

DEVELOPMENT MANAGEMENT COMMITTEE

4 JUNE 2015

Present: Councillor R Martins (Chair)
Councillor G Derbyshire (Vice-Chair)
Councillors S Johnson, I Sharpe, T Williams, M Whitman, N Bell,
M Turmaine and S Williams

Officers: Development Management Section Head
Major Cases and Enforcement Manager
Senior Planning Officer (Development Control)
Committee and Scrutiny Support Officer (RC)

1 APOLOGIES FOR ABSENCE/COMMITTEE MEMBERSHIP

Apologies were received from Councillor Bashir. Councillor S Williams replaced Councillor Bashir.

2 DISCLOSURE OF INTERESTS (IF ANY)

There were no disclosures of interest.

3 MINUTES

The minutes of the meeting held on 14 May 2015 were submitted and signed.

4 42 DURBAN ROAD WEST

The Committee received a report from the Development Management Section Head including the relevant planning history of the site and details of five responses to the application.

The Chair invited Mr Osowski to speak to the Committee in favour of the application.

Mr Osowski stated he had lived in the Watford area and owned the property for many years. He noted that the new flat would be for his daughter.

He highlighted that the build would be highly energy efficient and well insulated. The benefits would be generated for all of the flats, not just the new one. The development itself would reuse materials which would avoid waste and reduce the need to bring new materials onto the site. He described the development as being beneficial to all occupants and the surrounding area.

The Chairman opened the debate to the Committee Members.

Councillor Turmaine questioned how the removal of the tree in the garden and its replacement with 'shrubbery' would be monitored. The Senior Planning Officer stated that a condition had been included in the officer's recommendation requiring an approved plan for landscaping to avoid the whole forecourt becoming paved. However, the tree was not protected by a Tree Preservation Order so there was nothing to stop the applicant from removing the tree.

Councillor Turmaine also asked how the new flat would be excluded from the controlled parking zone and what would stop the occupant from using parking 60 seconds away, outside of the controlled parking zone. The officer noted that the s.106 agreement included a £2000 contribution towards the variation of the Watford (Watford Central Area and West Watford Area) (Controlled Parking Zones) (Consolidation) Order 2010 so as to exclude future residents of the new flat from entitlement to resident parking permits for the controlled parking zones in the vicinity of the site in accordance with saved Policy T24 of the Watford District Plan 2000. The officer noted that there was nothing to stop the occupier of the new flat parking in non-controlled parking zones; however, most of West Watford was controlled.

Councillor Bell noted that the development had been described as a refurbishment; however, the development was essentially the creation of a new flat. He found the development difficult to oppose though he believed the proposals would leave the site cramped. He questioned whether the benefits of the development would also improve the existing flats. The officer clarified that external wall insulation would be introduced for the existing flats as well as creating a new flat in the loft space. The officer also noted that any legal issues between the landlord and the leaseholders of the existing flats were a private matter and outside the planning system.

The Chair moved the officer recommendation.

RESOLVED:

That, in consequence of a unilateral undertaking under s.106 of the Town and Country Planning Act 1990 (as amended) having been entered into to secure a financial contribution to the Council of £2000 towards the variation of the Borough of Watford (Watford Central Area and West Watford Area) (Controlled Parking Zones) (Consolidation) Order 2010 so as to exclude future residents of the new flat from entitlement to resident parking permits for the controlled parking zones in the vicinity of the site, in accordance with saved Policy T24 of the Watford District Plan 2000, planning permission be granted subject to the following conditions:

Conditions

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.

2. Construction of the development hereby permitted shall not take place before 8am or after 6pm Mondays to Fridays, before 8am or after 1pm on Saturdays and not at all on Sundays and Public Holidays.
3. The new flat shall not be occupied until full details of all hard and soft landscaping works (including details of how rainwater falling on the new hardstanding will be disposed of) have been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be carried out not later than the first available planting and seeding season after completion of the development. 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.
4. The walls (including those parts that have been clad in external insulation) shall be finished in materials to resemble the existing walls in terms of their colour, texture and style. This means that the ground floor shall be finished in red bricks or red brick slips, and the first floor shall be finished in render. The roof tiles shall resemble those used on the existing house. The frames of the windows in the front elevation of the side extension shall be white to match the colour of those used in the existing building.
5. No windows or doors, other than those shown on the plans hereby approved, shall be inserted in the walls or the roof of this development unless otherwise approved in writing by the Local Planning Authority.
6. The proposed rear dormer window serving the bathroom of the new flat shall be fitted with obscured glass at all times and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.

