



Appeal Decision

Hearing Held on 4 December 2019

Site visit made on 4 December 2019

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/N0410/W/19/3231842

Former Electron Works, Willow Avenue, Denham, Uxbridge UB9 4BG

- 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 Innes Gray against the decision of South Bucks District Council.
 - The application Ref PL/18/4106/FA, dated 5 November 2018, was refused by notice dated 8 March 2019.
 - The development proposed is described as *"new 3 storey block of 9 residential flats comprising 3 one bedroom and 6 two bedroom and 9 parking spaces plus 4 visitor spaces"*.
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Decision

1. The appeal is allowed and planning permission is granted for a 3 storey block of 9 residential flats comprising 3 one bedroom and 6 two bedroom, 9 parking spaces plus 4 visitor spaces at land adjacent to the Former Electron Works, Willow Avenue, Denham, Uxbridge UB9 4BG in accordance with the application Ref PL/18/4106/FA dated 5 November 2018, subject to the conditions set out within the attached schedule.

Preliminary Matters

2. I have taken the description of development from the planning application form although I note it is expressed differently on other documents.
3. The appellant has put forward revised plans as part of the appeal, drawing numbers 916:1120/PL100 Revision B; 916:1120/PL101 Revision B; 916:1120/PL102 Revision B; 916:1120/PL103 Revision B and 916:1120/PL104 Revision B.
4. The information shown on the revised drawings has amended the location of the front entrance door of the proposed flats to the southern elevation as opposed to the western elevation. The other changes show the removal of some render and replacement with brick upon the elevations; modifications to the windows on the southern elevation only; and the entrance to the car park set back from the façade and inset. This additional information does not significantly materially alter the proposal. The Council and third parties have had the opportunity to comment on the proposal in its revised form as part of the appeal consultation process. The Council has not raised any objection to the amended drawings. In accepting these drawings, I do not consider the

interests of third parties would be prejudiced. For this reason, I have had regard to the amended drawings.

Main Issues

5. The main issues raised in respect of this appeal are: -

- (a) The effect of the proposed development upon the character and appearance of the area and the Uxbridge Lock Conservation Area (the CA);
- (b) The effect of the proposed development upon the safety of future occupiers and whether the proposal would design out crime sufficiently; and
- (c) Whether the proposed development would make effective use of land to promote mixed and balanced communities having regard to the need for affordable housing provision.

Reasons

Character and appearance

- 6. To the north of the appeal site is the residential Willowbank estate, which is characterised by bungalows and chalet bungalows, although there is a three-storey building 'The Alders' north west of the site. The boundary of Uxbridge Lock CA runs along the eastern side of Willow Avenue. The CA has seen significant change in recent years with the residential development of Kings Mill. To the south is a mix of commercial units, along with Apex Court, a two-storey building that is in part in residential use and in part commercial. Third party representation has highlighted that Unit 1 also has an approval in place that would allow for its residential occupation. Further south there are some two-storey historic properties with tall buildings of the urban centre beyond, including a 1960's high rise known as Denham Lodge.
- 7. I note that a previous planning application for the construction of two, part two and three-storey terraces to accommodate seven office units (Planning Ref: 09/00235/FUL) was refused at this site. At appeal, the Inspector dismissed that scheme due to the adverse impact on the streetscene and that it would detract from the setting of the CA. The Council contends that the Inspector's findings are relevant to the appeal before me. However, it was clear to me at my visit that much change has taken place within the CA. The modern design five-storey buildings relating to the Kings Mill development are clearly visible tall buildings in views from Willow Avenue and Hawthorn Drive and are perceived as development within close proximity to the appeal site. That development has considerably changed the context of the area since the previous appeal decision in 2009.
- 8. Notwithstanding the above, the Council, prior to the outcome of the above appeal, granted planning permission for the redevelopment of the appeal site with a part two/part three-storey buildings to accommodate 7 office units (planning Ref: 09/00958/FUL). The Council clarified at the hearing that this office development is an extant permission that could be implemented.
- 9. Since the consideration of the above planning proposals, the Chiltern and South Bucks District Councils have produced the Chiltern and South Bucks Townscape

Character Study November 2017. The Study identifies the site as falling within the New Denham and Willowbank area and indicates that it has a potential for change, including the appeal site within an area with a character typology as 'Apartments'. The Study sets out that proposals for these sites should take regard of the characteristics of the area they are located in as well as the surrounding context.

