



Appeal Decision

Site visit made on 1 November 2017

by M Seaton DipTP MRTPI

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

Decision date: 15 February 2018

Appeal Ref: APP/R5510/W/17/3180115

Weir House, 50 Riverside Way, Uxbridge, UB8 2YF

- 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 Weir House Topco against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 43495/APP/2016/1498, dated 15 April 2016, was refused by notice dated 26 April 2017.
 - The development proposed is the erection of a three-storey building, to create 16 x 2 bed self-contained residential units, together with associated landscaping and parking.
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Procedural Matter

1. During the course of the appeal, the appellant has submitted a planning obligation dated 31 October 2017. The obligation addresses matters related to the provision of affordable housing, and contributions towards construction training and project management and monitoring. I will return to this document later on within this Decision

Decision

2. The appeal is allowed and planning permission is granted for the erection of a three-storey building, to create 16 x 2 bed self-contained residential units, together with associated landscaping and parking at Weir House, 50 Riverside Way, Uxbridge, UB8 2YF, in accordance with the terms of the application, Ref. 43495/APP/2016/1498, dated 15 April 2016, subject to the conditions set out in the Annex.

Main Issues

3. The main issues are;
 - whether the living conditions of the future occupiers of the proposed development would be harmed, having regard to noise and disturbance; and,
 - whether the proposed development would make adequate provision for the living conditions of future occupiers, having regard to the amount, form, and quality of the proposed external amenity space.

Reasons

4. The appeal site is located on the south side of Riverside Way, and occupies a position between the River Colne and the Grand Union Canal. An existing large two-storey former office building is located on the site, which was being

occupied as residential accommodation in accordance with a prior approval for a change of use from offices (Use Class B1) to 14 self-contained flats (Use Class C3) as approved in January 2016 (*LPA Ref. 43495/APP/2015/4137*). An existing open area of hardstanding utilised for parking was located between the building and the access to Riverside Way. The appeal site is indicated to be situated within the North Uxbridge Industrial & Business Area (NUIBA) and is located to the west of Uxbridge Town Centre.

Living conditions – noise and disturbance

5. The Council has contended that the proposed additional residential flats would, as a consequence of the proximity to neighbouring industrial uses, result in a poor quality residential environment for future occupiers due to noise, vibration and general disturbance arising from the broadly unfettered operation of the NUIBA.
6. In seeking to establish the impact of NUIBA on the proposed residential units, the appellant submitted a Noise Assessment Report with the planning application, prepared by ATSPACE and dated May 2016. This report was further updated in June 2017 by Anglia Consultants and submitted with the appeal documentation, with the Council having had the opportunity to review and comment on the contents of the report during the course of the appeal. On the basis of the submitted evidence, the Council does not dispute the methodology or conclusions of the technical noise reports and has not produced any technical evidence of its own. There would also seem not to be any dispute between the parties that the relationship between the appeal site and existing and future noise sources would require mitigation.
7. In this respect the technical reports indicate a current need for the inclusion of thermal double glazed units to supplement standard building construction as a means of providing adequate sound attenuation, with acoustic double glazing and additional acoustic ventilation required to mitigate against the possibility of future noisy industrial development taking place on surrounding sites. The appellant concludes that these measures would provide a satisfactory internal environment for future occupiers. I am also satisfied that the proposed measures would provide a technical basis to ensure that internal noise levels would be within acceptable parameters, in accordance with *BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'*, and in accordance with World Health Organisation (WHO) guidelines, both now and in the future taking into account increased potential future industrial noise.
8. I have had careful regard to the Council's disagreement with the appropriateness of the proposed mitigation, and contention regarding the overall negative impact on the living conditions of future occupiers which would arise, with reference to the National Planning Policy Guidance (PPG) for Noise. In this respect, I recognise that for the acoustic mitigation to be effective there must be a reliance on closed windows and acoustic ventilation, and I have been particularly mindful in this regard of the PPG which advises that it is *undesirable for material changes in behaviour to be caused by noise, such as the need for keeping windows closed for most of the time*.
9. The current noise levels and nature of noise as reported and observed would not appear to require such measures to be taken, and also there is no submitted record of noise complaints having already arisen during the period of residential occupation of the existing converted building. Whilst I accept that in

