



Appeal Decision

Site visit made on 27 January 2020

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 March 2020

Appeal Ref: APP/Z5060/W/19/3237239

Former Thames View Clinic, Bastable Avenue, Barking IG11 0LG

- 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 Evergreen Construction (UK) Ltd against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 18/00003/FUL, dated 16 October 2018, was refused by notice dated 19 March 2019.
 - The development proposed is for the erection of six-storey building comprising Community Use at ground floor (Use Class D1 community use) plus 54 residential flats (3 x studio, 32 x 1-bed & 19 x 2-bed) and associated access, basement level parking and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of development was changed slightly on the appeal form and decision notice. I have used the revised description for clarity.
3. The Draft London Plan (DLP) was published in December 2017. The examination in public hearings were completed in May 2019. A consolidated version of the Plan incorporating all the suggested changes was produced in July 2019. In December the Mayor published the Intend to Publish version of the plan and submitted this to the Secretary of State. I have consequently applied significant weight to the DLP.
4. A Unilateral Undertaking¹ (UU) was recently submitted by the Appellant. This includes the provision of 11 shared ownership affordable units, viability reviews to potentially deliver additional affordable housing units, local employment opportunities, restrictions of parking permits, car club membership and financial contributions towards air quality mitigation, children's play-space, highway improvements, and carbon off-set. I have taken this into account in the decision.
5. Amended plans were submitted during the application consideration process making substantial design changes. The amended plans were subject to public consultation. I have therefore taken these into account without prejudice to any party.

¹ Unilateral Undertaking, 31 January 2020

Main Issues

6. The main issues are:

- whether the density of the proposed development is appropriate for the site in regard to local policy, the National planning Policy Framework (The Framework) and the local context,
- the effect of the proposal on the character and appearance of the area, and
- whether the proposal would make an appropriate contribution towards affordable housing in regard to local and national policy.

Reasons

Density

7. The development plan for the district includes the London Plan (2016) (LP). Policy 3.4 of the LP seeks to optimise housing potential in accordance with the density range principally established through table 3.2. This table defines density ranges by taking into account the site's Public Transport Accessibility Rating (PTAL) rating and whether it is in a 'suburban', 'urban' or 'central' setting. This sets broad density expectations to focus higher density development in areas with good access to services and employment. The site is with an 'central' area and has a PTAL rating of 2. Accordingly, the expected density range would be between 65 - 170 units per hectare. The proposal would have a density of 300 dwellings per hectare, this exceeds this expectation by some margin. However, the supporting text is clear that density requirements should not be applied mechanically. Other factors should be taken into account to optimise the potential of development such as the local transport capacity, the context of the site and the design of the proposal.
8. The Framework favours the use of minimum density standards and to significantly uplift the average density of residential development in areas that are well served by public transport. However, the site's PTAL rating of 2 indicates that it has relatively poor transport connectivity. Furthermore, although the site is adjacent to bus stops and served by two bus services, this would provide a relatively limited service. Future occupiers would therefore have a greater reliance on the use of the private car.
9. Consequently, the development's density would manifest as a combination of the height of the building, its footprint and the size of its units. The Council has confirmed that the proposal would meet the required space standards of the London Plan. Accordingly, before concluding on density broader considerations are required. These relate to the contribution the proposal would make to the character and appearance of the area, with particular respect to its proposed height and footprint.

Character and appearance

10. The site has been previously developed and was cleared of buildings in the past. It is somewhat isolated from neighbouring development, with highways on three sides and a medical centre to one side. Bastable Road is a comparatively straight road that enables distant views of the site. The local area includes community and retail uses, but is predominantly residential in character. Existing buildings within the area are mostly two and three-storey,

consisting of semi-detached and terraced housing and blocks of flats. A limited number of four-storey buildings are evident in the wider area. Pitched roofs add some additional mass to the total height of these buildings. However, only a small number are above the general trend of three-storey. 'Blue Shore Apartments' is a five-storey building which is nearing completion. This is located on the junction of Bastable Avenue and Endeavour Way and some distance from the appeal site. Also, there are some taller tower blocks within distant views of the site.

