
Appeal Decision

Hearing Held on 15 September 2020

Site visit made on 16 September 2020

by H Butcher BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2020

Appeal Ref: APP/B5480/W/19/3239402
222-226 South Street, Romford RM1 2AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr K Anderson against the Council of the London Borough of Havering.
 - The application Ref P0171.19.19, is dated 1 February 2019.
 - The development proposed is re-development of existing commercial premises to provide mixed use development varying from 2 to 7 floors comprising 79 residential units and A1, A2 & A3 uses at ground floor, and basement car parking.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs has been made by Mr K Anderson against the Council of the London Borough of Havering. This application is the subject of a separate Decision.

Preliminary Matter

3. Use Class E of the Use Classes Order was introduced on 1 September 2020 and covers the former uses of A1, A2 and A3 referred to in the description of development above. I have therefore determined the appeal on this basis.

Main Issues

4. The Council's putative reasons for refusal set out in their appeal statement would have constituted their reasons for refusal had they been in a position to determine the application. A reason for refusal relating to land contamination is, however, no longer being pursued by the Council following the submission of further information and subject to a suitable condition being applied to any subsequent permission. There is no need, therefore, for me to take this matter further.
5. Before me is a signed and dated Unilateral Undertaking (UU) which makes various provisions. During the course of the hearing the Council submitted that they were not seeking a Bus Mitigation Strategy Contribution, nor a Controlled Parking Zone contribution. The Unilateral Undertaking also provides for contributions for Carbon Off-Setting which are required by the Council.

However, as I am dismissing for other reasons it is not necessary for me to consider these matters in any further detail as the outcome would make no difference to my decision to dismiss.

6. Although the Page Calnan building does not appear in the Council's putative reasons for refusal I consider the effect of the development on this building to be a significant issue based on, in particular, the representation received from the Council's Historic Buildings Consultant.
7. In light of the above the main issues are:
 - The effect of the development on the character and appearance of the area with particular regard to the Page Calnan building (a locally listed building) and an adjacent row of nineteenth century houses (also locally listed);
 - The effect of the development on the living conditions of future occupiers of the development, having particular regard to layout, light, outlook and outdoor space;
 - Whether or not the development would be safe, secure and resilient to emergencies;
 - Whether the proposal makes adequate provision for affordable housing, and;
 - Whether it is necessary to prevent future occupiers from applying for parking permits.

Reasons

Character and appearance

8. The appeal site is a piece of land which sits on the junction of South Street and Oldchurch Road. The land includes a building known as the Page Calnan building which is included on Havering's list of Buildings of Local Historic or Architectural Character (List). Surrounding this building are various other low-level business units and an area of parking.
9. The proposal would involve the demolition of all the buildings on site including the Page Calnan building. This single storey building was constructed in the early to mid-1930's as a builder's merchant for Page Calnan & Co. Ltd. It is of brick construction with tile detailing to the front in a simple art deco style, and is typical of showrooms of that period. Although the building and detailing shows some wear and tear and the submitted Report Upon the State of Repair and Condition by Keith Johnson dated 14 May 2018 states it has significant defects, it is currently in use and serviceable, and is a good example of its building type and era and has significance because of this. Its loss would therefore be harmful.
10. Notwithstanding this, the building appears as something of an anomaly in the street scene sitting on a wide and busy road junction where the majority of surrounding development is higher. The single storey nature of the Page Calnan building therefore means it is not visually prominent and easily lost amongst its surroundings when travelling through this junction. It is most readily appreciable when on foot immediately adjacent to it. This therefore

reduces the scale of harm arising from its removal. In coming to this finding I have also taken into consideration the appellant's comments that the Page Calnan building could, subject to an application for prior approval, potentially be demolished. That would, however, be a matter that falls outside of the determination of this appeal.

