

Appeal Decision

Site visit made on 20 February 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 03 March 2017

Appeal Ref: APP/Z3825/W/16/3162217

Winterton Court, Horsham, West Sussex RH13 5EN

- 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 Saxon Weald Homes Ltd against the decision of Horsham District Council.
 - The application Ref DC/16/1320, dated 13 June 2016, was refused by notice dated 9 September 2016.
 - The development proposed is the demolition of existing dwellings and erection of 66 homes with associated car parking and external works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing dwellings and erection of 66 homes with associated car parking and external works at Winterton Court, Horsham, West Sussex RH13 5EN in accordance with the terms of the application, Ref DC/16/1320, dated 13 June 2016, subject to the conditions contained in the schedule at the end of this decision.

Procedural matters

2. I have been provided with an executed planning obligation, dated 23 February 2017, in the form of a Unilateral Undertaking under section 106 of the Town and Country Planning Act 1990 (as amended) which secures twenty three units for affordable housing, comprising twenty affordable rented housing units and three shared ownership units. I shall return to this further below.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the surrounding area;
 - Whether the proposed development provides acceptable living conditions for future occupants, with regard to noise and disturbance and amenity space provision; and
 - Whether the proposal makes adequate provision for affordable housing.
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Reasons

Character and appearance

4. The appeal site accommodates a group of vacant sheltered housing units, with a manager's flat, arranged around a central amenity space which includes a maple tree subject to a tree preservation order. For the most part the buildings are single storey. The general area within which the site is located has a mixed character and a variety of building types and styles. To the west the site is separated from a railway line by the railway station car park. Beyond these are more commercial and office buildings on the outskirts of the town centre. To the north of the appeal site are the properties within Standings Court and Dorset Court, comprising a mix of modern and older flat and housing units of two and a half and three storeys. To the east the site adjoins the rear gardens of the two storey late 19th century two storey dwellings fronting New Street. The southern boundary abuts the Victoria street car park.
5. The proposed development incorporates some 66 dwellings in five blocks, containing a mix of flats and single family dwellings. The buildings range from two storeys with rooms in the roof space, for the block of family dwellings backing onto the houses fronting New Street, to four storeys for flat block D at the rear of the site abutting the station car park. The general bulk and scale of the development rises from east to west and north to south. The lower building heights in the development are located next to the lower adjoin buildings in New Street and are not uncharacteristically taller. They would also be comparable to the newly developed properties in the Standings which are also of two and half storeys. Block C Which fronts the Standings would be some three storeys but given its smaller footprint and articulation the building is not overwhelming or excessively bulky in scale of appearance. In this regard it would appear reasonably in-keeping with the scale and bulk of the older flat blocks at Dorset Court which are also of three storeys.
6. The bulkiest blocks, D and E, are located next to the station car park and their impact is moderate by the relationship with the other blocks in the development. Block D at four storeys is the tallest block but this is set to the rear of block E which masks its height from the north and east. Whilst these blocks would be visible and more dominant when viewed from the west on the footpath and when coming from the station they would be viewed in the context of the railway line and its surroundings including the more commercial and higher buildings of the properties to the west of the railway line.
7. Whilst the traditional pitched roof design adds to the overall height of the buildings it restricts the bulk and mass of the buildings. The general form and design is reasonably compatible with the general traditional pitched roofs in the surrounding area and is therefore reasonably sympathetic. I acknowledge that there are differences in roof forms including flat roofs, hipped roofs, short ridges etc. along with the more traditional roof form. However, this variety also adds to the conclusion that the proposed roof form would not sit uncomfortably amongst the variety of building shapes.
8. Overall I am satisfied that given the variety of building heights, styles and designs, that the proposed development would not be incompatible with the character of the area and would reinforce the general traditional form which has a degree of local distinctiveness. The overall scale, mass and height would

be compatible with the neighbouring buildings and area more generally and would successfully integrate with the existing built environment.

9. The Council have made reference to density but in addressing the scale, bulk, mass and form of the buildings this has addressed the manifestation of density that may otherwise have an impact on the character of the area.
10. For the reasons given above I conclude that the proposed development would not result in material harm to the character and appearance of the area. Consequently it would not conflict with policies 32 and 33 of the Horsham District Planning Framework (adopted 2015) (HDPF) which collectively seek to ensure development is of a high quality, well designed and takes account of the existing character of the area, including its scale and mass. The development also reflects the advice in the National Planning Policy Framework (the Framework) at paragraphs 17, 56, 59, 60 and 61 which advise, amongst other matters, that planning should always seek high quality design that reinforces local distinctiveness and integrates with the existing built environment.

