
Appeal Decision

Site visit made on 30 October 2024

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 December 2024

Appeal Ref: APP/G5750/W/24/3339567

Gallions Reach Shopping Park, 3 Armada Way, London E6 7ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Inhoco 3107 Limited and Gallions Reach Shopping Park (Nominee) Limited against the decision of the Council of the London Borough of Newham.
 - The application Ref is 23/00319/FUL.
 - The development proposed is construction of two drive-through units, alterations to car parking, provision of hard and soft landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of two drive-through units, alterations to car parking, provision of hard and soft landscaping and associated works at Gallions Reach Shopping Park, 3 Armada Way, London E6 7ER in accordance with the terms of the application, Ref 23/00319/FUL, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Draft Newham Local Plan is in the Regulation 19 stage. It has not been submitted for examination and I am not aware of the extent to which there are unresolved objections to the policies. As such, I attach little weight to the policies of the Draft Local Plan.

Main Issue

3. The main issue is whether the appeal site would be a suitable location for the proposed development, having particular regard to the effect on the redevelopment of the Beckton Riverside Strategic Site, and sustainable transport.

Reasons

4. The appeal site comprises part of the car park of Gallions Reach Shopping Park, to the north of Armada Way. There are a variety of commercial premises on the shopping park, including a large superstore, retail and leisure units, and food and drink outlets. It is within Strategic Site S01 Beckton Riverside, as allocated by the Newham Local Plan (2018) (NLP), and is part of Employment Hub E1. It is also designated as the Royal Docks and Beckton Riverside Opportunity Area in the London Plan (2021).
5. NLP Policy S1 sets out the spatial strategy and framework for development in Newham. It states that sites should be designed and developed comprehensively, and resists piecemeal development, particularly where this would prejudice the realisation of the overall vision for the area or where timing of delivery would be

unsupported by infrastructure. London Plan Policy D3 requires development to make the best use of land by following a design-led approach that optimises the capacity of sites, including site allocations.

6. The spatial strategy for Strategic Site S01, as set out in NLP Policies S5 and INF5, is for a new mixed-use area. It is proposed that the shopping park will co-evolve and intensify to become a major town centre for the area focused around a transport hub, and include shops and new housing, and a reduction in the dominance of car parking. The transport hub referred to requires joint working with Transport for London (TfL) on developing options for a DLR extension.
7. These aspirations are reflected in London Plan Policy SD1, which relates to the Opportunity Areas, and the Royal Docks and Beckton Riverside Opportunity Area Planning Framework (2023) (OAPF). The OAPF indicates residential development in that part of the Strategic Site within which the appeal site is located.
8. NLP Policies S1, S5 and INF5 do not preclude development of the type proposed in this appeal from occurring in this location. Nor does the Strategic Site Allocation amount to a blanket 'no change' position whereby all small scale developments and new floorspace are deemed unacceptable. In this regard, I note that the Council has granted change of use proposals for existing units elsewhere on the shopping park, indicating a flexible approach to development while redevelopment proposals for the Strategic Site are still being formulated.
9. The proposal would provide two drive-through units located centrally in the northern part of the Strategic Site. It would create a moderate amount of new floorspace, while providing employment for a large number of people. While I do not consider the scale of the proposal to be immaterial, it is not significant in the context of the existing shopping park or future redevelopment proposals for the area. It is more akin to asset management of the existing shopping park than a proposal to expand or redevelop it.
10. There is no disagreement between the parties that the proposal is acceptable in terms of the sequential test and retail impact, and I have no reason to find otherwise based on the evidence before me. Rather, the Council's principal concern is that the provision of new floor space would entrench an unsupported use on the Strategic Site and prejudice its wider redevelopment.
11. I understand that the appellant has positively engaged with the Council and other stakeholders with regard to masterplanning of the Strategic Site and continues to play an active role in redevelopment discussions. That said, it appears that the appeal proposal has been developed in isolation, rather than being coordinated and planned as part of future redevelopment proposals for the area. It is therefore the Council's view that the proposal is a piecemeal development.
12. The appellant has provided an indicative masterplan which includes a phasing plan for the redevelopment of the Strategic Site. While this phasing plan has not been formally agreed by the Council or the Greater London Authority (GLA), and is quite dated, it does not anticipate redevelopment of the appeal site until phases 3/4 of the masterplan, with work not due to commence until around 2042. The OAPF illustrates how the redevelopment of the Strategic Site could be delivered, but it is a high-level strategy only and does not provide any firm timescales for redevelopment. Importantly, the evidence indicates that an up to date masterplan for the area is not yet well advanced.

