



Appeal Decision

Inquiry held on 18 – 21 and 27 January 2011

Site visit made on 24 January 2011

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4 March 2011

Appeal Ref: APP/U5930/A/10/2135898

Essex Wharf, Lea Bridge Road, London E5 9RL

- 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 Essex Wharf Homes LLP & A2 Dominion (London) Ltd against the decision of the Council of the London Borough of Waltham Forest.
 - The application Ref 2009/1515, dated 27 November 2009, was refused by notice dated 6 May 2010.
 - The development proposed is redevelopment of the site for residential use (Class C3) through the construction of a series of buildings comprising 144 units together with the provision of open space, new hard and soft landscaping, car parking facilities, vehicular access, new cycle and pedestrian routes with other associated and enabling works.
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Procedural matters

1. A section 106 (S106) unilateral undertaking (UU) has been provided. This would commit the appellants to making financial contributions towards education, sustainable transport, highway improvements, health and other matters; and provision for affordable housing, a car club scheme, a green travel plan and employment training amongst other things. The text has been agreed with the Council. I have considered this in the decision letter at paragraph 28.
2. In the decision, I have described the 4 blocks that form the proposed development as A, B, C & D from east to west.

Decision

3. For the reasons given below, the appeal is dismissed.

Main Issues

4. The main issues are as follows: firstly, the effect of the proposed development on the character and appearance of the area by reason of bulk, scale, height, massing, detail design and the degree of visual permeability. Secondly, whether the proposed development would be in accordance with the policies set out in the development plan and Planning Policy Statement (PPS) 1 *Delivering Sustainable Development* with respect to design quality.

Reasons

Background

5. The appeal site comprises a former industrial wharf on the east bank of the River Lea adjacent to the A104 Lea Bridge Road. Now cleared, the site had

accommodated workshops and a scrap metal yard but was most recently used for storage. The site lies within the Lee Valley Regional Park (LVRP) which extends from Hertfordshire to the Thames in the east end of London. There is a covered ice rink and car park to the east of the site, run by the Lee Valley Regional Park Authority (LVRPA). To the north, east and south east are large areas of flat, mainly open mixed grazing and recreational land with some significant trees and vegetation, which I refer to as the marshes. Immediately to the west over the river in the London Borough of Hackney is the Millfields recreation ground, an extensive, more formal area of grass and playing fields surrounded by residential development. All these areas are within the LVRP and are designated Metropolitan Open Land (MOL) enjoying protection equivalent to the Green Belt. The appeal site itself is not MOL and in planning terms is previously developed and 'white' land (land designated in the Waltham Forest Unitary Development Plan (UDP) as not having any particular use). The appeal scheme consists of 4 blocks from 5 to 9 storeys high over a podium structure containing car parking.

The principle of development of the site

6. The Council agrees with the appellants that the site is suitable for residential use, but the LVRPA and third parties object to housing development in principle. The LVRPA has a duty enshrined in the Lee Valley Regional Park Act of 1966, which can be summarised as to develop or improve the park as a place for leisure, recreation and sport and for the provision of nature reserves. The LVRPA points out that Essex Wharf is at a prominent location and forms a critical link between Millfields and the Marshes at a point where the Lea Bridge Road crosses the river; it has always been an aspiration to use it for park purposes.
7. The Council, as the local planning authority, gives no weight to the LVRPA proposals for the site because there are no positive plans or proposals, or reasonable prospects of such use. Nor are there any for commerce. I accept that there are strong arguments for retaining strategic access to rivers nationally and that utilising the water resource across London is an objective of the London Plan as part of the Blue Ribbon Network, but there is nothing to suggest that this site is essential to providing access to the river in the future for leisure or trade purposes. Essex Wharf was not safeguarded by the Secretary of State when the opportunity arose in 2005. There are long stretches of the River Lea nearby and elsewhere where public access is available. Whilst a review of the demand for freight access to water across London is underway, I do not give the prospect of commercial use significant weight in the absence of evidence of a supply deficit or a positive scheme for this particular site.
8. It is identified as a key opportunity site for residential use in the Waltham Forest Local Development Framework *Northern Olympic Fringe Area Action Plan-Preferred Options*, published in January 2011 following informal consultation with community groups, authorities and other stakeholders. A further 6 week consultation period will occur before this document is finally reviewed and then considered at public inquiry and this limits the weight I can give it; but it reinforces my view that there is no overriding need or case for the site to be developed for any alternative use other than residential use.

