



Appeal Decision

Site visit made on 23 September July 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2020

Appeal Ref: APP/A5270/W/19/3227985

16 The Vale, Acton W3 7SB

- 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 Shepherd's Bush Housing Group against the decision of the Council of the London Borough of Ealing.
 - The application Ref 183812FUL, dated 9 August 2018, was refused by notice dated 22 March 2019.
 - The development proposed is the change of use from B8 (storage/distribution) to mixed commercial use (A1-A3, B1) to lower ground and ground floor with 43 residential units above including construction of three additional storeys to the building, ground floor extensions, cantilevered additions to the rear elevation and alterations to elevations, amendment to planning permission (PP/2015/5938) granted January 2018 comprising an additional floor to provide 4 additional units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above differs from that given within the application form. However, during the course of the determination of the application by the Council, both of the main parties appear to have agreed to change the description of development through written correspondence. I have therefore used the agreed revised description for my formal decision.
3. A development has already been granted¹, and subsequently varied², at the appeal site for, amongst other things, the change of use from B8 (storage/distribution) to mixed commercial use to lower and ground floor with 39 residential units above, including the construction of two additional storeys to the building. I henceforth refer to this as 'the previous permission'.
4. The Council's second reason for refusal refers to Policy 6.13 of the Development (Core) Strategy Development Plan Document (CS) and Policy 6.13 of the London Plan. However, its statement confirms that these are not relevant to this reason for refusal. I proceed to determine the appeal on this basis.
5. The Council's third reason for refusal relates to the absence of a legal agreement to secure mitigation for increased parking pressures, affordable housing and financial contributions required to mitigate the proposal's impact

¹ Ref. PP/2015/5938

² Ref. 181104VAR

on local infrastructure. However, an executed Unilateral Undertaking (UU) has been received during the appeal process. The Council has confirmed that this overcomes its objection in relation to these matters and alleviates its third reason for refusal. I have taken this into account in my decision.

Main Issues

6. The main issues are the effect of the proposal on:

- the character and appearance of the host building and immediate streetscene; and
- the living conditions of the occupants of nearby properties, with particular regard to privacy and outlook.

Reasons

Character and Appearance

7. The appeal site is not covered by any historic or other land designations and is in an area characterised by a mix of property types and uses. It accommodates a large, three storey, building positioned in a visually prominent location on the northern side of The Vale, adjacent to the junction with First Avenue. This is a distinctive 1930s art deco warehouse with interesting stone detailing and a strong cornice line. It has a symmetrical appearance with a projecting bay to the centre. This central feature has additional cornice detailing and pilasters in brick and stone and adds to the building's interest. The well-proportioned appearance of the appeal building, together with its architectural detailing, contributes positively to the character and appearance of the immediate streetscene.
8. This proposal is largely identical to the previous permission. However, it seeks permission for an additional three storeys at the host building, rather than the approved two storeys. This would increase the number of residential units from 39 to a total of 43. The design approach for the proposal is to knit the new third floor into the fabric of the first and second floors to form the main body of the building above the ground floor and basement levels. The new fourth and fifth floors would be recessed and glazed to form the top of the property.
9. The alterations at ground floor level would provide a better pedestrian experience. Nevertheless, when viewed cumulatively, the proposed additional storeys would add a considerable amount of bulk and mass to the host property and would substantially increase its height. Not only would this appear as a bulky, dominant and out of proportion addition to No 16, but it would also further diminish the pleasing contribution that its unique central projecting bay makes to its appearance. This would be to the detriment of the design and balance of the appeal building. Furthermore, in my view the two layers of substantial glazing at floors four and five would fail to integrate effectively with the mixture of brickwork and glazing on floors below. This would reinforce the scheme's harmful impact to the appearance of the host property.
10. Taking the above into account, notwithstanding the content of the Council's pre-application advice, I find that the scheme would fail to assimilate appropriately with the host building and would erode the positive contribution that it makes to the immediate streetscene. Whilst lightweight materials and a

stepped façade would be used for the fourth and fifth floors, the scheme's deleterious impact would be apparent from the public domain.