13. An outline planning application for redevelopment of the lower part of the Strategic Site has recently been submitted to the Council. However, as that proposal does not relate to the shopping park and is some distance away, it does not demonstrate that redevelopment of that part of the Strategic Site within which the appeal site is located is likely to occur in the short term, particularly given the lack of an agreed masterplan.
14. Although the Council is concerned about the proximity of the appeal site to the route of the DLR extension, the indicative route is to the south of Armada Way, some considerable distance away from the appeal site. Moreover, there appears to be some uncertainty around the deliverability of the DLR. The Council says that joint working is already underway between key stakeholders, including the GLA and TfL, with significant regional work to progress a funding case for the DLR extension, but no details of this work have been provided. In particular, the Council has not supplied any evidence regarding timescales for the DLR, and funding for this project has not yet been secured. The proposal would not therefore obstruct the likely route of the DLR extension nor, given its relatively minor scale, undermine the planning or business case for it.
15. To my mind, two small drive through units would pose no more threat to redevelopment of the Strategic Site than the existing retail units and restaurants elsewhere on the shopping park. Therefore, on the basis of the evidence before me, and in the absence of an approved masterplan for redevelopment and the uncertainty around timescales, I am not persuaded that the proposal would obstruct or delay comprehensive redevelopment of the Strategic Site.
16. My attention has been drawn to an appeal allowed in Waltham Cross, which considered, amongst other things, the effect of the proposal on the comprehensive mixed-use development of the area¹. However, that development was for relatively minor works to an existing unit, rather than new build units, as is proposed here, and the planning policy context was different. Therefore, it is of limited relevance to the appeal proposal.
17. The proposal would provide up to 150 employment opportunities within the Employment Hub. Moreover, investment in the shopping park and the support the proposal would give to existing nearby retailers, would maintain its vitality, while masterplanning of the Strategic Site continues. While the proposal is a low-density form of development, it would nevertheless make more efficient use of the existing underused car park. If anything, the proposal would contribute to the components of the major town centre identified in NLP Policy S5, which may only have a chance of being realised if the shopping park remains successful. Therefore, the proposal would be sufficiently flexible and future proofed, and does not conflict with NLP Policy J1 which promotes business and jobs growth.
18. The supporting text to NLP Policy SP5 notes that Gallions Reach is an out-of-town shopping park. While employing significant numbers of people, it fails to perform the function of a local high street, and instead provides a wider sub-regional shopping function attracting mainly car-borne customers. That said, there are frequent bus services from the shopping park, a railway station is within reasonable walking distance, and pedestrian and cycle links provide access to surrounding areas.

