



Appeal Decision

Site visit made on 16 June 2021

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 13 August 2021

Appeal Ref: APP/T2215/W/20/3262306

'Block E' site, Mill Pond Development Site, Dartford, Kent

- 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 Weston Homes PLC against Dartford Borough Council.
 - The application Ref DA/20/00631/FUL, is dated 8 June 2020.
 - The development proposed is the erection of a 5-storey building comprising 19 residential dwellings over undercroft parking, together with associated development.
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Decision

1. The appeal is dismissed and planning permission is refused.

Preliminary matters

2. The appeal site forms part of a development site originally known as the Mill Pond Development, which in turn formed part of another, larger regeneration area known as Langley Square. In the relevant planning policies, these formed part of a yet larger area identified as the Dartford Northern Gateway. The present appeal relates to the site identified in the approved master plan for the area as 'Block E'. For the avoidance of doubt, the Block E site lies at the junction of Central Road with the new spine road William Mundy Way.
3. At the appeal stage, the appellants have submitted a number of revised plans and documents, intended to overcome issues raised by officers and consultees. The amendments are minor in nature, and the Council raises no objection to them. I am satisfied that no interested parties would be prejudiced by the changes, and I have therefore taken these revised plans and documents into account.
4. Following the submission of the appeal, the Council issued a delegated officer's report, setting out their reasons why planning permission would have been refused. The third of those reasons, related to flood risk. Subsequently, in the light of the further information submitted by the appellants, and further consultation with the Environment Agency, the Council has agreed that this objection could be overcome by conditions.
5. A legal undertaking has been entered into by the appellants, which provides for affordable housing, contributions to libraries, youth services, learning and skills, and families and social care. The terms of these obligations are not in dispute.
6. In July 2021, an updated version of the National Planning Policy Framework (the NPPF) was published. The parties have been given an opportunity to

comment in the light of this new document, and I have taken account of the replies received.

Main issues

7. In the light of the above matters and all the other submissions before me, I consider that the main issues in the appeal are:
- whether the proposal for a wholly residential development on the site would accord with the relevant planning policies for the Northern Gateway site;
 - and the effects of the development on the area's character and appearance, having regard to the design and its relationship to the surroundings.

Reasons for decision

Accordance with policies for the Northern Gateway development site

Relevant policies

8. The Dartford Core Strategy (the DCS), adopted in September 2011, forms part of the development plan. Policy CS1 seeks to focus development in three 'priority areas', in order to maximise regeneration benefits, promote sustainable development patterns, and help protect less appropriate areas from development. One of these priority areas is 'Dartford Town Centre and Northern Gateway'. For this priority area as a whole, the stated aim is to create a mixed community of homes and jobs, supporting the town centre. The supporting text to Policy CS1, at DCS paragraph 2.12, states that within the priority areas, two areas have been designated as strategic sites, which are seen as fundamental to the achievement of the DCS's objectives. One of these is the Northern Gateway site.
9. Policy CS3 of the DCS sets out the plan's requirements for the Northern Gateway strategic site in more detail. The development is to provide up to 2,040 homes and 1,200 jobs. The new homes are to be mainly family housing, but also with some apartments around the Mill Pond and in the southern part of the site. A mix of uses is sought, with a new area of public realm to be created around the Mill Pond and River Darent, forming a vibrant hub and acting as an additional attractor, complementing the town centre. The uses envisaged in this new public realm area include shops, leisure uses, a hotel, community facilities, cafes, pubs and restaurants. Provision is also sought for community facilities, including health services and a meeting hall, on or off-site, to support both the development itself and neighbouring communities.
10. DCS Diagram 4 shows the appeal site as part of a 'key development site', allocated for new homes and jobs. Close by, part of the larger site is indicated diagrammatically as an area for 'mix of uses and new area of public realm around Mill Pond'. DCS Table 1 indicates that the Northern gateway is expected to provide local shops, eating and drinking places, a primary school, GP surgery and 'Fastrack' bus services.
11. In the explanatory text to Policy CS3, paragraphs 2.19 – 2.25 make clear that the Northern Gateway site is envisaged as an opportunity to create a sustainable new community in its own right. As such, as well as having attractive new links to the town centre, the development is also intended to have its own on-site retail, leisure and community facilities. And in addition, as a result of these on-site facilities, the scheme is also to provide a new focus

for the surrounding residential areas, and the means to improve their integration with the town as a whole.

