
Appeal Decision

Site visit made on 11 October 2016

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 21 November 2016

Appeal Ref: APP/Y1945/W/16/3151749

Land adjoining and associated with the Red Lion Public House and associated stables, 105 Vicarage Road, Watford WD18 0EY

- 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 Mrs Anna Reza against the decision of Watford Borough Council.
 - The application Ref 16/00018/FUL, dated 6 January 2016, was refused by notice dated 7 April 2016.
 - The development proposed is redevelopment of vacant land to provide 8 self-contained flats.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of vacant land to provide 8 self-contained flats on land adjoining and associated with the Red Lion Public House and associated stables, 105 Vicarage Road, Watford WD18 0EY in accordance with the terms of the application, Ref 16/00018/FUL, dated 6 January 2016, subject to the conditions set out in the schedule at the end of this decision.

Procedural Matters

2. The address of the appeal site was missing from the planning application form and incorrect on the appeal form. I have therefore used the address contained in the decision notice.
3. A completed legal undertaking under S106 of the 1990 Act was submitted by the appellant during the appeal process. This would provide for a financial contribution to enable the Council to vary the controlled parking zone in the surrounding area of Watford, to exclude future residents of the proposed development from obtaining a parking permit in the area. It would also ensure the provision of fire hydrants to serve the proposed development. The undertaking is certified and signed by the land owner. I am satisfied that it meets the necessary legal requirements and policy tests set out in Section 106 of the Act, regulation 122 of the Community Infrastructure Levy Regulations (2010) as amended and paragraph 204 of the National Planning Policy Framework (the Framework). Therefore, I have taken it into account in reaching my decision.

Main Issue

4. The main issue in this appeal is whether or not the proposed development would preserve or enhance the character and appearance of The Square Conservation Area.

Reasons

Character and Appearance

5. The appeal site comprises an area of undeveloped land adjacent to the Red Lion Public House and stables. It is located within The Square Conservation Area, constituting part of the Vicarage Road frontage which forms the south-eastern boundary to the Conservation Area.
6. The special architectural and historic interest of The Square Conservation Area is as an example of Watford's urban expansion in the Victorian period. As such, the principal part of the Conservation Area, which defines its character and appearance, is the rectangular layout of original Victorian terraced housing formed by Aynho Street, Banbury Street, Souldern Street and Oxford Street, which backs onto the appeal site. The Red Lion Public House, which is locally listed along with its former stable block, also provides an attractively detailed example of Victorian architecture at the entrance to the Conservation Area.
7. The Vicarage Road frontage to the Conservation Area, however, is more varied in character. The Red Lion Public House and former stables clearly make a positive contribution to the character and appearance of the area. The properties to the immediate south-west of the appeal site extend the Victorian residential development along Vicarage Road. But due to alterations and the loss of some of their original features, they make a more limited contribution to the architectural and historic interest of the Conservation Area as a whole.
8. The appeal site itself, although formerly open space as part of the curtilage of the Red Lion, is now disused as such and fenced off. Although referred to as a green space within the Conservation Area, I note that it is not marked as such on the Conservation Area Character Appraisal plan. Its principal contribution to the character and appearance of the Conservation Area is derived from the landscaped setting provided by the mature trees on the site, which help to soften views of the backs of the houses in Oxford Street from Vicarage Road. The setting of the Conservation Area along Vicarage Road is also dominated by the presence of the football stadium, which lies directly opposite the appeal site.
9. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering development within a conservation area, special regard shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Paragraph 132 of the Framework expects great weight to be given to a designated heritage asset's conservation. Policies UD1 and UD2 of the Watford Local Plan Core Strategy 2006-31 (2013) (the Core Strategy) and saved Policy UD18 of the Watford District Plan (2003) (the District Plan) also seek development which will respect local character and preserve and enhance the borough's historic environment, including conservation areas.
10. The appeal scheme proposes a contemporary design approach to the redevelopment of the site. Given the varied architecture and streetscape along Vicarage Road this would not be out of context. I recognise that the flat roofed and fronted design of the two blocks proposed would not reflect the traditional, pitched roof, bay window architecture typical of the Victorian buildings within the Conservation Area. However, the simplicity of their design would not compete with this architecture, particularly with the more ornate detailing of

the adjacent Red Lion Public House. The two storey height of the blocks would respect that of the terraced housing to the rear and would align with the eaves height of the Red Lion. The spacing between and around the buildings would relate well to the buildings either side and their position at the back edge of the footpath would reflect the characteristic building line of development along this section of Vicarage Road. The use of red brickwork would match that of the adjoining stable block and respect the palette of materials found in the Conservation Area.

