



Appeal Decision

Site visit made on 10 December 2024

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 May 2025

Appeal Ref: APP/Z5060/W/24/3353872

163 North Street, Barking, IG11 8LA

- 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 Mr Harj Brar against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref is 24/00340/FULL.
 - The development proposed is the demolition of existing warehouse, change of use of land from industrial (Use Class B2) to mixed-use residential led development (mixed Use Class E and Use Class C3) comprising of 5 storey building that would create 2x commercial units on the ground floor, 4x self-contained residential flats on upper floors together with all other associated works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of the application the Council have adopted a new Local Plan, the London Borough of Barking and Dagenham Local Plan 2020-2037 in September 2024 (LP). The new LP has superseded the Core Strategy and the Borough Wide Development Policies Development Plan Document which were cited on the Council's decision notice. I have therefore determined the appeal with the newly adopted Local Plan in mind.
3. The National Planning Policy Framework (the Framework) has also been revised since the determination of the application. However, as the policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have therefore made my decision in accordance with the revised Framework.

Main Issues

4. The main issues are:-
 - whether the proposal would result in the unacceptable loss of industrial floorspace;
 - whether the proposal would provide for suitable living conditions for its future occupants with particular regard to the standard of accommodation and access;
 - the effect of the development on the living conditions of the occupiers of 157-159 North Street with particular regard to outlook and potential noise and disturbance from the rear amenity space associated with the commercial unit.

- whether the proposal would provide suitable refuse and cycle parking facilities; and
- whether the proposal would provide inclusive facilities for all.

Reasons

Industrial floorspace

5. The appeal site is currently in Class B2 industrial use and the Council have set out that the appeal site is a 'non-designated industrial site'. Policy DME1 of the LP sets out that in such areas where development proposals would result in the net loss of viable employment floorspace it will be required to demonstrate that the site has no reasonable prospect for industrial related purposes and will be required to comply with Policies H4 and H5 of The London Plan in respect of affordable housing. Additionally, Policy E7 of the London Plan has similar aims.
6. The appeal proposal is not supported by any significant evidence to suggest the site cannot be used as viable employment floorspace, particularly for industrial related purposes. As a result, the proposal clearly conflicts with the requirements of both the London Plan and the LP in respect of a justification for the loss of such a use.
7. However, the appeal site is sandwiched between two recent residential developments (albeit that the ground floor of 165 North Street is a commercial use) and the prevailing character of the area is also dominated by residential uses with the notable exception being a school opposite. As such, given that there are existing residential uses tightly packed around the site, the existing industrial use is somewhat an anomaly in the immediate area.
8. I am also conscious that the appeal proposal includes two Class E commercial units on the ground floor which would provide some employment opportunities. Whilst these units would not provide the same type of employment than industrial uses, it nevertheless would have some commercial employment benefit which is in favour of the appeal proposal. Having said that, I consider that this is not an essential element of the scheme in respect of industrial land considerations.
9. Taking all of the above into account, there is a clear conflict with the Development Plan given the lack of justification for the loss of the existing employment use. However, in my view, the loss of such employment land should not be fatal to the granting of planning permission as the existing situation is far from desirable. This is particularly the case given the scale and extent of recent residential led redevelopments on three sides of the appeal site.
10. In coming to the above view, I have also taken into account a recent appeal decision¹ which has been brought to my attention. However, the nature of that appeal site is materially different to the one before me nor does it provide for some employment use. Moreover, each proposal must be considered on its individual merits.
11. In summary, whilst there is clear conflict with the Development Plan, given the specific nature of the surrounding residential development tightly packed around

¹ Reference APP/Z5060/W/24/3341823 dated 6 November 2024

the site I consider that the loss of industrial floorspace, in this location, is acceptable without a full justification for its loss.

