



Appeal Decision

Site visit made on 1 October 2019

by Roy Curnow MA BSC (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd April 2020

Appeal Ref: APP/M5450/W/19/3222326

56a Bridge Street, Pinner HA5 3JF

- 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 Frank Melia against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2249/18, dated 24 May 2018, was refused by notice dated 31 August 2018.
 - The development proposed is erection of first floor extension and creation of second floor to provide two flats, bin stores, cycle provision and external alterations.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Frank Melia against the Council of the London Borough of Harrow. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the area, including the setting of the Waxwell Lane Conservation Area (WLCA);
 - The living conditions of future occupants of the residential units having particular regard to noise, odours, internal floor space, refuse facilities and cycle and disabled parking; and
 - Highway safety.

Reasons

Character and Appearance

4. The appeal site comprises a workshop used for car body repairs on the ground floor. Above this, and above part of the tyre centre, are offices and storage related to the car body repair business. It is proposed to retain a commercial unit on the ground floor. This would have a smaller floor area than that which exists, to allow for the provision of a bin store, cycle store and access to serve two flats, each with two bedrooms, to be created above.

5. Presently, No 56a is not prominent in views from Bridge Street, down the service lane next to the site. As its first floor is set back from the front of the building, it becomes lost from view as one proceeds down the lane towards the site. A significant portion of the two proposed flats would project forward of the position of the existing first floor. This would result in a building that would be markedly higher than those which flank it, including the one-and-a-half storeys store building to the southeast. It would become far more prominent in views from Bridge Street and the service lane, from where it would appear as a tall, thin and incongruous building, which would be out of keeping with its surroundings.
6. I am mindful of the development that has been approved on the Waxwell Car Park, which includes three storey buildings. Were this to be built, it would effectively screen the rear of the proposed building and provide three-storey development on two sides. However, from what I saw of the levels in the area, that development would not provide a mitigating backdrop to the proposed development when seen from Bridge Street and the service lane. Similarly, I find that the three storey buildings fronting Bridge Street would not mitigate the harm that would result.
7. The relatively low commercial buildings read as being distinct and separate in streetscape terms from the three-storey buildings that front Bridge Street. Those buildings would not mitigate the harmful piecemeal that would result. The proposed building would appear as a disjointed and incongruous element in the townscape.
8. I visited a site to the rear of 71 Bridge Street that, in terms of its location, is similar to the appeal site. The multi-storey residential building that has been erected there contrasts from what is proposed here inasmuch as it is a comprehensive development of a larger site, rather than the fragmented form of development that is before me. That building is appropriate to its location, unlike what is proposed here.
9. A narrow part of the end of a fairly long garden to a property in Waxwell Lane abuts the site. This garden lies within the WLCA, which is a designated heritage asset. The majority of the WLCA lies further away to the northwest and is not seen from the site. From what I saw, the significance of the WLCA lies in its pleasant streets of mainly two-storey housing of varying ages, which has been developed at a fairly low density, together with an area of public open space, Little Common. There is no doubt that the site is within the setting of the small part of the CA that it abuts; however, it has very little effect on this setting. Therefore, although I have found that the proposed development would appear as a disjointed and incongruous feature in the context of its surroundings, it would not have an adverse effect on those features that give the CA its significance as a whole.
10. Although the existing building adds little to the area, for the above reasons I find that the proposed development would cause harm to its character and appearance. It would, therefore, be contrary to the terms of Policies 7.4B and 7.6 of The London Plan 2016, (LP), that, amongst other things, require proposals to display high quality design and to make a positive contribution to the streetscape, respectively.
11. These aims are reflected in Policy CS1 of the Harrow Core Strategy 2012, (CS), and Policy DM1 of the Harrow Development Management Policies Local Plan

2013, (DMP), with which the proposal also conflicts. Although an emerging document, the Draft London Plan can be given moderate weight. As the terms of its Policies D1 and D2 reflect those of the LP policies I refer to, above, the scheme also conflicts with their requirements, as it does the design guidance in the National Planning Policy Framework, (the Framework) and paragraph 4.8 of the Council's Supplementary Planning Document Residential Design Guide 2010 (RDG). Whilst the latter document was based on an earlier development plan, in this regard its terms accord with the Framework and the policies I have referred to.