11. The proposal would result in the loss of three of the four mature trees on the site. However, the arboricultural report submitted with the appeal shows these to be of low or poor quality. They would be replaced by trees along the Vicarage Road frontage, which could be secured by condition. Whilst the remaining Sycamore tree would also require crown lifting and reduction to accommodate the proposed scheme, combined with the replacement trees it would continue to provide amenity value within the street scene. The retained and replacement trees would also help to soften the development and the glimpsed views of the properties in Oxford Street in the spaces between the new blocks.
12. On this basis, I conclude that the proposed development would preserve the character and appearance of The Square Conservation Area. Therefore, the proposal would meet with the expectations of the Act and be consistent with paragraph 132 of the Framework. It would also accord with Policies UD1 and UD2 of the Core Strategy and saved Policy UD18 of the District Plan.

Other Matters

13. Particular concerns have been expressed by occupiers of the houses in Oxford Street which back onto the appeal site about the potential effect of the proposed development on their outlook and privacy and the degree of sunlight and daylight penetrating their properties. I acknowledge that the outlook from the rear of the properties in Oxford Street would change from a relatively open aspect and view of the existing trees and stadium beyond to one of the proposed flats. However, the resulting outlook would not be untypical of a normal back to back relationship between dwellings in a residential area. The separation distances would be between 18-24 metres, comparable to the back to back distances between properties in Oxford Street and Souldern Street. The proposed blocks would be two storeys in height and although the gradient of the gardens of the properties in Oxford Street slopes down to the shared boundary, the ground level at the rear of the properties would be comparable to that at the rear of the flats. Therefore, the height and proximity of the flats would not be overbearing.
14. With regard to sunlight and daylight, although the proposed development would be to the south-east of the properties in Oxford Street, applying the 25 degree rule in the Council's Residential Design Guide (2016) (RDG) indicates that daylight and sunlight levels into the ground floor rear facing habitable room windows would not be adversely affected. Applying the same principle to the garden areas of the properties in Oxford Street, whilst the proposed development may cause some overshadowing of the ends of the gardens, the outdoor amenity areas at the backs of dwellings would not be significantly overshadowed.

15. In terms of privacy, to prevent overlooking of the gardens and rear facing habitable rooms of the properties in Oxford Street, the windows in the north-west elevations of the flats are proposed to be glazed with obscured glass, at both ground and first floor. This could be secured by a condition, which would also need to ensure the windows would be non-opening to a height of 1.7 metres above the internal floor level. The main aspect of the habitable rooms of the proposed development would be to the front and side. Although the south-west side elevation of Block B would face 107 Vicarage Road, the separation distance of 16 metres would satisfy the guideline in the RDG.
16. I noted on site the potential for overlooking from the raised side patio areas of the flats into the rear gardens of the properties in Oxford Street, due to the difference in ground levels between the front and back of the appeal site. However, this could be mitigated by the use of appropriately sized boundary screening, which could be controlled by condition.
17. I also note the concerns about the potential effect of the proposal on parking, congestion and infrastructure in the local area. I recognise that Vicarage Road is a busy street, in a controlled parking zone with limited on-street parking and frequent traffic. However, the appeal site is close to local shops, services and employment, including schools and healthcare facilities. It is less than 1 kilometre on foot from Watford town centre and just over 1 km to the nearest railway station and other public transport services. As such it would be possible for future occupiers to avoid the use of a car and use sustainable transport modes, so minimising the generation of additional traffic in the area.
18. The appellant has proposed that the development would be car free and that future occupants could be prevented from entitlement to parking permits. The S106 unilateral undertaking submitted during the appeal provides for a financial contribution to enable the Council to vary the controlled parking zone in the surrounding area of Watford to this effect. It would satisfy the requirements of saved Policy T26 of District Plan in respect of car free residential development and be enforceable by the Council. Whilst 8 new dwellings would give rise to some delivery traffic, this could be managed from the highway or the parking bays opposite the site, without causing undue congestion.
19. In terms of local infrastructure, contributions to meet the increased demands arising from the proposed development, such as on schools, health centres, open space and sports facilities, would be covered by a Community Infrastructure Levy charge for which the development would be liable. The S106 legal undertaking also obliges the landowner to provide for fire hydrants to serve the proposed development as required by the fire service. This would accord with Policy INF1 of the Core strategy in meeting the costs of infrastructure arising from new development and the requirements of the Council's supplementary guidance note on Planning Obligation Contributions for Residential Development (2012).

