
Appeal Decision

Site visit made on 6 December 2016

by Grahame Gould BA MPhil MRTPI

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

Decision date: 5th January 2017

Appeal Ref: APP/M2270/W/16/3157411

U4 Car and Van Rental, rear of 35 Quarry Road, Tunbridge Wells TN1 2EY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Hammick against the decision of Tunbridge Wells Borough Council.
 - The application Ref 16/504607/OUT, dated 27 May 2016, was refused by notice dated 4 August 2016.
 - The development proposed is demolition of all buildings and erection of a block of flats comprising 3 x 1 bed units and 6 x 2 bed units, access, layout and scale for determination.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of all buildings and erection of a block of flats comprising 3 x 1 bed units and 6 x 2 bed units with access, layout and scale for determination at U4 Car and Van Rental, rear of 35 Quarry Road, Tunbridge Wells TN1 2EY in accordance with the terms of the application, Ref 16/504607/OUT, dated 27 May 2016, subject to the conditions in the Schedule to this decision.

Procedural Matters

2. The application was made in outline form with only matters of appearance and landscaping being reserved for future consideration. The application was amended prior to its determination by the Council and I have therefore only had regard to the plans that formed the basis of the Council's decision.
3. At the time of my site visit there was only one existing building on site, the building shown as 'Existing Building A' on drawing 3455.05

Main Issues

4. The main issues are: the effect of the development on the character and appearance of the area; the effect on the living conditions for the occupiers of the development, with particular regard to privacy and outlook; and whether adequate on-site parking would be available for the occupiers of the development.

Reasons

Approach to this decision

5. The appellant contends that the Council cannot currently demonstrate the availability of a five year supply of deliverable housing sites (an HLS), a
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matter that the Council has not disputed. In the absence of an HLS then, in line with the provisions of paragraph 49 of the National Planning Policy Framework (the Framework), development plan policies that are relevant policies for the supply of housing should not be considered up-to-date. Relevant policies in this context being those that directly affect the location and quantity of new homes. For the purposes of decision taking when policies for the supply of housing are not up-to-date the presumption in favour of permitting sustainable development should be applied, as stated in paragraph 14 of the Framework and, in particular, its fourth bullet would become engaged.

6. However, the Council's reason for refusal refers to conflicts with saved Policy EN1 of the Tunbridge Wells Borough Local Plan of 2006 (the Local Plan) and Policies CP4 and CP5 of the Tunbridge Wells Core Strategy of 2010 (the Core Strategy) and those policies address detailed design matters, ie the design of buildings and the effect of development on the living conditions for the occupiers of new development. Policies EN1, CP4 and CP5 do not have a direct bearing on the location or quantity of new homes and accordingly I find them not to be relevant policies for the supply of housing. I also consider these development plan policies to be consistent with the Framework and that full weight should therefore be attached to them as development plan policies, when regard is paid to paragraphs 211 and 215 of the Framework.
7. Taking the above factors into account I consider that for the purposes of the determination of this appeal the third bullet point, as opposed to the fourth, in paragraph 14 of the Framework is engaged. That means '... approving development proposals that accord with the development plan without delay ...' in line with the provisions of Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

Character and Appearance

8. The development would involve the construction of a three storey block of nine flats, consisting of three one bedroom and six two bedroom units. The block's height and volume would be significantly greater than that of Building A, however, within the surrounding area there are a number of comparatively recently constructed flat developments, such as St Stephen's Court and those in Jackwood Way, St Barnabas' Close and off Medway Road, which range in height between three and five storeys. The St Barnabas' Parish Church and the St Barnabas' Church of England Primary School Buildings possess significant height. Given that context I consider that a three storey building on the site would be in keeping with the character and appearance of the area. Allowing for the difference in site's levels between 30 to 50 Stanley Road and the garage court that adjoins St Stephen's Court I consider that the block would not appear as being out of scale when viewed from those vantage points.
9. The siting and scale of the block would mean that there would be limited space between it and the site's boundaries and a consequence of that would be the availability of a limited amount of outdoor space that could be soft landscaped. However, landscaping is a reserved matter and while the opportunities for undertaking planting with height might be quite limited, I do not consider that to be a reason that should preclude a development of the

envisaged scale. The block would be located in an area that is characterised by tight knit development and in this respect the proportion of built development relative to available plot space would be comparable to, if not greater than, that found within the immediately neighbouring St Stephen's Court scheme. I therefore find the development's intensity would be appropriate to its surroundings and that it would not have a cramped appearance.

10. For the reasons given above I conclude that the development would not be harmful to the character and appearance of the area. The development would therefore accord with Policy EN1 of the Local Plan, Policy CP5 of the Core Strategy, the Framework and the Planning Practice Guidance (the PPG), because the development would be respectful of the site's context.
11. The reason for refusal cites conflict with Policy CP4 of the Core Strategy. However, I find Policy CP4 to be of limited relevance to this case because Quarry Road and its immediate surroundings are not subject to a conservation area designation or any other special character or landscape designations and the development would have no direct effect on the setting of the listed St Barnabas' Church, and the latter would therefore be preserved.

