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## Appeal Decision

Hearing held on 10 May 2016

Site visit made on 10 May 2016

**by Jonathan Price BA(Hons) DipTP MRTPI DMS**

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

**Decision date: 20<sup>th</sup> June 2016**

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**Appeal Ref: APP/Y1945/W/15/3139582**

**23, 25, 25A St John's Road, Watford, Hertfordshire WD17 1PZ**

- 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 The Seventh Day Adventist Association Limited against the decision of Watford Borough Council.
  - The application Ref 15/00413/FULM, dated 13 March 2015, was refused by notice dated 8 October 2015.
  - The development proposed is demolition of existing buildings, originally three detached dwellings, now linked and used as offices. Erection of two blocks of flats including affordable housing.
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### Decision

1. The appeal is allowed and planning permission is granted for demolition of existing buildings, originally three detached dwellings, now linked and used as offices. Erection of two blocks of flats including affordable housing at 23, 25, 25A St John's Road, Watford, Hertfordshire WD17 1PZ in accordance with the terms of the application, Ref 15/00413/FULM, dated 13 March 2015, subject to the conditions set out in the Schedule attached to this decision.

### Main Issue

2. The main issue in this case is the effect of the development on the character and appearance of the area.

### Reasons

3. The appeal site is situated to the west, and at the rear, of two large, multi-storey office buildings, 55-57 and 59 Clarendon Road, which reflect the character of large-scale commercial development along this street. The building at No 59, which houses Watford Housing Trust, occupies a corner position and has a substantial return frontage onto St John's Road, opposite to the Magistrates' Court. The existing buildings on the appeal site front onto St John's Road adjacent and to the west of the Watford Housing Trust building. Although currently in office use these buildings largely retain their former residential character and are of a scale and position similar to the frontage housing that continues to the west along this side of the road.
  4. To the rear of these frontage buildings is undeveloped land, occupied mainly as car parking and situated between the rear of 55-57 Clarendon Road and the backs of terraced housing along Albert Street North, which extends further
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- behind Nos 25 and 25a to provide an L-shaped site. This land is proposed to be redeveloped with two blocks of flats, one fronting onto St John's Road on the site of the existing buildings and the second, sited perpendicular, occupying the vacant land to the rear.
5. The Council's concern is not with the overall density resulting from the proposed forty flats or with the principle of housing here but with the design of the development. This is principally in relation to the prominent Block 1 frontage onto St John's Road not adequately reflecting the residential context of this location and therefore being out of character and appearing as over-development.
  6. At the hearing the Council, and interested parties, explained their concerns in more detail. These can be summarised as a desire for a design approach which better reflected the adjacent residential development rather than what was considered a continuation of the character and scale of the office buildings. The appellants explained the significant amount of pre-application discussion which had resulted in a design approach which reflected the site's context as the transition between the large scale offices on Clarendon Road and the smaller scale residential development on St John's Road.
  7. Some interested parties expressed a desire for a scheme of a more traditional residential character matching the scale of the existing buildings. The Council and other interested parties had no objection in principle to the contemporary design proposed or to the stepping down in scale of the frontage away from the adjacent office building. The hearing resumed at the site visit at which the nearby Westland Suite development was pointed out as a design approach that some interested parties found more successful.
  8. Interested parties drew my attention to the locally-listed status of the municipal buildings on the opposite side of St John's Road. However, taking account of the requirements in paragraph 135 of the National Planning Policy Framework (the Framework), I am satisfied that this proposal would result in no harm or loss to the significance of these buildings as non-designated heritage assets.
  9. Whilst the existing buildings on the appeal site are of some historical interest, to which interested parties have made reference, they are not listed or within a conservation area. I do not consider them of sufficient merit to justify their retention and conversion as an option preferable to the redevelopment proposed. The scheme would, however, meet the requests that have been made that the plaque relating the origins of the existing buildings be reclaimed and incorporated into the front façade of Block 1.
  10. Reservations were expressed over the materials proposed and in particular the Corten steel panels. Whilst advocating this as a suitable material, the appellants were prepared to accept a condition reserving approval for all external finishes.
  11. Having heard the evidence given, I have reached the view that this proposal would provide for a high standard of contemporary design that responds well to the context of this site. Block 1 would provide for a successful transition between the tall office buildings on Clarendon Road and the residential development along St John's Road and to the west. The staged reduction in height of the components to Block 1, from five to three storeys, would provide

for a well-designed modern frontage that both moderates and screens the present impact of the contrasting scale of the adjacent business properties. It would provide a graduation in height that would respect the scale of the adjacent housing such that the development would not have the appearance of being over-development.

