



Appeal Decision

Site visit made on 24 May 2022

by Chris Forreth BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 June 2022

Appeal Ref: APP/W5780/W/21/3285369

102-104 Tanners Lane, Barkingside, Ilford, Essex, IG6 1QE

- 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 Tanners Lane Developments Ltd against the decision of London Borough of Redbridge.
 - The application Ref 3143/21, dated 21 July 2021, was refused by notice dated 23 September 2021.
 - The development proposed is a three-storey extension to contain up to six (3 x bedroom) self-contained flats with associated balcony amenity areas, mezzanine floor commercial/meeting area, refuse and cycle store.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal proposal was submitted in outline form with the means of access being considered at the outline stage. Notwithstanding that, illustrative plans of how the site may be developed have been submitted with the application. However, the details shown on these plans are not being considered at the outline stage. I have therefore treated these details as being a possible way of developing the site.
3. The proposal was described on the application form as 'the proposed development of an additional three stories above two existing ground floor commercial retail units to create up to 9 x 2-bedroom apartments with balcony amenity areas, ground floor offices/meeting area, refuse and cycle store'.
4. However, the illustrative plans suggest that only 6 flats were proposed. It is noted that the Council queried this, and their description of the development on their decision notice referred to up to six flats. I also note that the appellant has adopted the Council's description of the proposal on their appeal form. Given the information before me, I have determined the appeal on the basis that the proposal is for up to six flats.
5. I am also conscious that the illustrative plans show a five-storey building, which includes three floors of residential accommodation with a floor containing commercial/meeting or home working areas as well as the ground floor accommodation which is in conflict with the description of the proposed development.
6. That said, the appellant has also submitted revised illustrative drawings as part of the appeal submission which are on the basis of a reduced number of

residential units, and therefore show a proposal with one less floor of accommodation.

7. In deciding whether to accept these plans, I am mindful of the principles of the Wheatcroft case (Bernard Wheatcroft Ltd. v Secretary of State for the Environment and Another 1982).
8. In this case, these illustrative plans show three additional storeys over and above the existing single storey rear projections, as opposed to four additional storeys on the original submission.
9. Given that these drawings are therefore more reflective of the description of the appeal proposal, I consider that there would be no prejudice to any party by accepting these plans at the appeal stage. I have therefore had regard to these plans in my decision, albeit that they are still only illustrative.
10. My attention has also been drawn to the Crystal Property case¹ which deals with matters being considered as part of an outline application. In this case, the application and CIL form clearly sets out a level of floorspace proposed. Whilst any subsequent reserved matters application may not include the totality of this floorspace, if outline permission is granted it would be for the level of floorspace as set out in the application. Therefore, with the principles of Crystal Property in mind, the floorspace provided on the application form does indeed form an essential component of the outline proposal.

Main Issues

11. The main issues are:

- (i) effect of the development on the character and appearance of the area;
- (ii) whether the proposal would provide suitable living conditions for the future occupiers of the development; and
- (iii) whether the proposal would impact on the Epping Forest Special Area of Conservation.

Reasons

Character and appearance

12. The appeal site is located in a commercial area of Barkingside, albeit that there are residential properties in the area.
13. The appeal site itself contains two commercial premises which front onto Tanners Lane which are two-storey in height with a pitched roof. To the rear of the main building are a series of extensions/outbuildings which form part of the commercial premises, some of which appeared to be concrete sectional buildings. Immediately to the east of the appeal site is a Sainsbury's supermarket building.
14. The appeal application form indicates that the proposal includes 684 square metres of residential floorspace. The description of the development also states that the proposal would be a three-storey extension. Notwithstanding

¹ Crystal Property (London) Limited v Secretary of State for Communities and Local Government and Hackney London Borough Council (2016) EWCA Civ 1265

the illustrative drawings provided with the application and appeal, this gives an indication of the size of the development proposal. I also note that the CIL form also includes a further 220 square metres of non-residential floorspace. Whilst this is not contained on the application form, it is clearly in the mind of the appellant given its inclusion on the CIL form and the illustrative drawings.

15. In considering the merits of an outline application, the decision maker must be satisfied that the site can acceptably accommodate what is being proposed. In this case, the description of the development is clear on what is proposed, a three-storey extension.
16. Whilst no floor areas to the apartments have been specified, the overall floor area for both the commercial and residential accommodation has been. From the amount of floorspace applied for, and the available space within the appeal site, it is clear to me that to provide that level of floorspace it would need to be accommodated over at least three floors.
17. The Council's concerns in this respect largely result from the illustrative plans submitted with the application. Whilst the submitted plans do not show a particularly convincing form of development, I am conscious that these are only illustrative and show a possible way of developing the site and most of the concerns raised by the Council fall within the realms of the reserved matters detail.
18. That said, given the level of floorspace proposed, to achieve this within the confines of the site would invariably result in a building which would fill the majority of the available space. It is therefore inevitable that the extension would result in a building which would have a substantial mass and elongated depth. In my view, this would be to the detriment of the character and appearance of the area.
19. In that sense, from the evidence before me, I am unconvinced that the site could acceptably accommodate the quantum of development proposed without having an adverse impact on the character and appearance of the area. The illustrative drawings only reinforce my view and highlight the incongruity of the proposal, should it come forward in that form.
20. Whilst I acknowledge the appellant has suggested that a lower number of residential units could be developed, this is not the proposal before me.
21. For the above reasons the proposal would harm the character and appearance of the area contrary to Policy D3 of the London Plan (2021) and Policy LP26 of the Redbridge Local Plan 2015-2030 (2018) (RLP) which amongst other matters seek to ensure that proposals are of a high quality design, respect local character, and are well integrated into the surrounding area. It would also be at odds with the overarching aims of the National Planning Policy Framework (the Framework).

