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## Appeal Decision

Site visit made on 30 May 2018

**by Chris Forrett BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> June 2018**

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### **Appeal Ref: APP/C5690/W/17/3189975 50 Ashgrove Road, Bromley BR1 4JW**

- 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 Marco Williams of Northstar 2000 Ltd against the decision of the Council of the London Borough of Lewisham.
  - The application Ref DC/17/100897, dated 28 March 2017, was refused by notice dated 3 August 2017.
  - The development proposed is the demolition of the existing office building and construction of 4 new dwellings with associated vehicle and cycle parking, recycling and refuse facilities.
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### **Decision**

1. The appeal is dismissed.

### **Main Issues**

2. The main issues are:-
  - (i) the suitability of the access to the site;
  - (ii) the effect of the development on the supply of employment land; and
  - (iii) the effect of the development on the living conditions of the occupiers of 48 Ashgrove Road with particular regard to noise and disturbance.

### **Reasons**

#### *Access*

3. The proposed development would be accessed along a driveway which would be in the region of 4.5 metres wide at its narrowest point, including a shared surface pedestrian walkway. The driveway would be in the region of 58 metres long.
4. The Transport Statement (TS) submitted with the application includes some tracking information (at appendix 5.2) which shows that a fire engine can enter the site and get within 45 metres of the proposed dwellings. However, it is significant that the TS does not include details of a fire engine turning within the site so that it could exit in a forward gear.
5. The Appellants appeal statement (at appendix 6) does provide a further tracking plan which appears to show a fire engine turning within the site. However, the size of the vehicle shown in the tracking plan is significantly smaller than the vehicle in the TS tracking plan being in the region of 5.4

- metres in length. In my experience the length of a fire engine is significantly longer than that shown in the tracking plan at Appendix 6 which puts significant doubt as to the accuracy of the submitted drawing.
6. Considering the above, from the evidence before me, the proposal does not demonstrate that a fire engine can safely turn within the site and as such I consider that the development does not provide a safe and suitable access for such an emergency vehicle.
  7. Turning to the width of the access, the development includes a shared surface arrangement and an 'imprint paving' solution has been proposed to delineate between what would be the normal pedestrian and vehicle areas.
  8. From 'Manual for Streets', the minimum width for two cars to pass would be 4.1 metres, with the minimum width for a lorry and a car being 4.8 metres<sup>1</sup>. Whilst I consider that there would be sufficient space for two cars to pass, it is clear that there would be insufficient width for a car and a lorry to pass each other on the driveway.
  9. Notwithstanding that, given the likely low usage of the driveway by such vehicles, and having regard to the existing lawful situation, I consider that there would not be such a significant level of harm to warrant the withholding of planning permission on this ground. However, that does not outweigh the harm I have already identified in respect of fire emergency vehicles.
  10. The Council have referred to Core Strategy Policy 14 of the Lewisham Local Development Framework Core Strategy Development Plan Document (2011) (CS) which sets out objectives relating to sustainable movement and transport and DM Policy 29 of the Lewisham Local Development Framework Development Management Local Plan (2014) (LP) which is concerned with car parking. However, given the issue at hand I find that there is no conflict with either of these policies.
  11. For the above reasons the development would not provide a safe and suitable access for a fire emergency vehicle contrary to Policy 3.5 of the London Plan (2016); and DM Policy 30 and DM Policy 33 of the LP which amongst other matters seeks to ensure appropriate layout and access arrangements with a proper means of access and servicing. It would also be at odds with the transportation aims of the National Planning Policy Framework.

### *Employment land*

12. The appeal site is located on the north-west side of Ashgrove Road which is at the edge of a predominately residential area. To the south west of the site is an industrial estate (The Ashgrove Estate), whilst to the rear is a sports facility. The site is accessed via a driveway between two residential properties.
13. Core Strategy Policy 5 of the CS sets out that the Council will protect employment locations throughout the borough. However other uses, including residential, will be supported if it can be demonstrated that (amongst other matters) site specific conditions including site accessibility, building age, business viability and viability of redevelopment show that the site should no longer be retained in employment use.

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<sup>1</sup> figure 7.1

14. DM Policy 11 of the LP also seeks to retain employment uses. Where uses are proposed which do not involve any job creation or retention evidence of a suitable period of active marketing for the site through a commercial agent that reflects the market value has been undertaken.
15. The Council have indicated that the building is in a poor structural condition and the Appellant has indicated that it would require significant expenditure to return the building to a wind and watertight condition. This is also set out in the Court Buckingham report on the general condition of the appeal property.
16. From the evidence before me the site has been marketed by a commercial agent since July 2015 with relatively little interest in the site. Reasons cited for the lack of interest include the general location, the constraints of the site access and the adjacent housing. However, to my mind, the condition of the building and the yard could well be another significant factor.
17. Notwithstanding that, the Council have not provided any evidence to suggest that the advertised value of the site does not reflect its current market value. In the absence of any such evidence I can only conclude that the marketed value is appropriate for the site. Taking that into account, and the length of time for which the site has been marketed, I conclude that the proposal would accord with the objectives of the above Development Plan policies.
18. In addition to the above, it is noted that the Council have indicated that a contribution of up to £210,000 should be secured via a section 106 agreement to offset the loss of employment units. The general principle of such a contribution is set out in DM Policy 11 which outlines that the Council will seek contributions to training and/or local employment schemes where there is loss of local employment as a result of redevelopment.
19. However, following the Court of Appeal's judgement of 11 May 2016, wherein the Secretary of State successfully appealed against the judgment of the High Court of 31 July 2015, it follows that considerable weight should be given to the Secretary of State's Written Ministerial Statement (WMS) of 28 November 2014 and the updated Planning Practice Guidance which indicates that planning obligations of this type should not be sought from development of this limited scale.
20. Notwithstanding that, the determination of planning applications should be made in accordance with the Development Plan unless material considerations indicate otherwise. The WMS is clearly a material planning consideration for which I attach great weight to as it represents the clearest and most up-to-date expressions of national planning policy.
21. In this case, limited evidence has been provided to me in respect of the need for such a contribution. Taking this into account, I consider that in this case, the WMS outweighs the requirements of DM Policy 11 in this respect.
22. For the above reasons the loss of the employment site has been sufficiently justified and therefore the proposal would accord with Core Strategy Policy 5 of the CS and DM Policy 11 of the LP which amongst other matters seek to retain employment land and uses unless the loss of employment sites are sufficiently justified.

*Living conditions*

23. The Councils concern relates to the location of the waste and storage area to the front of 48 Ashgrove Road. However, the area in question is shown as being the location of the bin collection point, which would normally only be used on a collection day. It is further noted that within the curtilage of each new dwelling there is also a bin storage point. With that in mind, I consider that the storage of refuse bins for a short period of time in the bin collection area would not be a significant source of noise or disturbance to the occupiers of No 48.
24. In coming to that view, I acknowledge that the distance between the bin collection point and the dwellings themselves would not be insignificant and this may discourage the occupiers of the four new dwellings from moving their bins. However, even if this was the case, I consider that there would not be a significant impact on the living conditions of the occupiers of No 48.
25. For the above reasons the development would not harm the living conditions of the occupiers of 48 Ashgrove Road and would accord with DM Policy 32 of the LP which amongst other matters seeks to ensure that all new residential development is neighbourly.

**Conclusion**

26. Taking all matters into consideration, I conclude that the appeal should be dismissed.

*Chris Forrett*

INSPECTOR