Informatives

- 1 The planning officer's full report gives more detail than is to be found in the Decision Notice. The full report can be obtained from the Council's website www.watford.gov.uk, where it is to be found as an appendix to the agenda of the meeting of the Development Management Committee of 4 June 2015. Alternatively a copy can be provided on request by the Regeneration and Development Department.
- 2 In dealing with this application, Watford Borough Council has considered the proposal in a positive and proactive manner having regard to the policies of the development plan as well as paragraphs 186 and 187 of the National Planning Policy Framework and other material considerations, and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015.
- 3 This planning permission is accompanied by a planning obligation in the form of a unilateral undertaking, which is binding upon the owners and

their successors in title. It obliges the owners to make a contribution towards the costs of the varying of the local traffic regulation order when work commences on implementing this permission. It includes an obligation to inform the Local Planning Authority when work commences by contacting the Section 106 Co-Ordinator in the Regeneration and Development Department. The effect of the planning obligation will be to exclude residents of the new flat from entitlement to permits for the local Controlled Parking Zone.

- 4 The development will involve the creation of an address for a new flat. The applicant must apply to the Council to allocate a street number or name. This is a requirement of the Public Health Act 1925. Applications for this purpose should be made to the Local Land and Property Gazetteer Officer at Watford Borough Council, Town Hall, Watford, WD17 3EX.

5 **19 KING STREET**

The Committee received a report from the Development Management Section Head including the relevant planning history of the site.

The Major Cases and Enforcement Manager stated that the application before the Committee was a duplicate of application 14/01574/FULM. The only difference was the issue of whether vacant building credit should apply to the application. He highlighted that little guidance from government existed in relation to the policy, the extent of which was set out in the officer's report.

The officer stated that the Committee needed to ask themselves two questions. First, was the building genuinely vacant? Second, if the building was genuinely vacant, what weight should be given to the fact?

The officer stated that the purpose of the policy was to incentivise the development of vacant brownfield land; however, the property had been purchased by the developer only one month after the previous owner had closed their business and planning permission had been granted with a viability appraisal demonstrating development was viable. Thus the need for an incentive to develop the site no longer existed.

The officer highlighted that the reasons for refusal in the officer's original recommendation needed to be amended as per the update sheet. The applicant had submitted a completed s.106 unilateral undertaking to provide the following obligations:

- i) A financial payment of £2,000 to the Council to vary the local Traffic Regulation Order to exclude the development from the controlled parking zone.
- ii) A financial payment of £1,500 for the remarking of parking bays on Granville Road outside the site.

- iii) The provision of fire hydrants, as necessary, to serve the development.
- iv) The provision of one unit of affordable housing.

Obligations i), ii) and iii) had overcome reasons for refusal 2 and 3 in the recommendation and those reasons could therefore be deleted.

Obligation iv) provided for the level of affordable housing provision that would be required if vacant building credit were to be applied to the development. For the reasons given in the report, officers did not accept that the vacant building policy applied in this case. Consequently, reason for refusal 1 in the recommendation was still relevant, although it needed to be amended to reflect the obligation to provide one unit of affordable housing.

The Chair invited Mr Simon Warner to speak to the Committee in favour of the application.

Mr Warner stated that the definition provided by the Planning Advisory Service for vacant was “not abandoned”. Using this definition, he stated that Mecca Bingo had ceased trading on 9th November 2014 and that the building had remained vacant since; therefore the applicant should receive a ‘vacant building credit’, contrary to the officer’s interpretation of the policy. The scheme offered developers a financial credit equivalent to the existing gross floorspace of relevant vacant buildings being brought back into use when the Local Planning Authority calculated any affordable housing contribution to be sought.