order to address the technical aspects of the issue, a reliance on closed windows for at least a proportion of the time would diminish to a degree the quality of the living conditions available to the occupiers of affected properties, I am not persuaded that in the context of the site or the nature of the proposed units, that any impact on living conditions from either an open or closed window scenario would be so significant as to be unacceptable. Furthermore, my attention has been drawn to a seemingly similar approach having been taken by the Council in respect of a reliance on sound insulation for residential flatted developments in noisy environments, on sites within town centres or adjacent to major transport routes.

10. In reaching my decision, I have also carefully considered paragraph 123 of the National Planning Policy Framework (the Framework) which sets out that *planning policies and decisions should aim to recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established*. However, I am mindful that a change of use of the appeal site to a residential use has already occurred and as such any issues related to noise from the NUIBA would already need to be addressed by virtue of the residential occupation of the existing development. The proposed development would not therefore result in any significant change in the nature of the occupation of the appeal site.
11. With regards to existing noise levels in external amenity areas, I am satisfied from the technical submissions that they would meet the required standards, and would agree with the conclusion that in the event of future noisy development that additional acoustic mitigation and screening could be provided by appropriate fencing along the boundary with Riverside Way.
12. In reaching my conclusions, I am satisfied that subject to securing the appropriate mitigation through the imposition of conditions, the living conditions of the future occupiers of the proposed development would not be so significantly harmed as to be unacceptable, having regard to noise and disturbance. The proposal would not therefore conflict with saved Policy OE5 of the Hillingdon Local Plan: Part Two – Saved UDP Policies 2012 (the UDP). This policy requires development, even if acceptable in principle, to establish that the proposed building or use can be sited, designed, insulated or otherwise protected from external noise or vibration sources to appropriate national and local standards. Furthermore, I am satisfied that the proposed development would not conflict with paragraph 123 of the Framework as it would not result in a change in the land use which would be likely to place any additional restrictions, in terms of noise and disturbance, on existing businesses.

Living conditions – external amenity areas

13. The Council has highlighted that the proposed development would need to provide, in accordance with the adopted Hillingdon Design and Accessibility Statement Supplementary Planning Document 2006 (HDAS), a minimum of 400m² of outdoor amenity space. In this respect, whilst the Council acknowledges that on the basis of the proposal that in excess of this amount would appear to have been provided in the form of shared amenity space, it is contended that the proposed amenity space would neither be attractive nor usable for future occupiers of the development.

14. It is evident from both the submitted plans and my observations on the site, that a significant reliance has been placed upon a linear strip of land located between the towpath adjacent to the Grand Union Canal, and Riverside Way. In itself, whilst of an irregular shape, I am satisfied that the provision of communal amenity space in this form for future occupiers would, subject to appropriate landscaping, be both usable and attractive in this canal-side location. I have had regard to the Council's assertion that the proximity of both Riverside Way and the nearest industrial units would have an adverse impact on the quality of the space. However, I would agree with the appellant's assessment that the general level of traffic using this section of Riverside Way is low as a consequence of it running into a cul-de-sac, and that appropriate mitigation in the form of planting and screening, secured in connection with the landscape condition, could be implemented along the boundary adjacent to the road.
15. I am therefore satisfied that the proposed external amenity space would be of an amount, form and quality to adequately provide for the living conditions of future occupiers. I have not therefore found there to be conflict with saved Policy BE23 of the UDP, Policy 3.5 of The London Plan, or the guidance contained within the HDAS. These policies and guidance seek to ensure that new residential buildings should provide external amenity space which is sufficient to protect the amenity of the occupants of the proposed building, and which is of an appropriate size, usable, and attractively laid out in terms of its shape and siting.