11. The proposal's scale would not be alien when seen in the wider context of the area, which includes large buildings at Acton Square and Issigonis House. Nonetheless, this would not diminish the harmful impact to the character of the host building and the immediate streetscene. In addition, I accept that the proposal would bring the appeal building back into use. However, I have no evidence to show that this could not be achieved through a scheme which would be less harmful to its appearance, such as the extant previous permission. This therefore attracts only limited weight in my assessment.
12. For the reasons given, I conclude that the proposal would harm the character and appearance of the host building and the immediate streetscene. It would therefore fail to comply with Policies 1.1 and 1.2 of the CS, Policies 7.4 and 7B of the Development Management Development Plan Document (DPD) and Policies 7.4 and 7.6 of the London Plan (LP). Amongst other things, these seek to promote excellence in architectural quality and urban design and ensure that developments have a positive visual impact on the streetscape.
13. Turning to the National Planning Policy Framework (the Framework), this, as well as elements of the draft London Plan, seeks to make efficient use of land. It also supports the use of airspace above existing commercial premises for new homes and states that small and medium sites can make an important contribution to meeting the housing requirement of an area. However, this should not be at the expense of achieving high quality development which adds to the quality of the area. I have found that the proposal would not achieve this. There is therefore conflict with the design objectives of the Framework.

Living Conditions

14. The proposed fifth floor would be stepped back on all sides from the floor below and, given the scale of the proposal, the bulk and mass at this top level is unlikely to be readily perceptible when viewed from close proximity. Consequently, I find that the additional fifth floor would not be unduly oppressive or visually dominant when viewed from the nearby Nos 2 and 4 First Avenue and No 14 The Vale.
15. Turning to privacy, the roof terrace to the rear of the fifth floor would not be accessible and a glass balustrade, obscure glazed to a minimum height of 1.1 metres, would be positioned at the edge of this terrace. A similar obscure glazed balustrade would seem to wrap around the accessible roof terraces at the side of this floor. Overall, the design of the fifth floor, which appears to include obscure glazing to sections of habitable room windows, together with its set back positioning, would restrict direct downward views of nearby properties. Furthermore, any views of nearby properties would be relatively long distance. Consequently, I consider that the scheme would not significantly harm the privacy of nearby properties.
16. For the reasons given, I conclude that the proposal would not significantly harm the living conditions of the occupants at nearby properties, in terms of privacy and outlook. It would therefore accord with Policy 7B of the DPD insofar as it seeks to ensure that proposals secure a high standard of amenity for adjacent users in terms of privacy and visual impact. I have been referred to

Policy 7A of the DPD. However, this deals with emissions and is not relevant to this main issue.

Other Consideration

17. Although not within its decision notice, the Council raises concern that the four units at the fifth floor would not be three-bedrooms properties, for which the evidence before me indicates a need in the Borough. However, as I am dismissing the appeal for a substantive reason, I have not considered this matter further as it is not determinative to my decision.

Planning Balance

18. The Government is seeking to significantly boost the supply of housing and I note that the Draft London Plan intends to increase the Borough's housing target considerably. The proposal would add 43 dwellings to the Council's housing stock in an accessible location and the executed UU would secure the requisite number of affordable units, which would be of an appropriate tenure mix. The scheme would also result in economic benefits through construction and occupation. However, when compared to the previous permission, this proposal represents an increase of only four dwellings at the site. This tempers the weight to be given to these social and economic benefits. Nevertheless, they weigh in the scheme's favour.
19. I have found that the proposal would not harm the living conditions at nearby properties in terms of privacy and outlook. It would also be acceptable in other respects. For example, in terms of parking provision and living conditions for future occupants. However, these are requirements of the development plan and are neutral factors in the overall balance.
20. On the other hand, the proposal would result in harm to the character and appearance of the host building and the immediate streetscene. It would therefore fail to fulfil the environmental objective of sustainable development within the Framework insofar as it seeks to protect and enhance the built environment. This is a matter to which I give considerable weight.
21. These factors lead me to conclude that the harm I have identified would outweigh the social and economic benefits associated with the proposal. The proposal conflicts with the development plan and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

22. Having regard to the above reasons and to all other matters raised, I conclude that this appeal should be dismissed.

M Heron

INSPECTOR