Living Conditions

Noise and Odour

12. Although the Council's objection on these grounds appears to have originated from the comment of the Council's Environmental Health Officer on an earlier application, my attention has not been drawn to any material changes in the immediate environs of the site in the interim. The ground floor workshop and the adjacent tyre centre are both industrial uses that fall within Class B2, as defined in the Town and Country Planning (Use Classes) Order 1987, as amended, (the UCO). The UCO defines that B2 uses do not sit comfortably with residential uses for reasons, amongst others, of the noise, vibration, smell and fumes that they can generate.
13. Amongst its terms, Policy 7.15 of the London Plan, March 2016, (LP) sets out that noise generating and noise sensitive developments should be kept separate, unless it can be shown that mitigation might overcome the likely conflicts. Policies D12 and D13 of the emerging replacement London Plan also refer to the effects of noise and their mitigation. Although Policy DM1 of the Council's Development Management Policies, July 2013, (DMP) relates to the noise generated by a particular development, it is self-evident that this can be applied to situations where a new use would be impacted upon by an existing noise generator.
14. Whilst the future use of the workshop might be controlled by means of a condition attached to a permission, this would not be possible with regards to the tyre centre. This lies immediately adjacent to, and partly directly below, the proposed flats. It has an elevation with large doors facing onto the service lane. These were open at the time of my visit and I have been given no reason to suggest that this would change throughout the tyre centre's opening hours.
15. Notwithstanding that the tyre centre might not generate significant noise presently, this cannot be guaranteed to always be the case. In any event, the range of services that the business offers includes car servicing and MOT testing, and I have no reason to doubt that these activities can generate significant levels of noise.
16. I find similarly with regards to its current hours of operation. I have no evidence before me to show that these are controlled by a planning condition and, therefore, might be changed at any time. It is quite possible that occupants of the proposed flats might be at home during the weekday opening hours and would be most likely to be so on Saturdays, at which times they would be adversely affected by noise from the tyre centre.

17. Measures might be undertaken to mitigate these ill-effects, for example through the provision of insulation. However, I have no evidence before me to show conclusively that this would be effective. Even were it to be, given the proximity of the site to the tyre centre, occupants of the flats would have to keep their front-facing windows shut during its hours of operation to ensure that there would be no ill-effects from noise. This would be to the detriment of their living conditions.
18. Garage-type businesses such as the tyre centre can use chemicals and adhesives that have strong and unpleasant smells. Given the proximity of the proposed flats to the tyre centre, their use would be likely to be disagreeable to their occupants. This, again, would require the closing of windows on the front elevation, with the same resultant ill-effect as set out with regards to noise.
19. I have no substantive evidence that the use of deflecting glass on the balconies might mitigate the ill-effects of noise for occupants of the flats, nor that it would mitigate the effects arising from odours. Although I appreciate that the site is close to the busy town centre, the noise generated from the tyre centre would nonetheless cause harm to the occupants of the flats.
20. The available evidence indicates that the application for residential development on the Waxwell Car Park did not include an assessment of the effects of noise or odour. However, I have not been given full details of that scheme so cannot be certain that there are direct comparisons to be drawn with the appeal proposal before me. In any case, I have considered the appeal on its own merits.
21. For the above reasons, the living conditions of future occupants of the proposed flats would be adversely affected by noise generated by adjacent uses. Therefore, the scheme is contrary to LP Policy 7.15 and DMP Policy DM1 and the terms of Policies D12 and D13 of the emerging London Plan. Although Part B of the first of these policies refers to the management of noise, it sets out that one way of achieving this is to avoid significant adverse noise impacts on health and quality of life occurring in the first place.
22. Although none of these policies refer directly to odour, I find that the effects of odours that would be likely to be generated by the tyre centre would have an adverse effect on the living conditions of future occupiers of the flats. This, and the effects arising from noise, would be contrary to the guidance on living conditions given in paragraph 180 of the Government's National Planning Policy Framework (the Framework).
23. Although LP policy 3.5 and CS policy CS1 do not refer specifically to living conditions, providing a satisfactory living environment is part and parcel of achieving good design. For that reason, the proposal conflicts with these policies.

Refuse Facilities

24. Standards for the provision of refuse facilities are set out in a code of practice¹ produced by the Council. This states that a two-bin system is suitable for flats developments and gives bin requirements for developments of 8 flats of 1100 litres for general waste and 1280 litres for recyclables. From these figures, the

¹ Code of Practice for the Storage and Collection of Refuse and Materials for Recycling in Domestic Properties, February 2016

two flats would require bins with a capacity of 275 litres and 320 litres, respectively. Providing 3 bins of 240 litres capacity each would mean that one of the two waste streams would be under-provided for.

25. Furthermore, paragraph 2.2.1 of the code of practice states that additional space must be made available to allow residents the option of taking up the Council's optional garden waste service or food collection service. Given the lack of gardens, space for the latter service would have to be provided. This is not shown on the plans and it appears there is insufficient space for this. Thus it could not reasonably be conditioned. When these shortcomings are taken together, they indicate that there would be an under-provision of refuse facilities that would be harmful to the living conditions of the occupants of the proposed flats.
26. This element of the proposal is, therefore, contrary to the terms of DMP Policy DM1 that relate to the capacity of waste, recycling and composting facilities. This is mirrored in DMP Policy DM45. As Policies 7.4 and 7.6 of The London Plan relate to local character and architecture, they are not relevant to this issue. Given the stage that the Draft London Plan has reached, I give limited weight to its Policies D1 and D2. Although the Council has not specified which part of the Framework is relevant, the Council's concerns in this regard chime with the Government's social objective of sustainable development expressed in the Framework.