12. Block 2 would combine with Block 1 to provide a comprehensive scheme that would make effective use of the site, divided by well-designed and landscaped communal open spaces, with a development of an appropriate scale and design for the space between the housing and office developments.
13. This proposal would be of a good quality, contemporary design appropriate to the transitional nature of this site and would make a positive contribution to both the character and appearance of the area. Therefore it would satisfy the requirements of Policies SS1 and UD1 of the Watford Local Plan Core Strategy 2006-31 (WLPCS) and the Residential Design Guide<sup>1</sup> (RDG).

### **Other Matters**

#### *Loss of employment site*

14. Whilst the main part of the appeal site is within a residential area, where the Council accepts the principle of redevelopment for housing, the part occupied by No 23 is within Employment Area E7A as shown in the Watford District Plan 2000 (WDP) Proposals Map. This part of the appeal site is therefore protected for employment use through WLPCS Policy EMP2 and saved WDP Policy E1. Although the Council considers there remains a need for future office space in Watford, it does not consider No 23 offers the kind of modern, open plan office space for which there is a demand. In the context of this larger comprehensive residential scheme, the Council has accepted the departure from its policies over the loss of office space involved and I concur with this.

#### *Living conditions*

15. The western part of Block 1 would not be of such a height or depth, compared to the existing No 25A, to have any materially harmful impact upon the outlook from, or availability of light to, the adjacent flats in 27 St John's Road. The west-facing elevation would only have a small second floor side window, which could be obscure-glazed, and the proposal would therefore not result in any over-looking or loss of privacy to these neighbours.
16. The three-storey Block 2 would be situated with its west facing elevation some 13m from the rear boundaries of the dwellings along the adjacent part of Albert Road North and would be around 28m from their rear elevations. Block 2 would be of a similar height to these existing houses. To the rear these dwellings currently view the 25m high office block at 55-57 Clarendon Road.
17. With the large offices already to the east, Block 2 would not cause any further loss of light or over-shadowing to the neighbouring dwellings on Albert Road North or to those to the south on Monmouth Road. Set towards the eastern edge of the site, against the considerably larger office block, Block 2 would not have a significantly over-bearing impact on the rear outlook from these neighbouring dwellings.

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<sup>1</sup> Watford Borough Council Residential Design Guide – adopted July 2014.

18. The RDG seeks a minimum 27.5m separation distance between the rear elevations of existing and new houses. Although Block 2 meets this distance it would involve flats, and include windows to main habitable rooms at a first and second floor-level. However, I consider there would be sufficient separation between these and the rear windows of the dwellings to the west not to result in material harm to the living conditions of these occupiers due to over-looking and loss of privacy. To further avoid any loss of privacy no balconies are proposed to Block 2 and the flat-roofed parts to the sides are not intended to be roof gardens.
19. Any impact arising from this proposal would be ameliorated through the landscaping proposed within the site and along the western boundary. The free-standing bin storage building sited to the rear of 5 and 6 Albert Road North, if properly managed, should not harm living conditions by resulting in smell or by attracting vermin. Any potential future problems could be addressed by the Council under its environmental health powers.
20. The separate vehicular and pedestrian accesses into the site would be provided with a controlled entry system and, therefore this proposal would not prejudice the security of neighbouring dwellings. Given the limited provision of on-site car parking proposed, the occupation of this development would not likely give rise to undue noise and disturbance beyond that which might reasonably be expected within an urban residential area. No valuable trees would be lost and the removal of the existing greenery in this site would be compensated for by the landscaping proposed.

#### *Car parking issues*

21. Only four car parking spaces are to be provided, adjacent to Block 2, two of which would be reserved for disabled users. The proposal therefore essentially amounts to a car free development. Interested parties referred to the existing heavy traffic in this area and the particular problems caused by the pressure on available on-street parking, including the difficulties this caused in accessing private spaces.
22. The main concern of interested parties was that the lack of on-site car parking provision was impractical for a scheme of forty flats and that the availability public transport was not comparable to central London and residents would likely need a car. The lack of spaces would result in occupiers finding parking further afield adding to problems elsewhere or, outside the restricted Controlled Parking Zone (CPZ) hours, would deprive existing residents, with permits, space to conveniently park. Reference was made to the location of the site close to an area with a thriving night time economy and the parking pressures ensuing as a result.
23. The Council, however, considered the proposal to be in a location, highly accessible to public transport and in close walking distance to a wide range of daily required services and facilities, suitable for car free residential development in accordance with WDP Policy T26. Subject to the future occupiers of the development not being entitled to on-street parking permits, the Council was satisfied that the parking concerns of interested parties could be addressed. However, the situation would be monitored and parking restrictions and enforcement would generally be subject to future review.