Living conditions for the occupiers of the development

12. The Council is concerned that there would be unacceptable overlooking between the bedroom windows of flats 1 and 2, 4 and 5 and 7 and 8. The windows in question would be at right angles to each other and close to one another with the result that the line of sight, if any, between them would be very oblique. I therefore consider that the bedroom window arrangements for the aforementioned flats would not result in any unacceptable mutual overlooking between the flats.
13. I recognise that the outlook to the west of the block, in particular, would be dependent upon views across the neighbouring garage court. While the Council is concerned that such an arrangement could have implications for the any future redevelopment of the garage court and/or the occupiers of the development, there is no evidence suggesting that there is any intention to pursue such a redevelopment scheme. I therefore consider that it would be unreasonable for me to place any significant weight on the hypothetical scenario referred to by the Council.
14. On this issue I therefore conclude that the development would provide acceptable living conditions for its occupiers. There would therefore be no conflict with Policy EN1 of the Local Plan because acceptable levels of privacy would be available to the development's occupiers.

Parking

15. The development would provide seven on-site parking spaces, a ratio of less than one space per dwelling. The site is located within Tunbridge Wells Central Access Zone (Residential) and Policy TP6 of the Local Plan indicates that in such locations one parking space should be provided per dwelling, as a maximum. The development would also make provision for some bicycle storage.
16. The site is in an accessible location and therefore the block's occupiers would not necessarily be dependent on the availability of their own cars. I therefore

consider that the proposed parking arrangements are not indicative of this development being over intense.

17. I therefore conclude that the level of on-site parking would be appropriate to the type and location of the development. As the parking requirement referred to in Policy TP6 is expressed in maxima terms, I consider that there would be no conflict with this policy.

Conditions

18. The Council has suggested various conditions and I have considered the need for their imposition, having regard to the provisions of the Framework and the PPG.
19. I have attached conditions limiting the life of the planning permission and setting out the requirements for the reserved matters in accordance with the requirements of the Act. I have specified the approved plans for certainty, albeit I have applied caveats to the references to the elevations plans (3455.03 Rev A and 3455.04 Rev A) because the development's appearance remains to be considered at the reserved matters stage. In order to safeguard the appearance of the area it is necessary that the reserved matters submissions include details/specifications for the external materials to be used and the landscaping to be undertaken.
20. Although some levels information is shown on the application drawings and while the scale of the development is not reserved for future consideration, I consider it necessary, in the interests of safeguarding the appearance of the area, that slab level details are submitted because it is possible that in finalising the block's appearance alterations to the slab levels shown on the currently available drawings might be made.
21. There is potential for the site to be subject to contamination and it is therefore necessary to impose a condition to address this matter. As it is possible that any contamination is below ground level it is necessary for the required details to have been submitted to and approved by the Council prior to the commencement of the development.
22. A condition has been suggested requiring the submission of car parking details for the Council's approval and the retention of that parking upon the development's occupation. As the parking arrangements form part of the development's layout, and are for approval as part of the outline application, I consider that it is unnecessary for further parking details to be submitted for the Council's approval. It is, however, necessary that the parking area is available for use prior to the development's first occupation and is retained thereafter and I have therefore imposed a condition to that effect, albeit I consider it unnecessary for this condition to refer to the removal of permitted development rights, as those rights would be unavailable to a flat scheme.
23. I find it unnecessary to impose the suggested condition precluding the installation of additional windows because permitted development rights would be unavailable to the occupiers of the flats. I also find it unnecessary to impose a separate condition requiring the submission of details relating to the appearance of the cycle and refuse storage facilities because any external structures for such purposes will form part of the development's appearance and will be for consideration when the reserved matters are submitted to the

Council for determination. The tenth suggested condition refers to portable buildings shown for removal prior to the first occupation of the development. However, I am unclear as to what buildings are being referred to and I find it unnecessary for such a condition to be imposed.

Conclusion

24. For the reasons given above the appeal is allowed.

Grahame Gould

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance and landscaping, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: unnumbered 1:1250 scale site location plan; 3455.01 Revision A (proposed ground floor and site plan); 3455.02 Revision A (proposed first floor, second floor and roof plan); 3455.03 Revision A (proposed elevations 1) insofar as the details shown relate to the layout and scale of the development; and 3455.04 Revision A (proposed elevations 2) insofar as the details shown relate to the layout and scale of the development.
- 5) The development hereby permitted shall not be commenced until the following components of a scheme to deal with the risks associated with the contamination of the site have been submitted to and approved, in writing, by the local planning authority:
 - a) A preliminary risk assessment which has identified: all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; and potentially unacceptable risks arising from contamination at the site.
 - b) A site investigation, based on the approved preliminary risk assessment, to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
 - c) A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment subject to sub-paragraph b) above. The RMS should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and

identify any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

A Closure Report shall be submitted upon completion of the construction works and this report shall include full verification details as set out in subparagraph c) above. The Closure Report should include details of any post remediation sampling and analysis, together with documentation certifying the quantities and the source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified as being clean.

The development shall be implemented in accordance with the details to be approved pursuant to the requirements of this condition.

- 6) The details submitted in pursuance of condition 1 for the appearance of the development shall include details of the bricks, tiles, cladding or other external treatments for the block and the ground surfacing materials. The development shall be carried out in accordance with the details to be approved pursuant to condition 1.
- 7) The details submitted in pursuance of condition 1 shall include the slab level or levels for the development relative to the surrounding land and the development shall be built in accordance with the approved levels.
- 8) The details submitted in pursuance of condition 1 for the soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); and schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 9) All planting, seeding or turfing comprised in the approved details of soft landscaping shall be carried out fully within 12 months of the completion of the development. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 10) The development shall not be occupied until space has been laid out within the site, in accordance with the details shown on drawing 3455.01 Revision A, for seven cars to be parked and for vehicles to manoeuvre so that they may enter and leave the site in a forward gear and that space shall thereafter be kept available at all times for the parking and manoeuvring of vehicles.