



Appeal Decision

Site visit made on 18 June 2019

by H Miles BA(hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 July 2019

Appeal Ref: APP/A5270/W/19/3225637

Garages rear of 57-61 Norwood Road, Southall, UB2 4EA

- 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 Estwick of Fairmile Homes against the decision of the Council of the London Borough of Ealing.
 - The application Ref 183300FUL, dated 12 July 2018, was refused by notice dated 9 October 2018.
 - The development proposed is the demolition of existing lock-up garages and the construction of a part one and part two-storey residential development comprising seven apartments (class C3) with associated cycle parking, private and shared amenity space, landscaping and other ancillary works.
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Decision

1. This appeal is allowed and planning permission is granted for the demolition of existing lock-up garages and the construction of a part one and part two-storey residential development comprising seven apartments (class C3) with associated cycle parking, private and shared amenity space, landscaping and other ancillary works in accordance with the terms of the application Ref 183300FUL, dated 12 July 2018, subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matters

2. Following the Council's decision on the application that led to this appeal, a new version of the National Planning Policy Framework (the Framework) has been published. No changes have been made to the content directly relevant to the main issue of this appeal. Consequently, I consider that no prejudice would occur to any parties as a result of me taking the revised Framework into account in my assessment of the appeal's merits.
3. The Draft London Plan is referred to in the appeal submissions. However, I am not presented with evidence that these policies will be adopted in the form that they are presented to me and as such I afford them limited weight in my consideration of this appeal.

Main Issue

4. The main issue is the quality of living conditions for future occupiers with particular regard to outlook, privacy and amenity space.

Reasons

5. Each unit would have private garden space in the form of terraces or a balcony which are annotated to range between 7sqm and 16.3sqm in size. There is also an area of communal garden space which is annotated to be around 180sqm and this would include landscaping and access paths.
6. Outdoor space for dwellings can be for a variety of uses including for furniture, access, recreation and landscaping and I am not persuaded that communal spaces should only provide a supplementary function to private garden space. The mix of private space and shared landscaped areas proposed would provide for different, but equally useful functions.
7. The fact that the communal garden space would be adequately lit is not in dispute between the main parties, and all occupiers would have access to this. Furthermore, I am not provided with evidence that the first floor units would not receive adequate levels of light. The ground floor units would each have access to two private garden spaces. The rear patio terraces would only receive limited light, but the front gardens would not be permanently overshadowed. Therefore future occupiers would all have access to a range of different outdoor spaces including both communal and private spaces which would not be permanently overshadowed.
8. Notwithstanding the dispute between the main parties as to how many units are dual aspect, I note that the ground floor units have windows facing the communal garden space and openings to private patio terraces on an adjacent side of the dwelling. However the windows at each of the three units at first floor broadly all face the same direction - towards the internal courtyard.
9. Whilst the views from the windows in the first floor properties would be in the same direction, the outlook would be relatively open. Views would be across the landscaped courtyard and although there would not be a choice of view, I do not consider this factor in isolation to be unduly harmful to the living conditions of future occupiers. I am not presented with substantive evidence that future occupiers would have unacceptably poor levels of daylight and sunlight, have issues with cross ventilation/overheating, nor be subject to harmful levels of noise or pollution.
10. With regard to privacy, the ground floor private front garden areas would provide some separation between the communal garden space and the windows to the residential units. Albeit that the private front gardens are adjacent to the communal garden space with landscaping providing separation. However, given that the communal garden space would only be accessible by the occupiers of the seven proposed units, any limited overlooking that did occur would be unlikely to result in unacceptably poor living conditions with regard to privacy.
11. For the reasons above, the proposed development would provide acceptable living conditions for future occupiers with particular regard to outlook, privacy and amenity space. Consequently, in this respect, the proposed development would not be contrary to Policies 7B (Ealing Local Policy – Design Amenity), 7D (Ealing Local Policy – Open Space) of the Development Management Development Plan Document Adopted 10th December 2013 (the DPD) nor to the advice in the Mayor of London Housing Supplementary Planning Guidance March 2016 or the relevant advice in the Framework.

12. In its reason for refusal, the Council refers to Policy 3.5 of the DPD and Policy 3.5 of the London Plan which relate to internal space standards, Policy 7A of the DPD which relates to the effect or generation of emissions from proposed development and Policy 7.4 of the London Plan which relates to local character. As such, the above policies are considered to be more relevant to this main issue.

Other Matters

13. Whilst the proposed development is close to adjoining properties, it replaces an existing single storey garage block and therefore the effect at ground floor is similar to the existing situation. At first floor the proposed development would be limited in size and set back from the site boundary. No windows are proposed which would cause an unacceptable loss of privacy to existing occupiers. As such, there would not be an unacceptably harmful effect on the living conditions of existing occupiers.
14. No car parking spaces are proposed as part of this development. I note the Council states that it would seek a S106 agreement to secure that resident car parking permits would be restricted for residents of the proposed development. However I am not provided with any legal agreement which would secure this development as 'car free' and I have considered the appeal on this basis.
15. The submitted transport assessment states that there is capacity in the surrounding streets for the likely number of cars which would be generated by the proposed development. I am not provided with detailed evidence which leads me to dispute these conclusions. Nor am I presented with evidence that the proposed access route would not provide suitable access for delivery vehicles likely to serve the residential development nor for emergency vehicles. As such I do not find unacceptable harm in relation to highway safety or the operation of the road network.
16. It is put to me that these seven units would lead to an unacceptably harmful effect on community facilities and a harmful increase in pollution. Given the scale of development, its domestic use within a mainly residential area and the lack of substantive evidence in these regards I do not find harm in these regards.
17. I note that concerns were raised with respect to the length of the Council's consultation period. However, procedural matters during the processing of the application are a matter for the Council and I have taken all representations into account as part of my considerations.

