



Appeal Decision

Site visit made on 7 May 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 3rd July 2024

Appeal Ref: APP/F5540/W/23/3324563

115 – 119 High Street, Hounslow TW3 1QT

- 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 CKJ Global Assets Ltd against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00610/115-119/P15, dated 14 February 2022, was refused by notice dated 23 December 2022.
 - The development proposed is the redevelopment of the site to create Use Class E on the ground and in the basement and 15 dwellings above (Use Class C3)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework). Apart from paragraph numbering those parts of the Framework most relevant to this appeal have not been amended. As a result, it has not been necessary to seek comments on the revised Framework. No party's interests have been prejudiced by this approach.
3. The Decision Notice included reasons for refusal relating to sustainability, air quality and biodiversity. The Council has confirmed that it no longer has an objection on these grounds, such that these are not main issues in the appeal before me. I have also received a planning obligation which attempts to deal with various matters cited in the reasons for refusal. I will deal with this later in this decision.

Main Issues

4. The main issues are the effect of the development on: (i) the character and appearance of the area; (ii) the living conditions of future occupiers with regard to outlook and provision of communal external amenity space; (iii) the living conditions of occupiers of neighbouring properties with regard to outlook, light, and privacy; (iv) noise; and (v) flood risk.

Reasons

Character and Appearance

5. The site comprises a two storey building on the southern side of High Street, a predominantly commercial street particularly at ground floor level. The appeal property is at the end of a short row of buildings and sits adjacent to the

junction with Gilbert Street. The proposal seeks to erect a five-storey building with sixth story communal lounge at the site, comprising ground and basement commercial units with upper floors containing 15 residential apartments.

6. A pair of tall buildings form the entrance to High Street from the east. While this height continues along the buildings on the northern side of the street, the predominant pattern of development on the southern side is of lower built form. Buildings in the vicinity of the appeal site are primarily two and three storey, both on High Street and Hanworth Street to the rear. In this context, the two storey nature of the appeal property contributes positively to the area.
7. Conversely, the height of the proposal would appear out of proportion. Despite proposed setbacks in the building elevations, among predominantly two and three storey built form in this section of High Street it would read as incongruous. In addition, even with the setbacks, the upper storeys would appear overly dominant along the narrow Gilbert Street, towering over the building on the opposite side. While the six storey nature of the proposal has been informed by a wider Hounslow context, its height and bulk would nevertheless fail to reflect the predominant low level pattern of development along the immediate southern section of High Street. This would result in visual harm when viewed from High Street, Hanworth Street and Gilbert Street.
8. The external materials of the proposal attempt to reflect the surrounds, with metal framed glazing at street level, brick in the middle floors and metal cladding in the upper floors that would be experienced among the range of external facades in the area. However, the specific inclusion of a Green Wall along Gilbert Street would be an incongruous feature in the immediate surrounds and, rather than serving to soften the presence of this elevation of the building, would accentuate the scale of the proposal due to its vertical nature, highlighting the dominance of the building in the street. While planters are also shown along Gilbert Street, there is limited specific details on this, including how these would be maintained.
9. The Council has further concerns on limited articulation failing to distinguish the commercial unit from the residential floors. However, I do not find this to be the case. In addition to the different external materials between these levels and the amount and placement of fenestration at street level, the ground floor of the building has an enhanced storey height when viewed from the street. The combination of these elements would show a clear differentiation in the nature of the street level when compared with upper floors. In addition, while the Council further states that the sense of arrival for residents on Hanworth Road would be poor and that there would be a failure to make improvements to pedestrian movements, no specific details on this alleged harm is provided.
10. Nevertheless, for the other reasons given above, overall the proposal would have an adverse effect on the character and appearance of the surrounding area. As such, it would fail to comply with Policies D3, D4 and D8 of the London Plan 2021 (the London Plan) and Policies CC1, CC2, and TC2 of the London Borough of Hounslow Local Plan 2015-2030 (the Local Plan); insofar as they seek to ensure high quality design that responds to its context and character of the area, including improving the public realm and ensuring it is well-designed.

