_PP_110 Rev B and CR_PP_111 Rev B the forward projection of the front lightwells is illustrated as 1.5m. Whilst I accept the appellant's point that these sections relate to the front glazed lightwells located on either side of the front door, there is nonetheless conflict with drawing CR_PP_100 Rev B which indicates that the

front glazed lightwells would have a depth of 1.5m but would be recessed behind the front elevation on either side of the front door. As a result their projection forward of the front elevation would be no more than 0.5m. Therefore, should this application be acceptable, revised section drawings to address this discrepancy would be required.

Background and Main Issue

4. The original planning permission for 15 self-contained flats in two blocks, one facing on to Cleveland Road and the other on to Marlborough Road, was granted in 2006. I understand that works commenced on site in 2007. The current application seeks to amend this original approval by adding a lower ground floor to the building on the Cleveland Road frontage which would provide individual storage units for the flats. Front, side and rear lightwells would also provide amenity space. Following a previous appeal decision[1], in which the Inspector found the side and rear lightwells to be acceptable, the Council has indicated that it has concerns in the present case relating to the location, size and appearance of the front lightwells in the local area.

5. Therefore, the main issue is whether the plans condition is reasonable and necessary, having regard to the effect of the current proposal on the character and appearance of the area.

Reasons

6. The buildings lining Cleveland Road are of varying character and appearance. Whilst dominated overall by substantial two storey period villas, there are also modern infill and flatted developments. The front building line is for the most part retained, along with shallow front garden areas which add greenery to the street scene, though some are paved and used for parking. There are a variety of front boundary treatments, though brick walls and metal railings, or a combination of the two, prevail.

7. The front lightwells under consideration in the present case would be considerably smaller than those which were the subject of the previous appeal decision. The two front lightwells positioned directly adjacent to the front of the building would be of modest size, projecting forward around 0.5m. They would be bound on three sides by metal railings. The area between the lightwells and the front boundary would be soft landscaped, though would also include a front footpath and side ramp. The front boundary would be defined by brick piers, plinths and metal railings. As a result of the boundary treatments and landscaping the visibility of the front lightwells within the general streetscene would be extremely limited.

8. The two front glazed lightwells which would sit flush with the adjacent footpath, would be partly recessed behind the front building line, projecting forward to approximately the same position as the front lightwells. As such, visibility of these elements of the scheme would also be limited, though angled views through the front gate may be possible. Overall my view is that these additions would be of a modest size and located away from the front boundary so that they would not be visually intrusive or incongruous in the street scene.

9. In arguing that the proposals are out of character in this area, the Council points to the limited physical manifestations associated with the basement of

[1] APP/W5780/W/16/3156716

the neighbouring property, No 63[2]. Nonetheless as the front garden area of this property is paved and open the windows relating to the basement floor of this property are visible in the street scene. Whilst there is limited visible evidence of basements in other properties on Cleveland Road, I noted on my site visit that front lightwells are visible in some properties on Clarendon Road to the south of the appeal site. I therefore do not accept that such features are at odds with the prevailing character of the area.

10. On the basis of the modest size and limited visibility of the proposed front lightwells and front glazed lightwells, I am satisfied that this proposal would not result in an adverse effect on the character and appearance of the area. As such the existing condition would not be reasonable or necessary, subject to the imposition of a replacement condition. I therefore do not find conflict with the London Borough of Redbridge Core Strategy (2008) Policy SP3, or the London Borough of Redbridge Borough Wide Primary Policies Development Plan Document (2008) Policy BD1 which, taken together, require a high standard of development which contributes to local character, including being of a style, scale and design appropriate to the locality.

Other Matters

11. In noting that the proposed basement storage would compensate for the fact that the floorspace within these flats falls below the space standards introduced following the original planning permission, the Council considers this proposal to represent an over-provision of storage space. However, the constrained size of the front storage spaces to which the front lightwells and glazed lightwells would relate does not in my view represent an over-provision.