Other Matters

16. Interested parties have raised other issues and concerns. These include the proposal representing an overdevelopment of the appeal site; the appropriateness of the design of the building; the potential for disruption and inconvenience to neighbouring businesses during the construction period, including in respect of exacerbating existing parking demand; and the potential for anti-social behaviour and security problems arising from the residential occupation of the building.
17. On the basis of the submitted details, I am not persuaded that the proposal would represent an overdevelopment of the appeal site, with the number and size of proposed units, the level of proposed parking and the aforementioned provision of communal amenity space all meeting local and national standards. Whilst I recognise from a design perspective that the proposed 3-storey building would be larger and of a different design approach and rationale than Weir House itself, I am satisfied that it would not appear as a harmful addition within the context of the wider area either in respect of scale or design.
18. I accept that during the construction period that there would be the potential for some disruption and inconvenience within the area, but that this would ultimately be for a temporary period of time. I appreciate that this inconvenience may manifest itself during construction particularly in respect of restrictions on the availability of parking on Riverside Way, leading to employees having to potentially park further away. However, I do not consider this temporary inconvenience to represent a valid reason for refusal. I note that the level of off-street car parking to be provided meets the Council's expectations for the total number of existing and proposed units on the site, and I have no reason to disagree with this conclusion.

19. With regards to the potential for anti-social behaviour, I have not been provided with any compelling evidence as to why a residential development in this location would lead to either anti-social behaviour or pose a threat to the security of existing commercial units on the NUIBA.

Obligation and Conditions

20. As set out at the beginning of this Decision, the appellant has submitted a planning obligation in support of the proposed development. I am satisfied that the undertaking is in order, and that the Council has set out the need for the provision of affordable housing and contribution towards construction training, as well as identifying the direct relationship to the development, the necessity and acceptability in planning terms, and that the obligation is fairly and reasonably related in scale. In respect of the project management and monitoring fee, neither party has made submissions to indicate that the obligation does not pass the tests, and in these specific circumstances I am satisfied that such costs would be justified. I am therefore satisfied that the obligation would accord with the provisions of Regulation 122 of the Community Infrastructure Levy regulations 2010 and the tests for planning obligations set out in the Framework.
21. I have had regard to the Council's reference to the absence of an obligation securing the necessary highway works in the form of the alternative access. However, I am mindful that, as has been stated by the appellant and set out as an option within the Council's Committee Report, this is a matter which could be secured within the Section 106 agreement or via a Section 278 agreement. In this instance, I am satisfied that this is a matter that can be addressed through a Section 278 agreement to secure the highways works.
22. Turning to the proposed conditions, the Council has suggested the conditions which were submitted as part of the recommendation to the planning committee, and I note that the appellant has not disputed these.
23. In addition to conditions relating to timeliness, the identification of plans, and completion of the development in accordance with the submitted supporting documents (albeit that I have removed the reference to the Design & Access Statement which is not approved as a technical document), a condition securing a construction management plan would be in the interest of the wider amenity of the area. Conditions related to hard and soft landscaping including the waterside area, and details of materials to be used in the development, would be in the interests of the character and appearance of the area. Conditions securing a scheme for the protection of the proposed units from noise from nearby industrial units, and road and rail traffic, and the provision of the external amenity areas prior to occupation of the units, would all be necessary in order to safeguard the living conditions of future occupiers of the development.
24. The provision of a scheme for sustainable water management would ensure the appropriate management of surface water and flood risk, whilst a scheme to deal with contamination would be in the interest of the ground conditions of the appeal site and the protection of controlled waters. The submission of a detailed energy assessment would address the need to deliver appropriate carbon savings, and a condition requiring compliance with Standards M4(2) & M4(3) of the Building Regulations (2015) would ensure the provision of housing units which would meet the needs of disabled and elderly people.