11. The Development Plan for the district includes the Barking and Dagenham, Borough Wide Development Policies, Development Plan Document (2011) (DPD). Policies BP8 and BP11 of the DPD requires development to have regard and protect or enhance the character of an area by providing attractive high-quality architecture. Paragraph 127 of the Framework requires planning decisions to ensure that development is sympathetic to the local character whilst optimising the potential of a site. The proposed building would have a fairly uniform rectangular footprint with a ground floor podium to the sides and rear. It would be a total of 6 storeys, with the top floor recessed and treated with zinc cladding.
12. The Appellant's contextual analysis, within the Design and Access Statement² and its Addendum³, establish design principles in response to the Council's site-specific Planning Guidance Note⁴ (PGN). The PGN was not subject to consultation and is therefore of limited weight. However, this states that development on the site should not be overbearing, be a maximum of 4 storeys and maintain a sense of space. The Addendum Statement states that the reduced plinth and increased glazing reduced the proposal's previously overbearing nature. It also states that the design would complement the 'Blue Shore Apartments' and could act as a catalyst for further regeneration. However, it is largely silent on matters of contextual analysis, and consideration of how it would positively contribute to the local character including predominant building heights.
13. The proposal would be substantially taller than the majority of existing built form in the area. Furthermore, the proposed building's footprint would be wide and deep. The proposed building would therefore be of a substantial mass. Despite the width of the highway, the overall scale of the proposal would be disproportionate to the local area. 'Blue Shore Apartments' has a substantially smaller footprint and addresses a corner. This creates a different and positive response to its local context. In contrast, although the design of the proposal would include comparatively robust articulation and a simple material palette, the overall mass would dominate the local area. This would be largely due to its excessive height and the resultant juxtaposition to existing local built form. The sixth-floor set-back would only be of limited success at reducing the overall scale and bearing of the proposal.
14. The Framework states that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area. The proposal pays insufficient regard to the form, function and structure of existing built form and would be a substantial and obtrusive new mass. This would detract from the character of the area with

² Pda- planning design associates December 2017

³ Open London, Design and Access Statement August 2018

⁴ Land at former Thames View Health Centre, Bastable Avenue Planning Guidance Note (2015)

a prominent and obtrusive form. Accordingly, it would subsequently dominate the local streetscene and be visually harmful to the character and appearance of the area.

15. Consequently, the proposal would not accord with policy 7.4 of the LP, which seeks amongst other things for development to have regard to the pattern and grain of the existing spaces and street in orientation, scale, proportion and mass. Furthermore, the proposal would be contrary to policies BP8 and BP11 of the DPD, which amongst other things include the requirement for development to have regard to the local character of an area and to protect and enhance its character.
16. Subsequently, in terms of density the proposal would also not accord with policy 3.4 of the LP, which requires development to accord with the density ranges identified by table 3.2 and taking the context into account. Also, having attributed significant weight to the DLP, the proposal would not accord with Policy D3. This seeks amongst other things to seek a design-led approach that responds to the site's context.