12. Interested parties have also raised a number of concerns regarding the proposed variation to the approved scheme. As the proposal does not include any additional residential accommodation there would be no additional impact on local infrastructure. Whilst it is suggested that the storage spaces could be put to residential use this is not indicated on the plans, which clearly state their purpose as 'residents storage'. If residential use of these areas was to be considered it would be necessary to gain the appropriate approval from the Council. Such considerations are therefore not part of my determination of the present case.

13. Matters relating to the structural impacts of the excavation of the site for the basement level are controlled by Building Regulations, and the requisite approvals would need to be obtained prior to the commencement of such works. Whilst I accept that work of this nature can be disruptive in an existing residential environment, it is unlikely that any additional disruption generated by the current scheme would be noticeable over and above the current approval. Furthermore, the degree of disruption can be controlled to some extent by a condition requiring the development to adhere to certain hours, routes, noise levels and equipment cleaning regimes, all designed to minimise the disruption in the local area.

Conditions

14. The Planning Practice Guidance makes it clear that decision notices for planning approvals granted under Section 73 should also repeat the relevant conditions

[2] Referred to in error as No 59 by the parties.

from the original planning permission, unless they have already been discharged. I have amended the existing condition requiring that development be carried out in accordance with approved plans to reflect my decision in this case and also the previous decision allowed on appeal[3] as this provides certainty. I have also included an additional condition relating to the need for amended section drawings to reflect the correct forward position of the front glazed lightwells and front lightwells. It is necessary that these revised drawings be provided prior to the development commencing to ensure that this scheme is satisfactory in this regard.

15. From the Council's suggested list of conditions it appears that a number of the original conditions have been discharged, with references made to compliance with previously submitted plans. Following the format used by the Inspector in the previous successful appeal, I have amalgamated these references into a single condition for conciseness and identified which matters the compliance relates to. Similarly I have also updated the references to the various British Standard documents incorporated into Condition No's 3 and 4 to ensure that they reflect current requirements on these matters. Otherwise I have re-imposed all the other conditions as suggested by the Council, but in the event that some others have in fact been discharged, that is a matter that can be addressed by the parties.

Conclusion

16. For the reasons given above the proposal would comply with the development plan and the Framework and the appeal is therefore allowed.

AJ Mageean

INSPECTOR

[3] APP/W5780/W/16/3165962

Schedule of Conditions

1. The development hereby permitted shall only be carried out and completed strictly in accordance with the approved drawing numbers: 1796/1, 30, 31, 32, 33, 34 & 241107-1 Rev A (as amended by the Plans associated with previous application ref 4752/16: CR_PP_020A, CR_PP_200A , CR_PP_201A, CR_PP_202A , CR_PP_204A, CR_PP_205A, CR_PP_206A, CR_PP_207A, CR_PP_210A; CR_PP_211A; CR_PP_212A; and also the plans associated with the current application: CR_PP_100 B, CR_PP_105 B, CR_PP_106 B, CR_PP_107 B, CR_PP_110 B, CR_PP_111 B and CR_PP_112 B).

2. Notwithstanding condition 1 no development shall take place until revised drawings CR_PP_110 B, CR_PP_111 B to reflect the correct forward projection of the front lightwells and front glazed lightwells have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

3. Before any hard surfacing works are undertaken a scheme showing hard surfacing and complying with the requirements specified in BS 5837 (2012) *'Trees in Relation to Construction'* shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall show the extent and nature of all hard surfaced areas, and the materials to be used. The hard surfacing shall be completed before the building/use hereby permitted is first occupied/commenced, and shall be permanently retained thereafter, in accordance with the agreed details.

4. Before any further works are undertaken, a scheme showing existing landscape features and proposed landscaping, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall comply with the requirements specified in BS 5837 (2012) *'Trees in Relation to Construction*', shall include a statement regarding the method of construction in the vicinity of trees, and shall show the position, species, trunk diameter, height and canopy spread of all the existing trees, plants and shrubs, as well as existing ground levels. The scheme shall also show which of the existing trees, plants and shrubs are to be retained and which are to be removed: none of the existing trees, plants and shrubs at the site, shown to be removed, shall be removed until this scheme has been approved in writing by the Local Planning Authority. The scheme shall further show proposals for new planting of trees, plants and shrubs, new ground levels, the position, depth and design of any underground service trenches or foundation works and their means of excavation in the vicinity of any trees, plants or shrubs to be retained. The new planting shall be carried out in the first planting and/or seeding season following the first occupation of the buildings and shall comply with the requirements specified in BS 3936 (1992) *'Specification of Nursery Stock Part 1 Trees and Shrubs*', and in BS 4428 (1989) *'Code of practice for General Landscape Operations'*. None of the new trees, plants or shrubs planted shall be lopped or topped within a period of five years from the completion of the development. Any trees, plants or shrubs which, within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season, in accordance with the approved scheme.