25. The provision of parking spaces, an updated parking layout plan including motorcycle spaces, and a parking allocation scheme prior to occupation would be in the interests of highway safety and the management of the site, whilst the provision of cycle parking prior to the occupation of the units would be necessary in the interests of sustainable transport. Ensuring that the building meets 'Secured by Design' accreditation would be in the interests of addressing and promoting a safe and secure environment. A scheme of ecological enhancement and the inclusion of living walls and a green roof would be in the interests of the biodiversity of the site.

Conclusion

26. For the reasons given above and subject to the conditions listed, the appeal should be allowed.

M Seaton

INSPECTOR

Annex

Conditions

- 1) The development to which this permission relates must be begun not later than the expiration of three years beginning from the date of this decision notice.
- 2) Unless otherwise required by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 12349-P-107, 12349-P-100-F, 12349-P-101-E, 12349-P-102-G, and 12349-P-105-G.
- 3) The development hereby permitted shall not be occupied until the following has been completed in accordance with the specified supporting plans and/or documents:

FRA Weir House, Uxbridge 5628 001 R01 Oct 2016

FRA Appendix A - BGS Superficial Geology

FRA Appendix B - TW Sewer Flooding History Enquiry

FRA Appendix B - TW Sewer Records & response

FRA Appendix C - Groundsure Floodinsight Report

FRA Appendix D - EA Flood Modelling Data

FRA Appendix E - SW Drainage Strategy 5628-001-C-100-P1

FRA Appendix E - SW Drainage Strategy Calcs 1 in 100 years 30%

FRA Appendix E - SW Drainage Strategy Calcs 1 in 2 years

FRA Appendix E - SW Drainage Strategy Calcs 1 in 30 years

FRA Appendix F - Maintenance Schedule

Ecological Appraisal

Tree survey

Transport Statement

Air Quality Report A10621/1.1

Noise Assessment (June 2017)

Thereafter the development shall be retained and maintained in accordance with these details for as long as the development remains in existence.

- 4) Prior to the commencement of development, the applicant shall submit a demolition and construction management plan to the Local planning authority for its approval. The plan shall detail:
 - (i) The phasing of development works
 - (ii) The hours during which development works will occur
 - (iii) A programme to demonstrate that the most valuable or potentially contaminating materials and fittings can be removed safely and intact for later re-use or processing.
 - (iv) Measures to prevent mud and dirt tracking onto footways and adjoining roads (including wheel washing facilities).

(v) Traffic management and access arrangements (vehicular and pedestrian) and parking provisions for contractors during the development process (including measures to reduce the numbers of construction vehicles accessing the site during peak hours).

(vi) Measures to reduce the impact of the development on local air quality and dust through minimising emissions throughout the demolition and construction process.

(vii) The storage of demolition/construction materials on site.

The approved details shall be implemented and maintained throughout the duration of the demolition and construction process.

- 5) A landscape scheme shall be submitted to an approved in writing by the Local Planning Authority. The scheme shall include: -

1. *Details of Soft Landscaping*

a All ornamental and ecological planting (at not less than a scale of 1:100),

b Replacement tree planting to compensate for the loss of existing trees,

c Written specification of planting and cultivation works to be undertaken,

d Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate

2. *Details of Hard Landscaping*

a Means of enclosure/boundary treatments, including details of the screening required for the defensive space at the front, side and rear of flats to ensure the privacy of these residents.

b Hard Surfacing Materials

c Other structures (such as gates, steps, ramps, retaining walls and chains/treatment to provide defensible space to ground floor units)

3. *Details of Landscape Maintenance*

a Landscape Maintenance Schedule for a minimum period of 5 years.

b Proposals for the replacement of any tree, shrub, or area of surfacing/seeding within the landscaping scheme which dies or in the opinion of the Local Planning Authority becomes seriously damaged or diseased.

4. *Schedule for Implementation*

5. *Other*

a Existing and proposed functional services above and below ground

b Proposed finishing levels or contours

Thereafter the approved details shall be implemented prior to first occupation of the flats in full accordance with the approved details and shall be retained thereafter.

- 6) Prior to commencement of development, a scheme for the provision of sustainable water management shall be submitted to, and approved in

writing by the Local Planning Authority. The scheme shall follow the strategy set out in 'Surface Water Drainage Strategy', produced by EAS dated June 2016 Revision Final 2.

a) by maintaining existing ground levels through the undercroft entrance to parking, so that the overland flow route is maintained in perpetuity.

b) reduce run off from the site to the greenfield run off rates specified.

c) provide storage through a green roof and permeable paving. In addition the scheme shall provide details on the following how it, Manages Water and demonstrate ways of controlling the water on site by providing information on:

i. Where a basement is proposed a site investigation must be provided to establish the level of groundwater on the site, and to demonstrate the suitability of infiltration techniques proposed on the site. (This should be undertaken at the appropriate time of year as groundwater levels fluctuate).

ii. Where groundwater is found within the site and a basement is proposed suitable mitigation methods must be provided to ensure the risk to others is not increased.

iii incorporate water saving measures and equipment.

iv provide details of how rain and grey water will be recycled and reused in the development.

v Where overland flooding is proposed, the plan should include the appropriate actions to define those areas and actions required to ensure the safety of the users of the site should that be required.

vi From commencement on site how temporary measures will be implemented to ensure no increase in flood risk from commencement on site including any clearance or demolition works.

vii The Management and maintenance plan should be updated to incorporate any ground water mitigation that may need to be provided. Thereafter the development shall be implemented and retained/maintained in accordance with these details for as long as the development remains in existence.

7) i) The development hereby permitted shall not commence until a scheme to deal with contamination has been submitted in accordance with the Supplementary Planning Guidance on Land Contamination and approved by the Local Planning Authority (LPA). The scheme shall include all of the following measures unless the LPA dispenses with any such requirement specifically and in writing:

(a) A desk-top study carried out by a competent person to characterise the site and provide information on the history of the site/surrounding area and to identify and evaluate all potential sources of contamination and impacts on land and water and all other identified receptors relevant to the site;

(b) A site investigation, including where relevant soil, soil gas, surface and groundwater sampling, together with the results of analysis and risk assessment shall be carried out by a suitably qualified and accredited consultant/contractor. The report should also clearly

identify all risks, limitations and recommendations for remedial measures to make the site suitable for the proposed use.

(c) A written method statement providing details of the remediation scheme and how the completion of the remedial works will be verified shall be agreed in writing with the LPA prior to commencement.

(ii) If during development or works contamination not addressed in the submitted remediation scheme is identified, an addendum to the remediation scheme must be agreed with the LPA prior to implementation; and

(iii) All works which form part of the remediation scheme shall be completed and a verification report submitted to the Council's Environmental Protection Unit before any part of the development is occupied or brought into use unless the LPA dispenses with any such requirement specifically and in writing.