Living Conditions – Future Occupiers

11. With regard to the accommodation to be provided in the upper floors, seven apartments would be located on the western side of the building, with habitable rooms facing onto Gilbert Street at levels 1 - 4. Gilbert Street is narrow in nature, such that the built form of the buildings along it would be in close proximity to the habitable room windows of the western apartments of the proposal.
12. While the Council has therefore raised concerns regarding the impact of the proposal on the outlook of these units, the built form along Gilbert Street is of one and two storey buildings, such that the higher level apartments would not have a restricted outlook in this direction. Nevertheless, those western apartments on levels 1 and 2 of the proposal would have a principal outlook from the living and bedrooms spaces towards the solid built form of Gilbert Street development. This would result in these rooms feeling unduly enclosed, even noting a dual aspect in some of these rooms, reducing the enjoyment of these spaces for future occupiers and impacting on their living conditions.
13. Policy SC5 of the Local Plan states that flats should provide a combination of private outdoor space for every flat and communal open space. Policy SC5 states that communal external space should be provided at 25sqm, 30sqm and 40sqm for each flat of up to 3 habitable rooms, 4 habitable rooms and 5 habitable rooms, respectively, less the area of private space provided. This level of communal external space would not be provided by the proposal.
14. Even noting the urban location of the proposal and the year round availability of an internal lounge, there remains a significant shortfall in useable communal external space to satisfy the needs reasonably expected to be provided by such a space e.g. sitting out. While the level of internal floor space and private external space at the flats meets, and in some cases, exceeds, the policy requirements it remains that sufficient communal space should also be provided in line with Policy SC5. Although the appeal site is in an urban location close to Inwood Park, this park would not have the same convenience or ease of access, and therefore usability, as on-site communal space.
15. The Council's Statement of Case is clear that a financial contribution would be sought in relation to Inwood Park, which would overcome its concerns regarding the lack of communal amenity space, but that concerns would remain regarding a lack of play space. I note the section 106 agreement contains a Play Space Contribution for improvement to local play and amenity spaces. However, I have no specific information before me to confirm that this would relate to Inwood Park and overcome the council's concerns in this regard, such that I can afford this little weight.
16. For the reasons given, the proposal would have a significant adverse effect on the living conditions of future occupiers with regard to outlook and provision of communal external amenity space. As such, it would fail to comply with Policies D5 and D6 of the London Plan and Policies SC4 and SC5 of the Local Plan insofar as they seek to ensure development is people focused to meet the needs of occupiers, does not compromise amenity and ensures suitable external space. While Policy D4 of the London Plan and Policy SC3 of the Local Plan were also referred to these relate primarily to design and housing mix.

Living Conditions – Neighbouring Occupiers

17. The appellant has submitted a Daylight and Sunlight Assessment that has assessed windows at certain surrounding properties and concluded that many of these would meet BRE guidelines with regard to light levels with the proposal in place. However, the report finds that the windows above the hair salon at No. 3-4 Gilbert Road would fail to meet such standards. The report also failed to assess the facing windows at No. 121 High Street.
18. I note the updated comments from the appellant's lighting consultant. Nevertheless, I observed the orientation of the windows at Nos. 3-4 Gilbert Street and No. 121 High Street and their proximity to the appeal site on my visit. Based on my observations, the additional height of solid built form resulting from the proposal would likely cause additional overshadowing that would significantly reduce the amount of time during the day when light would reach the rooms served by these windows. This would reduce the enjoyment of these spaces by their respective occupiers.
19. For similar reasons I find that the proposal would have a negative impact on the outlook experienced from these windows. Due to the limited separation of these facing windows and the appeal site, the solid built form of the proposal would be readily experienced from these rooms where its height would appear overbearing. As such, even noting the current outlook experienced it remains that the associated rooms of No. 121 High Street and Nos. 3-4 Gilbert Street would feel unduly restricted and enclosed as a result of the proposal.
20. The limited separation, in addition to the positioning and orientation of the proposed balconies and windows at the site, would also provide potential for direct and clear views from the proposal into the rooms served by these windows at No. 121 High Street and Nos. 3-4 Gilbert Street, impacting the privacy of occupiers of these properties. My findings in this regard are supported by the London Plan Housing SPG, which recommends an 18-21 metre distance between habitable rooms to ensure no overlooking. This distance would not be achieved by the proposal.
21. I note the difference in opinion as to whether the facing windows at 121 High Street and 3-4 Gilbert Street serve residential units. However, there is nothing substantive before me to conclude on this point, nor was there anything that I noted on site to aid in this respect. As such, in the absence of precise detail on the nature of these units, I cannot be certain that the proposal would not have a negative impact on the living conditions of occupiers of these properties with regard to light and outlook.
22. For the reasons given, I have insufficient information to conclude that the proposal would not have a significant adverse harm on the occupiers of neighbouring properties with regard to outlook, light, and privacy. As such, it would fail to comply with Policies D3 and D6 of the London Plan and Policy CC2 of the Local Plan insofar as they seek to ensure development minimises impact on outlook, privacy and light.