5. Before any further works are undertaken, a scheme for the protection of all the existing trees, plants and shrubs indicated to be retained in the scheme approved

under condition 4 above shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall show the position, height and nature of all fences or other means of enclosure proposed to surround each existing tree, plant and shrub. The protection measures as approved shall be undertaken at the site before any work in connection with the development hereby permitted commences at the site, and shall be retained for the entire period of the duration of any work at the site, in connection with the development hereby permitted. Within the fence or other means of enclosure surrounding each tree, plant or shrub, no activities associated with building operations shall take place (including the placing or storage of any structure, vehicle, plant, machinery, equipment, materials or spoil) nor shall any fires be lit, nor any changes in ground level be made, unless previously agreed in writing by the Local Planning Authority.

6. Prior to first occupation of the development hereby permitted, details of all walls and/or fences to be erected within or on the perimeters of the site shall be submitted to and approved in writing by the Local Planning Authority. The walls/fences as approved shall be erected at the site before the buildings hereby permitted is first brought into use, and retained thereafter in accordance with the approved details.

7. Prior to first occupation of the development hereby permitted, details of the proposed refuse and recycling storage and collection facilities to be provided at the site shall be submitted to and approved in writing by the Local Planning Authority. The facilities as approved shall then be provided at the site prior to use hereby permitted first commencing and retained at the site thereafter in accordance with the approved drawings at all times.

8. Prior to further works being carried out; details/samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The development shall be completed in accordance with these approved details.

9. Before occupation, the dwellings shall comply with Building Regulations Optional Requirement Approved Document M4 (2) Category 2: Accessible and adaptable dwellings (2015 edition) other than for the 'approach routes' section for all units above ground floor level and evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.

10. Prior to first occupation of the development hereby permitted, a scheme shall be submitted to and approved in writing by the Local Planning Authority describing the means by which future residents of this development shall be excluded from the Local Car Parking Permit Scheme. The development shall only be carried out and completed in accordance with that approved scheme.

11. Prior to first occupation of the development hereby permitted, details of external illumination to be installed within the site shall be submitted to and approved in writing by the Local Planning Authority. The illumination as approved shall be provided at the site before the first occupation of the buildings and retained thereafter in accordance with the approved details.

12. Prior to any further works, a scheme shall be submitted to and approved in writing by the Local Planning Authority describing the means by which construction

activity at the site and construction traffic to and from the site shall be controlled. The scheme shall include measures for:
i) construction traffic routes;
ii) construction traffic washing;
iii) public highway cleaning;
iv) dust suppression;
v) noise suppression;
vi) hours of work;
vii) construction waste disposal.

The development hereby permitted shall only be carried out and completed in accordance with the approved scheme.

13. Prior to any further works being carried out, a scheme shall be submitted to and approved in writing by the Local Planning Authority describing the means by which provision of local construction workers, a work place co-ordinator and training for local employees in the locality necessitated by this development will be secured. The development shall be carried out and completed in accordance with this scheme.

14. The development shall be carried out and completed in accordance with the details submitted and approved on 11 August 2009, in connection with Conditions 9 (provision of education facilities), 10 (provision of local amenities), 13 (provision of transport facilities), 16 (provision of health care facilities), 17 (provision for community care and social service facilities) and 18 (provision for open space enhancement or facilities) of the original planning permission reference 1475/06, dated 27 July 2006, and as approved under the following reference No's: 1475/06/01, 1475/06/02, 1475/06/03, 1475/06/04, 1475/06/05 and 1475/06/06.