¹ Appeal Ref. APP/W1905/W/22/3292367

19. In the context of the existing shopping park, it is anticipated that only a small increase in vehicular trips would be generated by the development, and a large proportion of trips would be linked to other visitors to the shopping park. There is no dispute between the main parties that the vehicular trips associated with the development would not harm the highway network, and I do not disagree with that assessment.
20. While the proposal includes a small car park to serve the drive through units, there would be a net loss of 130 car parking spaces on the shopping park. The existing car park is underutilised. Even so, such a significant reduction in parking spaces would reduce the dominance of car parking in accordance with the aims of NLP Policy S5. Moreover, the proposed cycle and cargo bike parking and electric vehicle facilities, together with the linked trips between the proposal and existing retail units, would promote rather than undermine sustainable transport.
21. For the above reasons I conclude that the site is a suitable location for the proposed development, having regard to the effect on the redevelopment of the Strategic Site, and sustainable transport. The proposal therefore complies with NLP Policies S1, S5, INF2, INF5, J1 and Strategic Site Allocation S01, London Plan Policies D3, H1, SD1, SD6, SD7, E9, T2, T4 and T6, and the National Planning Policy Framework (the Framework). Amongst other things, these policies set out the spatial strategy for development, including the need for sites to be developed comprehensively, and seek to promote sustainable transport and reduce the dominance of vehicles.

Other Matters

22. In the event that the appeal is allowed the Council says that a legal agreement to secure contributions to travel plan monitoring is required to ensure that travel plans, as required by condition, can be adequately monitored. However, no detailed explanation has been provided as to why a travel plan condition is required. Based on the evidence, I am not persuaded that such a condition is necessary, particularly given the details of the sustainable transport measures already provided. It follows that a contribution to monitoring has not been sufficiently justified either. Accordingly, such a contribution would not meet the tests for planning obligations set out in regulation 122 of the CIL Regulations and Paragraph 57 of the Framework.

Conditions

23. I have had regard to the conditions suggested by the Council. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty. A pre-commencement condition relating to contamination and remediation is necessary in order to investigate and minimise any risks associated with contamination from past uses. To safeguard highway safety and the environment, conditions are necessary to agree details of a construction logistics plan and a delivery and servicing plan. Conditions relating to external materials, landscaping and rainwater pipes and flues are necessary in the interests of the character and appearance of the area. I have attached a condition requiring details of the cycle parking facilities to encourage sustainable modes of transport and in the interests of maintaining the quality of the environment. A condition has been imposed to agree details of waste management in the interests of the environment and amenity. A condition to control construction in proximity to underground water utility infrastructure is necessary to avoid any harm in this regard. For the reasons set out earlier, I

have not imposed the Council's suggested condition requiring submission of travel plans.

Conclusion

24. The proposal complies with the development plan as a whole. There are no material considerations to indicate that a decision should be taken other than in accordance with it.
25. Therefore, for the reasons given, I conclude that the appeal should be allowed.

M Offerenshaw

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site Location Plan – Drawing No: 21653-0200 Rev 00,
 - Proposed Site Plan – Drawing No: 21653-0300 Rev P-01,
 - Proposed Street Scene – Drawing No: 21653-0301,
 - Proposed Ground Floor Plan (Tim Hortons) – Drawing No: 21653-0302,
 - Proposed Roof Plan (Tim Hortons) – Drawing No: 21653-0303,
 - Proposed Elevations 1 of 2 (Tim Hortons) – Drawing No: 21653-0304,
 - Proposed Elevations 2 of 2 (Tim Hortons) – Drawing No: 21653-0305,
 - Proposed Sections (Tim Hortons) – Drawing No: 21653-0306,
 - Proposed Ground Floor Plan (Popeyes) – Drawing No: 21653-0307,
 - Proposed Roof Plan (Popeyes) – Drawing No: 21653-0308,
 - Proposed Elevations 1 of 2 (Popeyes) – Drawing No: 21653-0309,
 - Proposed Elevations 2 of 2 (Popeyes) – Drawing No: 21653-0310,
 - Proposed Sections (Popeyes) – Drawing No: 21653-0311,
 - Detailed Planting Plan – Drawing No: 2689-URB-ZZ-00-DR-L-498150 Rev P01,
 - Air Quality Assessment by Air & Acoustic Consultants,
 - Design and Access Statement by Corstorphine & Wright (ref: 21653-8000-00),
 - Drainage Strategy by Clark Nicholls Marcel (ref: 11014-1) Rev P02,
 - Energy Assessment by Wallace Whittle (ref: 60447),
 - Flood Risk Assessment by Clark Nicholls Marcel (ref: 11014-1) Rev P02,
 - Planning and Town Centre Uses Statement by Montagu Evans,
 - Phase 1 Environmental Desk Study by Provectus (ref: 101183/DSI/001),
 - Transport Statement by Stantec (ref 332410918) Rev G,
 - Framework Travel Plan by Stantec (ref 332410918) Rev C.
- 3) No development shall commence until an investigation into ground conditions is undertaken. The report of the investigation and proposals for any remediation required shall be submitted to and approved in writing by the Local Planning Authority prior to construction works. All works shall be carried out in accordance with the details approved. Prior to occupation of the development, a validation report shall be submitted and approved in writing by the Local Planning Authority, demonstrating that remediation works were undertaken and completed in accordance with the approved remediation strategy.
- 4) No development shall commence until a Construction Logistics Plan (CLP) has been submitted to and approved in writing by the Local Planning Authority. The CLP shall include details of the following: a) a survey of the existing conditions of adjacent public highways; b) an assessment of the cumulative impacts of construction traffic; c) the likely volume of construction trips and any mitigation measures; d) site access and exit arrangements including wheel washing facilities and sweep-paths where required; e) control of dust and emissions in accordance with the Greater London Authority 'Control of Dust and Emissions from Construction and Demolition' SPG; f) vehicular routes, booking systems and an assessment for the scope of consolidating loads to reduce generated road

