



Appeal Decision

Hearing held on 6 June 2017

Site visit made on 20 June 2017

by Helen Heward BSc (Hons) MRTPI

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

Decision date: 31 August 2017

Appeal Ref: APP/M5450/W/17/3169285

79 Bessborough Road, Harrow, London, Middlesex, HA1 3DB

- 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 Mr Eric Gadsden (W. E. Black Ltd) against the decision of Harrow Council.
 - The application Ref P/0456/16, dated 1 February 2016, was refused by notice dated 15 September 2016.
 - The development proposed is a residential development providing 14 apartments and associated landscaping and car parking.
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Procedural and preliminary matters

1. Prior to the Hearing the parties were requested to submit a joint viability summary statement of the main areas of inconsistency and disagreement and a tabulated comparative analysis sheet to highlight the effects of the main differences on the overall scheme viability.
 2. On 2 June 2017 the appellant submitted a draft 'Joint Summary Statement on Financial Viability' (JSS) which they had sent to the Council. For the Council, Dr Golland confirmed that he had considered this, and did not object to its submission. The appellant also submitted a Statement of Common Ground (SoCG) signed by both parties and a 'WJM Design Statement'. The Council agreed that the latter document did not include new evidence. Therefore, I accepted these three documents. Dr Golland tabled 3 documents at the Hearing. The Council accepted that these could not be submitted at this stage. Similarly a document tabled by the appellant, Mr Gadsden, was declined.
 3. The appellant's case includes a 'Financial Viability Appraisal January 2016' and a 'Response to Draft Viability Report by AGA February 2017'. The appellant confirmed that they rely upon the viability appraisal in the 2017 document.
 4. The list of plans upon which the Council determined the application included Dwg 15/33/87/5 for a cycle store. The Council confirmed that they had seen Dwg 15/3387/4 'Street Scene/Site Section'. The appellant clarified that Dwg 15/3387/51A 'Landscaping Plan' was a construction layout with tree protection areas and that proposed landscaping was shown on Dwg 15/3387/51B.
 5. The appellant waived a confidentiality requirement so that viability evidence could be considered in the Hearing which was open to the public.
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Decision

6. The appeal is dismissed.

Main Issues

7. The main issues in this case are:

- 1) The effect of the design of the proposed development upon the character and appearance of the locality, and
- 2) Whether or not the development should make provision for affordable housing having regard to viability.

Reasons

Design

8. The Harrow Residential Design Guide Supplementary Planning Document (2010)¹ (the Design SPD) advises that roof form is an important visual element and that consideration should be given to the grouping of buildings. The locality is mainly characterised by traditional building designs. Most buildings, including those to either side of the appeal site, have pitched roofs.
9. The parapet top of the three storey brick façade would extend above the eaves line of the adjacent three storey Retlass Court (RC) and in so doing would be seen to project both above, and forward of, the raked back, pitched roof of that building. Similarly, the fourth floor of the building would extend forward of, and above, the corresponding section of pitched roof at RC.
10. An over-sailing canopy feature to the fourth floor would add to, and emphasise, the horizontal lines and forward projections above, and beyond, the pitch roof at RC. In the available views the building would be seen closely adjacent to RC and these design details would appear obtrusive, incongruous and jarring. In some north facing views the top of the building would be glimpsed over the top of the pitched roof and front gabled dormer of the dwelling to the south of the site. In these views it would also appear obtrusive and incongruous.
11. The fourth floor would be behind the main façade and below the ridge of RC. The building would not project significantly in front of RC and would be stepped back behind the line of the next building to the north. It would also be some distance behind the façades of dwellings to the south. The alignment would reflect a broad building line between RC and the dwellings to the south. However, I am not persuaded that these features would not mitigate the adverse impacts.
12. The Council has no objection in principle to a building of contemporary design or the use of a flat roof. Flat roof buildings with a recessed top level are not uncommon around the edge of the town centre. The appellant drew my attention to two recent schemes on St Johns Road where similar over-sailing roof details have been used.
13. The area to the rear would be laid out with parking, shrub and tree planting. The landscaping would provide a visually attractive setting for the building and

