The Planning Inspectorate

Appeal Decision

Site visit made on 25 June 2018

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2018

Appeal Ref: APP/F5540/W/17/3186406
92-94 Windmill Road, Brentford TW8 9NA

- 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 Davies Street Windmill Ltd against the decision of the Council of the London Borough of Hounslow.
- The application Ref 01217/92-94/P3, dated 7 February 2017, was refused by notice dated 10 April 2017.
- The development proposed is the erection of 1no. building comprising part three, part four storey building including office/showroom floor space along with 9 residential units (4x1-bed, 4x2-bed & 1x4-bed) and 9 parking spaces.

Decision

1. The appeal is allowed and planning permission is granted for the erection of 1no. building comprising part three, part four storey building including office/showroom floor space along with 9 residential units (4x1-bed, 4x2-bed & 1x4-bed) and 9 parking spaces at 92-94 Windmill Road, Brentford TW8 9NA in accordance with the terms of the application, Ref 01217/92-94/P3, dated 7 February 2017, and the plans submitted with it, subject to the conditions in the schedule below.

Procedural Matter

2. Since the submission of the appeal the revised National Planning Policy Framework (the Framework) has been published, which I have taken it into account in my decision. Both main parties have had the opportunity to comment on the implications for the appeal, and I am satisfied that no interested party has been prejudiced by my approach.

Main issues

3. The main issues are:

   - the effect of the proposed development on the appearance of the street scene and the surrounding area;
   - whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to noise; and,
   - whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to air quality.

Reasons

The appearance of the street scene and the surrounding area

4. The proposed building would stand on the threshold between two urban areas with quite different spatial and townscape contexts. To the south, above the Great West Road, runs an elevated section of the M4 motorway, its overhead gantries and railings leading the eye westwards to a cluster of tall buildings.

5. Its other context includes a finely grained texture of streets containing commercial buildings, shops, pubs, a school, a church, and traditional housing. Sharing the same street block as this site, and immediately beside the proposed building, stands an attractive terrace of bay-fronted houses with decorative brickwork and traditional masonry detailing.

6. The taller section of the building would face the M4 motorway which is raised around 5m above the street. The curved end of the building and its central slot opening would reduce the effect of its mass. In this context, its height would not appear disproportionate or out of scale with the flyover or the smaller elements of scale below the motorway and on the opposite side of the Great West Road. I have taken into account the conclusion of the Inspector in the appeal[1] on this site dismissed in 2016. She found the massing and design of a scheme with a broadly similar height towards the motorway would not harm the appearance of the area. I also give weight to the form of the building in the appeal[2] allowed on the site in 2013 for a building with a similar, curved end, albeit with a lower height and sloping parapet. In terms of its context to the south therefore, I find no harm from the height or mass of the building.

7. I acknowledge the Council's point about the stepping of the building in relation to the terrace of houses beside it. However, the Inspector in the 2016 dismissed appeal found the stepping of that scheme would respect the townscape of the terrace. She also found that while it would be larger than the approved scheme, it would be appropriate to the site. The section of this development closest to the terrace would be similar to the scheme in that appeal. While this scheme would have greater development at fourth floor than the proposal in that appeal, this element is sufficiently distant from the terrace that its presence would not harm the balance of heights between the proposed building and the existing terrace.

8. The Council rightly identifies the importance of high quality detailing and materials for a facade of this prominence. I accept that the curved end of the building has little ornamentation. However, there is elegance in a simple, well-proportioned and well-detailed form. The drawings indicate a semi-glazed brick which would give the surface a texture and a reflective quality. The curved wall would be pierced by the continuous stairway window and the entrance to the offices. In my view, the elevation already contains sufficient activity not to need dressing-up; its success will rely on the selection of materials and the detailing of the key junctions. A planning condition could ensure that the construction of the building follows the careful consideration of high quality materials and detailing as sought by policy CC2(q) of the London Borough of Hounslow Local Plan 2015-2030 (2015) (the Local Plan).

[1] Appeal Ref: APP/F5540/W/15/3140475
[2] Appeal Ref: APP/F5540/A/13/2191678

9. I note the Council's point that since the allowed appeal, design policy in the development plan has been strengthened to improve the quality of the environment. However, against the more demanding policies of the present development plan I find no conflict in design terms from this proposal. I have taken into account the findings of the Inspector regarding the lack of visual interest or relief in the east and west elevations of the scheme in the 2016 appeal. However, because of the curved form of the taller section in this scheme and the continuous slot openings in its elevations, there is no material parallel between them, in this respect.

10. I conclude on this issue that the proposed development would not harm the appearance of the street scene and the surrounding area. There would be no conflict with policies 7.4 and 7.6 of the London Plan 2016 and policies CC1 and CC2 of the Local Plan and section 12 of the Framework. Together these seek attractive buildings of the highest architectural quality, which have regard to the pattern and grain of existing streets in scale, proportion and mass, to create attractive, distinctive and liveable places.