Living conditions of future residents

11. The appeal proposal makes provision for 66 units in five blocks. Block C comprises dwelling houses with their own private amenity space and these spaces would be of a size and location that would reasonably serve the needs of the future occupiers of those properties. The remaining blocks are flatted developments and would be set within an area of amenity space providing setting for the building. The amenity space would be predominantly allocated for the occupiers of the adjacent ground floor flats, to provide amenity space and avoid conflicts of privacy and disturbance. For those properties that have direct access this would provide for a reasonable level of amenity space.
12. The remaining flats, those on the upper floors and to the fronts of the blocks, which would not be provided with private amenity space at ground floor level would instead have to rely on the amenity provided for by the large green square in the centre of the development, around which the scheme would be developed and their private balconies. The occupants of block C would also have a communal amenity space identified. Each of the upper floor units would be provided with an open balcony of a size that would enable a table and chairs to be set out and allow for the enjoyment of outside space. In association with the schemes communal space green square I am satisfied that this would provide for reasonable access to amenity space for future occupiers.
13. Added to the on-site provision there is accessible public park space and facilities nearby within reasonable walking distance that would allow for outdoor play and recreation.
14. Overall the level of amenity space would provide for the reasonable needs of the future occupants of the development. The Council have focused their comments on the change between this and a previously refused scheme. However it is the extent to which this scheme makes provision for the future occupants and not an assessment against the difference with the previous scheme that is the relevant consideration.
15. The appeal site is separated from the railway line by a car park for the station. Both of these are potential sources of disturbance for the future occupants of the development, particularly the occupants of blocks D and E. The houses and

other blocks would to a great extent benefit from the noise reduction provided by the relationship with blocks D and E and would therefore not be so significantly affected.

16. The proposed flat blocks D and E have been arranged, primarily, with living and dining room facilities on the façade facing the railway line. The ground floor properties could be protected by boundary treatment and fencing details but the upper floor flats would not benefit from such arrangements. The proposed development would only result in 7 of the proposed flats having a bedroom window directly facing the railway line. This would be in a recessed part of the elevation and would be a secondary window to those bedrooms. The principal window would face along the façade and not directly towards the railway line. The secondary windows could be fixed shut which would not significantly affect the amenities of the future occupants but assist in creating a better noise resistant building envelope. The appellant's noise report identifies that with appropriate noise mitigation that the internal noise levels in the flats would achieve the 'good' standard under the BS8233:1999 'Sound insulation and noise reduction for buildings – code of practice'. The Council does not dispute this. With the imposition of suitably worded conditions to ensure an adequate building envelope is produced the internal noise environments for the flats would achieve this level. On this basis I am satisfied that appropriately worded conditions could address any concerns, a point that the Council's environmental health department agreed and advised.
17. The Council have also raised concerns regarding the disposition of rooms within flats and the potential for disturbance resulting. In particular the conflict mostly arises between living rooms and bedrooms, primarily in blocks D and E but to a lesser extent in blocks A and C. In all, the Council identify potential conflict at some 16 flats of the 66 units. Again the Council's environmental health department advised that concerns could be overcome by additional noise mitigation in the construction of the development. Whilst the concern raised by the Council in terms of floor coverings is a minor matter, mitigation between walls and floor transmission can be addressed through adequate construction and isolation which would address these concerns. The nature of the living dining spaces also keeps the noisiest elements of the rooms away from the areas of conflict, and although these could be changed by future occupants it would be unlikely given the internal arrangements of the flats and the access to services.
18. The Framework at paragraph 123 identifies that planning decisions should avoid noise giving rise to significant adverse impacts on health and quality of life, reference is also made to the Noise Policy Statement for England. The proposal would make provision for an internal environment that meets the 'good' standard of BS8233. Along with the concerns related to disposition of rooms the noise and disturbance from outside sources can be addressed by the imposition of suitably worded conditions. On this basis the development would not result in significant adverse effects for the health and quality of life of the future occupants of the development.
19. For the reasons given above I conclude that the proposed development provides acceptable living conditions for future occupants, with regard to noise and disturbance and amenity space provision. Consequently it would not conflict with policies 24, 32, 33 and 37 of the HDP which collectively seek to ensure a high quality of development that also minimises exposure to emission

of pollutants including noise, amongst other matters. This would also comply with the Framework and in particular paragraphs 17 and 123, in securing a good standard of amenity for all future occupants of lands and buildings and avoiding significant adverse impacts on health and quality of life.

Affordable housing provision

20. Policy 16 of the HDPF requires developments of more than 15 dwellings to make provision for 35% of the dwellings to be affordable dwellings. The proposals identified 23 of the units, which equates to 35% of the units, to be provided as affordable units. However, there was no planning obligation to secure the affordable housing provision. The appellant has now provided a Unilateral Undertaking which secures the provision of the 23 units, 20 as affordable rent and 3 as shared ownership. As such the development now is compliant with policy 16 and secures the provision through a suitable mechanism.
21. The Council had also raised concerns that the Undertaking did not secure the affordable provision for people with a local connection and therefore did not secure affordable provision for local need. The appellant has amended the Undertaking and the latest executed agreement re-instates the local connection definition which it was suggested had been an oversight. As the Undertaking now secures the local connection the affordable housing provision would meet local needs and is therefore compliant with policy 16.
22. For the reasons given above I conclude that the proposals make adequate provision for affordable housing in line with the development plan policy. Consequently it would comply with policy 16 of the HDPF.

Other matters

23. The Council can demonstrate a 5 year housing land supply and therefore policies in the development plan are up to date and are afforded full weight. The proposals would make provision for a net increase of 39 units on this site which is not an allocated site and which would therefore contribute to boosting the supply of housing and assisting the Council in meeting its housing need. As the development complies with the development plan the additional housing adds weight to the positive benefits of the scheme.
24. The appellant sets out a range of benefits attributable to the scheme but I agree with the Council that many of these benefits would be attributable to any redevelopment of the site and are not of themselves of significant weight to justify this scheme.
25. The mix of units in the scheme is directed towards this central urban location and reflects the proximity to transport and other facilities. In this regard it would help in meeting the Council's district wide housing mix where larger housing units would be more likely and appropriately developed in less well located sites.

Overall conclusions and conditions

26. The proposed development would make acceptable provision for the living conditions of future residents and would not materially harm the character and appearance of the surrounding area. The Unilateral Undertaking secures the affordable housing units and secures a local connection. As such the scheme is

sustainable development meeting the economic, social and environmental roles as identified in the Framework.

27. I have considered the conditions suggested by the Council and the comments of the appellant in the light of the advice in the Planning Practice Guidance. Condition 2 identifies the approved plans and is required to create certainty for all parties and is best practice. Condition 3 requires details of the materials to be used in the development and is required in the interest of the appearance of the development, as is condition 4 which requires details of landscaping. Condition 5 requires the submission of ground and slab levels to control the overall height of the scheme, and is also required in the interest of the appearance of the development and the character of the area.
28. Conditions 6, 7 and 8 are required to ensure a satisfactory internal noise environment is provided for future occupiers. I have adjusted condition 6 to refer to above ground works rather than the commencement of development as the details required would not be affected by foundation or preparation works. Condition 7, requiring sound insulation above the Building Regulations is necessary because of the relationship between room layouts in the development.
29. Condition 9 is required to deal with any unexpected land contamination that may arise on the site given the urban location and previous surrounding development. Condition 10 is required to encourage low emission vehicle choices and assist in delivering the Council's Air Quality Action Plan.
30. Condition 11 requires a Construction Environmental Management Plan and is required in the interests of the living conditions of surrounding residents and highway safety. Condition 12 restricts hours of working and is also required in the interests of the living conditions of surrounding residents.
31. Conditions 13, 14 and 15 are required to ensure ecological mitigation is undertaken in accordance with the recommendations contained in the proposals and to ensure existing trees are adequately protect in the interest of amenity and ecology.
32. Conditions 16, 17 and 18 are required to ensure the development and surrounding area is adequately drained and serviced. Conditions 19, 20 and 21 are required to ensure the development is provided with appropriate car and cycle parking and is properly accessed in the interest of highway safety and to encourage alternative modes of transport.
33. Condition 22 requires the provision of the identified boundary treatments and along with condition 24, which restricts further means of enclosure, is required in the interest of the amenity of the future occupiers of the development. Condition 23 requires details of refuse to be provided to ensure adequate provision is made for recycling facilities.
34. Condition 25 is required to limit water usage in this area of water stress. Finally condition 26 is required to ensure the development is adequately serviced to meet the needs of future occupiers.
35. Conditions 5, 7, 10, 11, 14, 16, 17 and 18 are 'pre-commencement' conditions and require certain actions before the commencement of development. In all cases this is necessary to ensure that the condition will have its proper effect.

36. I have not imposed a condition restricting permitted development rights as suggested by the Council. The permitted development rights would only be applicable to the family dwellings in block B and the PPG advises such conditions will rarely pass the test of necessity and should only be used in exceptional circumstances. The development is reasonably separated from surrounding properties and the exercising of such rights would not significantly alter the character or appearance of the development such that it should be controlled.

37. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL APP/Z3825/W/16/3162217

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Habitat Plan Figure No. 1 Rev 1; Tree retention protection LLLD699/02-01 Rev 3; Tree retention protection LLLD699/02-02; Landscape masterplan strategy LLLD699/03 Rev 3; Site Location Plan PL 50 Rev A; Proposed Block Plan PL51; Proposed Site Plan PL52; Proposed Site Sections A-C PL53; Proposed Site Sections D-E PL54; Proposed Block A Floor Plans PL 55; Proposed Block B Floor Plans PL56; Proposed Block C Floor Plans PL57; Proposed Block D Floor Plans PL58; Proposed Block D Roof Plan PL59; Proposed Block E Floor Plans PL60; Proposed Block A Elevations PL61; Proposed Block B Elevations PL62; Proposed Block C Elevations PL63; Proposed Block D Elevations PL64; Proposed Block E Elevations PL65; Technical Site Plan PL66; Visualisations PL67.
- 3) Notwithstanding the details shown on the drawings hereby permitted, a full schedule and samples of materials to be used in the external construction of the development hereby permitted, including where necessary drawings to show the extent of each type of material on each building, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development above ground floor slab level of any building hereby permitted. The development shall thereafter be carried out in accordance with the approved details.
- 4) Prior to the occupation of any part of the development hereby approved full details of all hard and soft landscaping works, including details of surfacing materials and construction of the access road and surrounding areas of hardsurfacing, shall be submitted to and approved in writing by the Local Planning Authority. All such works as may be approved shall then be fully implemented in the first planting season, following commencement of the development hereby permitted and completed strictly in accordance with the approved details. Any plants or species which within a period of 5 years from the time of planting die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 5) Prior to the commencement of any works on site, detailed plans, including cross sections as appropriate, showing the existing and proposed ground levels and the proposed slab and finished floor levels of the buildings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.
- 6) Prior to the commencement of any development above ground floor slab level of the development hereby permitted, details of a scheme to protect the proposed dwellings and flats from noise from the adjacent railway and car park and that achieves the internal noise levels in bedrooms and living areas in accordance with BS8233:2014, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be

implemented as approved and no flat or dwelling requiring mitigation hereby approved shall be occupied until the results of a post-construction survey of internal noise levels has been submitted to and approved in writing by the Local Planning Authority.

- 7) Prior to the commencement of the development, details of a scheme for internal noise insulation to minimise noise transfer between adjoining dwellings shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall achieve at least 5 dB greater sound reduction than the values given in Section 0 of the Building Regulations 2010 Approved Document E Resistance to the Passage of Sound. The development shall thereafter be carried out in accordance with the approved details and no unit shall be occupied until the scheme for noise reduction for that unit has been implemented as approved.
- 8) No flat or dwelling hereby approved shall be occupied until the results of post-construction survey of sound insulation levels between the dwelling and any adjoining dwellings have been submitted to and approved in writing by the Local Planning Authority.
- 9) If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
- 10) Prior to the commencement of the development hereby permitted, full details of provision of facilities for charging plug-in and other low-emission vehicles shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and no dwelling shall be occupied until provision has been made for occupiers of that unit to access the charging facilities.
- 11) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - a. An indicative programme for carrying out of the works
 - b. The arrangements for public consultation and liaison during the construction works
 - c. Measures to minimise the noise (including vibration) generated by the demolition and construction process to include hours of work, proposed methods of demolition, proposed methods of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s)
 - d. Details of any external lighting or floodlighting, including location, hours of use, height, type and direction of light sources and intensity of illumination