24. Whilst appreciating the concerns of interested parties, I consider the location of this proposal suitable for a car free development subject to measures to prevent future occupiers gaining permits for on-street parking within the CPZ.

*Local services*

25. Interested parties raised concerns over the ability of local services, such as the local medical practice, to support a development of this size. The Council considered that as the development would be chargeable under the Community Infrastructure Levy (CIL) it would contribute towards the services upon which it would depend. I consider there to be insufficient grounds to consider the development would place unacceptable pressure on local supporting services.

**Conditions**

26. A schedule of conditions was agreed by the main parties at the hearing and consideration has been given to this. In addition to the standard time limit a condition is necessary, in the interests of certainty, that the development be carried out in accordance with the submitted plans, including the Flood Risk Assessment and Drainage Strategy needed to secure sustainable surface water management.
27. To allow the Council to retain control of over certain matters, pre-commencement conditions must be satisfied. In the interests of character and appearance these include agreement to all external finishes and, in the interests of the living conditions of surrounding residents, to a Construction Environmental Management Plan.
28. A condition is necessary for all means of enclosure to be provided to agreed details before first occupation in the interests of the satisfactory appearance of the development and to secure privacy for current and future occupiers.
29. A condition is necessary to secure the implementation of the approved hard and soft landscaping measures and the on-site access and parking spaces prior to occupation. Another condition requires the free-standing bin/cycle store to be installed and maintained to agreed details.
30. In the interests of the living conditions of nearby residential occupiers a condition prevents demolition and construction work taking place on Saturday afternoons, Sundays and Bank Holidays and outside of 0800 – 1800 on other days.
31. To safeguard the privacy of neighbouring occupiers it is necessary that conditions prevent the use of any flat-roofed areas as terraces, balconies or open amenity spaces and that the west facing second floor window in Block 1 and all east facing windows in Block 2 are installed and maintained as non-openable below 1.7m/obscure-glazed.
32. In the interests of highway safety conditions are necessary to prevent further means of enclosure along the site frontage (beyond that agreed under condition 5) and to reinstate the highway where previous access points, not part of this development, are removed.
33. To address any land contamination, conditions require an intrusive site investigation into ground conditions and the implementation of any remediation and protection measures that are identified as a result of this.

### **Unilateral Undertaking**

34. The Council implemented a CIL charging schedule on 1 April 2015 and this development would be liable for CIL charges contributing to defined infrastructure and community facilities within the Borough. The appellant has provided a Unilateral Undertaking (UU) which commits to meeting three site specific requirements which would not otherwise be met through the CIL.
35. The first requirement would secure 14 of the 40 proposed flats as affordable housing units necessary to meet WLPCS Policy HS3. The second concerns fire hydrant provision for the proposed development required under WLPCS Policy INF1 and saved WDP Policy H10. The third requires a payment to the Council to cover the cost of variations made to the relevant traffic regulation order to exclude the development from the local CPZ, such that residents of the 40 flats would not be entitled to residents' parking permits, which would be necessary for the proposal to accord with WDP saved Policy T26.
36. I have considered the UU and conclude that it would be necessary to make the development acceptable in planning terms, be directly related to the proposal and fairly related to it in scale and kind. I conclude therefore the UU meets the three tests in Regulation 122(2) of the CIL Regulations 2010 and Paragraph 204 of the Framework.

### **Conclusions**

37. The proposal would gain strong support through the presumption in favour of sustainable development established in the Framework by making effective use of previously developed land to help boost the general supply of housing in a location accessible to public transport and to services by means other than through private car use. For the reasons set out above, having taken into account all other matters raised, I conclude that this appeal should be allowed.

*Jonathan Price*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Ruth Reed BA DipArch MA PGCertEd PPRIBA	Green Planning Studio
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Jane Duncan BSc DipArch PRIBA	Jane Duncan Architects
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### **FOR THE LOCAL PLANNING AUTHORITY:**

Councillor Rabi Martins	Chair of Development Management Committee
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Habib Neshat	Team Leader Development Control
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Simon Hoskin BA(Hons) MA MRPTI	Principal Planning Officer
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### **INTERESTED PERSONS:**

Kim Gault-Clark BSc(Hons) MA MRTPI	Local Resident
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Jide Ogunsanwo	Local Resident
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Reverend Ian Pankhurst BA(Hons) MA	Local Resident
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Jan Crofts	Local Resident
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David Full	Local Resident
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Clive Bennett	Local Resident
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Peter Stephens	Local Resident
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Peter Young BSc IEE	General Secretary Central Town Residents Association
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## **DOCUMENTS SUBMITTED AT THE HEARING**