Conditions and Planning Obligation

20. I have considered which planning conditions are required having regard to the tests contained in the Planning Practice Guidance and the conditions suggested by the Council. I have attached conditions limiting the life of the permission in accordance with the requirements of the Act and specifying the approved plans in the interests of proper planning. Conditions requiring the approval of

samples of the external materials and certain window and brickwork details are necessary to ensure the development respects the character and appearance of the area. Likewise conditions to ensure the protection of the retained Sycamore tree and the planting of replacement trees as part of a landscaping scheme are necessary to preserve and enhance the character and appearance of the area.

21. A construction method statement and limitation on the hours of construction work are necessary and reasonable in the interests of highway safety and the living conditions of nearby residents. Conditions to ensure appropriate boundary fencing, control the height of the finished floor levels and require obscured glass and non-opening windows below 1.7 metres above floor level on the north-west elevation of the buildings are all necessary to safeguard the privacy of the occupiers of adjoining properties in Oxford Street. Finally, I have included a condition to secure appropriate cycle storage, refuse and recycling facilities to support the operation of a car free development and in the interests of the visual appearance of the site.
22. I have not included the suggested condition regarding the routing of below ground services because measures to protect the retained tree are secured by other conditions.
23. The permission is also subject to the legal undertaking under S106 of the Act, dated 13 April 2016 and referred to in paragraphs 3, 18 and 19 above.

Conclusion

24. For the reasons given above and taking all other matters into account, I conclude that the appeal should be allowed, subject to the conditions specified and S106 legal undertaking.

M Hayden

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P001 Rev A; P002 Rev A; P003 Rev D; P004 Rev D; P005 Rev D; P006 Rev D; P007 Rev D; P008 Rev D; P009 Rev D; P010 Rev D.
- 3) No site clearance, preparatory work or development shall take place until details of tree protection measures, including tree protection fencing and ground protection, shall have been submitted to and approved in writing by the local planning authority. The tree protection measures shall be in accordance with the recommendations in the Arboricultural and Planning Impact Assessment Report (Ref: ASH/PEW/AIA/1221:15) dated 5 January 2016 carried out by Ashmore Services Limited and guidance set out in British Standard BS3998. The tree protection measures shall be carried out as approved and implemented for the duration of the construction work, unless otherwise agreed in writing by the local planning authority.
- 4) The works to the Sycamore tree T2 of Tree Preservation Order No. 259 shall be carried out in accordance with the recommendations in Appendix B of the Arboricultural and Planning Impact Assessment Report (Ref:ASH/PEW/AIA/1221:15) dated 5 January 2016 carried out by Ashmore Services Limited and in accordance with the guidance set out in British Standard BS3998.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) Deliveries, demolition and construction works shall take place only between 08.00 hours and 18.00 hours on Mondays to Fridays and 08.00 hours and 13.00 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 7) No development shall take place until details of a hard and soft landscaping scheme and works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - i) construction of the new tree planting pits, including details of irrigation and root trainers;
 - ii) boundary treatments and all fencing within the site;

- iii) hard surfacing materials;
- iv) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. 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 by the local planning authority.

- 8) Notwithstanding condition 2 no development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 9) Notwithstanding condition 2 no development shall take place until details of the siting, size and design of refuse, recycling and cycle storage have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the storage facilities have been installed in accordance with the approved details. The storage facilities shall be retained at all times.
- 10) No construction works above damp proof course level shall commence until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
- 11) No construction works above damp proof course level shall commence until detailed drawings of the window and door reveals, recessed sections, brick detailing and capping to walls of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 12) The development hereby permitted shall not be occupied until the windows in the north-west elevations of the buildings have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.