12. The Northern Gateway Supplementary Planning Document (the NGSPD) was adopted in April 2012. The SPD is not part of the development plan, but is a material consideration. Diagram 6 shows the appeal site included in an area for development of up to 7 storeys. Diagram 7 indicates a view across the appeal site, from east to west, with a 'public space focal point' adjacent. Diagram 8 shows the appeal site included in an area proposed for mixed uses. Diagram 9 indicates a 'community hub/GP' location in the vicinity of the appeal site. The SPD states that at Mill Pond site has been identified as the most suitable location for small-scale retail and leisure facilities and other commercial activities, as this will enable the creation of a vibrant hub, with new public realm, providing a complementary destination to the town centre.
13. In summary, what the DCS and NGSPD seek to achieve in the Northern Gateway development is a mixture of land uses, with a balance of homes and employment, and a range of local commercial and community facilities, focussed around a new public realm in the Mill Pond area. Although the town centre is relatively close, and links to are to be improved, the Northern Gateway is intended to have a range of facilities of its own, with its own focus. This is seen as important, not only to give the new community its own identity, but also to serve surrounding areas and thus help to integrate the development with the town as a whole. There is no dispute that Policy CS3 and the NGSPD together form the most up-to-date policy basis relevant to the site, nor that they provide a sound basis for its continuing development. I see no reason to take a different view.

The Northern Gateway development to date

14. On my visit, I saw that, whilst construction was still under way in some parts of the Northern Gateway, large sections of the development have been completed. On the evidence available, the total number of dwellings so far permitted across the strategic site as a whole, is around 1,350 – 1,400 dwellings, and the majority of these are now either occupied or nearing completion. Given that CS3 allows for over 2,000 dwellings, it seems possible that the number eventually achieved may yet increase.
15. Elsewhere within and adjoining the Northern Gateway, I saw a variety of existing and new employment sites, with a mixture of industrial and storage uses. Based on the evidence available, I have no reason to doubt that a balance between homes and jobs within the area is being achieved.
16. Within the southern part of the area, I saw that an attractive new public realm area has been created, centred on the River Darent, and around the Mill Pond itself and the eastern end of William Mundy Way. From the evidence of both parties, it appears that this is to be extended with a new square to the north of William Mundy Way, and at the time of my visit, work on that area was in progress. By and large, all these elements of the Northern Gateway development seem to me to have progressed, and to be continuing to progress, generally in accordance with the aims and intentions set out in Policy CS3 and the NGSPD.
17. However, the remaining key element required by these policies is that relating to local facilities. A new primary school has been built, in another part of the

Northern Gateway area, but so far, the only facilities that have been established in the intended 'hub' area, around the river and pond, are a Co-Op convenience shop and a gym. Whilst I have no doubt that these facilities will be of considerable value to the area, nevertheless, their range is clearly limited. Amongst other things, there are as yet no coffee shops, cafes, pubs, restaurants, or other socialising venues. There are also no hairdressers, pharmacy, florist, take-away or estate agent, all of these being types of outlet commonly found in smaller centres or parades. Nor are there any community or health facilities. In these respects the provision currently achieved at the Northern Gateway falls a long way short of what is sought by the relevant provisions of the DCS and NGSPD.

