



Appeal Decision

Site visit made on 21 August 2019

by J Moss BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 December 2019

Appeal Ref: APP/B5480/W/19/3231705

Land adjacent to Diban Court (to the rear of 42 The Broad Way) Elm Park, London RM12 4RN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Tofts against the decision of the Council of the London Borough of Havering.
 - The application Ref P0269.19, dated 19 February 2019, was refused by notice dated 10 May 2019.
 - The development proposed is described in the planning application forms as 'outline planning application for eight one-bedroom dwellings and associated parking with area improvements to go alongside the development'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Approval is sought for the access to the site with all other matters reserved for later determination. I have had regard to the site location plan together with the plans entitled 'Indicative Elevations & Perspectives', 'Indicative Floor Plans' and 'Indicative Site Plan'. As suggested, I have regarded those plans as indicative apart from the details of the access.
3. The planning application form submitted with the appeal gives the applicant details as Mr S Tofts of Lexden Holdings Limited. However, the planning appeal form gives the appellant's details as Mr Sean Tofts of Elite Planning. In view of the discrepancy between the planning application form and the appeal form, I have regarded the appeal as having been made by the individual, Mr S Tofts, and not by any of the companies that have been mentioned in the forms.

Main Issues

4. The main issues are:
 - The effect of the development on the character and appearance of the site and the surrounding area;
 - The effect of the development on the living conditions of nearby occupiers with regard to outlook; and

- Whether or not the development would result in inconveniences for road users as a result of any additional demand for on street parking in the locality.

Reasons

Planning Policy

5. The adopted plan for the area is the London Borough of Havering Core Strategy and Development Control Policies Development Plan Document Adopted 2008 (DPD). The Council's reasons for refusal rely on policies DC33 (Car Parking) and DC61 (Urban Design). Whilst reference has been made in the officer's delegated report and appeal statement to the London Plan dated March 2016 (LP), no conflict is alleged with any particular policy of the LP within the three reasons for refusal.
6. The appellant has suggested that the policies within the DPD that are most important to the determination of this appeal, including policies DC33 and DC61, are out of date as the DPD has not been reviewed for 11 years. For this reason he suggests that the provisions of paragraph 11 d) of the National Planning Policy Framework (the Framework) apply in this case.
7. I have had regard to the advice in paragraph 213 of the Framework, which suggests that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework, and that due weight should be given to policies according to their degree of consistency with the Framework.
8. Policy DC33 refers to parking standards that are within an earlier version of the London Plan, which was replaced in 2011. In this regard the policy may well be viewed as out of date. However, the policy does refer to a parking standard that only imposes a maximum number of parking spaces and, in this regard, is consistent with advice in the Framework on promoting sustainable transport, as well as the approach taken in the replacement LP.
9. Turning to Policy DC61, this conforms with the advice provided in section 12 of the Framework on achieving well-designed places. In particular, it is consistent with the aim of ensuring development is sympathetic to local character, adds to the overall quality of the area and creates attractive, welcoming and distinctive places. In addition, the policy does not conflict with the aims of sections 5 and 11 of the Framework, which have been highlighted by the appellant. Whilst this advice seeks to increase the supply of homes and encourage the effective use of land, it informs that such aims should be achieved whilst complying with the advice in the Framework as a whole, including that provided in section 12.
10. I note the appellant's reference to appeal decision APP/B5480/W/17/3183095. However, the Inspector in that case does not discount Policy DC61 as suggested. Neither does he consider whether the policy is out-of-date as a result of its age. The Inspector does, however, consider the weight to be attributed to conflict with the policy in the section of his decision on the planning balance. I have also undertaken a similar exercise later in this decision, having regard to the particulars of the case that is before me.
11. In view of my conclusions above, policies DC33 and DC61 are not out-of-date for the purposes of paragraph 11d) of the Framework in respect of the age of the policies.

12. Although not referred to in the Council's reasons for refusal, my attention has been drawn to a number of policies within the emerging Havering Council Local Plan 2016-31 (EHCLP). Whilst only the text of certain policies has been provided, Policy 26 would appear most relevant to the first main issue and policies 7 and 10 most relevant to the second. The EHCLP is yet to be adopted and may be subject to change. Accordingly, the weight attributed to these policies is limited.