Living conditions – future occupiers

12. The appeal proposal includes four self-contained residential units. These units are located on each of the first to fourth floors and are all dual aspect with windows facing both the front and rear elevations.
13. It is common ground that each of the flats exceed the minimum floor space standards as set out in the Technical Housing Standards – nationally described space standard (NDSS). This is also set out in Policy D6 of The London Plan. However, the fourth floor flat does not indicate any in-built storage facilities which is one of the other criteria set out in the NDSS. That said, there would be plenty of room and scope to include such a storage facility and in the event that the appeal is allowed, this could be controlled by a suitably worded planning condition. As such, this is not a barrier to the granting of planning permission.
14. In addition to the above, on the second and third floors, the proposal includes a single bedroom to the middle of each floor with a rear facing window and a obscurely glazed side facing windows.
15. Given the broadly north-west direction which these bedrooms face, together with the existing surrounding development and the further rearward projection of the appeal building, these rooms would have limited access to sunlight, daylight and outlook.
16. That said, the Council did not previously raise this as an issue and have not included this element as part of any reason for refusal. Notwithstanding that, I am conscious that this bedroom would not be provided with the best level of light or outlook. However, on balance, given that these would be the smallest of three bedrooms and the other rooms would provide a good level of light and outlook I consider that each flat has an acceptable standard of living accommodation for its future occupants.
17. Turning to the access arrangements for the flats, this would be via a communal lobby with the rear commercial unit on the ground floor. Whilst the sharing of such an access point is not ideal, it would be possible to implement security measures for the ground floor and provide a secure entrance internally to the communal residential lobby. This could be controlled via a planning condition.
18. In summary, the proposal would provide suitable living conditions for its future occupants and would accord with Policies D6 and D11 of The London Plan and Policies SP2 and DMD 1 of the LP which amongst other matters seeks to ensure proposals are of high-quality design and provide healthy inclusive developments.

Living conditions – 157-159 North Street

19. The existing development at 157-159 North Street (Britania Court) includes habitable room windows on the first to fourth floors which either directly face the appeal site or face rearwards. Outlook from the rearward facing windows of Britania Court would still largely be maintained should the appeal proposal be built out with the proposed building having only a limited impact.

20. However, the same cannot be said of the outlook from the side facing habitable room windows. These affected windows directly face the appeal development and are located close to the common boundary. Whilst the appeal development would also be set in from the boundary at this point, the sheer scale and massing of the appeal building would result in a significant visual blockage. This would be particularly the case from the first-floor windows of Britannia House. It would also be harmful from the second-floor windows, albeit to a lesser extent.
21. I have also had regard to the potential loss of daylight to these habitable rooms. It is clear from the submitted Daylight and Sunlight report that the development would result in a loss of daylight to these rooms. Whilst this does not form part of the Council's reason for refusal, it nevertheless adds weight to the harm to the living conditions of the occupiers of the facing flats at Britannia House.
22. In addition to the above, concern has been raised in respect of the rear commercial courtyard and the potential noise and disturbance which could arise from certain uses within Class E.
23. At my site visit I observed that the area was generally quiet with the main source of noise at the rear of the site coming from passing trains. Whilst I agree with the Council that some uses could result in an unacceptable level of noise disturbance to the occupiers of the residential properties, I am also satisfied that this could be mitigated by the use of planning conditions which could restrict the hours of use of this outdoor area and the type of commercial activity.
24. For the above reasons the proposal would adversely affect the living conditions of the occupiers of the adjoining first and second floor flats at Britannia House as a result of poor outlook and loss of light. With regard to these matters, the proposal would conflict with Policy D6 of The London Plan and Policy DMD 1 of the LP which amongst other matters seek to ensure that the impact on the amenity of the occupiers of neighbouring properties, including that the design of development should maintain sufficient daylight to surrounding housing development. It would also conflict with the overarching aims of the Framework in this respect.

Refuse storage and cycle storage

25. The appeal plans show two areas of refuse storage – a bulky waste space within the residential communal lobby area and a further area adjacent to the communal entrance for non-bulky waste.
26. Whilst the appeal plans fail to show any commercial refuse storage areas, it would be possible to provide such storage facilities within the areas identified for commercial use. To that end, a planning condition to secure these details, and a waste management plan, could be imposed to ensure that adequate servicing arrangements are made.
27. In respect of cycle storage, the appeal proposal provides 8 semi-vertical cycle racks and two Sheffield stands for larger cycles within a cycle store room for the residential units. The number of spaces is appropriate for the number of residential units. Whilst access to these spaces could be more convenient given the number of doors which need to be passed through, the access itself to these is not so problematic that it amounts to a compelling reason why planning permission should be withheld on this ground.