Living conditions

22. The appeal proposal would be accessed via a passageway between 102 Tanners Lane and the adjacent Sainsbury's supermarket. The illustrative plans show that this would be a covered area which would include secure cycle storage areas as well as lift and stair access to the upper floors.

23. The Council have suggested that it would not be a safe place for its future residents and users. However, very little evidence to indicate why that would be the case has been provided.
24. From this limited evidence, this appears to relate to the access between No 102 and Sainsburys. However, the illustrative plans indicate that this would be covered and in many ways this would not be too dissimilar to other flats located to the rear of a site. Furthermore, the appellant has set out that there would be an electronic surveillance system and a security locking system. To my mind, these elements would provide for a safe and secure entrance for the future occupants and visitors to the development.
25. The Council has raised concerns over outlook and the proposal relying on views over third party land. These concerns are raised as the development would be likely to be built up to the side boundary. Concern is also raised over the relationship to 106 Tanners Lane, particularly in respect of the blank first floor wall along part of the boundary with the appeal site, and possible future development at No 106.
26. Whilst I share some of these concerns, and in particular the relationship of the appeal proposal to the first-floor element to the rear of No. 106, I am conscious that it would be possible to site the commercial element of the proposal in this location where the lack of window opportunities would not necessarily be a significant matter. Furthermore, these are clearly matters of detail which are not being considered as part of the outline application. In addition to the above, if permission is granted at the appeal site, then this would be a material consideration in the assessment of any scheme at No. 106.
27. Finally, although not forming part of the Councils reason for refusal, reference has also been made in their Officers' report as to the effect of the development on the living conditions of the occupiers of nearby residential properties, including No. 106 and 4a to 14a High Street as no sunlight/daylight assessment has been provided. However, such an assessment would inevitably rely on the detailed scheme and it is my view that it would be possible to develop a scheme which would not result in an unacceptable impact on the occupiers of these premises.
28. For the above reasons, subject to the detailed design of the proposal, the development would be able to provide for suitable living conditions for its future occupants. As such, it would accord with Policy D3 of the London Plan and Policy LP26 of the RLP which amongst other matters seek to ensure that proposals provide for high standards of accommodation and have a safe and secure environment together with appropriate outlook, privacy and amenity. It would also accord with the Framework in this respect.

Special Area of Conservation

29. From the evidence before me, the appeal site is located within 6.2km of the Epping Forest Special Area of Conservation (SAC) which is a European designated site. The Council have indicated that a financial payment of £180 (plus a £90 monitoring fee) is required to secure suitable mitigation so that no adverse effects on the integrity of the SAC will arise.
30. Notwithstanding that, I am conscious of the requirement to undertake an 'Appropriate Assessment' of the effects of the development on this designated

site. However, given that I have found harm in respect of the effect of the development on the character and appearance of the area (and that there are not any other material planning considerations which indicate that permission should be granted) it is not necessary for me to consider this matter in any further detail.

Planning Balance

31. The Framework indicates that planning decisions should apply a presumption of sustainable development. From the evidence before me, the delivery of housing in Redbridge has fallen short of the targets set out in the Local Plan and the Housing Delivery test. It is common ground between the Council and the appellant that the 'tilted balance' as set out at paragraph 11d) of the Framework applies and I have no reason to disagree with that view.
32. In this case, I have found that the proposal would harm the character and appearance of the area. To my mind, this weighs very heavily against allowing the proposed development.
33. That said, the proposal would result in up to six much needed additional dwellings on the site, which is a clear benefit of the scheme. Additionally, the development would bring social benefits as a result of additional dwellings and economic benefits from the construction process together with the ongoing occupation of the dwellings. However, these benefits are limited in the overall balance.
34. Taking all of the above factors into account, whilst there are obvious benefits arising from the proposal in terms of housing delivery, I consider that the harm I have identified to the character and appearance of the area significantly and demonstrably outweighs the benefits of the scheme when assessed against the policies in the Framework when taken as a whole. The proposal cannot therefore be considered to be sustainable development.

Conclusion

35. For the reasons given above I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR