Appeal Decision

Site visit made on 29 October 2018

by Patrick Whelan  BA(Hons) Dip Arch MA MSc ARB RIBA RTPI
an Inspector appointed by the Secretary of State

Decision date: 12th December 2018

Appeal Ref: APP/Z5060/W/18/3202456
22 Freshwater Road, Dagenham RM8 1EH

- 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 Chadwell Properties LLP against the decision of the Council of the London Borough of Barking & Dagenham.
- The application Ref 17/01011/OUT, dated 15 June 2017, was refused by notice dated 27 March 2018.
- The development proposed is an extension to the existing building on the site involving the erection of a 6 storey building (second to seventh floors) to accommodate 16 flats (4 x 2-bedroom and 12 x 1-bedroom) over an access to the rear.

Decision

1. The appeal is allowed and outline planning permission is granted for an extension to the existing building on the site involving the erection of a 6-storey building (second to seventh floors) to accommodate 16 flats (4 x 2-bedroom and 12 x 1-bedroom) over an access to the rear at 22 Freshwater Road, Dagenham RM8 1EH in accordance with the terms of the application, Ref 17/01011/OUT, dated 15 June 2017, and the plans submitted with it, subject to the conditions at the end of this decision.

Preliminary Matters

2. The application was made in outline, with all matters save for access and scale, reserved. I have considered the appeal on the same basis and assessed the drawings as merely illustrative insofar as they refer to the reserved matters.

Main Issue

3. While the Council has not provided a statement of case, it is clear from the decision notice why it refused the application, and the evidence does not suggest any other main issue. Accordingly, the main issue is whether the proposed development would provide sufficient off-street parking, and the effect of any shortfall on highway safety and public amenity.

Reasons

4. Policy BR10 of the of the Council’s Borough Wide Development Policies Development Plan Document adopted 2011 (DPD) sets out the Council’s encouragement for development to shift away from reliance on the private car towards sustainable transport. DPD policy BR9 sets as maxima, the parking standards of the London Plan, and sets out criteria, including the accessibility...
of the site, as factors which should be taken into account in determining the appropriate level of parking provision.

5. The proposed development would extend the existing 7-storey converted office building containing 60 flats to provide an additional 16 flats, including 6 as affordable housing.

6. To accord with the Council’s parking standards, the appellant maintains, and the Council has not disagreed, that the development should provide a maximum of 8 parking spaces. No additional parking spaces are proposed to the 42 residential spaces which were provided for the conversion of the office building. The appellant proposes that the parking demand from this development would be met by 12 of the spaces set aside for the original conversion which are not used, which have not been assigned to any flats and are now surplus to need.

7. The Council is concerned that the availability of parking spaces to rent by the occupiers of the existing development is unclear. Representations from some of the occupiers of the existing development suggest that the claimed surplus is unreliable because spaces have been held back from them to purchase, in order to support this development. However, the appellant has described how the parking spaces were offered to the initial occupiers for sale, but that 14 spaces were not taken-up. Since then, spaces have been rented out to occupiers on a short-term basis.

8. On the evidence before me, I am satisfied that even with some spaces rented out on a short-term basis, and even allowing for some held-back spaces being released on the scale sought in representations, there would be sufficient surplus spaces to accommodate the parking demand from the proposed development in accordance with the development plan, without adversely affecting the parking provision of the original conversion of the building.

9. Notwithstanding this, the site has a Public Transport Accessibility Level of 4, which suggests it has good access to public transport. The Council previously accepted that the site is within walking distance of Chadwell Heath railway station, from which trains run to Liverpool Street every 10 minutes from 05:00 until 24:00. The station will also be served by the Elizabeth Line. Buses serving the station, leisure, health and commercial services call at stops within 400m of the site.