Affordable housing

17. Policy 3.11 of the LP seeks to maximise Affordable Housing (AH) provision, with 60% of the provision to be for social and affordable rent and 40% for intermediate rent or sale. Policy 3.12 requires a maximum reasonable amount of AH to be sought when negotiating on individual schemes, having regard to the need to encourage rather than restrain residential development and meet the size and type needed in particular locations. It also states that negotiations should take into account the individual circumstances of the site including development viability. Also, Paragraph 22 of the Framework requires planning decisions to support development that make efficient use of land, taking into account a range of factors including local market conditions and viability.
18. The Mayor of London's AH Guidance⁵ states that applications are required to meet or exceed a provision of 35% AH or submit a viability assessment. On consideration of a viability assessment the Local Planning Authority will then determine the level of AH that is viable for the site. The Appellant's Development Appraisal⁶ and the Council's Viability Assessments, found that the proposal could sustain either 8 affordable rent units or 11 shared ownership units. The officer report identified that Shared Ownership units were preferred. It was considered that these would be more attractive to a Registered Provider and were better suited to the layout of the proposed building. The AH offer was therefore set and agreed by officers following a robust viability exercise. The Council has not subsequently challenged the viability evidence submitted in support of the appeal. Furthermore, the submitted UU accords with the general parameters agreed with officers.
19. However, the Council now considers that the proposal would pay insufficient regard to the low-cost housing need in the area. The 2017 Strategic Housing Market Assessment found that the greater need is for Low Cost Rent Housing, although this also identifies a clear need for intermediate housing. Furthermore, although the AH Guidance requires a range of types of AH to be provided, the offered Shared Ownership units would also make a reasonable

⁵ Mayor of London- Homes for Londoners, Affordable Housing and Viability Supplementary Planning guidance 2017

⁶ FFT economic viability report, Evergreen Construction Ltd September 2018

contribution to AH in the area. The provision of this reduced level of AH would therefore be of moderate benefit in favour of the proposal.

20. Accordingly, the provision of 11 shared ownership units, having been subject to a Viability Assessment and agreed by officers of the Council, is acceptable. The provision of shared ownership units would satisfy a number of practical matters specific to the layout of the proposal. The UU would appropriately secure these shared ownership units.
21. Consequently, the proposal accords with policy 3.12 of the LP which seeks the provision of affordable housing having regard to the need to encourage rather than restrain residential development. Also, the proposal would satisfy the Mayor of London's Affordable Housing Guidance, requiring 35% AH or to undergo a viability appraisal. Furthermore, having attributed significant weight to the DLP, the proposal would accord with policy H6 which also requires an AH provision of 35% and to be subject to a viability assessment if this would render the project unviable.

Other matters

22. An alternative proposal⁷, for a four-storey building and including 34 flats, has been submitted to the Council for consideration. This includes a 15% affordable housing provision as London Living Rent tenures. The Council's Planning Committee resolved to approve the scheme in October 2019, subject to the applicant entering into a Legal Agreement. Although currently undetermined this is a material consideration. However, the new proposal is of a substantially different scale to the proposal the subject of this appeal. Accordingly, the revised proposal has had only a limited bearing on the main issues.
23. The Appellant has referred to the Council's under-provision of housing delivery, but inadequate evidence has been advanced to substantiate this position. Accordingly, this matter is of limited weight in my consideration of the merits of the case.
24. The officer report refers to policy D6 of the DLP, however this was deleted and partly replaced by policies D1 and D18. Policy D1 encourages boroughs to set out acceptable parameters of development for allocated sites. Policy D18 requires development to make the best use of land. These policies have been taken into account where considered to be relevant to this case.

Planning balance and conclusion

25. The proposal meets a range of planning objectives including the principle of use, impact on the living conditions of existing and future occupiers, highway safety, flood risk and ecology. However, an absence of harm in these respects can only be considered as neutral factors in the planning balance. Furthermore, whilst the proposal complies with many policies in the development plan, this has not outweighed the conflict I have found with the relevant planning policies and subsequently the proposal conflicts with the development plan as a whole.
26. The Framework seeks to significantly boost the supply of housing. The proposal would deliver some benefits in the form of the provision of a community facility, the reuse of a previously developed site and the provision of a range of new dwellings, including 11 shared ownership AH units. Meeting the Council's

⁷ Planning Application Reference 19/00797/FUL

requirement for planning obligations, including the provision of AH, would be of moderate weight in favour of the proposal. However, the harm to the character and appearance of the local area would be significant. This harm is of greater weight than the limited to moderate benefits of the proposal. Accordingly, the appeal proposal would conflict with the development plan as a whole. This conflict would not be outweighed by other material considerations.

27. For the above reasons, the appeal is unsuccessful.

Ben Plenty

INSPECTOR