



Appeal Decision

Hearing Held on 25 June 2019

Site visit made on 25 June 2019

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 19th July 2019

Appeal Ref: APP/R5510/W/18/3218824

3 Viveash Close, Hayes, Middx UB3 4RY

- 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 General Food Trading Co Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 36678/2017/1774, dated 12 May 2017, was refused by notice dated 18 October 2018.
 - The development proposed is demolition of the existing buildings and redevelopment of the site with a part 8 and 10 storey building with podium level providing 68 residential units on the upper floors and 1617 sqm commercial floorspace at ground, mezzanine and first floor levels along with associated car parking, cycle parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are;
 - Whether the proposed design and layout of the proposal are acceptable
 - Whether the proposal would provide a suitable standard of residential accommodation
 - Whether the proposed parking provision and arrangements are acceptable.

Reasons

Design and Layout

3. The appeal site currently accommodates a 2 storey commercial/industrial building located at the north of Viveash Close, close to Hayes and Harlington Station. The area contains a number of commercial buildings in a variety of uses many of a similar functional appearance of 1 to 3 storeys in height. The site is within the wider Nestle Avenue Industrial Cluster, designated in the Hillingdon Saved UDP Policies as a Strategic Industrial Location (SIL). However, the site has been included within part of Site B within Policy SA 5 of the emerging Local Plan, Part 2 Site Allocations and Designations (Proposed Modifications 2018) (emerging LP). Sites A and C sit to either side of Site B and the total larger area has been the subject of a strategic view although the Greater London Authority's draft masterplan for the area was not taken

forward. Within emerging Policy SA 5 the Council seeks to bring about a comprehensive redevelopment to provide new homes and commercial floorspace. The emerging Local Plan is at an advanced stage towards its adoption and I was informed that there are no significant outstanding objections to this policy. It is agreed in the Statement of Common Ground (SOCG) that significant weight should be attached to its provisions.

4. Site A, the Nestle Factory site has an approved masterplan and land within Site C (The Buccleuch site) is the subject of a recent planning application. Land immediately to the east (within Site A) has planning permission for a residential development. Much of the land to the east is within the Botwell Nestle Conservation Area.
5. The appellant has indicated that they have tried to engage with the owners of the adjacent land within Site B but that they have shown no interest in participating in a redevelopment project. The Council are critical of the fact that the appeal scheme seeks redevelopment in isolation and they state that the proposal fails to take appropriate account of the desirability of a larger redevelopment.
6. The proposal would occupy much of the site at the lower levels and would be built adjacent to the site boundary with No 4 Viveash Close, to the south. I can see from the proposals for the adjacent Sites A and C that, although buildings of up to 12 storeys are proposed, these appear to be set within larger sites that contain landscaping and areas of public realm. They have also been planned with a significant mainly green pedestrian route crossing the sites; the intention being that this would link up all 3 sites. From what I have seen it appears to me that the proposal, taken in isolation, would fail to make an adequate contribution to the provision of open areas to reflect the aims of Policy SA 5, which would mean that others may have to make a disproportionate contribution, if redevelopment were to go ahead on neighbouring sites. It would be built adjacent to the boundary to the south, with a blank elevation and the appellant indicates that this means that any adjacent development could be built up to that boundary also. However, this could dictate and prejudice the form and nature of the development of the larger site, without an overall comprehensive consideration being available. It is clear to me that its development in isolation would inevitably dictate and influence how the development of the neighbouring site could be undertaken. In addition, if the redevelopment of the neighbouring site were not to come forward, then the appeal scheme would appear as harsh and dominant due to the stark contrast between the proposed south elevation and the scale of the existing buildings. I appreciate that, perhaps in longer views, the proposal would be seen against the backdrop of taller buildings to the north of the railway and those under construction in the vicinity, but at closer quarters I consider that it would appear unacceptable within the context of the much smaller adjacent buildings. The contrast here would be stark and, in my judgement, unacceptable.
7. In addition, the Council indicates that the appeal scheme would place residential occupiers in close proximity to the commercial activities of the adjacent uses, which would not be a suitable residential environment. In my view, this is a further demonstration of the benefits that a comprehensive redevelopment would bring and the prejudicial effects of development in isolation. The appellant indicates that the Council's approach would

unacceptably sterilize the appeal site. However, my view is that the allocation of the site within Policy SA 5 is in its very early days; the emerging plan is not yet adopted and it would seem premature in the extreme to abandon its sound principles and requirements at this stage.