10. I note that there is no objection from the highways authority to the proposal, and the Council’s policies encourage development to shift away from reliance on the private car, and set parking standards as maxima rather than minima taking into account the accessibility of the site. Moreover, the National Planning Policy Framework promotes the effective use of under-utilised land in meeting the need for new homes where land supply is constrained and available sites could be used more effectively, with which objective this proposal would accord.

11. Accordingly, I conclude that given the accessibility of its location and the availability of parking spaces surplus to the original conversion, the proposed development would provide sufficient off-street parking without having any adverse effect on highway safety and public amenity. There would be no conflict from the proposal with DPD policies BR9 and BR10.
Other Matters

12. The appellant has provided a unilateral undertaking which includes obligations to make a carbon offset contribution, local labour and business provisions, and to provide 6 of the flats as affordable housing in satisfaction of London Plan 2016 policies 3.11, 3.12, 3.13, and 5.2. I have considered these in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. It seems to me that the obligations are directly related to the development, fairly and reasonably related in scale and kind, and necessary to make it acceptable in planning terms.

Conditions

13. I have considered the conditions suggested by the Council against the advice in the Planning Practice Guidance, and adjusted their wording and timing to reduce the burden of unnecessary submissions and processing of further applications where sufficient information has already been provided or is covered by other conditions.

14. Conditions are necessary for the details of the reserved matters (1), and their deadlines (2). Conditions are also necessary in respect of implementation (3) and the approved drawings (4). Given the proximity of neighbours and surrounding accesses and in the interests of highway safety, conditions for a pre-commencement method statement (5), and conditions to control construction impacts (14,15) are essential.

15. To protect the environment from the effects of the development, conditions for details of surface water drainage and energy strategies (6,7), as well as performance conditions for ecological mitigation (11) and water consumption (12) are needed. Given the ratio of dwellings to parking spaces a management strategy (10) is essential, as are details of refuse and cycle storage (9) as well as crime prevention measures (8). Performance conditions regarding the accessibility of the dwellings (16) are necessary to enable access for future occupiers who must also be able to access the existing outdoor communal spaces in the existing development (17). The fire performance of construction materials is controlled under other legislation and not therefore necessary to be conditioned to make this development acceptable in planning terms. However, given that this development extends an existing building, a condition for details of access and escape (13) is reasonable and justified.

Conclusion

16. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be allowed.

Patrick Whelan

INSPECTOR
Schedule of conditions

1) Details of the appearance, landscaping, and layout, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.

2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.

3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.

4) The siting and scale of the development hereby permitted shall be carried out in accordance with the following, approved drawings, and prefixed 1996.:

   LP.01 Site Location Plan
   EX.01 Existing Site Layout Plan P.01 Proposed Site Layout Plan
   EX.02 Existing Ground Floor Plan P.02 Proposed Ground Floor Plan
   EX.03 Existing 2nd 3rd 4th 5th Floor Plans P.03 Proposed 2nd 3rd 4th 5th Floor Plans
   EX.04 Existing 6th Floor Plan P.04 Proposed 6th Floor Plan
   EX.05 Existing 7th Floor Plan P.05 Proposed 7th Floor Plan
   EX.06 Existing Elevation AA-Front P.06 Proposed Elevation AA-Front
   EX.07 Existing Elevation BB-Rear P.07 Proposed Elevation BB-Rear
   EX.08 Existing Elevation CC-Side P.08 Proposed Elevation CC-Side

5) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide details of:

   i)  the parking of vehicles of site operatives and visitors;
   ii) access to the site;
   iii) loading and unloading and the storage of plant and materials used in constructing the development;
   iv) the erection and maintenance of security hoardings including decorative displays;
   v) measures to protect the amenities of residents of the existing flat block during construction, including measures to minimise any impact on the use of the east entrance, and east stair and lift core of the building;
   vi) a scheme for recycling/disposing of waste resulting from demolition and construction works; and
   vii) a nominated developer/resident liaison representative with an address and contact telephone number to be circulated to those residents consulted on the application by the developer’s representatives. This person will act as first point of contact for residents who have any problems or questions related to the ongoing development.