The effect on character and appearance

9. There are significant design constraints and opportunities. The appeal site occupies a prominent position where the river Lea and the Lea Bridge Road cross and where the river loops around it in an 'S' bend. The road is one of the few crossing points of the Lea valley at a location where, including Millfields, the flood plain is at its widest. The open marsh landscape and woodland of the Lea valley contrast strongly with the more urban recreational space of Millfields; and both are flanked by dense urban development on either side in Clapton and Walthamstow. The site lies between the marshes and Millfields and any new development would need to relate successfully to both. The bridge over the river acts as a 'gateway' into Waltham Forest Borough which should be reinforced by the design of development. The site is also adjacent to one of the main pedestrian entrances to a network of footpaths crossing Leyton Marsh. The towpath alongside the Lea emerges from under Lea Bridge Road to reveal the breadth of Millfields at the same time as the broad curve of the river around the site.
10. In recent years, a comprehensive re-development by Taylor Wimpey has taken place to the north west in Hackney, adjacent to the river, consisting of apartments of between 5 and 6 storeys high. Combined with another scheme of 6 storey flats on the north side of Millfields, these introduce a firm line of generally unrelieved dense urban development that defines the edge of the recreation ground and follows the curve of the river to the north. Together with a strong line of mature trees along Lea Bridge Road, the observer's attention is focused on the more open aspect to the north east across the appeal site. That open impression is not markedly diminished by a broken row of trees along the river.
11. Following refusal of an earlier proposal for 167 units in 3 seven storey blocks at appeal in 2009 (ref APP/U5930/A/08/2085786), there are substantial areas of agreement between the main parties on the principles which should determine the form and appearance of development. The likelihood that new high density residential buildings would diminish the existing perception of contrast to some extent between Millfields and the marshland is accepted and in this regard, I consider that the original use as a wharf would also have had an effect. The principle of introducing several smaller blocks or 'pavilions' with a varying number of storeys following the bend of the river is agreed, providing there is also variation in the design of fenestration and roofscape, so as not to dominate the riverside; and adequate visual permeability, so that the character of the open land beyond can be appreciated. I concur with this objective. I agree with my colleague Inspector who said in 2009 that it is essential that users of Millfields and surrounding development should be able to perceive, across the appeal site, the different landscape character of the marshlands and vice versa.
12. The open area of Millfields rises gradually towards the west and from this higher ground looking east, features of the urban landscape such as church towers and flats in Walthamstow become visible across the appeal site on the other side of the marshes behind the site. It is impossible to actually see the surface of the marshes because of intervening trees and the ice rink building. Only on moving eastwards and approaching the river itself is a clear view revealed through to the north east to the left of the 'oxbow' wood, though the ground beyond the river still cannot be seen; only a perception of something

wide, open and unobstructed. Nevertheless, there is a strong existing visual sense of openness because of the relative lack of built development in a wide arc from Lea Bridge to the Taylor Wimpey scheme. That perception is assisted by the permeable nature of the vegetation that lies behind the site, especially in winter. I do not regard the ice rink building, because of its relatively low and rather bland form, to seriously interfere with that. There is a clear perception of linked openness.