Noise

23. A Noise Impact Assessment dated February 2022 was submitted with the application. The Council has highlighted certain issues with this assessment. These include: limited measurements and calculations of night-time noise

levels; limited information regarding the baseline noise survey methodology such as photographs of measurement positions; no summary table of predicted internal noise levels inclusive of glazing and ventilation; and uncertainty regarding the interplay between the ventilation system and the 'closed windows' noise assessment.

24. The appellant asserts that an updated Noise Impact Assessment dated July 2022 was submitted to the Council to address these points. However, the Council has stated that this was not received and it does not appear to have been submitted with the appeal. As such, on the basis of the information before me, I cannot be certain that the potential noise impacts of the proposal have been adequately assessed. As I am refusing the proposal for other reasons, I did not deem it necessary to request a copy of the updated Noise Impact Assessment referred to.
25. For the reasons given, I have insufficient information to conclude that the proposal would not have a significant adverse harm with regard to noise. As such, it would fail to comply with Policy D14 of the London Plan and EQ5 of the Local Plan insofar as they seek to ensure that development assesses and minimises noise disturbance and avoid significant adverse noise impacts.

Flood Risk

26. A Flood Risk Assessment and Drainage Strategy was provided with the application. It found a negligible risk of flooding arising from the proposal and outlined that sustainable drainage measure would be used. Reference was made to attenuation at roof level using a blue roof via connection to a public sewer.
27. The Council initially highlighted that the Flood Risk Assessment and Drainage did not include either a maintenance plan or information on attenuation volume. While the appellant subsequently provided a maintenance strategy, it remains that no information has been submitted on attenuation volume. Nevertheless, given the level of information provided in the assessment, had the proposal been acceptable in all other aspects I am satisfied that the provision of information on attenuation volume could have been subject to a suitably worded pre-commencement planning condition.
28. For the reasons given, subject to the imposition of a suitably worded planning condition, I find that the proposal would not result in unacceptable harm with regard to flood risk. As such, it would comply with Policy SI13 of the London Plan and Policy EQ3 of the Local Plan in this regard.

Other Matters

29. The Council's final reason for refusal relates to the absence of a legal agreement in respect of various community and infrastructure contributions. During the appeal, the appellant submitted a completed section 106 Agreement between the main parties to address these points. As I am dismissing for other reasons, I do not consider it necessary to consider these obligations in any further detail. However, even if I were to find the proposal acceptable with regard to the provisions and contributions of the section 106 agreement, it remains that this would not outweigh the harm identified above.
30. The appellant has highlighted other examples of development that it considers comparable to the proposal, stating that these demonstrate the acceptability

of similar schemes at other sites in the area. However, I have found above that the precise design and units provided by the proposal are harmful to the immediate character and living conditions of future occupiers on the basis of the current policy position. Each proposal is decided on its own site-specific merits and reference to development elsewhere carries little weight.

31. The appellant has raised issues with the conduct of the Council, including reference to assurances made during the pre-application period. This has little relevance to my assessment of the planning merits of the appeal, with pre-applications discussions with the Council carrying limited weight.
32. The proposal would optimise the potential of the site with a mix of housing units, representing high density development on previously developed land in a high street location, providing an active frontage to Gilbert Street. While this is a benefit of the proposal, even when taken together with the other matters outlined, this would not outweigh the harm I have identified.

Conclusion

33. The proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. The appeal should therefore be dismissed.

C Rafferty

INSPECTOR