
Appeal Decision

Site visit made on 9 September 2021

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 NOVEMBER 2021

Appeal Ref: APP/N1540/W/20/3266019

Shield House, Elizabeth Way, Harlow, Essex CM19 5AR

- 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 Smith Homes 9 Limited against the decision of Harlow District Council.
 - The application Ref NW/FUL/10/00103, dated 6 March 2018, was refused by notice dated 26 August 2020.
 - The development proposed is erection of part 2 and part 3 storey extension compromising 27 flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was accompanied by a completed Section 106 agreement, dated 6 September 2021. I make further reference to the provisions of this agreement later in this decision.
3. Since the Council's decision letter was issued it has adopted the Harlow Local Development Plan 2020 (HLDP). For this reason, all policy references included in this decision are taken from this plan. During my consideration of the appeal, I accepted as evidence the Council's Affordable and Specialist Housing Supplementary Planning Guidance, adopted in October 2021.

Main Issues

4. The effect of the proposal on:
 - the character and appearance of the local area
 - retention of employment land
 - the living conditions of future occupiers by reason of the location of the appeal site and the provision of children's play space, and
 - whether there is a sufficient amount of off-street parking.

Reasons

Character and appearance

5. The Pinnacles employment area comprises a wide variety of industrial and commercial development ranging from open storage yards, factories, and offices. There is no defined architectural character within the area.
6. The appeal site is a 2-storey former office building benefitting from Prior Approval (PA) notice for a change in use to 35 flats. The building's elevational treatment is uniform comprising concrete pilasters with regularly spaced windows on each elevation.
7. The appeal site is separated from Elizabeth Way, a major road serving the employment area, by a narrow area of grassed space with trees. To the rear of the building are 2 small, grassed areas beyond which is a parking court.
8. The proposed extension would replicate the character and appearance of the existing building. The top floor would be set back. The extension would not be unduly discordant or incongruous with the character of the existing building.
9. Given the wider context of the site, the proposed scheme would be acceptable. When viewed from along Elizabeth Way and from Third Avenue, the proposed extension would not strike a discordant element in the streetscene.
10. Whilst the extension would not distinguish itself, adherence to a simple design scheme ensures that it would complement the existing building. I recognise that the design does not necessarily reflect the intended residential use but maintaining the character of the existing building has merit. This is an appropriate design response to the character of the existing building and character of the wider area.
11. The proposed design reflects the National Planning Policy Framework's requirement that buildings should be sympathetic to the character of surrounding built environment.
12. For these reasons, the appeal scheme has a clear design rationale and does not adversely impact on the scale, height, and massing of surrounding development. I conclude therefore that the proposed scheme does not conflict with Policy PL1 of the HLDP 2020, nor do I see an infringement of the Principle of DG2 of the Harlow Design Guide.

Employment land

13. The use of the site has been determined through the Prior Approval process as residential land. This scheme would not alter this position.
14. Whilst I accept that the Council seeks to maintain the Pinnacles as a main employment area, the provisions of Policy ED2 which seeks to protect employment use are not directly applicable as the proposed scheme would not involve a loss of employment land.
15. For the above reason, I conclude that the proposal would not be in conflict with Policy ED2 of the HLDP.

Living conditions

16. The appeal site lies on a principal distributor which carries large numbers of heavy goods vehicles throughout the Pinnacles. To the rear of the site is a large open storage yard and lying opposite is a vacant plot and the Harlow Business centre.