Extract from Watford Borough Council Monitoring Report 2015 – page 39 Five Year  
Housing Land Supply Assessment

Agreed Schedule of suggested conditions

### **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/documents: DAT/9.0, DAT/9.1 Rev A, DAT/9.2 Rev B, SJR-412-001, SJR-412-1.00 Rev B, SJR-412-1.01 Rev B, SJR-412-1.02 Rev A, SJR-412-1.03 Rev D, SJR-412-1.04 Rev B, SJR-412-1.10, 080-PL-001 Rev A, 080-PL-002 Rev A, 080-PL-003 Rev A, 080-PL-004, Flood Risk Assessment and Drainage Strategy MT/NWK/JN2063/FRA-Rev A.
- 3) Notwithstanding the information already submitted, no construction of buildings above damp proof course level shall commence until details of the materials to be used for all external finishes of the buildings, including all external walls, doors, roofs, windows, balconies and canopies, rainwater and foul drainage goods, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.
- 4) No demolition or construction work shall commence within the site until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details temporary access for demolition/construction vehicles, contractors parking, the hours for the delivery and arrangements for storage of materials, measures to mitigate noise and dust, wheel washing facilities, plant and equipment and a contact procedure for complaints. The Plan approved shall be implemented throughout the relevant demolition and construction periods.
- 5) Notwithstanding the information already submitted, details of the means of enclosure (including the siting, height, type, materials and finishing of all fencing, walls, gates or other means of enclosure around the boundaries of the site and within the site) shall be submitted to and approved in writing by the Local Planning Authority prior to either the installation of any means of enclosure or first occupation of any part of the development, whichever is the sooner. All fencing, walls, gates or other means of enclosure shall be provided in accordance with the approved details prior to the first occupation of any part of the development and shall be maintained as such at all times thereafter.
- 6) The hard and soft landscaping shall be carried out in accordance with the details shown on drawings 080-PL-001 Rev A, 080-PL-002 Rev A, 080-PL-003 Rev A and 080-PL-004. With the exception of the proposed planting, all works shall be completed prior to the first occupation of any part of the development. The proposed planting shall be completed not later than the first available planting and seeding season after the first occupation of any part of the development. For the purposes of this condition a planting season is the period from 1 October in any one year to 31 March in the following year. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting



- season with others of similar size and species, or in accordance with details approved in writing by the Local Planning Authority.
- 7) No dwelling shall be occupied until the access to St John's Road and the on-site parking, manoeuvring and driveway areas have been laid out and constructed in accordance with the approved drawings and made available for use and these facilities shall thereafter be kept clear of any obstruction and not used for any purpose other than for the access, parking and manoeuvring of vehicles.
  - 8) Notwithstanding the information already submitted, details of the size, type, siting and finish of the free-standing refuse and recycling/cycle storage enclosure shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any part of the development hereby approved. The store approved under this condition shall be installed and made available for use prior to the first occupation of any part of the development and shall be retained at all times for refuse/recycling/cycle storage and shall not be used for any other purpose.
  - 9) Demolition or construction works shall take place only between 0800 – 1800 Monday to Friday, between 0800 – 1300 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
  - 10) The proposed second floor window on the west-facing elevation of the building referred to as Block 1 on the drawings hereby approved and all windows on the east-facing elevation of the building referred to as Block 2 shall be permanently fixed closed below 1.7m internal floor level and shall be fitted with obscured glass at all times.
  - 11) No parts of the flat roofs of the development shall be used as terraces, balconies or other open amenity spaces.
  - 12) With the exception of the means of enclosure approved under condition 5, no gates or other means of enclosure shall be erected along the site frontage across the vehicular access or elsewhere on the site without the prior written approval of the Local Planning Authority.
  - 13) Upon completion of the development and the altered access being brought into use, all other existing access points not incorporated in the development hereby permitted shall be stopped up by raising the existing dropped kerb and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway, verge and highway boundary.
  - 14) Prior to the commencement of the development hereby permitted a Phase II contamination report shall be submitted to and approved in writing by the Local Planning Authority. If the Phase II report established that remediation or protection measures are necessary a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority. For the purposes of this condition a Phase II Report consists of an intrusive site investigation and risk assessment. The report should make recommendations for further investigation and assessment when required. A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.

- 15) All contamination remediation and protection measures identified in the Remediation Statement referred to in Condition 14 shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement and a Site Completion Report shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any part of the development hereby permitted. For the purposes of this condition a Site Completion Report shall record all the investigation and remedial and protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.

---End of Schedule---