Mr Warner also highlighted case law and ministerial statements which supported his submissions, describing his interpretation of the policy as in line with the Coalition Government’s desire to encourage development of brownfield sites.

He noted that the matter had not been included in the previous application as he had been informed by officers that the Council did not recognise the policy. The Council had now changed its position on the matter and he believed the applicant was now being penalised for not including the matter in their earlier application. He questioned the fairness of the Council’s actions in this regard.

The Chairman opened the debate to the Committee Members.

Councillor Derbyshire stated that he had been extremely reluctant to approve the previous application where the affordable housing had been reduced from eight to four. He believed the applicant was being opportunist to then bring the application back to the Committee only six weeks later and say they could provide one unit not four. He noted that the matter was open to interpretation and clarity would be provided as cases came forward. However he could not support the application when six weeks earlier they had conceded they could provide four affordable homes.

The Chair noted that the applicant was within his rights to bring the application and that Councillors had to look at the application before them and consider

what was the right way forward. He highlighted that the question Members needed to ask themselves was whether vacant building credit should be applied.

Councillor Bell stated that the vacant building credit policy was not a blanket policy. He saw the policy as a means of releasing empty buildings for development which would otherwise remain vacant for a long time. However he did not believe this to be the case with the application site which had been bought by the developer immediately. He noted that he agreed with the officer's assessment of the situation.

Councillor T Williams agreed with other Members, describing the application as opportunistic. He believed the developer had made the building vacant to allow for a claim for vacant building credit to be made. He noted that the developer was a business seeking to make a profit and as such would act accordingly; however, the Committee had the right to disagree.

Councillor Johnson expressed dissatisfaction with the reduction of affordable housing when the previous application had been approved. He considered the application before the Committee as a 'second bite of the same cherry'. He highlighted that Watford needed affordable housing and that the developer's actions were bad for their public relations. He hoped the Watford Observer would highlight to its readership that the developer was trying to get out of building affordable housing.

Councillor Sharpe described vacant building credit as an emerging area of planning law. He stated clarification would be given in time. Councillor Sharpe believed it was important to look to at the purpose of the policy which was to incentivise the development of brownfield land where there were problems with viability. However the current application site had planning permission and a viability assessment had shown development was viable. He also noted that just because another Council treated the matter in a different manner did not make Watford Borough Council's approach wrong, as each Council had their own considerations to take into account.

Councillor S Williams expressed unhappiness with the present application as it attempted to reduce the number of affordable housing units further. He highlighted a recent Shelter report which stated there was not enough affordable housing in Watford. He believed that the developer should respect the decision of the Local Authority.

The Major Cases and Enforcement Manager clarified that having existing planning permission did not necessarily mean development was always viable. For example, directly after the financial crisis in 2007-2008 the property market crashed leaving sites with planning permission mothballed. However this was not the case with the present application where the property market had in fact improved over the last three months.

The Chair stated that he was very disappointed with the developer for trying to avoid providing affordable housing when they claimed to be a local developer working for local interests.

The Chair moved that the application be refused for the reasoning stated below:

RESOLVED:

That planning permission be refused for the following reason:

The proposed development fails to make sufficient provision for affordable housing based upon the viability of the development and, as such, is contrary to Policy HS3 of the Watford Local Plan Core Strategy 2006-31.

6 **DAVID NOBLE**

At the end of the meeting, the Chair took the opportunity to sincerely thank David Noble, the Development Management Section Head who was retiring. The Chair noted that Members and indeed the town owed Mr Noble a great deal. Under Mr Noble's stewardship the development of the town had come a long way.

Mr Noble noted that it was amazing to look back at the changes which had taken place in the planning system over the last five years, which had been a lot for both officers and Members to take on board. He described his experience serving numerous committees as a senior local planning officer for the last 30 years as a privilege, with his involvement in Watford being the best he had been a part of. He commended Members for their hard work and for not shirking the difficult and unpopular decisions. He noted that Members had made his time very easy for which he was thankful.

Chair

The Meeting started at 7.30 PM
and finished at 8.25 PM