17. The area has few amenities which can support residential use. Its location around 2km from Harlow town centre cannot be described as within the edge of the town centre as referenced in the Framework's Glossary. Apart from a sandwich shop there are few other shops or facilities within walking distance of the site. There are only 15 bus services along Elizabeth Way on weekdays with reduced services on Saturdays and no services run on Sundays or bank holidays. Residents would be isolated from main services and facilities within Harlow town centre. This is a major constraint on the principle of extending the amount of residential use on this site.
18. Whilst it is understood that there are plans for the expansion of the New Frontiers Science Park, no details of the timeline for its delivery has been included in the appeal submissions. It is unclear therefore how any expansion of the business activities would provide for a range of service and facilities to support the proposed development.
19. Whilst the PA has created a precedent for the loss of the appeal site from employment uses it does not create a precedent for the intensification of the residential use through the extension. I do not regard therefore, the PA's for the change of use from office to residential use at both Gemini House and Greenway House in the Pinnacle employment area as precedents.
20. Furthermore, it is unclear how the completion of the legal agreement, in part designed to overcome the Council's objection to the lack of on-site play facilities, could be adequately delivered given the open space available and the site's location. The existing areas of open space around the site would be significantly eroded by the inclusion of parking for cars and cycles.
21. Play facilities located close to these locations would be adversely affected by noise and the potential dangers arising from the use of the 2 access points on either side of Shield House which serve the Ground Force Shoro depot to the rear. Locations on the frontage would be adversely affected by noise from traffic using Elizabeth Way. For these reasons, the safety and wellbeing of children using these spaces would be severely compromised.
22. It is unclear where alternative locations for play facilities could be located to the benefit of future occupiers of the building given the dominance of the road network in this location. It is unclear how accompanied or unaccompanied children could readily access potential sites for play within safe walking distance of the appeal site even allowing for their possible location within the 'green wedge' located around 700m from the site. Whilst there are pedestrian crossing points along the local road network the high volumes of heavy goods traffic are likely to dissuade their use.
23. Although the Section 106 agreement provides that the space/facilities where the moneys could be directed should be within a reasonable walking distance of the appeal site, it is unclear how in fact this could be delivered given the distances involved. This is a critical issue given the large number of 2bed or family sized units included in the proposed scheme.
24. On this main issue, I conclude that the appeal scheme is in conflict with Policies PL1, PL2, L1, L2 and L4 and the provisions of the Councils adopted guidance which require high quality amenity space to be safe and accessible.

Parking

25. The Council estimates that there is a requirement for 92 residential parking bays, 16 visitor bays and 7 disabled bays and that the provision of 80 spaces included in the scheme is an under provision of around 20%.
26. The addition of around 34 spaces over existing provision laid out to the standards of the Essex Design Guide together with around 60 cycle spaces provides a balance in seeking to achieve the Council's policies for modal shift.
27. The site's location by the cycle route along Elizabeth Way would provide an opportunity for modal choice in accessing services in Harlow town centre. Whilst the site may fail on the number of spaces required by the Council's adopted parking standards the mix of spaces for motorcycles, bikes and cars is acceptable.
28. For this reason, I conclude that the proposed parking arrangements would not conflict with Policy IN3 which requires new development to be adequately served by off road parking.

Conclusion

29. I recognise that the extension of the existing building for 27 new dwellings would maximise previously developed land with an acceptable design. The proposed design and parking arrangements do not in my view offend adopted policy. Furthermore, the inclusion of 30% of the total units being affordable would make a contribution to the Council's housing supply. The proposed scheme would result in some job creation during the construction period and would support the local economy in this regard.
30. However, the determining issue in this appeal is the impact of the proposed scheme on the living conditions of future occupiers. Although the site is currently occupied for residential development this appeal decision is required to be taken against the provisions of the development plan; this compares to the determinants of the PA decision.
31. The site is poorly located in relation to services required to support residential use and does not have sufficient space to support children's play. Whilst moneys have been committed through planning obligations, it is unclear where play space designed to serve the proposed development would be appropriately located as to adequately serve the appeal scheme to the benefit of young children.
32. The Council can demonstrate a policy compliant housing land supply situation. This is not disputed. In these circumstances, the development of 27 dwellings in a location which is not adequately located in relation to services and play space, in conflict with Policies PL1, PL2 and L1 and L4 is not essential to achieving its housing targets. Furthermore, whilst the Government has a target of securing 300,000 new homes each year, the appeal scheme would not achieve the National Planning Policy Framework's aims of achieving healthy communities.
33. For these reasons the appeal is dismissed.

Stephen Wilkinson

INSPECTOR