The living conditions for future occupiers with particular regard to noise

11. While the day and night sound levels around the site are high, the arrangement of the flats and the common circulation space limits the number of openings directly opposite the M4 motorway and the Great West Road. The appellant's Noise Survey and Assessment sets out the performance required for the glazed openings to reduce ambient noise levels in the flats to within recommended[3] levels. This could be secured by a planning condition.

12. The balconies of most flats would be fully enclosed by glazing. While this may reduce the noise experienced by future occupiers within them, it is unclear if this would be below the maximum noise level recommended for external amenity space. However, a planning condition could ensure the enclosed balconies provide a suitable environment for their space to be useable, despite the background noise.

13. The Council is concerned that the balconies of flats 8 and 9 would not be enclosed; noise levels there may exceed the level recommended in the British Standard. However, they are on the sheltered side of the building, away from the greatest source of noise; they are large; they include tall, glazed screens; and, their enclosure would restrict the openness and spaciousness which their occupiers might otherwise enjoy. Moreover, the floor areas of both these flats exceed the minimum required, and each has at least two aspects. These factors suggest that a compromise approach as provided for within the British Standard, between elevated noise levels and the benefits of these balconies remaining unenclosed, is warranted.

14. The communal garden on the roof of the building would provide an attractive, open garden from which to enjoy views and sounds of the city. While it would not be fully enclosed, it would be surrounded by a screen of glass panels. I note the Council's concern that the noise levels in it may be higher than those recommended in the British Standard. However, in these circumstances, a full enclosure would defeat part of the purpose of the garden. It appears to me to have been designed to achieve the lowest practicable noise levels without

[3] BS8233:2014 *Guidance on sound insulation and noise reduction for buildings.*

compromising its amenity. For these reasons, that its sound levels might not meet the recommended levels, does not count against the proposal.

15. Similarly, while the garden over the ground floor commercial unit would be open, it would provide a distinctive green edge to the building by the line of silver birch trees enclosing it. Given the private and communal amenity space in the rest of the building, including the enclosed atrium amenity spaces, this second, communal garden would provide an alternative amenity area. I do not consider it must therefore comply with the same noise standard; to do so would risk altering substantially the appearance of the building and the enjoyment of the contrasting spaces its occupiers might otherwise enjoy.

16. I conclude that the proposed development would provide acceptable living conditions for future occupiers, with particular regard to noise. While the Council refers to London Plan policy 3.8, this principally concerns housing choice and has less relevance to this proposal. There would be no conflict with London Plan policy 7.15 which requires development to avoid significant adverse noise impacts and to minimise and mitigate the potential adverse impacts including by screening or internal layout in preference to sole reliance on insulation. Nor would the development conflict with Local Plan policies EQ5 and SC5 which seek development of the highest quality and which meets the demands of the everyday life of its occupants, protecting against noise.

The living conditions for future occupiers with particular regard to air quality

17. The site lies in an Air Quality Focus Area, identified in the London Plan as an area with high exposure to nitrogen dioxide, and the borough of Hounslow is covered by its own Air Quality Management Area. In respect of its performance against air quality objectives, with no building emissions and with transport emissions lower than benchmark values, the development would be better than 'air quality neutral'. It would not lead to a deterioration of existing poor air quality, in accordance with policy 7.14 of the London Plan and policy EQ4 of the Local Plan.

18. The appellant's Air Quality Assessment concludes that annual mean nitrogen dioxide concentrations would exceed objectives at first floor level; a significant impact. However, it proposes to mitigate these effects by providing mechanical ventilation to the flats on the first floor. While no details have been provided, these could be secured by a condition. The development would also include mechanical ventilation to the second floor flats because the worst-case sensitivity test, used to adjust predictions against the on-road performance of some modern diesel vehicles, indicated some second floor flats might exceed the modelled nitrogen dioxide objective levels.

19. I note the Council's concerns about the air quality of the communal gardens and the open balconies to flats 8 and 9 on the third and fourth floors. However, the balconies of these flats would meet the 24-hour objective for particle pollution PM_{10} concentrations, and the nitrogen dioxide concentrations at these flats would be below the objective. These balconies are located on the side of the building facing away from the M4 motorway and the Great West Road. They exceed the minimum size for external amenity space. In these circumstances, an open balcony offers substantial advantages to future occupiers over a fully enclosed winter garden.

20. Similarly, the Air Quality Assessment indicates that the particle pollution PM_{10} concentrations in the communal gardens would be below the objective. While the nitrogen dioxide level in the first floor garden may exceed the objective level, the roof garden would be within the target level. On the basis of the alternative provision, I can identify no harm to future occupiers in terms of air quality in the communal gardens and the balconies of flats 8 and 9. I can see no air quality basis for these spaces to be fully enclosed and artificially ventilated.