28. In respect of the commercial premises, the plans indicate two secured cycle stands plus two similar stands for visitors, which could be used for visitors to the residential properties. That said, Policy D5 of the London Plan does not require such visitor spaces for developments of less than 5 dwellings.
29. Given the location of the cycle stands to the fore of unit 1, it is likely that the use of these would be by persons associated with that unit which would provide ample provision given the size of the unit.
30. Should that be the case, then there would be no readily identifiable cycle parking provided for unit 2. Whilst this would not be ideal, considering the small size of the unit and its overall location, this is not a matter so fundamental to warrant the withholding of planning permission on this ground.
31. I have also considered whether it is necessary for changing facilities to be provided in the commercial units and the visual appearance of the cycle parking facilities in front on unit 1. These would be located behind metal railings and would have a minimal impact on the streetscene. To that extent, I consider that this provision is acceptable from a character and appearance point of view. In respect of changing facilities, whilst these would be desirable to encourage employee use of bicycles, this is not an essential element to the overall acceptability of the proposal.
32. For the above reasons, and subject to suitable planning conditions, the proposal would provide acceptable refuse storage and cycle parking facilities and would accord with the overall objectives of Policies T5 and T7 of The London Plan and Policies DMT 3 and DMT 4 of the LP which amongst other matters seeks to ensure that developments are adequately serviced, support the use of cycling as a mode of transport, and provide suitable cycle parking facilities.

Inclusive facilities

33. The appeal proposal provides toilet facilities within the commercial units on the ground floor. However, the facilities shown on the submitted plans are not wheelchair accessible. Notwithstanding that, it is common ground that this can be overcome by a minor internal design amendment. Quite simply, I agree.
34. Given the minor internal nature of such an amendment, this is a matter which can be suitably addressed through the imposition of a planning condition should I be minded to allow the appeal.
35. As such, with such a condition, the proposal would provide inclusive facilities and would accord with Policy D5 of The London Plan and Policy SP2 of the LP which, amongst other matters, seek to ensure that proposals provide for healthy inclusive developments.

Other Matters

36. Whilst not forming part of the reasons why planning permission was refused by the Council, concern has been raised that Class E uses should generally be located in town centres, and that the proposed commercial use is therefore inappropriate. In addition, concern is raised over the security aspects of the glazed roof lights over the rear commercial unit.
37. In respect of the Class E use, from the evidence before me, the adjoining residential block also has such a use on its ground floor, meaning that the appeal

proposal would not be the only such use in the area. Taking this into account, I consider that given the small scale nature of the Class E use in the appeal proposal, it would not give rise to any significant harm to the town centre. As such, I consider that this would not be unacceptable.

38. Finally, the inclusion of a rooflight over the rear commercial unit would give a greater opportunity for this to be broken into. However, I am also conscious that this area would be overlooked from numerous residential properties which would in turn be a deterrent for such activity. With that in mind, I consider that this does not provide a compelling reason why planning permission should be withheld.

Planning Balance

39. The Council has set out that the presumption in favour of sustainable development contained within paragraph 11 d) of the Framework is engaged. The latest Housing Delivery Test results also set out that the presumption in favour of sustainable development applies.
40. In this case, I have found that the proposal would harm the living conditions of the occupiers of the adjoining flats in Britannia Court. To my mind, this weighs very heavily against allowing the proposed development.
41. That said, the proposal would provide much-needed additional dwellings which would contribute to future housing delivery. 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 themselves. However, these benefits are limited in the overall balance.
42. 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 to the living conditions of the occupiers of the first and second floor flats immediately facing the rear of the appeal development would significantly and demonstrably outweigh the benefits of the scheme when assessed against the policies in the Framework when taken as a whole. As a result, the proposal cannot therefore be considered to be sustainable development.

Conclusion

43. The proposal conflicts with the development plan and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

Chris Forrett

INSPECTOR