Provision for further non-residential uses

18. In addition to the Co-op and the gym, the buildings already developed in the vicinity of the hub area include a number of other units which were intended to be suitable for non-residential uses. Subsequently however, permissions have been granted for two of these spaces, or parts of them, in Blocks D2 and F2, to be converted to residential use. Two further units, of 350 sqm in Block F1 and 190 sqm in Block D2, now remain available for any additional retail, leisure, professional services, office or community uses. But this amount of space could be fully taken up by, for example, a medium-sized pub and one further small shop. To my mind, the space now remaining for non-residential uses seems, at best, a bare minimum for a development of the size and scale of the Northern Gateway.
19. In this context, the effect of the present appeal proposal, comprising only residential accommodation, would be to close off the last remaining opportunity to expand the provision of non-residential, community and service-related uses, in a location closely related to the designated hub area and new public realm. Having regard to the aims and aspirations for the Northern Gateway, as set out above, it seems to me that this would significantly hamper the prospects for the development to evolve into a fully-functioning, mixed-use urban community, as intended in the relevant policies.
20. In coming to this view, I accept that there is nothing in Policy CS3 or any other DCS policy, nor in the NGSPD, that specifically requires non-residential uses on the present appeal site. But nonetheless, I consider that the appeal proposal would be in conflict with the aims of those policies, for the reasons that I have explained.
21. I also note that the overall provision made for retail, leisure, professional services, and community and related uses in the previously approved detailed scheme for the Mill Pond part of the development was 2,582 sqm. That total included 494 sqm at the present appeal site. In the light of the subsequent losses to residential use in parts of Blocks F2 and D2, the present appeal proposal would result in that original figure now being reduced to 1,311 sqm in total, which is little more than half the original provision. To my mind this would significantly weaken the land-use balance compared to the original approval. Self-evidently, the development has since been largely completed in reliance on that approved scheme.
22. In the circumstances, it seems to me that the effect of the present proposal would be to undermine the prospects for achieving a satisfactory,

comprehensive scheme of development as sought by relevant development plan policies and supplementary guidance.

Viability

23. I have paid full regard to the appellants' evidence on viability, including the Commercial Review report by Knight Frank LLP, the Development Viability report by Bespoke Property Consultants, and the rebuttal statements by both of these firms. I accept that in the aftermath of the Covid-19 pandemic, property market conditions are uncertain. The local area already offers a variety of other opportunities, for occupiers, developers and investors, in many different sectors. In these circumstances, developing the Block E site now for commercial or community uses, on a speculative basis, would involve a higher than usual level of risk, with no guarantee of an acceptable return within the kind of timescale that would be required by most investors or lenders. On that basis, such a prospect could reasonably be described as financially unviable at the present time.
24. However, the Northern Gateway development is not a short-term venture. The community that has been created there is clearly intended to endure for many decades, and to my mind it is on that basis that the mix of uses should be planned. Consequently, even if the 'vibrant' hub that was envisaged in Policy CS3 cannot be realised immediately, it seems to me that it is clearly preferable that such a hub should have the chance to develop and evolve over the course of time, rather than being stifled at birth. The present appeal proposal would have the effect of closing off any future options for additional commercial or other uses that could potentially contribute to creating a sustainable community, with its own sense of identity. At this relatively early stage, it seems to me that it would be premature to rule out the possibility of a more beneficial form of development that might arise at some time in the future.
25. I accept that, for as long as the appeal site remains undeveloped, it contributes little to the area. But it would be overstating it to suggest that the site is currently causing blight. Rather, it seems to me to represent an opportunity for the future; the presence of hoardings clearly indicates that some form of development is expected at some time. I agree that it would not be realistic to expect any developer to carry out some other development on the site if that would result in a loss. But there is no evidence that that would be the only remaining option. Property market conditions are capable of fluctuating from one year to the next, and new trends, land uses and forms of development can appear which were not previously foreseen. The refusal of permission for the present appeal scheme would not prevent other options for the site from being considered and brought forward, if not now, then when conditions change.
26. In the light of these considerations, I find no evidence that the present appeal proposal is the only viable option for the site.

Suitability

27. I note the appellants' comments on the appeal site's suitability for commercial or community uses. The site does not benefit from immediate proximity to the main area of new public realm around the River Darent and Mill Pond, and indeed it is separated from these by the new road layout. From the information provided, it appears that the new square adjacent to the site will

be designed more for car parking than as a public space, thus further weakening the appeal site's relationship to those public areas.

28. But nonetheless, the appeal site is still prominently located, on a main street corner, at the entrance to the Langley Square development, and directly opposite the Co-op shop and gym. To my mind, these attributes are favourable to some form of commercial or public use. Such a use would relate reasonably well to the concept of a linear 'hub', based on the river and pond and extending around to the existing commercial uses in William Mundy Way.
29. Having regard to these matters, I see no compelling reason why the site should be considered unsuitable for at least some element of commercial or community uses.