¹ Paragraphs 4.15 and 4.16

- parking. It could be secured by condition were the appeal to be allowed. Private balconies would be provided and there is no objection to either the amount of private amenity space or parking. There are no standards or policies that require communal amenity space and there is outdoor recreational space within easy reach for future residents.
14. I saw a scheme of flats where the rear space provides both parking and a modest grassed amenity area, but it did not appear that this scheme had private balconies comparable to the appeal scheme. Dwellings with rear gardens are a characteristic feature of the locality but there would be virtually no public views of the area to the rear of the proposed building. I find that the absence of a communal sitting out space and the balance between landscaping and parking would not be harmful to the amenities of the development or the character and appearance of the locality, and I find no conflict with Harrow Development Management Plan (2013) (DMP) Policy DM27 for Amenity Space.
 15. A chamfered return to the rear of the building is a design solution to address the relationship with windows to flats at RC. But this is not in itself a reason to object. It would make one rear corner different from the other, but it would not overcomplicate or detract from the appearance of the building.
 16. The site adjoins the Roxborough Park and the Grove Conservation Area (CA) which is characterised by dwellings set in spacious verdant grounds. Views from the CA are highly restricted by buildings and trees. From within the CA I doubt that the building would be much more than barely perceptible. I find that there would be no material harm to the setting of the CA and I find no conflict with DMP Policy DM7: Heritage Assets.
 17. Notwithstanding my findings on these other matters I conclude that, as a result of the detailed design of the top of the building, the proposal would fail to integrate well with the existing street scene. It would not create an attractive streetscape and would be harmful to the character and appearance of the locality.
 18. Therefore the proposal fails to comply with requirements of the London Plan (2016) (LP) Policies 7.4 and 7.6, Harrow Core Strategy (2012) (HCS) Policy CS1.B, DMP Policy DM1 and the Design SPD that, amongst other things, development should have regard to the form and structure of a street and the scale and mass of surrounding buildings and achieve a high standard of design which makes a positive contribution to the streetscape. It also fails to comply with advice in Section 7 of the National Planning Policy Framework (the Framework) for good design.

Viability

19. The policy requirement for affordable housing is not disputed. Neither party argues that a contribution for off-site provision should be made. The dispute is whether or not on-site provision of affordable housing is viable. In this regard the Council agreed that the appellant's draft JSS provided a reasonable summary of the main disputed viability elements for discussion at the Hearing.

Construction costs

20. The parties both used BCIS² data but disagree on the exact values. The appellant obtained a detailed price estimate from a quantity surveyor in 2017. Dr Golland accepted that values had changed. He was of the opinion that the appellant's latest figure of gross internal cost of £2230m² was a bit high and disputed the need for a contingency, but agreed that the difference between the parties now was only 3% to 6% approximately. Piling and a crane might be required and on site storage would be difficult. Prices do vary, and it would be unreasonable to expect costings not to include a buffer for the unplanned or unknown. I accept the appellant's construction cost estimate.

Market values

21. After much debate Dr Golland and the appellant's viability expert, Mr Phillips, agreed that transacted sales prices achieved at Belgrave Court on St Johns Road probably provided the best comparator evidence of prices for similar new developments to the appeal scheme. The appellant constructed this development and it is of a similar design and format. Although Belgrave Court is closer to amenities and the appeal site is in a more verdant residential locality they are otherwise broadly comparable edge of centre locations. These flats sold for an average of £6205m² in spring 2016³.
22. Sales prices achieved for one and two bedroom flats within 0.5mile of the site in the preceding year led Mr Phillips to conclude that the scheme could achieve values between £340,000-£410,000 plus a 10% premium (approximately) for a new build. At the Hearing, Dr Golland agreed. Therefore, and having regard to the various tabulations of prices and floor areas, I conclude that Mr Phillips' current sales value for the appeal proposal of £5974m²⁴ is not unreasonable.

Affordable housing values

23. Dr Golland informed the Hearing that Harrow Council is currently paying approximately £260,000 per one bedroom unit and opined that his figure of £210,000 was robust. However, the Council acknowledged that affordable housing providers can be reluctant to take flats within market housing schemes such as this, and that there is a general lack of alternative funding and grants. Mr Phillips maintained that Local Housing Allowance (LHA) rates are a fair representation of the ceiling of rental income. Using this and Dr Golland's viability model, Mr Phillips calculated that the affordable housing revenue income would be equivalent to £155,000 per unit. From the evidence I am not persuaded that any greater affordable housing values would be realistic.

Capitalised ground rental income

24. The parties disagree about whether or not ground rent should be included for the affordable housing units. However, they agreed at the Hearing that the effect of their difference of opinion, approximately £11,000, was not significant.

² The Building Cost Information Service of the Royal Institution of Chartered Surveyors

³ Page 6, Response to Draft Viability Report by AGA February 2017, Affordable 106 February 2017

⁴ Paragraph 4.13 Response to Draft Viability Report by AGA, Affordable 106 February 2017

Land value

25. The Planning Practice Guidance⁵ (PPG) advises that central to the consideration of viability is the assessment of land or site value. It says that the most appropriate way to assess land or site value will vary from case to case but in all cases, land or site value should provide a competitive return to willing developers and land owners and be informed by comparable, market-based evidence wherever possible.
26. The PPG⁶ explains that a "*competitive return for the land owner is the price at which a reasonable land owner would be willing to sell their land for the development. The price will need to provide an incentive for the land owner to sell in comparison with the other options available. Those options may include the current use value of the land or its value for a realistic alternative use that complies with planning policy.*"
27. Dr Golland argued that the approach to establishing a benchmark value should be existing use value (EUV) plus a percentage premium (EUV+) as an incentive for the land owner to sell. In support he referred to a number of documents including the London Affordable Housing and Viability Supplementary Planning Guidance (2016) but this document is in draft and attracts limited weight.
28. Mr Gadsden informed the Hearing that if he could not develop the site for housing for an appropriate return it would be 'moth balled'. The site is presently occupied by a dilapidated building and the parties agree that the site has no effective EUV. In these circumstances it is highly unlikely that an approach based on EUV plus a percentage uplift would incentivise the appellant to bring the site forward, and would not be consistent with advice in the PPG.
29. Amongst other things, Mr Phillips drew attention to the RICS Guidance Note 'Financial Viability in Planning'⁷ and Appendix 3 of the adopted Harrow Local Plan Planning Obligations and Affordable Housing Supplementary Planning Document (the SPD). The SPD sets out the Council's approach, policies and procedures to support DMP Policy DM50 Planning Obligations. Appendix 3 contains a tabulated schedule of inputs required for viability appraisal. Item 14 Benchmark Land Value lists '*Existing or Alternative Use Value*'. This is broadly consistent with both the RICS advice and advice in the PPG. I attach significant weight to this evidence and find no reason not to accept an Alternative Use Value (AUV) approach in principle.
30. The table at Appendix 3 describes *Existing or Alternative Use Value* as the '*value of land in its existing/permitted alternative use (without hope value)*'. The appellant's 2017 appraisal⁸ advises that the Site Value is determined by an extant consent for a care home use. This is assessed as £1,3m based on a 30 bed care home for which planning permission was granted in 2007⁹ and subsequently renewed in 2013¹⁰. However, it lapsed on 30 September 2016.
31. The main core planning policies have not changed. The site is within the built up area, it is not allocated for any other uses, and the previous permission

⁵ Paragraph: 023 Reference ID: 10-023-20140306 Revision date: 06 03 2014

⁶ Paragraph: 024 Reference ID: 10-024-20140306 Revision date: 06 03 2014

⁷ Paragraphs 3.4.5 to 3.4.9; Produced by the Royal Institution of Chartered Surveyors, 2012

⁸ Paragraph 7.9 Response to Draft Viability Report by AGA, Affordable 106, February 2017

⁹ Harrow Council reference P/0351/10

¹⁰ Harrow Council reference P/1784/13

demonstrated that a 30 bed care home was achievable on the site. The parties agreed that a Community Infrastructure Levy was introduced in 2013 and that this would require a contribution of £55m² for a care home. The need to establish a new permission that fully reflects current policy requirements does introduce an element of risk. The effect may not be great, but I am not persuaded that it would not have a material effect on the AUV.

32. Obtaining a planning permission is one element of establishing an AUV, another is establishing evidence that there is market demand for that use. The appellant relies upon a report of the Care Home market by CBRE in Quarter 4 of 2015¹¹ which provides a valuation range of £40,000-£70,000 per bed for "Top Tier" sites. The site falls within the broad location description for Top Tier sites of *'Mostly located within greater London and the South east of England in recognised affluent locations'*. But there is nothing to say what, if any, specific site selection criteria care home developer/operators might apply when seeking sites within this very broad area.
33. Although the February 2017 appraisal includes updated residential construction and sales data there is no up-to-date valuation or market interest evidence for this site for a care home. The PPG advises that viability assessment in decision-taking should be based on current costs and values. Planning applications should be considered in today's circumstances.¹²
34. Dr Golland opined that the value of a care home is much influenced by the operator and that the market has recently been affected by 'subsidy levels [which] have gone right down'. He maintained that a valuation based on £15,000 per bed space was realistic. But there is no evidence from care home experts or operators and Mr Gadsden and Mr Phillips both told me that they are not experts in this market and could not say if, having gained permission, the site had ever been actively marketed as such.
35. In conclusion, the submitted AUV does not reflect a value for an extant permitted alternative use. There is insufficient market evidence to say that the site, with a scheme based on the lapsed 30 bed care home permission, would be suitable for the Top Tier care home market. I am not persuaded that the AUV is sufficiently risk adjusted to reflect the need to establish a new permission in compliance with all current planning policy requirements and the lack of market demand evidence. I find that on the balance of probability, £1.3m represents more hope value than a reasonable realistic up-to-date market value and that an AUV of £1.3m is unrealistically high.

Other items including profit margin and land acquisition costs.

36. The appellant's 2017 appraisal has adopted a developer profit of 20% of Gross Development Value. Although the Council's 2016 appraisal adopts a figure of 17.5% Dr Golland agreed that 20% has been accepted in a number of planning appeals. I agree, and find that 20% is not unreasonable or excessive.

Overall scheme viability

37. At the Hearing Mr Phillips agreed that the summary at Appendix 5 of his 2017 appraisal demonstrates that a 100% market housing scheme would return a

¹¹ Appendix 7 Affordable 106 Financial Viability Appraisal January 2016

¹² Paragraph: 017 Reference ID: 10-017-20140306 Revision date: 06 03 2014

residual value of approximately £1.328m. He also accepted that his 2016 appraisal indicates a residual value of approximately £495,000 for a scheme with affordable housing provided on site, and that the residual value for such a scheme would be broadly the same if calculated with his 2017 figures.

Viability Conclusion

38. At the Hearing Mr Phillips and Dr Golland agreed that the only significant disputed elements are market values and benchmark land values. I agree, I accept the appellant's market value evidence and find no evidence to otherwise dispute the summary at Appendix 5 of the 2017 appraisal.
39. This leaves the matter of benchmark land value. The appellant's viability argument is essentially that on account of an AUV the proposed scheme would not provide a sufficient return so that the appellant would be incentivised to undertake it and not 'moth ball' it. However, I am not persuaded by the evidence that there is a realistic up-to-date AUV of £1.3m for this site.
40. Therefore, I conclude that the proposal has not clearly shown that on-site affordable housing provision is not viable and that it has not been demonstrated that the development should not make provision for affordable housing. Accordingly, the proposal is contrary to aims to secure an appropriate mix of housing with the maximum reasonable amount of affordable housing on individual private residential schemes having regard to viability in LP Policies 3.11 and 3.12, HCS Policy CS1.J, DMP Policies DM24 and DM50 and the SPD.

Other matters

41. The Framework seeks to boost significantly the supply of housing and the proposal would deliver 14 flats on a previously developed site in a sustainable location reasonably close to the town centre and other amenities. It would increase choice in the market and contribute towards the windfall supply of housing. These factors attract a moderate amount of weight in favour.

Conclusions

42. Certain aspects of the design would be harmful to the character and appearance of the locality. I am not persuaded that viability evidence demonstrates that the development should not make provision for on-site affordable housing. For these reasons the proposal is contrary to requirements of the development plan and I attach significant weight to these harms.
43. I attach a moderate amount of weight in favour of the benefits of the housing that would be delivered.
44. However, pursuing sustainable development also involves seeking positive improvements in the quality of the built environment as well as providing a supply of housing to meet the needs of present and future generations. Therefore, having taken all other matters into consideration, I conclude that the harms outweigh the moderate benefits and the appeal is dismissed.

Helen Heward

PLANNING INSPECTOR

APPEARANCES

FOR THE APPELLANT

Eric Gadsden	Appellant and developer
Peter Briggs BSc (Hons) Dip TP MRTPI	Preston Bennett Planning
Bill MacLeod	W J Macleod Architect
Sean Phillips	Affordable 106

FOR THE LOCAL PLANNING AUTHORITY

Dr A J Golland BSc (Hons) PhD MRICS	Andrew Golland Associates
Graham Mansfield	Senior Planning Officer, Harrow Council
Orla Murphy	Team Leader Development, Management Harrow Council
Fran Balaam	Design Officer, Greater London Authority

DOCUMENTS SUBMITTED AT THE HEARING

1. List of persons notified of the appeal
2. 'WJM Design Statement'.
3. Dwg 15/33/87/5 for a cycle store
4. Dwg 15/3387/4 'Street Scene/Site Section'.