



Appeal Decision

Site visit made on 28 June 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th August 2022

Appeal Ref: APP/H1515/W/21/3278204

63 Tallon Road, Hutton, Brentwood CM13 1TG

- 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 Mr Michael Mulvaney against the decision of Brentwood Borough Council.
 - The application Ref 20/01645/FUL, dated 6 November 2020, was refused by notice dated 15 January 2021.
 - The development proposed is construction of a new office building, alongside ancillary vehicle access, parking, and associated development.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Michael Mulvaney against the decision of Brentwood Borough Council. This application is the subject of a separate decision.

Preliminary Matter

3. The Council has recently adopted the Brentwood Local Plan 2016- 2033 (the BLP), replacing the saved policies of the 2005 Replacement Local Plan. The main parties have had the opportunity to comment on the implications for this appeal and I have taken those comments into account, determining the appeal scheme in regard to the most up to date development plan situation.

Main Issues

4. The main issues are:
 - i) The effects of the development proposed on highway safety, with particular regard to parking provision and access, and
 - ii) Whether the development proposed would have an acceptable effect on the future occupants of 63 Tallon Road and the proposed office in terms of its layout and availability of parking.

Reasons

Background

5. The appeal site forms part of the rear car park of 63 Tallon Road. The Council claim that the development proposed would be incompatible with the approved

development at 63 Tallon Road¹ which comprises 12 residential flats with associated parking and facilities at the back of the site. That development is now complete and occupied.

Highway Safety- Parking Provision

6. The appeal site lies within a busy industrial estate, close to the junction of Tallon Road and Wash Road. Parking on the street is unrestricted and, at the time of my site visit in the middle of the day, a significant extent of parking was occurring on the footpaths and verges of the road and there were very few opportunities for on street parking in the vicinity of the site. While I appreciate that my site visit represents only a snapshot in time, I do not have evidence before me to suggest that these conditions are not characteristic of times when the nearby businesses are in operation.
7. Where vehicles are parked on both sides of the road this results in a narrowing of the carriageway and the need for pedestrians to walk in the road. As a result of these factors, great care is needed by drivers and pedestrians when using this part of the highway.
8. The site currently contains 24 parking spaces which serve the 12 residential units within 63 Tallon Road. As well as the footprint of the proposed building, the appeal scheme would introduce a further 10 off street parking spaces to the car park, in the form of eight spaces in car lifts and two ground level disabled spaces. While the quantum of parking for the proposed office would be compliant with the maximum standard, the supporting plans do not demonstrate the relationship of the appeal scheme with the existing residential parking bays or how they would be impacted. In the absence of this information, based on the evidence before me, it would be likely that some of the existing parking bays would be lost or negatively impacted through the appeal scheme and the manoeuvring areas required by vehicles accessing the car lifts.
9. If vehicles using the site are unable to find a parking space they would likely try and park elsewhere nearby. Given the significant existing parking pressures and hazardous conditions on Tallon Road, the effect of additional parking demand would likely result in further indiscriminate parking on the highway, further exacerbating the harm to highway and pedestrian safety. While the appeal site may have some links to public transport and the facilities within Hutton there is no substantive evidence before me to demonstrate that these factors would adequately mitigate the potentially significant impacts on the local highway.
10. The appellant suggests that the Council could install parking restrictions on Tallon Road, preventing unauthorised parking. Even if this were agreeable to the Council, the acceptability of the appeal scheme would rely on actions by the Council, and I do not have a mechanism before me to ensure that this would occur.

Highway Safety- Access

11. The proposed site access would be bound by the side elevation of the office building and a new refuse store. Due to their proximity to the access and also to the edge of the footpath on Tallon Road, these structures would introduce

¹ 17/01333/PNCOU and 17/01966/FUL

substantial barriers to visibility for both emerging and approaching vehicles. In the absence of evidence from the appellant that suitable visibility splays could be achieved, the appeal scheme would result in an unacceptable hazard for vehicles emerging from the site and approaching on Tallon Road.

