



Appeal Decision

Site visit made on 17 November 2021

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 NOVEMBER 2021

Appeal Ref: APP/Q3820/W/21/3273511

Car Park, Station Way, Northgate, Crawley RH10 1BJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Simco Homes Limited against the decision of Crawley Borough Council.
 - The application Ref CR/2020/0589/OUT, dated 15 September 2020, was refused by notice dated 13 January 2021.
 - The development proposed is redevelopment of car park to form mixed use residential and commercial scheme.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Simco Homes Limited against Crawley Borough Council. In addition, an application for costs was made by Crawley Borough Council against Simco Homes Limited. These applications are the subject of separate decisions.

Preliminary matters

3. The application was made in outline. Landscaping would be a reserved matter. Access, appearance, layout, and scale are all to be determined at this stage. The description of development set out above, which varies slightly from that on the Council's decision notice, is taken from the application form.
4. The appellant submitted amended drawings with the appeal. These included amended elevations and floor plans. The amended plans would alter the appearance and layout of the proposal, matters that are not reserved for later consideration. There does not appear to have been any consultation on the amendments and I consider that there would be a risk of prejudice to other parties if I were to determine the appeal on the basis of the amended plans. There would also be a risk that my decision would not be properly informed because I would not have the benefit of responses from technical consultees. Accordingly, I have determined the appeal on the basis of the plans that were considered by the Council.
5. The Council's eighth reason for refusal alleges conflict with Policy H4 of the Crawley Borough Local Plan (CBLP). The policy requires 40% of units in residential developments to be for affordable housing, together with a further 10% of low cost housing on schemes, such as this, of 15 or more dwellings. No affordable or low cost housing is proposed. The policy allows for exceptions

where this can be justified on viability grounds. On reviewing the viability assessment, I have concerns about some of the inputs. These concerns cannot be resolved on the information before me. Consequently, it has not been possible for me to conclude on compliance with Policy H4. If a conclusion on Policy H4 could have affected my overall assessment of this appeal, then I would have sought further information. However, I consider that the appeal should be dismissed, whether or not the absence of affordable housing is justified on viability grounds, for the reasons given below. I have therefore determined the appeal on the basis of the information that I have been given.

6. The Council has drawn attention to *Natural England's Position Statement for Applications within the Sussex North Water Supply Zone*, dated September 2021, which is pertinent to this appeal. Natural England (NE) advises that the Sussex North Water Supply Zone includes supplies from groundwater abstraction which may be affecting the integrity of the Arun Valley Special Area of Conservation, Arun Valley Special Protection Area and Arun Valley Ramsar Site (the Arun protected sites). As it cannot be concluded that the existing abstraction is not having an impact on the Arun protected sites, NE advises that developments within this zone must not add to this impact. One way of achieving that would be to demonstrate water neutrality, for example by combining strict water targets for the proposed development with water offsetting measures elsewhere.
7. NE's position statement was issued quite recently so this matter has not been addressed in the application documents or in the appeal documents. Nevertheless, as this matter is now at appeal, I am the competent authority for the purposes of the Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations). It appears to me that, in the absence of mitigation measures, I cannot exclude the possibility that this proposal would have a significant effect on the Arun protected sites, either alone or in combination with other plans and projects.
8. It follows that I would have needed to undertake an appropriate assessment, had I been minded to allow this appeal. In order to do that, I would have sought further information about the interest features and conservation status of the protected sites, the pathways by which the proposal may have had an impact and the nature and effectiveness of any mitigation measures. However, I have decided that the appeal should be dismissed for other reasons that are unrelated to the Habitats Regulations. Consequently, it is not necessary for me to seek additional information or to comment further on this matter.

Main issues

9. The main issues are:
 - the effect of the proposal on the character and appearance of the area;
 - whether the proposal would provide satisfactory living conditions for future occupiers;
 - the effect of the proposal on highway safety;
 - whether the proposal would make satisfactory provision for open space and tree planting; and

- the effect of the proposal on the historic environment.