- 8) Development shall not begin until a scheme for protecting the proposed development from noise from the surrounding industrial units has been submitted to and approved in writing by the Local Planning Authority. The scheme shall meet acceptable noise design criteria both indoors and outdoors. Thereafter, the scheme shall be implemented and maintained in full compliance with the approved measures.
- 9) A detailed energy assessment shall be submitted by the stage whereby construction works are at damp proof course level showing how the development will reduce carbon emissions by 35% from a 2013 Building Regulations compliant development in accordance with the outline Energy Assessment. The detailed assessment shall clearly set out the specifications of the proposed CHP unit and Photovoltaic array, including inputs and outputs and how these relate to the baseline energy demand and carbon emissions. The assessment shall include clear details of PV layouts and management and maintenance of the CHP unit, as well as how its performance will be monitored and reported to the Local Authority for 5 years after completion of the occupation of the first completed building. The development must proceed in accordance with the approved details.
- 10) The development shall not be occupied until 34 cycle parking spaces are provided in accordance with the approved plans for use by future occupiers. Thereafter, these cycle parking spaces shall be permanently retained, unless otherwise agreed in writing by the Local Planning Authority.
- 11) The development shall not be occupied until 28 car parking spaces, including 2 disabled bays, 2 motorcycle bay, 6 electric charging bays with a further 6 bays with passive provision have been provided. Thereafter the parking bays/areas shall be permanently retained and used for no other purpose than the parking of motor vehicles associated with the consented residential units at the site.
- 12) A total of 10% of the units shall meet the standards for M4(3) 'wheelchair user dwellings' and the remainder shall meet the standards for M4(2) 'Accessible and adaptable dwellings' as set out in Approved Document M to the Building Regulations (2015). All such provisions shall remain in place in perpetuity.

- 13) Prior to occupation of the development, the outdoor amenity areas as hereby approved shall be provided for future use by residents. Thereafter, the amenity areas shall be retained in perpetuity for their use.
- 14) Prior to commencement of the development, details shall be submitted to and approved in writing by the Local Planning Authority for the following:
 - 1) Samples and where appropriate, manufacturer's details, of all external materials, including roofing and tinted glazing.
 - 2) Detailed drawings at an appropriate scale of the elevational treatment of the building to illustrate the finish of porches, doorways, openings, coping/parapets, brickwork and cladding detailing
 - 3) Details of the materials, construction, colour and design of all new external windows and doors.
 - 4) Details of the design of the balconies, balustrades and handrails
 - 5) The location, type, size and finish of plant, vents, flues, grills and downpipes/hoppers
 - 6) Details of the external appearance and colour of the lift overrun and housing

The approved details shall be implemented and maintained in perpetuity, unless otherwise agreed in writing by the Local Planning Authority.
- 15) Prior to commencement of development, a scheme for protecting the proposed development from road and air traffic noise has been submitted to and approved in writing by the Local Planning Authority. The scheme shall meet acceptable noise design criteria both indoors and outdoors. The scheme shall include such combination of sound insulation, ventilation and other measures to the satisfaction of the Local Planning Authority. Thereafter, the scheme shall be implemented and maintained in full compliance with the approved measures.
- 16) No unit hereby approved shall be occupied until a parking allocation scheme has been submitted to, and approved in writing by, the Local Planning Authority. Thereafter the parking shall remain allocated for the use of the units in accordance with the approved scheme and remain under this allocation for the life of the development.
- 17) The building shall achieve 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO). The building shall not be occupied until accreditation has been achieved.
- 18) Prior to the commencement of development hereby approved, full details of the proposed hard and soft landscaping scheme for the waterside area shall be submitted to and approved in writing by the Local Planning Authority. The landscaping shall be carried out in accordance with the approved details.
- 19) Prior to the commencement of development an ecological enhancement scheme shall be submitted to and approved in writing. The scheme shall be accompanied by a plan showing the retention of existing features of value together with proposals for the inclusion of additional features and

improvements to the existing site which will result in a net gain in ecological value. The enhancements shall include:

1. wildlife specific planting
2. log piles
3. habitat walls
4. bat and bird boxes
5. Enhanced riverside vegetation and improvement works

The development must proceed in accordance with the approved scheme unless otherwise agreed in writing with the Local Planning Authority.

- 20) Prior to the commencement of development details of inclusion of living walls and roofs within the development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include planting mixes and maintenance plans. The development must proceed in accordance with the approved plans.
- 21) Notwithstanding the plans hereby approved, the site plan shall be updated to replace car parking spaces no. 1 and no. 29 with 2 motorcycle parking spaces. The details shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. The details shall thereafter be implemented and retained for the life time of the development, unless otherwise agreed in writing.