12. In addition, the proposal shows the removal of the demarcated pedestrian access into the site from Tallon Road, which currently provides a route for pedestrians to the entrance in the rear of 63 Tallon Road. As a result, pedestrians would need to walk on the vehicular access and in the path of vehicles. The proposed new bin store would be positioned immediately adjacent to, and open on to, the access, similarly requiring users to step into the path of traffic. Given the likely level of usage of the refuse store, as it would serve both the proposed office and the residential units, this would represent a significant risk to the safety of pedestrians.
13. For the reasons given, the proposal would cause harm to highway safety. It would conflict with Policies BE09, BE12, BE13 and BE14 of the BLP which, among other things, relate to parking standards, require development not to have an unacceptable impact on highway safety and to minimise conflict between traffic and pedestrians. In the absence of clarity of the implications on parking for the residential units, there is also conflict with the Parking Standards Document 2009.
14. The proposal would conflict with the objectives of the Planning Policy Framework (the Framework), insofar as it seeks to prevent development if there would be an unacceptable impact on highway safety.

Effects on Future Occupants

15. The Council describe that inadequate parking arrangements would result in a substandard quality of accommodation for future occupiers of the proposed office and existing residential units. While the absence of off street parking spaces for these occupiers may be inconvenient, I do not consider that this factor alone would result in the existing and proposed accommodation being substandard. Consequently the appeal scheme would not cause harm to the living conditions of occupants of 63 Tallon Road, nor harm to the quality of accommodation provided by the new development.
16. The proposal would therefore comply with Policy BE14 of the BLP insofar as it requires development to safeguard the living conditions of future occupants of the development and adjacent residents.

Other Matters

17. The appellant submitted a sketch plan during the course of the planning application (dated 13 January 2021), which suggests how amendments to the proposal could be made to address the Council's concerns. As this would involve works to the wider car park outside the boundary of the appeal site, and as the plan is in sketch form only, I attach minimal weight to this amended scheme.
18. I have considered, in light of the advice of the Planning Practice Guidance and the Framework, whether the harm identified could be addressed through the imposition of planning conditions. As the amendment to the visibility splays may require the repositioning of the building and the refuse storage, which could result in other implications, such a condition relating to the visibility

splays would not be reasonable. As amendments to the existing car parking spaces would require works outside the area of the appeal site, I do not consider that the use of conditions would be appropriate to secure those changes and would fail the tests of reasonableness and enforceability.

19. The Council identified in its officer report that the appeal scheme would be policy compliant in other respects, relating for example, to the principle of an office use in this location and the design and appearance of the development. However, this lack of harm is a neutral consideration, and is not afforded weight in favour of the development.
20. The appellant refers to successful examples of similar schemes in more densely populated areas. However, no further details of these have been provided. As such they do not alter my judgement and each case must be determined on its own merits.
21. The Council report that as a result of the adoption of the BLP earlier in 2022, the proposal now fails to comply with a number of other new policies which relate to carbon emissions, water efficiency, heat risk, drainage, sustainable means of travel, and low emission vehicles. Details of the specific harm that would arise from the appeal scheme in these respects has not been provided, however, as the appeal is dismissed for other reasons, these are not matters I need to consider further.
22. I note the appellant's concerns over the handling of the planning application and the lack of opportunities to address the Council's concerns. However, this has no bearing on the merits of the appeal and does not alter my conclusions on the main issues set out above. The Council's administration and determination of the application are not matters for me to address as part of this appeal.

Conclusion

23. Although I have found no harm in terms of the effects of the development on future occupants, the proposal would cause harm to highway safety and those effects would be significant and long lasting. As such the proposal should be regarded as being in conflict with the development plan, when read as a whole. The appeal should therefore be dismissed.

C Shearing

INSPECTOR