11. To the south-east of the appeal site are a row of nineteenth century detached and semi-detached houses which also appear on the Council's List. These are significant as they form a largely complete row of period properties which on the whole have retained a high number of original features such as embellished window and porch surrounds, and fascia boards.
12. The proposed development would be no higher than the eaves height of these properties where they would be adjacent to each other on South Street, and this lower section of building would also be sufficiently wide to create a visual buffer between them and the higher parts of the development.
13. In terms of detailing, a yellow brick is proposed. A number of the adjacent nineteenth century properties are of yellow brick construction, therefore, subject to a condition to approve material details, this would be appropriate. Certainly, the proposal would provide a far more prominent and active street frontage than that which is existing which is low level and recessive, and no longer suited to this location.
14. The building would have a faceted front elevation to respond to the curve of the front boundary of the site. This would create interest and break up the visual impact of the building. The use of hit and miss brickwork detailing would further add texture, and openings for windows and balcony terraces would provide articulation. The Council raised concern over how these windows would open but did not expand on why or how this could be harmful.
15. Taking the above points together I find limited harm in respect of the loss of the Page Calnan building. In this respect, therefore, I find conflict with Policy 7.4d of the London Plan (2016) (LP) which sets out that new development should allow existing buildings and structures which make a positive contribution to the character of a place to influence the future character of the area. I also find conflict with Policy DC61 of the Core Strategy and Development Control Policies (CS) which requires new development to respond to distinctive local building forms. Although the appellant suggested the inclusion of tiling on the frontage of the building, by a local artist, in recognition of the lost Page Calnan building I have no details before me to this effect, and, in any event, I do not consider this would adequately mitigate the loss of this building so as to overcome the harm I have found.

Living conditions

16. The site has a long, thin, dog leg to the rear and the development seeks to make best use of this awkward shaped piece of land. However, this means that accessing the flats located towards the end of the dog leg would be highly convoluted with persons having to access a lobby to the front of the site, travel down a corridor, exit that, and then follow a ramped approach through an open area, enter a second lobby, and then follow a further long, thin and increasingly narrowing corridor. Such an awkward and convoluted journey would have a harmful impact on the living conditions of future occupiers having to make this journey, typically, on a daily basis. In addition to this there are

also some very awkward shaped bedrooms such as those in flat 102 which would make uncomfortable living spaces given their fairly limited size and limited options in terms of furniture arrangement.

17. Around 16 flats in the rear block would be very deep with the kitchen/dining areas located behind lounges and terraces, away from natural light sources. These flats would also have a single aspect, albeit this would be south-westerly. Furthermore, I heard at the hearing that around 58% of the units would be single aspect and north-facing and the appellant did not dispute this. The London Plan Housing Supplementary Planning Document advises that single aspect dwellings that are north facing should be avoided and I agree for reasons of diminished natural sunlight. Therefore, although I note the findings of the appellant's Daylight Assessment dated January 2019 which assesses flats at first floor in the front building and finds that their habitable rooms would receive adequate internal daylight, this does not allay my overall concerns over the standard of light and outlook that the development would achieve.
18. In academic terms a sufficient amount of garden space is provided by way of private terraces, a children's play area and 'landscaped gardens'. The 'landscaped gardens' however are located on a raised platform above basement level parking. Consequently, no meaningful planting of this area could be carried out without altering the levels and adding significant loading to the structure. This is not something that could be resolved by a condition as it could fundamentally alter the proposal. A solution would be planters for small trees and shrubs, but these would require on-going maintenance in perpetuity and there is nothing before me to satisfactorily secure this. There would also be no grass. Therefore, to my mind, it would be more of a courtyard than a landscaped garden, which would be a less desirable garden space for future residents seeking refuge from their predominantly urban surroundings. I therefore find the quality of outdoor space to be harmful to the living conditions of future occupiers of the development.
19. Taking the above points together I find harm to the future living conditions of residents in terms of layout, light, outlook and outdoor space and as such conflict with the relevant provisions of Policy DC61 of the CS which requires development to meet the needs of all people.
20. The Council's putative reason for refusal also raised concern that the parking layout dominated the ground floor of the development. However, it is reasonable to expect basement parking to be largely functional and it would be located away from formal areas of open space or living areas. I therefore find no harm to the living conditions of future occupiers in this regard.

Emergency services

21. Policy 7.13 of the LP sets out that development proposals should contribute to the minimisation of potential physical risks including those arising as a result of fire. In the hearing the Council raised concern regarding fire safety planning; specifically, the ability for fire engines to attend to fires in the rear block of the development. I have no evidence before me that The London Fire and Emergency Planning Authority were consulted on the application. Notwithstanding this, the appellant suggested the installation of sprinklers for the rear building, and I have no reason to conclude that such measures couldn't be incorporated into the development through building regulations. I

am therefore satisfied that fire risks can be adequately minimised in line with Policy 7.13.