13. A line of mature trees defines the edge of the river seen from Millfields but the trees are deciduous and there is only a limited sense of enclosure, less obvious in winter. On passing eastwards along Lea Bridge Road, a view opens up through and beneath the trees alongside the road across the river and the appeal site towards the marshes and the oxbow wood. Moving further, the wood and the bend in the river obscure this view and the Taylor Wimpey scheme forms a more or less continuous wall across the far side.
14. The gaps between the blocks of the appeal proposal would allow some views through. Much of the gap between blocks C and D would be visible from the north side of Millfields. There would be a view through between blocks A and B from the point where the towpath emerges from under the bridge because of the angle between them. However, the gap between blocks B and C would be about 3.43 metres wide at the rear and these blocks would be 5 and 7 storeys high respectively. This would be a conspicuously narrow strip at the centre of the group of 4 buildings. Because of the relative locations of the blocks, there would be few places from which it would be possible to appreciate the space beyond through more than one of the gaps at the same time. Bearing in mind that the appreciation of permeability by most users of Millfields and Lea Bridge Road is likely to be while moving around, I do not find that the proposed siting of the blocks would allow a significant view through between them, sufficient to properly appreciate what lies beyond. Whilst I accept that there would be a strong perception of openness around the edges of the scheme to the north west and south east, the important point is that there should not be an enclosing or overlapping barrier of development across most of the eastern side of Millfields.
15. The perception of linked space would be assisted by seeing trees and sky over the development as well as through it, but there is little firm information on whether any trees around the ice rink and in the oxbow wood would be visible looking eastwards over the roofs of the scheme. Having seen, at some distance from the east, the height of the Taylor Wimpey blocks relative to the trees, I consider that there is a strong possibility that in similar long views, some trees in the marshes would be seen from some locations in Millfields over the top of a 5 or 6 storey block. Block B would be 5 storeys, but block C would be 7 storeys. I am not convinced that, in combination with the limited gaps between blocks, block C would be sufficiently low.
16. Looking at the visual permeability of the proposed scheme from the marshes, the tops of high mature trees in Millfields would be visible over blocks B and C. Blocks A and D would obscure these and would stand out, but nevertheless, in this longer view, between them, I consider that the existence of open space of some sort beyond would be apparent to the observer. However, the narrow gap between blocks B and C would appear even smaller in the longer views that are available from the marshes. This would also be the situation seen from Sustrans Route 1 which passes along a raised former aqueduct in the

centre of the open marsh area and which is a popular walking and cycling destination. I am not convinced that from many places on the east side, the overall juxtaposition of built form would be sufficiently permeable to properly link the open spaces on each side and avoid the perception of a continuous wall. The lower parts of the development would be screened by trees in the foreground but this would not prevent the existing sense of linked openness of the MOL being markedly diminished.

17. Turning to the effect of the proposal seen from Lea Bridge Road travelling west, after passing through an area of dense mixed urban development including various industrial activities, the green and open character of the Lea valley forms a strong contrast shortly after passing over the raised bridge over the railway line. There are glimpses through to open fields around the entrance to the Lee Valley Riding Centre, after which the road has a semi-rural character until the ice rink building and car park is reached next to the Lea Bridge. Block A would be visible earlier than that and the full scale of the development would be gradually revealed as trees and vegetation clear. As the development comes into view, Block B would be very much foreshortened seen from the road and the most prominent feature would be the curved end of block A. Seen from the road, as opposed to the view from the ice rink car park, it would be very difficult to see through any gaps between the buildings because of their siting and orientation. This would severely limit any sense of permeability from this direction.
18. Blocks A and D would be noticeably higher than any other development in the immediate locality and would be local landmarks. Block A would be adjacent to Lea Bridge and would be identified with the idea of a 'gateway' into the Borough. Bearing in mind the impact of height on the perception of visual permeability, I accept that there is still a case for a landmark building in this location that stands out, if it contributes positively to views and vistas. Block A of 8 storeys would be seen in the context of a busy crossing point where there are long views up and down Lea Bridge Road and the river as well as from Millfields. The block would identify the crossing point looking up the river from further to the south east along the towpath. It would identify the crossing in a similar, though in a more forceful and modern way, to the public house on the opposite south bank. It would also mark the eastern end of the overall group. I consider it would be in a coherent location and would meet the criteria set for tall buildings in policies of the London Plan (LonP) and guidance in Waltham Forest's adopted Supplementary Planning Document (SPD) *Urban Design of 2010*.
19. In contrast, the tallest block D of 9 storeys would be on the 'S' bend in the river and at a confluence of rather less significant vistas towards it from the Taylor Wimpey scheme. It would not benefit from similarly strong, wider townscape features to provide it with a comparable sense of place. I accept that greater height might be one way of ensuring that the appeal scheme does not replicate and is separate from that group of buildings, but the very different fenestration design and plan form illustrate that it would not be necessary to build higher to achieve that objective.
20. To my mind, the overarching difficulty with block D would be its predominant height, which would be not only well above that of block A, but would be prominent over the tops of trees seen from all directions but most particularly from the marshes to the north and north east. From here, there is already a

clearly defined boundary of development close to the west bank of the river (reinforced by a dense urban backdrop extending back up Mount Pleasant Hill), recently augmented by the rather unrelieved blocks of the Taylor Wimpey scheme which lead the eye round into Millfields. The 9 storey block would not relate to this building line but is designed to create a new point of focus in contrast to the general pattern of heights in the area. However, unlike block A, there is little on the ground to justify it. I consider that it would have the effect of bringing built form much closer to the open marshes and would be a significant impediment to the flow of MOL across the river.