Reasons

Character and appearance

10. The site is currently used for car parking. It has a frontage to Station Way of around 60m. It is a narrow, tapering plot which reduces to around 7m in depth at its eastern end. Station Way is part of a traffic gyratory system on the southern side of Crawley town centre. The section in front of the appeal site has three westbound traffic lanes. On the opposite side of Station Way there is a multi-storey car park and a residential block at Bastable House. To the south of the appeal site is a narrow tree-covered plot adjacent to the railway lines serving Crawley Station. To the east there is open land that is currently used for car parking. This area is subject to redevelopment proposals. Outline planning permission has been granted for a residentially-led scheme, including over 300 flats and a new station building, known as Station Gateway. Under these proposals the plot immediately to the south of the appeal site would become a communal garden.
11. The proposed building would occupy virtually all of the application site area. There would be very little space for any hard or soft landscape works around the building that could serve to integrate it into its surroundings and/or to contribute to the quality of the public realm. The southern side of Station Way is currently undeveloped in the vicinity of the appeal site. The Station Gateway proposals would have varying set-backs from the highway, with the western end (next to the appeal site), being considerably further back than the appeal scheme would be.
12. The footway in front of the site is not particularly wide. To my mind the five storey block would appear as a very dominant structure, creating an enclosed and uncomfortable environment for pedestrians, with little space between the new block and the three traffic lanes on Station Way. Seen from further along Station Way, the eastern flank elevation would be particularly prominent, due to its position so close to the road. This would be the case whether or not the Station Gateway proposals come to fruition. It would not be an attractive feature, being a blank five storey elevation unrelieved by any fenestration or other architectural details, other than some variation in brick colour.
13. At present, the southern elevation would be partially screened by trees on adjoining land. However, if Station Gateway is developed as envisaged, this area would become a communal garden. The proposed building would be very close to the boundary of this space. It would have a cramped and awkward relationship with any boundary enclosures, planting or other features that might reasonably be expected here. The scale of the south elevation would dominate the garden area, making it a less attractive space for future occupiers of Station Gateway to use.
14. The elevational treatment of the proposed buildings would be very flat. There would be little by way of modelling or articulation to break up the mass of the structure, other than some variation in materials and a small number of recessed balconies. The design lacks legibility, with little differentiation between residential and commercial uses. The storey heights would step down towards the western end of the site, creating some visual interest. Even so, the

overall effect would be a bland appearance that would do nothing to create a sense of identity.

15. My overall assessment is that the proposal would not be visually attractive, nor would it add to the quality of the area. It would not represent good design, in the way that term is used in the National Planning Policy Framework (the Framework). The Framework makes clear that development that is not well designed should be refused.
16. The appellant argues that it is necessary for the proposal to occupy the whole site because the plot is narrow. However, design policies (whether local or national) apply to plots of all shapes and sizes. I do not think that the design approach taken here can be justified on the basis of site constraints.
17. I conclude that the proposal would be contrary to CBLP Policies CH2 and CH3 which together seek to ensure that all development proposals are of high quality in terms of their urban, landscape and architectural design and relate sympathetically to their surroundings.

Living conditions for future occupiers

18. The flats would meet the Nationally Described Space Standards for internal floor area. Each flat would have an external amenity space, mostly in the form of recessed balconies, which would accord with minimum space requirements.
19. The two ground floor flats would have main windows to living rooms and bedrooms looking out onto the footway of Station Way, with no intervening space. The effective width of the footway is reduced by bollards, such that pedestrians would pass immediately in front of these windows. This arrangement would not provide an adequate level of privacy for occupiers. Moreover, these windows would have a poor outlook. Standing traffic, queuing for the nearby traffic signals on the gyratory system, would be only 3m or so from the windows.
20. The windows and recessed amenity areas on the south side would be very close to the site boundary. Under current site conditions they would be hemmed in by tall fencing, trees and vegetation. If the Station Gateway development goes ahead, they would be liable to be obstructed by whatever boundary treatment or planting is included within the proposed communal garden. In either scenario, the windows and recessed amenity areas would have a poor outlook and are likely to have limited natural light.
21. The stairs and communal lobbies would be located on the southern side of the proposed building. Consequently, five of the flats would be wholly north facing. Four flats would benefit from west facing windows. The others would have their main aspect to the north, albeit they would have a window (or windows) in the southern elevation. In some cases, the south facing windows would only serve second bedrooms and entrance halls. Overall, this layout would not represent good design in that it would not maximise the opportunities for natural lighting and passive solar gain.
22. The site is subject to noise from road traffic and the railway lines. A noise assessment was submitted with the application which included a 24 hour noise survey. The measuring point was on a nearby building. A shorter one hour survey was undertaken on the appeal site itself, from which a correction factor was derived. On this basis the noise environment at the appeal site was