Affordable housing

22. Policies 3.12 and 3.13 of the LP require provision of affordable housing in respect of new housing development. The proposal would provide 24 on-site affordable housing units which is 35% of the overall development proposed and this is in line with the Homes for Londoners, Affordable Housing and Viability Supplementary Planning Guidance 2017. The affordable housing is to be secured by way of a UU of which I have a signed and dated copy before me.
23. The Council consider that 10% of the affordable housing should also be accessible. Whilst 10% of the overall development would be accessible, this would not include 10% of the affordable housing provision. However, there is nothing in the development plan which specifically requires this. Policy 3.8d of the LP simply requires 10% of new housing to meet Building Regulation requirement M4(3) 'wheelchair user dwellings'. I therefore find that adequate provision for affordable housing has been made in line with local planning policy.

Parking permits

24. The Council require a legal agreement to prevent future occupiers from applying for parking permits and the submitted UU covers this. Although Policies DC2 and DC32 set out this approach there is no substantive evidence before me in respect of parking conditions surrounding the appeal site to justify this. Furthermore, the proposed development provides some 40 parking spaces for 79 units, which is in line with relevant policies, and falls within an area with a Public Transport Accessibility Level of 5/6 meaning it is highly accessible. I therefore find no reason to assume harm to highway safety would occur as a result of the development. It follows, therefore, that it is not necessary to prevent future occupiers from applying for parking permits.

Overall planning balance

25. The Council of the London Borough of Havering are not able to demonstrate a five-year supply of deliverable housing sites. The Housing Delivery Test also indicates that the delivery of housing was substantially below the housing requirement over the previous three years. There are no policies in the National Planning Policy Framework (the Framework) that protect areas or assets of particular importance that provide a clear reason for refusing the development proposed. Thus, the titled balance as set out in para 11d) ii) is engaged. This requires me to consider whether the adverse impacts of granting planning permission in this case would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
26. I have found limited harm to the character and appearance of the surrounding area due to the loss of the Page Calnan building, a non-designated heritage asset. In addition to this I have found harm to the living conditions of future occupiers of the development in terms of layout, light, outlook and garden space. A persons' living conditions will affect them on a daily basis. The home is not only a place where we reside outside of work, but it is increasingly becoming our workplace, and the place where we spend much of our leisure

time. It is therefore crucial that our homes are well designed, and that we all have access to good quality open space. As set out in para 124 of the Framework, the creation of high-quality buildings is fundamental to what the planning and development process should achieve. I therefore afford the harm to living conditions in this case significant weight.

27. In terms of benefits, the proposal would provide much needed housing in a Borough with a significant undersupply and I note the constraints facing the borough of Havering in terms of new housing land. The appeal site is well located in terms of accessing services and the new development would likely support these economically. The site is also clearly prime for re-development and is a prominent site in a strategic town centre location. With these points in mind, and based on the evidence before me, I consider a large proportion of the dwellings proposed could be provided on the site, but with improved living conditions. This therefore limits the weight I attach to the housing proposed as a benefit, conscious as I am that similar benefits could be achieved without causing harm to the living conditions of future residents.
28. Whilst the provision of affordable housing is also a benefit, similarly, on the evidence before me, this could be provided at a comparable level without resulting in harm to the living conditions of future occupiers. The Community Infrastructure Levy is a tool used to deliver infrastructure to support new development, so it is a neutral factor in my considerations.
29. I therefore find that the adverse impacts of granting planning permission in this case would significantly and demonstrably outweigh the benefits. The proposal does not, therefore, benefit from the presumption in favour of sustainable development.
30. For the above reasons the appeal is dismissed.

Hayley Butcher

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Stephen Whale	Landmark Chambers
Lewis Cook	Form Architecture
Keith Anderson	The Appellant
Ian Coward	Collins Coward

FOR THE LOCAL PLANNING AUTHORITY

Raphael Gbenga	The Council of the London Borough of Havering
Ellen Hadden	The Council of the London Borough of Havering
Nicolas Page	Essex County Council

INTERESTED PARTIES

Dean Lee
Councillor Judith Holt