Conditions and Conclusion

18. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents, including ensuring that the conditions would not unnecessarily delay the delivery of development.
19. I am attaching the standard implementation condition, and in the interests of certainty a condition to define the plans with which the scheme should accord. A condition requiring details of the proposed materials and landscaping are required in the interests of the character and appearance of the area. I have amended the materials condition so that it is not pre-commencement in order

- that it would not unnecessarily delay the delivery of development. I have also removed reference to boundary treatment to avoid duplication of condition 4.
20. The site is surrounded on all sides by residential development and therefore a demolition method statement and construction management plan is required in the interests of the living conditions of neighbouring occupiers. This condition is required to be pre-commencement as it relates to the full duration of the works.
21. Based on the evidence before me I note that there is a moderate level of risk in relation to contamination on site. As such a condition requiring further investigation and potential remediation in this regard is necessary. This is required to be pre-commencement as it includes works that would be required prior to the construction of any development.
22. A condition requiring amenity spaces, cycle storage and refuse and recycling storage to be provided prior to occupation and permanently retained is required in the interests of the living conditions of future occupiers. A refuse management plan is required for the reasons set out in the transport services comments in the officers report and in the interests of highway safety.
23. I have not been presented with evidence that there are any particular security issues nor that there would be particular issues with noise within the development, therefore conditions requiring secure by design standards and sound insulation above the building regulations requirements would not be necessary. I have no detailed evidence that this site is particularly sensitive to air quality issues and therefore conditions relating to emissions from Non Road Mobile Machinery and the specification for the boilers have not been demonstrated to be necessary. I have no substantive evidence that the site is in an area of flood risk or that adequate wastewater infrastructure capacity is not available, therefore the condition in relation to SUDs would not meet the test of necessity. As such, these suggested conditions have not been included.
24. For the reasons above, and subject to the identified conditions, this appeal should be allowed.

H Miles

INSPECTOR

Schedule of Conditions

1. The development permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with drawing title number(s): Block Plan (6479NW-BLOC-D), Proposed Site Layout (6479NW-001-J), Plots 1-7, Floor Plans (6479NW-002-K), Proposed Elevations and Sections Sheet 1 (6479NW-003-F), Proposed Elevations and Sections Sheet 2 (6479-004-E).
3. Notwithstanding any indications as to these matters which have been given in this application, details of the materials and finishes to be used for all external surfaces (including hardstanding) of the development hereby approved shall be submitted to and approved in writing by the local planning authority before any above ground development commences. The development shall be implemented only in accordance with these approved details.
4. Details of hard/soft landscape works and boundary treatments for the development shall be submitted to and approved in writing by the local planning authority before any above ground development commences. The development shall be implemented only in accordance with these approved details. Any trees or other plants which die or are removed within the first five years following the implementation of the landscaping scheme shall be replaced during the next planting season.
5. All amenity areas shown on the approved plans shall be laid out prior to first occupation of any of the units hereby permitted and retained for this use permanently thereafter.
6. Prior to commencement of the development hereby approved, a demolition method statement and a construction management plan shall be submitted to and approved in writing by the Council. Details shall include control measures for dust, noise, vibration, lighting, delivery locations, restriction of hours of work and all associated activities audible beyond the site boundary to 0800-1800hrs Mondays to Fridays and 0800 -1300 hrs on Saturdays, advance notification to immediate neighbours on Norwood Road, Victoria Road and Hammond Road of proposed works and public display of contact details including accessible phone contact to persons responsible for the site works for the duration of the works. Approved details shall be implemented throughout the project period.
7. Details of a Refuse Management Plan shall be submitted to and approved in writing by the local planning authority prior to the first occupation of the flats hereby approved. This Plan shall demonstrate how refuse and recycling would be managed and to ensure it would be deposited at a suitable collection point on the allocated days. The development shall be implemented only in accordance with these approved details and these details shall be adhered to permanently thereafter.
8. The reuse and recycling storage shown on plan no. 6479NW-002-K shall be brought into use prior to the first occupation of the development permitted and retained for this use permanently thereafter.

9. The cycle storage shown on plan no. 6479NW-002-K shall provide a minimum of 14 cycle parking spaces and be brought into use prior to the first occupation of the development permitted and retained for this use permanently thereafter.
10. Prior to the commencement of the development (not including demolition / site clearance) a phased risk assessment shall be carried out by a competent person in accordance with current government and Environment Agency Guidance and Approved Codes of Practice. Each phase shall be submitted to an approved in writing by the Local Planning Authority.

Phase 1 shall incorporate a desk study and site walk over to identify all potential contaminative uses on site, and to inform the conceptual site model. If potential contamination is identified in Phase 1 then a Phase 2 investigation shall be undertaken.

Phase 2 shall include a comprehensive intrusive investigation in order to characterise the type, nature and extent of contamination present, the risks to receptors and to inform the remediation strategy proposals. It is suggested the site investigation may be best undertaken after demolition of the garages and removal of the concrete hardstanding to enable visual assessment and to target the investigation.

Phase 3 - Remediation Strategy - requires that a scheme of remediation and/or monitoring to ensure the site is suitable for its proposed use be submitted and approved in writing by the Local Planning Authority. The remediation shall be carried out in accordance with the approved scheme and the applicant shall provide written verification to that effect.

Phase 4 - Remediation Verification report. The development shall not be occupied until any approved remedial works, have been carried out and a full validation report has been submitted and approved to the satisfaction of Local Planning Authority.