21. I have taken into account the 2016 appeal where it concerns the living conditions of future occupiers, however, except for one flat, amenity space was provided only communally in that case. The scheme in this appeal provides private amenity space to all dwellings, in addition to the communal areas.

22. I conclude that the proposed development would provide acceptable living conditions for future occupiers, with particular regard to air quality. There would be no conflict from the proposed development with London Plan policy 7.14 and Local Plan policies EQ4 and SC5 where they require development to minimise exposure to existing poor air quality, to incorporate mitigation measures to minimise adverse impacts through planning conditions, and to be of the highest quality internally and externally and to meet the demands of everyday life for the intended occupiers.

Other matters

23. While one of the reasons for refusal concerns a lack of accessible, short-stay cycle parking, the Council accepts that a condition could be applied to secure some cycle parking on the ground floor. This would overcome the present conflict with Local Plan policy EC2 which requires development to provide cycle parking spaces in accordance with the London Plan. I have no reason to disagree with this approach and have applied a condition to this effect.

Conditions

24. I have considered the conditions suggested by the Council against the advice in the Planning Practice Guidance (PPG), and adjusted their wording and timing to reduce the burden of unnecessary submissions and processing of further applications where sufficient information has already been provided or is covered by other conditions.

25. In addition to the statutory time condition (1), a condition listing the approved drawings (2) is needed to ensure clarity on what has been permitted. A condition for a construction method statement (3) is necessary to protect the amenity of surrounding occupiers and to safeguard highway safety. I note the findings and recommendations of the reports on land contamination; I have therefore applied a more proportionate, precautionary contamination condition (4) than proposed by the Council. To be effective these conditions need to bite before development commences.

26. The quality and arrangement of materials is critical to the appearance of the building. I have therefore applied a condition for a sample panel (5) and for design details of the key architectural elements (8). Because of their place in the construction programme, these should be resolved before work above ground level and before the relevant elements are constructed.

27. Because of traffic noise, a condition (6) requiring confirmation of the details of the protection of the external envelope of the dwellings is required to maintain occupiers' living conditions. I have added a clause incorporating the enclosure of the winter gardens of the dwellings, as discussed above. A performance condition for the external plant (18) is required for similar reasons. A condition (7) for details of a scheme to protect the occupiers of the dwellings on the first and second floors from poor air quality is necessary to protect their health. Because of the implications of the construction programme and the options for meeting the standards, these conditions should be resolved before work above the first floor slab begins.

28. Conditions to be resolved prior to occupation to secure the landscaping works (9) (10); the details of cycle and waste storage (11) and collection (12); and electric vehicle charging points (13), are necessary to safeguard the appearance of the surrounding area and to meet the environmental objectives of the development plan.

29. To prevent harm to highway safety, a condition requiring the parking spaces (14) to be provided prior to occupation is required. However, the suggested condition for highway works requiring works on land outside the appellant's control would not meet the tests in the PPG. Similarly, the condition proposed for a management plan is unnecessary for a car-park of this size in a single use.

30. To achieve the sustainable design objectives of the development plan, conditions for the water consumption of the dwellings (15) and the environmental performance of the commercial element (17) are necessary. However, I have insufficient information to determine the necessity and precision of a condition for the sourcing of materials. Finally, a condition restricting the use of the commercial element (16) is necessary to safeguard the living conditions of surrounding occupiers and the effectiveness of the adjacent, strategic road network.

Conclusion

31. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR

Schedule of 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 drawings:

P999	rev E	BASEMENT FLOOR AS PROPOSED
P1000	rev E	GROUND FLOOR AS PROPOSED
P1001	rev I	FIRST FLOOR AS PROPOSED
P1002	rev H	SECOND FLOOR AS PROPOSED
P1003	rev I	THIRD FLOOR AS PROPOSED
P1004	rev J	FOURTH PLAN AS PROPOSED
P1005	rev I	FIFTH FLOOR AS PROPOSED
P1006	rev E	ROOF PLAN AS PROPOSED
P1019	rev A	BASEMENT FLOOR AREAS
P1020	rev A	GROUND FLOOR AREAS
P1021	rev A	FIRST FLOOR AREAS
P1022	rev A	SECOND FLOOR AREAS
P1023	rev A	THIRD FLOOR AREAS
P1024		FOURTH PLAN AREAS
P1025	rev A	FIFTH FLOOR AREAS
P2000	rev M	SOUTH ELEVATION AS PROPOSED
P2001	rev M	EAST ELEVATION AS PROPOSED
P2002	rev M	WEST ELEVATION AS PROPOSED
P2003	rev J	NORTH ELEVATION AS PROPOSED
P3000	rev I	SECTION AA AS PROPOSED
P3001	rev I	SECTION BB AS PROPOSED