8. In relation to the design of the lower levels of the building, the main elevation facing Viveash Close would contain the entrance to the commercial element, the entrance to the residential element and a vehicular entrance to the parking area. The northern end would be glazed and this would extend across the first floor level for the full width of this elevation. However, the remainder of the ground floor elevation would be of brickwork and the openings for the residential and vehicle entrances would be small in comparison. This section of the street frontage would be dominated by the solid wall and in my judgement would present a cold and unwelcoming face to what should be the main public face of the building. This would be contrary to Policies BE13, BE14, BE19 and BE38 of the saved UDP Policies.

Standard of Residential Accommodation

9. The proposal would provide the rear section of the development closest to the scheme at the Nestles site to the rear. The information submitted with the appeal indicates that some elements of the appeal scheme would be within 21m of the main room windows within the neighbouring development, which is the Council's minimum standard in order to prevent unreasonable overlooking. Drawings submitted for the appeal indicate that there are 5 windows on each of 9 floors of residential units in the neighbouring site that may have an effect or be affected.
10. The appellant's submitted assessment indicates lines of sight from the neighbouring development towards the appeal scheme. This clearly indicates that the proposed building would be within 21 m and that some windows to main rooms would be within 21m. The appellant indicates that only 1 bedroom window on each floor would be affected and only partially so. They proposed to obscure glaze a small section of the window in order to prevent overlooking.
11. I find the appellant's assessment is over-simplistic; it indicates lines of sight being taken only at 90 degrees to the face of the windows and so presents 'tunnels' of vision. In reality, people will obviously be able to look from these windows outside this restricted view. Views would be clearly available from the neighbouring site into the other bedroom window, closest to the corner of the proposed building, within 21m also; these views would be available on all floors. Notwithstanding the fact that this affects only a relatively small part of the proposed development, it would affect all the floors here and it would be affected by all 9 of the floors of the neighbouring site. In this respect, I consider that the proposal would give rise to an unreasonable level of overlooking and I find the suggested solution of applying obscure glazing to one part of a main room window to be unacceptable in itself and insufficient to prevent this.
12. In addition, whilst the Council's standards relate to facing windows, it seems to me that privacy would also be affected by the presence of balconies. The distance between the existing and proposed balconies would be less than for the windows and would represent areas where residents are likely to spend some time sitting out. This adds to my concerns.

13. In relation to amenity space, the Council indicates that the proposal would give rise to a total requirement of 1710 sqm. The appellant's provision is for a communal area at podium level between the 2 blocks of residential units, private balconies, amounting to 1615 sqm, and other areas around the building. The appellant has also included a financial contribution for improvements to a local park within its submitted Unilateral Undertaking (UU), which is the Council's accepted means of addressing a shortfall in quantity. Notwithstanding this the Council object to the quality of the spaces proposed.
14. I agree with the Council that the narrow spaces around the building at ground level would not provide attractive and usable spaces. However, the podium level would provide an area of some size and would be screened, which would afford some protection from the activities associated with the railway and other commercial uses. Similarly, the proposed balconies would provide usable and private areas for the flats. Notwithstanding the slight numerical shortfall, I consider that the communal and private spaces would provide usable and relatively attractive spaces and the financial contribution would appropriately address the numerical shortfall that arises from the Council's assessment in relation to quantity.
15. In relation to the size of the proposed units, the Council indicates that 37 of the proposed 68 flats would only just meet the minimum floorspace requirements set out in the London Plan and the national Technical Housing Standards. The remainder would be in excess. In addition, the Council indicates that, of the proposed 23 family (3 bedroom) units, 9 exceed the minimum standard.
16. Although I understand that encouragement is given to exceeding the standards, the proposal does not breach the standards set out and many of the flats exceed the standards. I also acknowledge that the Council has approved other developments nearby that exceed the standards. However, taken as a whole, with a significant number of units exceeding the minimum standards, I find that the proposal is acceptable in this respect.