described for the whole 24 hour period. That appears to me to be a reasonable approach. The assessment found that ambient daytime noise levels at the appeal site are around 63dB. With this level of ambient noise, it is likely that satisfactory internal conditions could be achieved, albeit that this would require double glazed windows to be closed and alternative ventilation to be provided. These matters could be controlled by a condition.

23. The ambient noise level is well above the guideline figure for external open space. The noise assessment suggests that some attenuation could be achieved, through the use of solid balustrades. However, there are no such balustrades on the application drawings. Creating solid balustrades could adversely affect the appearance of the building, reduce natural light and make the recessed balconies feel even more enclosed. This is not a matter that should be controlled by a condition because the effects of the suggested mitigation are uncertain. I therefore attach limited weight to this suggestion and conclude that the external amenity areas would have limited amenity value because of the level of ambient noise that they would be subject to.
24. Drawing all this together, I find that the proposal would not create satisfactory living conditions for future occupiers. It would conflict with CBLP Policy CH3, which seeks to provide a good standard of amenity for all future occupants of land and buildings. It would also conflict with Policy CH5, which states that new dwellings must create a comfortable and sustainable living environment, and with Policy ENV11 which seeks to protect occupiers of residential development from noise.

The effect of the proposal on highway safety

25. The proposals include an on-street loading bay within the existing footway to Station Way. The bay is proposed to be flush with the footway, delineated by a different surface treatment. Whilst there would be a footway in front of the proposed building, the width clear of the loading bay would be less than one metre. This would not be sufficient for a wheelchair user, or a person with a buggy, to pass another pedestrian. This layout is likely to result in pedestrians being displaced into the traffic lane at times when the loading bay is in use. I consider that this would be harmful to highway safety.
26. I conclude that the proposal would conflict with CBLP Policy IN3 which states that development should not cause an unacceptable impact in terms of highway safety.
27. Network Rail expressed concern that the proposal would obstruct forward visibility for westbound traffic turning south at the junction with High Street, thereby increasing the risk of accidents in the vicinity of the railway level crossing. Drivers cannot see the level crossing until they are close to it, due to fencing and vegetation on the land next to the railway. However, the presence of the level crossing is indicated by a road sign. Moreover, I saw that traffic movements around the junction are controlled by traffic signals. There is no evidence that the current situation is unduly hazardous, and I note that the highway authority has not raised any concern in this regard. To my mind this is not a matter that weighs against the appeal.

Whether the proposal would make satisfactory provision for open space and tree planting

28. CBLP Policy ENV5 sets out the approach to providing open space and recreation facilities to meet the needs of a growing population. Further detail is provided in the Green Infrastructure Supplementary Planning Document (SPD). The SPD notes that for high density schemes on sites of small plot size, such as town centre apartment developments, a contribution towards off-site provision may be appropriate instead of providing open space facilities on site. The SPD sets out a methodology for calculating the financial contributions required for play space, outdoor sports, and other forms of open space, based on the estimated population of a proposed development. The Council has applied that methodology to the appeal scheme to arrive at an appropriate level of contribution. I consider that this would be a reasonable approach.
29. CBLP Policy CH6 requires a new tree to be planted for each new dwelling to maintain Crawley's tree cover and character. The proposal would not result in the loss of any existing trees but there would not be space for any new tree planting on site. Consequently, the Council considers that there should be a financial contribution for the provision of trees elsewhere, to meet the policy requirement. That seems to me to be a reasonable approach in the circumstances of this case.
30. No mechanism for making these contributions has been offered. The appellant states that there was not an opportunity to discuss the contributions. However, that is a procedural matter, not a substantive argument as to why the policies should not apply. In any event, there has been ample time for discussion in the period since the Council determined the application. With respect to trees, the appellant refers to alternative ways of greening the proposed building. That misses the point of Policy CH6, which is specifically concerned with tree cover.
31. I conclude that the proposal would not make satisfactory provision for open space and tree planting. It would therefore conflict with CBLP Policies ENV5, CH6 and the Green Infrastructure SPD.