Conclusion on accordance with policies for the Northern Gateway

30. For the reasons explained above, I conclude that the development now proposed, due to its exclusively residential nature with no provision for commercial or community uses, would conflict with the aims of the relevant policies for the Northern Gateway development, including DCS Policy CS3 and the NGSPD.

Effects on the area's character and appearance

31. DCS Policy DP2 seeks to encourage good design. Amongst other things, developments should reinforce and enhance positive aspects of the locality. Opportunities to create high quality places should be taken, facilitating a sense of place, with social interaction and inclusive neighbourhoods. Where appropriate, development should be integrated with the public realm, providing permeability through active frontages and a fine-grain mix of buildings and spaces.
32. The revised NPPF similarly places emphasis on achieving well-designed places. Paragraph 130 requires that developments are designed to function well and add to the area's quality, over the lifetime of the development, and that through their arrangement of streets and spaces they help to establish places that are attractive, welcoming and distinctive.
33. In the present scheme, the ground floor would be used mainly for car and cycle parking and refuse storage. Hence at ground floor level the three main elevations would be largely blank and featureless, apart from the vehicular entrance opening and ventilation panels. Alongside these, the single pedestrian entrance door, opening into a small stairwell and lift lobby, would be relatively insignificant. To my mind, this type of elevational treatment at ground floor level would appear lifeless and unwelcoming. At night, with the roller shutter doors closed across the parking entrance, the effect would appear still more hostile.
34. Externally, the proposed development would allow a reasonable amount of space for planting along the frontage to Central Road, and if the scheme were accompanied by a high quality landscape design, that could potentially offer some scope to offset some of the shortcomings of the building itself. But on the important frontage to William Mundy Way, the space available would be relatively narrow, and would also be interrupted by the vehicular access to the car park. Consequently, there would be very limited scope left for creating the

kind of attractive pedestrian route that is clearly needed, to ensure a choice of high-quality links to the new public realm area around the river, and enhance the overall integration between the different parts of the Northern Gateway development.

35. As a result of these aspects, it seems to me that the proposed scheme would have a deadening and alienating effect on its surroundings. As such, the development would fail to take advantage of the place-making opportunities that the appeal site offers, and would fail to assist in establishing the Northern Gateway as an inclusive, distinctive and well-integrated development, contrary to Policy DP2 and the relevant policies of the NPPF. Given the site's importance and key position within that larger development, these effects on the area's character and appearance would be unacceptable.

Other matters

36. Some of the balconies in the proposed development would look towards the rear gardens of properties to the east. However, given the distances involved, the effects on privacy would be relatively minor. Whilst it might have been possible for this overlooking to be avoided or mitigated, I agree with the Council that the harm to the living conditions of neighbouring occupiers would not be so great as to justify refusal on this ground.
37. The affordable housing provided for in the undertaking relating to the appeal scheme would be 6 units. In addition, the appellants state that three further units within the scheme would be provided as affordable housing, as a result of an obligation entered into in respect of the development previously permitted by the Council involving the conversion of part of Block F2. That second obligation is not before me. However, I note that the Council is satisfied that it is enforceable against the present appeal scheme, in the way described. In the circumstances, I have assumed that the affordable housing produced by the appeal scheme would amount to 9 dwellings in total.

Conclusion

38. For the reasons explained above, I have concluded that the proposed scheme would conflict with the aims of DCS Policy CS3 and the NGSPD, due to its lack of provision for any land uses other than residential. I have also found that the design would cause harm to the area's character and appearance, contrary to DCS Policy DP2. The proposed development would therefore conflict with the development plan as a whole.
39. The development would provide housing, including the affordable housing that I have referred to. But in the circumstances of this case, I consider that these benefits are clearly outweighed by the harm that I have identified. No other material considerations weighing in favour of the development have been demonstrated.
40. I have taken into account all the other matters raised, but none leads me to any other conclusion. The appeal is therefore dismissed.

JS Felgate

INSPECTOR