Parking

17. The proposal makes provision for 34 car parking spaces (including spaces for disabled drivers) for the residential units and 7 for the commercial element of the scheme. This amounts to 0.5 space for each flat and 1 space per 192 sqm of commercial floorspace. The Council's maximum parking requirements would be 102 for the residential component and 16 for the commercial use. However, the Council is mindful of the approach that it has taken to other developments in the area, taking account of the accessibility of the site, and indicates that a requirement of 0.6 spaces per flat would be applied, which would result in a requirement of 41 for the residential element.
18. Viveash Close is not covered by any parking restrictions and was heavily parked when I observed it. There is a Controlled Parking Zone on Nestles Avenue. This restricts parking to permit holders only between 09:00hrs to 17:00hrs Mondays to Fridays. The appellant has indicated that they would be prepared to fund the extension of the CPZ, which is included within the UU. However, as the Council points out, there are procedures to be gone through which include consultation with local residents and businesses and any alterations to the extent of the CPZ cannot be guaranteed. The UU also includes a restriction on parking permits such that any future residents of the proposal would not be entitled to a permit.

19. It is acknowledged that the site is within an accessible location and has a good PTAL score of 4, which would rise to 5 if the Crossrail project is completed. In my judgement, the very small difference between the Council's preferred ratio of 0.6 spaces and the provision of 0.5 spaces per unit is marginal. The site is very close to the railway station and other facilities which means that residents would have good access to services and alternatives to using the private car would be encouraged and would be available. In these circumstances, I consider that the proposed provision would be acceptable and would not give rise to unacceptable unmet demand for car parking.
20. In relation to the use of the 'stackers', the Council are concerned that there are practical issues relating to the availability of spaces and the time taken to access cars/spaces. The spaces would be made available by means of a key-fob and these would clearly be restricted in number. Taking account of the overall size of the parking provision and the stackers, whilst I acknowledge that a short time would be taken to gain access to a space/car, I do not consider that this would represent an unacceptable inconvenience nor would it give rise to unacceptable congestion or queues. With respect to any noise generated, I consider that the separation of the stackers from the residential properties is sufficient to prevent any unacceptable effects.

Planning Balance and Conclusions

21. The proposal would bring about the provision of new homes, including an acceptable level of affordable units, in an accessible location and I attach some weight to this. The Council indicates that this should be seen within the context of the Council's very healthy housing supply. I have also taken account of the other matters referred to by the appellant, including the support for jobs created by the provision of commercial units and the construction jobs that would be supported during the construction of the proposal. Matters included within the UU should be seen as neutral in my judgement, as they can only appropriately be considered if they are required directly as a result of the proposal.
22. Having taken account of all matters raised, I find that the shortcomings of the proposal are significant and raise conflict with either existing or emerging policies (and the emerging policy is acknowledged to be of significant weight). I conclude that the benefits of the proposal are insufficient to outweigh the harm that would arise. As a consequence, the appeal is dismissed.

ST Wood

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

M Roe
B Hawkins
J Moakes

FOR THE LOCAL PLANNING AUTHORITY:

S Volley
T Campbell
R Michalski
M Butler
M Malhotra
D Adumekwe

Documents Submitted at the Hearing

1. Unilateral Undertaking (Completed version submitted shortly after closing of the Hearing)
2. List of Conditions
3. Statement of Common Ground