The effect of the proposal on the historic environment

32. A built heritage statement was submitted with the application. This identified the heritage assets that could be affected by the proposals as a Grade II listed Railway Signal Box, the Brighton Road Conservation Area and Nightingale House, which is a locally listed building.
33. The signal box has considerable historic interest. Dating from around 1860, it is one of the earliest examples of its type. It also has architectural interest as a good and well-preserved example of 19th century railway architecture. The proposal would be on the opposite side of the railway and there would be no impact on the fabric of the listed building. The main way in which setting contributes to the significance of the signal box is through its obvious functional relationship with the adjoining railway line. That relationship would be unaffected.
34. The appeal site currently makes no contribution to the ability to experience or understand the listed building. The main views of the signal box are from High Street and Brighton Road, which lead to the level crossing from the north and south respectively, from Springfield Road, which runs parallel to the southern

side of the railway, and from the level crossing itself. The western end of the proposed development would be single storey so there would be little change to the north/south views. There are oblique views of the signal box from Springfield Road in which the proposed development would appear behind the listed building. However, from this angle the signal box is already seen against modern buildings on the southern edge of the town centre. Whilst the backdrop would change, there would be no impact on the ability to experience the heritage asset. There would be no change to the close views from the level crossing. I conclude that the proposal would not result in harm to the setting of the listed building, which would be preserved.

35. The Brighton Road Conservation Area is located to the south of the railway line. The appeal site is not itself in the conservation area, being to the north of the railway. The conservation area comprises mainly 19th and early 20th century buildings which contribute to its character and appearance. Important buildings within the conservation area include the signal box and Nightingale House, which stand either side of Springfield Road at its junction with Brighton Road. Nightingale House is prominent in north/south views due to its corner location.
36. Views into and out of the conservation area, from High Street and Brighton Road respectively, are framed by Nightingale House and the Railway public house. The appeal scheme would step down in height towards High Street, such that the taller elements would not be seen in these views. The appeal scheme would be seen from a car park, which is next to the railway, east of the Railway public house. Although the car park is within the conservation area, it is not a characteristic feature of the area and adds nothing to its character or appearance. In my opinion the proposal would not be harmful to the character and appearance of the conservation area, which would be preserved. Moreover, there would be no harm to the setting of Nightingale House.
37. I conclude that the proposal would not result in harm to the settings or the significance of the signal box, the conservation area, or Nightingale House. It would accord with CBLP Policy CH12, which seeks to protect the significance of designated and non-designated heritage assets, and with Policy CH15, which seeks to protect listed buildings and their settings. Although the Council's decision notice refers to Policies CH13 and CH14, those policies are directed to development within conservation areas and areas of special local character (respectively) and are not therefore relevant.

Other matters

38. The appeal site is within the town centre, close to the railway station and bus station. There is a wide range of amenities and services within walking distance. The nearby highway network is protected by comprehensive parking restrictions, so the proposal is unlikely to generate on-street parking that would be harmful to highway safety. I note that the local highway authority has no objection to a car-free scheme in this location and I see no reason to disagree.
39. The Council has identified a minor shortfall in cycle parking spaces and has queried the arrangements for storage and collection of refuse and recycling. These matters could be addressed through minor changes that could be secured through conditions.

40. I have taken account of representations made to the Council, which largely concerned matters that have been covered above.

Conclusion

41. I have concluded that the proposal would be contrary to development plan policies relating to design, character and appearance, the living conditions of future occupiers, highway safety, open space, and trees. Notwithstanding those matters where I have not found conflict with the development plan, including in relation to the historic environment, the range and extent of conflicts is such that the proposal should be regarded as being in conflict with the development plan as a whole. This conclusion would be the same whether or not the absence of affordable housing was found to be justified on viability grounds.
42. I have had regard to the fact that the proposal would deliver new housing and commercial floorspace, making more effective use of land in an accessible location on the edge of the town centre. However, this does not outweigh the conflict with the development plan that I have identified. Accordingly, the appeal should be dismissed

D Prentis

Inspector