trips; g) proposed temporary access and parking suspensions and any temporary access and parking solutions required; h) site compound arrangements including arrival of vehicles, parking, loading, storage and waste arrangements; i) methods for protection of adjacent highway infrastructure; and j) hours of works. The development shall be carried out in accordance with the approved CLP.

- 5) No development above ground level shall take place until specifications and/or samples of all exterior materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out strictly in accordance with the details approved.
- 6) No development above ground level shall take place until details of the following have been submitted to and approved in writing by the Local Planning Authority: a) hard landscaping including details of the car parking layout; b) boundary treatments; c) exterior lighting; d) soft landscaping details including details of the species, size and density of proposed new planting; e) a maintenance schedule; and f) any other landscape features or art works, furniture and play equipment. The details approved shall be provided and completed in accordance with this condition prior to the first occupation of the development, with the exception of new planting which shall be provided and completed in accordance with this condition no later than the first planting season following the first occupation/operation of the buildings. Any trees, shrubs or plants that die within a period of five years from the completion of the development or are removed and/or become seriously damaged or diseased in that period, shall be replaced in the first available planting season with others of similar size and species.
- 7) No development above ground level shall take place until details of the short stay parking facilities have been submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the layout and dimensions of the storage facilities, and specifications of the cycles and any racking systems the facilities are designed to accommodate. The approved details shall be implemented prior to the first occupation of the development and retained for the lifetime of the development.
- 8) Prior to the first occupation of the development hereby permitted, a detailed Delivery and Servicing Plan (DSP) shall be submitted to and approved in writing by the Local Planning Authority. All delivery and servicing arrangements shall thereafter be undertaken in accordance with the approved DSP for the lifetime of the development.
- 9) Prior to the first occupation of the development hereby permitted, details of the waste management arrangements shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include the layout and dimensions of the bin storage facilities, number and type of bins they are designed to accommodate, access and ventilation arrangements, design and appearance, and servicing arrangements. The approved facilities shall be installed and made available for use prior to the first occupation of the development and retained thereafter for the lifetime of the development.
- 10) No construction shall take place within 5m of the water main. Information detailing how the developer intends to divert the asset / align the development, so as to prevent the potential for damage to subsurface potable water infrastructure, shall be submitted to and approved in writing by the local

planning authority in consultation with Thames Water. Any construction shall be undertaken in accordance with the terms of the approved information. Unrestricted access shall be available at all times for the maintenance and repair of the asset during and after the construction works.

- 11) No rainwater pipes, flues or grills, other than those shown on the approved plans, shall be visible on any publicly visible elevation.