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ENCLOSURE 8

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APPEAL REF : APP/N5090/W/17/3183459
BLOCK 3 THE EXCHANGE BRENT CROSS GARDENS
LONDON NW4 3RJ



Appeal Decisions

Site visit made on 3 January 2018

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2018

Appeal A : Appeal Ref: APP/N5090/W/17/3183459 Block 3 The Exchange, Brent Cross Gardens, London NW4 3RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by ADA Architects against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/1820/PNO dated 28 February 2017, was refused by notice dated 21 April 2017.
 - The development proposed is the change of use from B1(a) office to C3 Residential to provide 21 units.
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Appeal B : Appeal Ref: APP/N5090/W/17/3183455 Block 1 The Exchange, Brent Cross Gardens, London NW4 3RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by ADA Architects against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/1821/PNO, dated 28 February 2017, was refused by notice dated 21 April 2017.
 - The development proposed is the change of use from B1(a) office to C3 Residential to provide 30 units.
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Appeal C : Appeal Ref: APP/N5090/W/17/3183461 Block 4 The Exchange, Brent Cross Gardens, London NW4 3RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by ADA Architects against the decision of the Council of the London Borough of Barnet.
 - The application Ref 17/0972/PNO, dated 12 February 2017, was refused by notice dated 18 April 2017.
 - The development proposed is the change of use from B1(a) office to C3 Residential to provide 21 units.
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Appeal D : Appeal Ref: APP/N5090/W/17/3183463 Block 5 The Exchange, Brent Cross Gardens, London NW4 3RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
- The appeal is made by ADA Architects against the decision of the Council of the London Borough of Barnet.

- The application Ref 17/1063/PNO, dated 12 February 2017, was refused by notice dated 18 April 2017.
 - The development proposed is the change of use from B1(a) office to C3 Residential to provide 17 units.
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Decisions

1. Appeal A is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use from B1(a) office to C3 Residential to provide 21 units at land at Block 3 The Exchange, Brent Cross Gardens, London NW4 3RJ in accordance with the terms of the application 17/1820/PNO dated 28 February 2017 and the plans submitted with it, subject to the conditions set out in the schedule to this decision letter.
2. Appeal B is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the GPDO for the change of use from B1(a) office to C3 Residential to provide 30 units at land at Block 1 The Exchange, Brent Cross Gardens, London NW4 3RJ in accordance with the terms of the application Ref 17/1821/PNO, dated 28 February 2017 and the plans submitted with it, subject to the conditions set out in the schedule to this decision letter.
3. Appeal C is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the GPDO for the change of use from B1(a) office to C3 Residential to provide 21 units at land at Block 4 The Exchange, Brent Cross Gardens, London NW4 3RJ in accordance with the terms of the application Ref 17/0972/PNO, dated 12 February 2017 and the plans submitted with it, subject to the conditions set out in the schedule to this decision letter.
4. Appeal D is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class O of the GPDO for the change of use from B1(a) office to C3 Residential to provide 17 units at land at Block 5 The Exchange, Brent Cross Gardens, London NW4 3RJ in accordance with the terms of the application Ref 17/1063/PNO, dated 12 February 2017 and the plans submitted with it, subject to the conditions set out in the schedule to this decision letter.
5. In addition to the above, it should be noted that Paragraph O.2(2) of the GPDO requires that each development permitted by Part O is completed within a period of three years starting with the prior approval date. Paragraph W(12) requires that the development must be carried out in accordance with the details provided in the application.

Procedural Matters

6. The Appellant has confirmed that all four appeals should be determined on the basis that ADA Architects is the developer of the proposals.
7. As set out above, there are four appeals all of which relate to the development of residential properties. Although the proposed developments relate to different blocks within the same complex there are many similarities between them. On this basis, whilst I have considered each proposal on its individual merits, to avoid duplication I have dealt with the four schemes together.