3) 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) provisions for loading, unloading and storage of plant and materials within the site
   ii) details of access to the site, including means to control and manage access and egress of vehicles to and from the site for the duration of construction
   iii) details of vehicle routeing from the site to the wider strategic road network
   iv) the erection and maintenance of security hoarding
   v) provision of wheel washing facilities at the site exit
   vi) measures to ensure the safety of all users of the public highway especially cyclists and pedestrians in the vicinity of the site and especially at the access
   vii) avoidance of network and school peak hours for deliveries and details of a booking system to avoid vehicles waiting on the public highway
   viii) all necessary traffic orders and other permissions required to allow safe access to the site to be secured and implemented prior to commencement of construction
   ix) details of the construction programme and a schedule of traffic movements
   x) delivery, demolition and construction working hours.

   The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 14 days of the report being completed and approved in writing by the local planning authority.

5) No development above ground level shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approval in writing by the local planning authority. The sample panel shall be at least 1.5 metre x 1.5 metre and show the proposed materials, bond, pointing technique and palette of materials (including roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample panel, which shall not be removed from the site until the completion of the development.

6) Construction work above first floor slab level shall not take place until a scheme for protecting the proposed dwellings from external noise based on the performance specification for the external envelope in the Environmental Noise Survey & Assessment by noise.co.uk of 19 January 2017 Report No 17193-1 shall have been submitted to and approved in writing by the local planning authority. The scheme shall also include measures to protect the enclosed winter gardens of dwellings from external noise in accordance with the larger balconies performance requirement in section 7.7.3.2 of BS8233:2014 Guidance on sound insulation and noise reduction for buildings. All works which form part of the scheme shall be completed before any dwelling is occupied and shall be retained thereafter.

7) Construction work above first floor slab level shall not take place until a scheme for protecting the first floor and second floor dwellings from poor external air quality, based on the performance requirements as outlined in the Air Quality Assessment Update of 19 January 2017 Ref: J2241/2/F1 by Air Quality Consultants Ltd, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme prior to the occupation of the first floor and second floor flats, and shall be retained thereafter.

8) No development of the relevant work sections shall take place until detailed drawings of the following external items have been submitted to and approved by the local planning authority in writing:-

i) glazing, windows and doors
ii) privacy screens
iii) balustrades
iv) vents, flues, air handling plant screening

The relevant works shall be carried out in accordance with the approved details.

9) Prior to the occupation of the development, full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:-

i) a statement setting out the design objectives and how these will be delivered;
ii) sedum roofs;
iii) written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
iv) boundary treatments;
v) planting plans;
vi) vehicle parking layouts;
vii) other vehicle and pedestrian access and circulation areas;
viii) hard surfacing materials;
ix) signage, furniture;
x) refuse storage;
xi) lighting;
xii) a scheme of management and maintenance.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied. The completed scheme shall be managed and maintained in accordance with the approved scheme of management and maintenance.

10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

11) Prior to the occupation of the development, details of the storage and location of 31 cycles shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking shall be provided in accordance with the approved details before the building is occupied and shall thereafter be retained solely for its designated use.

12) Prior to the occupation of the development, a scheme for the storage and collection of waste and materials to be recycled shall have been submitted to and approved by the local planning authority. The approved scheme shall be implemented before the building is occupied, and shall be retained thereafter.

13) Prior to the occupation of the development, details of the location and management of 2no. electric vehicle charging points shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details before the building is occupied.

14) Prior to the occupation of the development, space shall have been laid out in the basement for 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 the parking of vehicles.

15) The dwellings shall not be occupied until the optional requirement for water efficiency of 110 litres per person per day as set out in regulations 36 and 37 of the Building Regulations 2010 as amended, shall have been complied with.

16) The commercial ground floor space shall be used for Use Class B1(a) (as an office other than a use within Class A2), and/or as a showroom, and for no other purpose (including any other purpose in Classes A and B of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

17) The building shall achieve a BREEAM Very Good Level in accordance with the requirements of the relevant 2014 BREEAM scheme. The commercial area of the building shall not be occupied until a Final BREEAM Certificate has been issued for it and produced to the local planning authority certifying that a BREEAM Very Good Level (2014) has been achieved.

18) Any fixed external plant shall be designed and installed to ensure that noise emanating from such plant is at least 10dB below the background noise levels when measured from the nearest sensitive receptors. Plant shall be set in from the roof boundaries by a minimum of 2m. No further fans, louvres, ducts or other external plant shall be installed without the written prior approval of the local planning authority.

END OF SCHEDULE OF CONDITIONS