Internal Floor Space

27. The Government has published minimum floor area requirements² (Technical Standards) for new residential developments. The originally submitted plans show bedrooms with a double and single bed in them. However, the room containing the latter is of sufficient floor area³ to be used as a double or twin room, and I am of the view that this would be likely to be how it would be used. In these circumstances,
28. The Technical Standards indicate that the flat would require a minimum floor area of 70sqm with 2sqm of built-in storage space for each flat. From the evidence on the application plans, both bedrooms would be of sufficient floor area to provide adequate living spaces with some flexibility for internal storage arrangements. I am therefore satisfied that the proposal would provide adequate internal floorspace in accordance with the Technical Standards.
29. As a result of what is illustrated in this drawing, the proposed units would accord with the minimum floor area requirement in the Technical Standards, which is repeated in the Mayor's Housing Supplementary Planning Guidance 2016 and the RDG. As such, in terms of internal floor space, the proposal would result in an acceptable standard of residential design and quality in accordance with LP Policy 3.5C, CS Policy CS1, DMP Policy DM1 and the Framework.

Cycle and Disabled Parking Provision

30. London Plan Policy 6.9 sets out a requirement for 4 cycle spaces to serve the development. Although the plans show 2 spaces, the appellant has stated an intention to provide 4 spaces stored vertically. This appears to be a feasible

² Technical Housing Standards – Nationally Described Space Standards, March 2015

³ Ibid

way in which to provide the required cycle parking and, were the appeal to be allowed, could be conditioned.

31. The local highway authority observed that normally car free proposals will demonstrate the consideration given to disabled parking provision. It did not, however, object on the ground of the lack of such provision. This reflects the Government's approach in the Framework.
32. It is often the case in windfall proposals, as is the case here, that it is not possible to provide disabled access to residential development. However, this should not automatically preclude this form of development being supported. Were this the case, a valuable source of housing would be likely to be lost. As the flats would not be accessible to many people with reduced mobility, and I note that the Council did not object on this ground, the lack of a disabled parking space to serve them should not be fatal to the appeal.
33. Overall, for the above reasoning, I find that the proposal accords with the terms of Policy 6.9 of The London Plan, regarding cycle parking provision and the thrust of Policy 6.13 of that Plan, regarding parking provision. Their terms are reflected in CS Policy CS1 and DMP Policies DM1 and DM45. It also accords with the terms of Draft London Plan Policies T5, T6 and T6.1 and the Framework that relate to this matter.

Highway Safety

34. I saw the one-way system for the tyre centre in operation at my site visit. Vehicles enter via the Bridge Street frontage and exit via its service lane frontage. However, I also saw that vehicles using this one-way system exit the tyre centre into the lane and then reverse back into that building to access the bays where work is carried out. The exit from the tyre centre is in a position that would be very close to the bottom of the stairs that would give access to the proposed flats.
35. Notwithstanding this proximity, I saw that the speed of vehicle movements associated with the tyre centre was very low. Drivers of vehicles using the tyre centre would be aware of the shared nature of the service lane and would be aware of pedestrians here. They would, therefore, act accordingly and take additional care. Traffic speeds along the service lane are similarly low. This length of the lane is wide enough for vehicles to pass pedestrians without the latter feeling uncomfortable or unsafe.
36. Given these factors, I do not find that the proposed development would have an adverse effect on highway safety. It would therefore accord with the terms of CS Policy CS1, which requires, amongst other things, the maintenance of safe and accessible neighbourhoods and those of DMP Policy DM1 that require the provision of a safe access to development sites. It would also provide a safe pedestrian environment in accordance with the terms of Policy 6.10 of The London Plan. The proposal also accords with the Framework and, the terms of Policy T4 of the Draft London Plan that relate to this issue.
37. The Council also referred to Policy 6.3 of The London Plan and DMP Policy DM42 in this regard. However, as they deal with transport capacity and parking standards, respectively, they are not relevant to this issue.

Other Matters

38. I am aware that the principle of the proposed development, which seeks to make the best use of land through the provision of housing in a highly sustainable location, is supported. I am also aware that there were no objections to the scheme on the grounds of flooding, amenity space provision, impact on neighbouring residential amenity, disabled accessibility and crime and disorder. However, none of this leads me away from my overall conclusion that the proposal would result in the identified harms.

Conclusion

39. I have found that the scheme would provide sufficient internal space for future occupants, that there would be an appropriate level of cycle and parking provision and there would be no adverse effect on highway safety. However, these matters do not outweigh the significant harm that would arise in terms of the resultant adverse effect to the character and appearance of the area, the harm to future occupants from noise and odour generation and the lack of appropriate refuse facilities.

40. For the reasons given above, the appeal is dismissed.

Roy Curnow

INSPECTOR