Character and Appearance

13. The appeal site is land to the rear of a busy retail area on Broadway Parade and Elm Parade. The properties along these parades are predominantly within blocks fronting onto the high streets, and are three or four storeys with commercial units at ground floor and residential units above. For the most part each have a lower two or one storey element to the rear. There is a tall two storey building to the rear of the appeal site, fronting onto Elm Parade, but its height is comparable to the properties described above. The area to the rear of the two parades is occupied by blocks of four storey flats, comprising the Diban Court development.
14. There is a sense of space between the buildings facing the parades and those in Diban Court. This is provided by the walkways, lawns and parking areas around Diban Court, as well as by the yard areas to the rear of the properties on Elm Parade and Broadway Parade. There are some buildings within this space that appear ancillary in character, but these are generally low level and are very much subservient in height and scale to the three and four storey buildings described above.
15. As noted by the Council, the appeal site is constrained due to the existing development in the immediate vicinity. In view of this and the number of units to be accommodated in the scheme, it is likely that development would be located and laid out broadly in compliance with the illustrative layout plan, although it is acknowledged that layout is a reserved matter.
16. Furthermore, due to the number of units of accommodation proposed, it is likely that the proposed building would be of a height and bulk that would be comparable to the main blocks of development on Diban Court and on the parades. It does not, however, follow that it would be appropriate to replicate this on the appeal site.
17. The Diban Court blocks of flats are part of a single comprehensive development where thought was given to their setting as part of the overall scheme. These blocks sit comfortably within their green areas, walkways and parking area described above. The same could be said for the blocks of properties along the two parades, where to the rear their setting is provided by the rear yard areas.
18. The proposed scheme would result in a substantial block of development that would not provide for its own setting, other than the approach road to the rear of Broadway Parade. Whilst this factor alone may not render the scheme objectionable, the height and bulk of the building would erode the open space between the existing buildings at Diban Court and along the parades.
19. Coupled with this would be the close proximity of the proposed building to other comparable blocks in the area, particularly those along Broadway Parade. Its position and orientation would result in an awkward relationship with the

existing development and, as such, the building would be an uncomfortable addition to the area.

20. I note that permission has been previously granted for two residential units and associated parking at the appeal site (planning application reference: P1291.17), although limited details of this have been provided. Nevertheless, the proposed scheme in this appeal would be significantly more substantial than that permitted as it seeks to construct a block of eight, one-bedroom properties, with the indicative plans showing the accommodation provided over five storeys. At a lower height (for example, at the height of the permitted scheme) the sense of the erosion of the open space may well be less, but at the height needed to accommodate eight residential units, the impact would be significant.
21. Whilst I acknowledge the appellant's suggestion that the density of the development reflects that of the surrounding area and accords with the density matrix provided within The London Plan March 2016 (LP), such a matter would not render the development appropriate in terms of its effect on the surrounding built environment.
22. In view of the findings above, I conclude that the development would have a wholly unacceptable effect on the character and appearance of the site and the surrounding area. The development would, therefore, be in conflict with Policy DC61 (Urban Design) of the DPD, which informs that permission will only be granted for development which maintains, enhances or improves the character and appearance of the local area.
23. The development would also be in conflict with advice provided in the Residential Design Supplementary Planning Document adopted 2010 (RDSPD), which requires, amongst other matters, that development complements or improves the character of the area through its appearance, layout and integration with surrounding land and buildings.
24. Furthermore, the development would not accord with Policy 26 of the EHCLP, which requires development to be informed by, respect and complement the distinctive qualities, identity and character of the site and local area.

Living Conditions

25. There would be a degree of separation between the development and the properties within Diban Court and Elm Parade. The development would also be viewed at an angle from the principle windows in these nearby properties. Accordingly, it is unlikely that the development would be overbearing when viewed from Elm Parade and Diban Court.
26. The development would, however, be in close proximity to the row of properties along Broadway Parade, in particular the property at No 42. Whilst the view of the development from these properties would also be at an angle, it would be within the immediate outlook of No 42 and, to a lesser degree, No 41 when viewed from within the properties and from the rear balconies.
27. Although I have had regard to the development that has been approved at the appeal site, it is likely that the height of this would be similar to, or lower than the residential accommodation at the third and fourth storey of No's 42 and 41. The greater height of the scheme subject of this appeal would result in a form of development that would create an unwelcomed sense of enclosure and

dominate the outlook from the properties at the northern end of Broadway Parade. In this regard the development would have an unacceptable effect on the living conditions of the occupiers of these properties.

28. I acknowledge that such a close arrangement between properties exists in other locations in the vicinity. However, the examples given to demonstrate the prevalence of this arrangement appear to have been designed in such a manner and do not result from the addition of development in close proximity to other existing properties, as would be the case with the development proposed. It would not, therefore, be reasonable to compare these to the scheme before me.
29. Having regard to the findings above, the development would not comply with Policy DC61 (Urban Design) of the DPD, particularly the requirement to complement or improve the amenity of the area through its layout and integration with surrounding buildings.
30. Furthermore, the development would conflict with the RDSPD, where at section 9.3 it informs that new development should be sited so that there would be no detriment to existing residential amenity through, amongst other matters, dominance.
31. With regard to the relevant policies of the EHCLP, notwithstanding the weight to be afforded to these policies at this stage, the development would also fail to comply with policies 7 and 10 in that it would significantly adversely affect the quality of life of existing residents.