Main Issue

8. The main issue is whether the proposed developments should provide a monitoring fee for the residential travel plans.

Reasons

9. The Council have not advanced a case that the measures outlined in the submitted travel plans would not provide an appropriate way of seeking to encourage sustainable travel habits for the future residents of the proposed dwellings and I have no reason to disagree.
10. The submitted travel plans indicate that the developer will be responsible for the production and distribution of a residents welcome pack (a travel pack). Such packs would be distributed to future occupants of the developments prior to the occupation of the residential units. The contents of the pack would need to be reviewed and agreed by the Council. There are no other requirements in the travel plan.
11. To my mind, the content of the residents welcome pack could be suitably controlled by means of a condition to any approval. It is also significant that the travel plan does not require any ongoing monitoring following the occupation of any of the developments. As such, I consider that there is no requirement or need to undertake such monitoring and therefore a monitoring fee is not required. Consequently, there is no need for a legal agreement.
12. For the above reasons the proposals would accord with Policy 6.1 of the London Plan (2016) and Policy DM17 of Barnet's Local Plan (Development Management Policies) Development Plan Document (2012) which amongst other matters seek to ensure that the safety of all road users is maintained and that any increase in road traffic is minimised.

Other matters

13. I have also had regard to the matters raised in the representations including concerns relating to the existing leases in the buildings, the effect on existing employees of the current businesses at the site, a shortage of offices in the area, noise and disruption from the redevelopment, the size of the residential units and increased traffic would affect the current businesses.
14. However, none of the issues raised provide a significant or compelling reason why the prior approval of the proposed developments should be withheld having particular regard to the four subject areas outlined at Paragraph O.2(1) of the GPDO.

Conditions

15. Paragraph 13 of part W states that prior approvals may be granted subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested a number of conditions that it considers would be appropriate. I have considered these in light of the GPDO and the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
16. As noted above, and in the interests of the transportation and highway impacts of the development, details of the track pack need to be agreed by the Council

and provided to the future occupants prior to the first occupation of the development.

17. In relation to the provision and allocation of parking spaces the plans submitted with the applications indicate the layout and allocation of parking spaces between the individual blocks, including disabled spaces. To my mind, no further details are required. However, in order to ensure that the parking spaces are provided, a condition is necessary to ensure that they are provided and maintained for the future occupiers of the development.
18. The Council have suggested conditions relating to landscape works and a Site Wide Construction Waste Management Plan. However, neither of these suggested conditions relate to matters requiring prior approval. Consequently, I have not imposed such conditions. I have also considered whether a Construction Environmental Management Plan is required. However, with the exception of the details of the construction traffic management aspect (which is required in the interests of highway safety), the other matters do not relate to the matters requiring prior approval or are not necessary.
19. In respect of the suggested conditions relating to a delivery and servicing management plan and an operational waste management plan, given the residential nature of the development I do not consider that any of these details are necessary. Similarly, the suggested condition relating to a waiver of liability and indemnity agreement in relation to the non-adopted roads within the site is not necessary to make the development acceptable in planning terms.
20. Turning to contaminated land matters, given the nature of the proposed developments and the existing land use, I do not consider that the suggested requirements are necessary. However, I do consider that a condition which deals with any unexpected contamination is required.
21. Finally, in respect of noise, the prior approval matters relate to the impacts of noise from commercial premises on the intended occupiers of the development. However, from my site visit the dominant background noise was from traffic on the surrounding road network. Given the surrounding development (including the offices in other parts of the site) I do not consider it necessary to impose any conditions relating to noise mitigation measures from commercial premises or in relation to noise generated from any plant on site as a result of the development.

Conclusion

24. For the reasons set out above, I conclude that the appeals should be allowed.

Chris Forrett

INSPECTOR

SCHEDULE OF CONDITIONS (for each of Appeals A, B C and D)

1. Prior to the first occupation of any residential unit, full details of the travel pack shall be submitted to and approved in writing by the local planning authority. The approved travel pack shall be provided to the occupiers of each residential unit prior to the first occupation of each respective unit.
2. The parking spaces shown on the submitted drawings relating to the proposed development shall be provided and made available for use prior to the first occupation of any part of the development and shall be maintained as such for the life of the development.
3. No development, including ground works and site preparation works, shall commence until details of how the traffic associated with the construction works (including access to the site; the parking of vehicles for site operatives and visitors; hours of construction, including deliveries, loading and unloading of plant and materials; the storage of plant and materials used in the construction of the development; and measures to prevent mud and debris being carried on to the public highway) has been submitted to and approved in writing by the local planning authority. The construction works shall only be carried out in accordance with the approved details.
4. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise first agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.