21. I do not disagree that a varied and interesting roofscape is necessary, or that providing a 'start and finish' or 'bookends' at each end of the scheme is a positive feature in principle. I also agree that opportunities for creativity and adventure should be taken; and that buildings should have satisfactory proportions. However it has not been demonstrated that a 9 storey high block is necessary to achieve these goals when height would have other harmful effects; nor has it been shown that, given the opportunities available to use articulation of the façade, materials and detailing, a lower block would necessarily have poorer proportions or be visually less attractive as part of a group.
22. To conclude on character and appearance, the gaps between the blocks would be too limited. Although there would be an appreciation of trees and sky over blocks B and C, I consider that cumulatively, the siting, bulk, orientation and height of the proposed development would significantly impede intervisibility and the perception of the open space in the marshes and Millfields on either side.

Design quality

23. The reason for refusal refers specifically to the design quality of the eastern elevation; the architectural quality of the elevations facing the river is not in dispute. The eastern elevation of the development would be most frequently and easily seen from the Lea Bridge Road travelling west. As remarked earlier, from here (unlike the view from the ice rink car park), block B would be somewhat foreshortened and the gaps between the blocks would permit only a very constrained view through, if at all. It would be difficult for a passer-by to know that the blocks were standing independent of each other and not a continuous coalescence of built form. The scheme would make an emphatic architectural statement that would attract attention because of its bulk and contrast with the surrounding semi-rural landscape. The elevational detailing and materials used would have an important role in the overall impression which would be accentuated by the lack of obvious permeability.
24. The eastern elevations would be very different to the river elevations which would display balconies, glazing and modelling of the upper floors on every block. A simpler architectural design approach has been adopted reflecting the predominant use of rooms as kitchens and bedrooms that would face eastwards. Accepting that the curves of blocks A and D have more interest, large panels of brickwork would dominate elsewhere. These would be in single planes 6 storeys high with regularly spaced modestly sized windows, broken only by the podium underneath and by vertical circulation cores which would punctuate the blocks. Whilst this is a valid design approach, I share the concern of the Commission for Architecture and the Built Environment (CABE)

that on this main entrance side, the scheme would appear austere. I accept that the materials used could have an important role in the perception of quality but that would not make up for the bland functional finishes indicated for the circulation cores and the lack of articulation and visual interest in the facades generally, which using the terminology in the SPD, would not 'lift the spirits'. The glazed cores would appear as vertical shafts of light at night that would be very obvious, facing open land. The east elevation as a whole would be typical of many other ordinary utilitarian developments that can be found in many places that do not have the special qualities or prominent visibility that this site possesses. Whilst its design may not need the detail interest appropriate for a riverside location, the scheme would face in 2 directions and would be seen from long distances. I conclude on this matter that the design quality of the eastern elevations would fail to respond appropriately to its visibility from Lea Bridge Road and the open marshes.

Other matters

25. In January 2011, the Council granted planning permission under reference 2010/0934 for a development of 124 units in 4 blocks from 5 to 7 storeys high incorporating significantly wider gaps between the blocks and a revised eastern elevational appearance. The Council considers it to be an improvement on the appeal scheme. I have considered the appeal proposal on its own merits.
26. Section 14 of the Lee Valley Regional Park Act of 1966 provides for the LVRPA to require Waltham Forest Council to refer a proposal for development to the Secretary of State if it considers that it would materially conflict with the proposals in the Park Plan. The 2011 scheme referred to above is the subject of such a request which is currently being considered. Whatever the result of that, or the prospect of a similar request in respect of the appeal scheme, it does not affect my assessment of the planning merits based on the information before me.
27. I have given consideration to the UU having regard to information provided at the Inquiry and adopted SPD *Planning Obligations*, which provides guidance on the level of contributions necessary on a tariff basis. Were I otherwise minded to allow the appeal, I consider that the provisions of the UU are directly related to the proposed development, fairly and reasonably related in scale and kind, and would be necessary to make the development acceptable. They meet the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations (2010).
28. I have taken account of all the other matters raised including the need to use land efficiently and the number of affordable housing units that the appeal scheme would generate, but do not consider that this benefit or any others would outweigh the disadvantages of its siting, bulk and height and features of its design in this location.