- e. The anticipated number, frequency and type of vehicles used during demolition and construction.
 - f. The method of access and preferred routing of vehicles during demolition and construction.
 - g. The parking of vehicles of site operatives and visitors
 - h. Loading and unloading of plant, materials and waste
 - i. Storage of plant and materials used in constructing the development
 - j. The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
 - k. The provision of wheel washing facilities and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulation Orders),
 - l. Measures to control the emission of dust and dirt during demolition and construction
 - m. A scheme for recycling/disposing of waste resulting from demolition and construction works
- 12) No work for the implementation of the development hereby permitted shall be undertaken on the site except between 08.00 hours and 18.00 hours on Mondays to Fridays inclusive and 08.00 hours and 13.00 hours on Saturdays, and no work shall be undertaken on Sundays, Bank and Public Holidays.
- 13) The development hereby permitted shall be carried out in full accordance with the recommended measures set out in sections 6 and 7 of the Preliminary Ecological Appraisal and Protected Species Assessment, dated 16 January 2015 and received by the Local Planning Authority on 13th June 2016.
- 14) No development, including works of any description, including demolition pursuant to the permission granted, ground clearance, or bringing equipment, machinery or materials onto the site, shall take place until the following preliminaries have been completed in the sequence set out below:
- a. All required arboricultural works, including permitted tree felling and surgery operations and above ground vegetative clearance within such areas set out for development as indicated on the approved site layout drawing to be completed and cleared away;
 - b. All trees on the site targeted for retention, as well as those off-site whose root protection areas ingress into the site, shall be fully protected by tree protective fencing affixed to the ground in full accordance with section 6 of BS 5837 'Trees in Relation to Design, Demolition and Construction - Recommendations' (2012). Once installed, the fencing shall be maintained during the course of the development works and until all machinery and surplus materials have been removed from the site. Areas so fenced off shall be treated as zones of prohibited access, and shall not be used for the storage of

materials, equipment or machinery in any circumstances. No mixing of cement, concrete, or use of other materials or substances shall take place within any tree protective zone, or close enough to such a zone that seepage or displacement of those materials and substances could cause them to enter a zone. No alterations or variations to the approved tree works or tree protection schemes shall be carried out without the prior written approval of the Local Planning Authority.

- 15) No trenches or pipe runs for services, drains, or any other reason, shall be excavated anywhere within the root protection area of any tree or hedge targeted for retention on or off the site without the prior written approval of the Local Planning Authority.
- 16) Prior to the commencement of the development hereby permitted, full details of the measures which will be undertaken to divert and/or protect public sewers within and adjacent to the site shall be submitted to and approved in writing by the Local Planning Authority, in consultation with Southern Water where appropriate. The development shall thereafter be carried out in accordance with the approved details.
- 17) Prior to the commencement of the development hereby permitted, a drainage strategy detailing the proposed means of surface water disposal and an implementation timetable, shall be submitted to and approved in writing by the Local Planning Authority. Where Sustainable Drainage Systems are proposed, the drainage strategy shall include details of responsible parties for the implementation of the scheme and a management and maintenance plan for the lifetime of the development. The development shall thereafter be carried out and maintained in accordance with the approved details.
- 18) Prior to the commencement of the development hereby permitted, details of the proposed means of foul water sewerage disposal shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 19) Prior to the initial occupation of the development hereby permitted, the access onto Standings Court shall be constructed in accordance with the approved drawings.
- 20) No dwelling or flat hereby permitted shall be first occupied until the car parking serving that unit has been constructed in accordance with the approved site plan. These spaces shall thereafter be retained at all times for their designated purpose.
- 21) No dwelling or flat hereby permitted shall be first occupied until covered and secure cycle parking spaces serving that unit have been provided in accordance with drawing number 13/080 PL52 received by the Local Planning Authority on 13th June 2016. The cycle parking shall thereafter be retained at all times for the designated purpose.
- 22) No dwelling or flat hereby permitted shall be first occupied until the boundary treatments enclosing the amenity space associated with that unit or Block have been erected in accordance with the approved details

shown on drawing number LLD/699/03 Rev 3 received by the Local Planning Authority on 20th July 2016.

- 23) No dwelling or flat hereby permitted shall be occupied unless and until provision for the storage of refuse/recycling bins associated with that unit or Block have been made within the site in accordance with the approved drawings. The facilities for refuse and recycling storage shall thereafter be retained in accordance with the approved drawings.
- 24) Notwithstanding the provisions of Class A of Part 2 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015, as amended, no means of enclosure other than those shown on drawing number LDD/699/03 Rev 3 received by the Local Planning Authority on 20th July 2016 shall be erected on the north eastern boundary of the site adjacent to the public footpath.
- 25) Any dwelling hereby permitted shall meet the optional requirement of building regulation G2 to limit water use of each dwellinghouse or flat to 110 litres per person per day. Prior to commencement of construction confirmation shall be submitted in writing to the Local Planning Authority that the Building Control Body has been notified that the optional standard is in force for this development. The subsequently approved water limiting measures shall thereafter be retained in accordance with the approved details, other than replacement with other water limiting measures of equal or better efficiency.
- 26) Prior to their first occupation, each dwelling shall be provided with the necessary infrastructure to enable connection to high-speed broadband internet.

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