6) No development above ground floor level shall commence until details of the design of a surface water drainage scheme has been submitted to and approved in writing by the local planning authority. The details shall include:

   a) A design that is compliant with the national Non-Statutory Technical Standards for Sustainable Drainage Systems (SuDS), National Planning Policy Framework and Ministerial Statement on SuDS.
   b) Evidence that the proposed solution will effectively manage the 1 in 30 and 1 in 100 (+climate change % allowance for climate change storm
events), during all stages of the development (pre, post and during), with discharge rates being restricted as close to greenfield runoff rates as is reasonably practical.

c) Details of management and maintenance regimes and responsibilities.

d) Long and cross sections of each SuDS Element.

e) A finalised drainage layout plan that details pipe levels, diameters and asset locations.

7) No development above ground floor level shall commence until an energy strategy has been submitted to and approved by the local planning authority in writing. The strategy shall be designed to achieve as a minimum a 35% reduction in carbon dioxide emissions over Part L of the Building Regulations (2013) through building design and onsite renewable energy measures. The development shall be carried out in accordance with the approved strategy which shall thereafter be maintained.

8) No development above ground floor level shall commence until a scheme showing the provisions to be made for external lighting, CCTV coverage, access control, and any other measures to reduce the risk of crime, have been submitted to and approved in writing by the local planning authority. The lighting scheme shall be designed to comply with the Institution of Lighting Professionals/ Association of Chief Police Officers publication, “Lighting against Crime a Guide for Crime Reduction Professionals” and shall satisfy the criteria of Table 2, Environmental Zone E3, and shall also be designed in accordance with “Bats and lighting in the UK”. The development shall not be occupied until the approved scheme has been implemented and shall thereafter be retained.

9) The development shall not be occupied until details of refuse and cycle storage enclosures to serve the occupiers of the development have been submitted to and approved by the local planning authority in writing. The approved enclosures shall be provided and thereafter retained.

10) The development shall not be occupied until a parking management strategy has been submitted to and approved by the local planning authority in writing. It shall include details of the allocation of parking bays and the provision of accessible parking bays to serve the two wheelchair accessible flats. The development shall be carried out in accordance with the approved strategy and shall thereafter be retained.

11) The development shall not be occupied until bird nesting and bat roosting boxes have been installed on the building in accordance with details which shall have been submitted to and approved in writing by the local planning authority. The details shall accord with the advice set out in "Biodiversity for Low and Zero Carbon Buildings: A Technical Guide for New Build" (Published by RIBA, March 2010) or similar advice from the RSPB and the Bat Conservation Trust.

12) The dwellings shall not be occupied until the optional requirement for water efficiency of 110 litres per person per day as set out in regulations 36 and 37 of the Building Regulations 2010 as amended, shall have been complied with.

13) The development shall not be occupied until a fire statement which details the means of escape for all building users together with the access for fire service personnel and equipment; and how provision will be made within the
site to enable fire appliances to gain access. The development shall be carried out in accordance with the approved details.

14) No deliveries, external running of plant and equipment or construction works, other than internal works, shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday and not at all on Sundays, Public or Bank Holidays and any works which are associated with the generation of ground borne vibration are only to be carried out between the hours of 08:00 and 18:00 Monday to Friday, unless otherwise agreed in writing by the local planning authority.

15) Construction work and associated activities are to be carried out in accordance with the recommendations contained within British Standard 5228:2009, “Code of practice for noise and vibration control on construction and open sites” Parts 1 and 2, and in accordance with the guidance contained within “The Control of Dust and Emissions during construction and demolition”, Mayor of London, July 2014; including but not limited to, the non-road mobile machinery (NRMM) requirements.


17) Occupiers of the development hereby permitted shall be entitled to utilise the existing communal roof terrace and communal ground level amenity space which serve the existing flat block.

END OF SCHEDULE OF CONDITIONS