Parking

32. The Council suggest that the appeal site has a Public Transport Accessibility Rating (PTAL) of 3, whilst the appellant suggests a PTAL of 4, rising to 5 in the future. Either way, the site has a moderate to high level of public transport service available to the occupiers of the site. Indeed, the site is adjacent to the services and facilities along the parades and is in close proximity to Elm Park Station, referred to by the third parties. This is likely to encourage the use of public transport and render the occupiers of the development less reliant on the use of a car.
33. The scheme as submitted indicates that 6 off street parking spaces can be provided within the confines of the site, amounting to less than one per unit. DPD Policy DC33 (Car Parking) informs that parking provision within new development should not exceed the maxima set out in Annex 5 of the plan. Whilst I have not been provided with the relevant Annex, the appellant has indicated that there would be a requirement of 0 to 1.5 parking spaces per unit and this is not disputed by the Council. Accordingly, based on the evidence before me, the indicative parking provision would comply with Policy DC33, particularly as the policy does not impose a minimum requirement.
34. Notwithstanding the above, the Council and third parties are concerned that the development would result in pressure for parking on street and around Diban Court. In this regard, I noted on the site visit that there is very little opportunity for on street parking near the site. This is due to parking restrictions in the area and the prevalence of dropped curbs and driveways along the nearby residential streets (Elm Park Avenue and Diban Avenue, for example).

35. Furthermore, the appellant confirms that the appeal site is private land and that any parking that currently occurs within the site is controlled by the land owner. The development would not, therefore, result in the loss of existing public parking within the site. Similarly, the area around Diban Court is not understood to be part of the adopted highway and during the site visit I noted several signs suggesting that parking spaces were private. As the occupiers of the development would not be entitled to park in the parking areas around Diban Court, I cannot conclude that the development would be unacceptable due to an increase in the demand for parking in these spaces.
36. Having regard to all of the above, it is likely that car ownership among the flat occupiers would be low. In view of this and noting the parking provision proposed within the site, it is reasonable to conclude that the development would not result in a significant increase in the demand for on street parking in the area. It is, therefore, likely that the development would not result in inconveniences for road users as a result of any additional demand for on street parking in the locality.
37. Accordingly, and as noted above, the development would not conflict with DPD Policy DC33, the supporting text of which recognises the need to ensure that the level of car parking within a development would not give rise to on-street car parking problems which may impact on the safety and quality of the environment. In view of this, a legal agreement would not be necessary to prevent future occupiers from obtaining residents parking permits.
38. The Council have referred to DPD Policy DC61 in its third reason for refusal. However, this policy does not on its face deal with the matter of parking provision and the Council have not suggested what particular aspect of the policy would be breached by the development in this regard. Accordingly, I can only conclude that the development would not conflict with this policy with regard to the matter of parking provision.

Planning Balance and Conclusion

39. The appellant suggests that the Council are unable to pass the housing delivery test or demonstrate that it currently has a five-year supply of housing land, as required by paragraphs 73 and 75 of the Framework. He suggests that the advice in paragraph 11d)ii of the Framework applies and points to the benefits of the scheme in this regard.
40. The addition of eight units of housing to the supply of housing in the area would be a benefit that adds weight in favour of the development. Furthermore, the economic benefits during construction of the development would also add weight in favour of the scheme, together with the contribution the occupiers of the dwelling would make to the local economy. However, these benefits would be limited in view of the number of units proposed and the number of likely occupiers. For the same reason limited weight would also be attributed to the contribution the occupiers of the development would make to the local community.
41. The appellant has also suggested that the development would formalise the parking and refuse storage within the site, address site contamination and result in net biodiversity gains through landscaping. Notwithstanding the limited evidence before me of any such gains, such matters would, in any event, be required in order to make the development acceptable and would,

therefore, have a neutral effect in the planning balance. There would, however, be some limited benefit to the use of this small, but currently under-utilised site.

42. Whilst the above benefits of the scheme are acknowledged, even if the advice in paragraph 11d)ii of the Framework applied in this case, the adverse effects of the development, particularly its effect on the character and appearance of the area, would significantly and demonstrably outweigh these benefits. Accordingly, the proposal would not benefit from the presumption in favour of sustainable development.
43. In conclusion, notwithstanding my findings with regard to parking, the development would have a demonstrably harmful effect on the character and appearance of the area and on the living conditions of nearby occupiers, in conflict with Policy DC61 (Urban Design) of the DPD. There are no material considerations that would indicate that the decision in this case should be taken otherwise than in accordance with the development plan. Accordingly, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

J Moss

INSPECTOR