Conclusion

29. I conclude that the limited visual permeability and the prominent bulk and height of the proposal would not avoid an unacceptably increased sense of enclosure in Millfields and would not provide a sufficient degree of awareness or appreciation of the contrasting landscapes in MOL that exist on either side for users of that area and those using the towpath. The plain eastern elevational treatment combines with that impact to indicate that the proposed

scheme would be inappropriate in its context and would not integrate successfully into its unique landscape setting, conflicting with national guidance, the design quality aims of policies of the London Plan, and saved policies SP1, SP13, BHE1, BHE2, BHE6 and HSG4 of the Waltham Forest Unitary Development Plan of 2006. I do not find serious conflict with the aims of policy PSC1 which seeks to maintain the diversity of character and interest of different parts of the Borough; the site is unique with unusual constraints.

Paul Jackson

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

James Burton	Of Counsel, instructed by the Council Solicitor
He called	
Ron Presswell BSc PGDipUD	Programme Manager, Urban Design Team
Jon Price BSc PGDip MRTPI	Deputy Section Manager, Environment and Regeneration

FOR THE APPELLANTS:

Michael Druce	Of Counsel, instructed by DP9 Planning Consultants
He called	
Luke Emmerton BA (Hons) MRTPI	DP9 Planning Consultants
Ian Turkington DipLA CMLI	Whitelaw Turkington
Julian Lockwood BA (Hons) Int DipArch DipUD	Chetwoods Architects
Colin Pullan BA (Hons) DipUD	RPS Planning

INTERESTED PERSONS:

Stephen Wilkinson	Head of Planning and Strategic Partnerships, Lee Valley Regional Park Authority
Laurence Elks	Lea Valley Federation
David Rees	Lea Valley Federation
John Gilbert	CPRE
Katy Andrews	Local resident
Cllr Ian Rathbone	London Borough of Hackney
Del Brenner	Regents Network

DOCUMENTS

- 1 Letter of Notification.
- 2 List of relevant Core Documents, provided by the appellants.
- 3 Proof of evidence and appendices from Stephen Wilkinson of the
Lee Valley Regional Park Authority.
- 4 Scheme comparison plans and accompanying email from
Chetwoods, provided by the Council.
- 5 Missing page providing comparison plans from Mr Pullan's
appendix 8 (DAS 2010 scheme), provided by the appellants.
- 6 Extract from London Housing Design Guide, Interim Edition,
provided by the appellants.
- 7 Addendum to Officers' report on 2010 scheme, provided by the
appellants.
- 8 Secretary of State's decision and Inspector's report on

- development of flats at Leaside and Middlesex Wharves, ref APP/U5360/A/03/1127996, provided by the appellants.
- 9 Page 19 from Urban Design Compendium concerning context, provided by the appellants.
- 10 Northern Olympic Fringe Area Action Plan, Preferred Options, dated January 2011, provided by the Council.
- 11 Email dated 21 January 2011 from Stephen Wilkinson of the Lee Valley Regional Park Authority confirming the status of the Park Development Framework.
- 12 Letter dated 20 January 2011 from Campbell Matheson.
- 13 Statement and bundle of appendices submitted by Del Brenner on behalf of The Regent's Network.
- 14 Letter dated 18 January from Beryl Foster, Assistant Director Legal and Property Services for the Lee Valley Regional Park Authority.
- 15 Statement of the Lea Valley Federation.
- 16 Strategic Policy Framework of the Lee Valley Regional Park Plan, submitted by the Lee Valley Regional Park Authority.
- 17 Table of heights of the appeal scheme relative to the 2010 approved scheme, with Inspector's note confirming verbal submission on Day 5 by Chetwoods of height of Taylor Wimpey scheme at 28200 AOD.
- 18 Complete copy of the 2010 DAS as submitted to the Council, supplied by the Council.
- 19 Planning Obligations Supplementary Planning Document supplied by the Council.
- 20 Statement from the Lea Valley Federation, supplied by David Rees.
- 21 Formula for calculating education S106 contributions and relevant email, supplied by the Council.
- 22 Suggested condition relating to additional land forming part of appeal site, supplied by the Council.
- 23 Letter dated 9 February 2011 from Chetwoods architects.
- 24 Signed and dated S106 undertaking.