10. There is a clear transition at this point in Willow Avenue between the commercial nature of the area in which the appeal site is located to that of the residential development to its north. I consider the site can, therefore, host a development different to that of the existing residential development north of the appeal site. With regard to the design the Council indicate that a contemporary approach is suitable for the site and I note that a contemporary approach was taken for the previously granted office development scheme.
11. Notwithstanding the above, the Council contends that the combination of pitched roofs, flat roofs, areas of cladding and varying window openings would create a development of overcomplicated appearance. The design of the building is broken up vertically with step ins and outs and set-backs at second storey. In my opinion, these elements would not be unusual for a contemporary designed development. A simple palate of modern materials would be used throughout the development. Whilst there is some variation in window and patio door fenestration sizes there is a general consistency to the proportions and regularity of the openings within the east and south elevations that are visible in public views from Willow Avenue. I do not consider the development would appear overcomplicated in appearance.
12. I note that a pitched roof is proposed at the northern end of the development. Whilst I consider this to appear to some extent at odds with the overall design of the proposed development, it does, however, reflect the pitched roof of the adjoining bungalow at 1A Willow Avenue. I note that this feature was accepted by the Council as part of the previous office development scheme.
13. I accept that the grill style windows at the eastern elevation would not create an active frontage at ground level, nonetheless I note that similar ventilated fenestration forms part of the King's Island development close by that is within CA. Within the context of the 'potential for change' as set out within the Townscape Character Study, I do not consider the ground floor 'grill' feature of the proposed development would be so visually harmful to justify resisting the proposal. Overall, the proposal would respond to the new design context of the Kings Mill development that is within the environs of the appeal site.
14. I accept that whilst it may be preferable for the development to host an entrance on the Willow Avenue frontage, due to the land between the appeal site and the adjacent highway not falling within the appellants ownership and control, the ability to create a traditional access arrangement from the highway as part of this proposed development, is restricted.
15. The Council is also concerned that the three-storey flat roof element adjacent to the access and the difference in height between the proposed development and the existing commercial buildings to the south would be visually obtrusive within the streetscene. Although details of the design and roof form differ to that of the previous permitted office development, the height of the proposed development would not be dissimilar to that of the office development that could be implemented at the site. Furthermore, the flat roof design of the

- proposed scheme would be marginally bulkier by design to that of the low pitch roof design of the office development. The existing commercial units are already seen in the context of the existing three-storey development at The Alders that appears within the backdrop of the site when viewed on the northerly approach to the site. The Alders appears to me to have a ridge height taller than the development proposed. I do not consider the height and depth of the southern flank elevation of the proposed development would be significantly visually harmful in the context of the existing commercial units.
16. At the hearing some discussion took place relating to the 'gateway' to the CA. The Council explained that travelling south east along Willow Avenue the highway narrows and a gateway is created with the CA on the eastern side. I note the appeal site is not within the CA, however on approaching this point along Willow Avenue, the contemporary development at Kings Mill is clearly visible. I consider new contemporary development at the appeal site would be complementary to the contemporary development at Kings Mill in gateway views.
17. In terms of the CA and its setting, the development would not harmfully impact on the significance of those assets within the CA having regard to the change in surrounding context of this area over recent years that has brought about a change to the local character and distinctiveness.
18. For the above reasons, the proposed development would not have a harmful effect upon the character and appearance of the area and the Uxbridge Lock CA. The proposal would, therefore, not materially conflict with Policies EP3 and H9 of the South Bucks District Local Plan 1999 (the Local Plan) and Core Policy CP8 of the South Bucks District Core Strategy 2011 (the Core Strategy) that seek, amongst other matters, development to be compatible with the character and amenity of the site itself, adjoining development and the locality in general and that require the District's historic environment to be protected, and where appropriate, enhanced.

Safety of future occupiers and crime

19. The existing access is an unadopted service road. Primarily it services the existing commercial units, as well as Apex House, that has partly been converted to residential use, and Unit 1 that has approval for residential occupation. The access also serves the current carpark comprising 36 parking spaces (the appeal site). The current access is in active use and is a shared space that does not have any defined pedestrian routes.
20. There is the potential for conflict between existing users and future occupiers of the proposed development within the access. I note that if the office planning permission were fully implemented a similar situation would exist in respect of merging vehicle and pedestrian movements with the existing commercial uses.
21. Interested third parties at the hearing with a knowledge of the existing businesses commented that the existing operations did not create any significant traffic. Notwithstanding this, other commercial units are currently unused but if brought back into commercial use these could generate vehicle movements that could include larger commercial vehicles.
22. I have been directed by the appellant to advice provided by Manual for Streets that indicates carriageways of 5.5 m would be sufficient for 2 large vehicles

- (HGV's) to pass. The access road within the site would be wider than this, which implies to me that pedestrians would have ample space to pass vehicles within this shared access space. I observed that given the constrained nature of the site, vehicles visiting the commercial units would be travelling at low speed within the shared access space.
23. Relocating the entrance to the flats to the south side of the building would increase the visibility of pedestrians traversing the shared space. On the evidence before me I have no substantive reason that would lead me to conclude that the shared use of the access would be unsafe for future occupiers or that the combined commercial vehicles and pedestrians could not safely coexist. Furthermore, I have not been directed to any substantive evidence that would indicate that access/egress of vehicles using the under-croft parking spaces would impede the free flow of vehicles in this locality or that vehicular access to existing commercial uses would be obstructed.
24. With regard to reducing the potential for the appeal development to be vulnerable to crime, amending the scheme to host the entrance of the flats to the south with access via the shared access, would create a degree of activity that would allow for surveillance of this area. Furthermore, the proposed development would create observation from residential flats over this shared space. This, combined with the HMO use at Apex Court, would generate passive surveillance of the area. Furthermore, windows at the rear of the development would provide natural surveillance of the outdoor amenity space and parking areas.
25. With regard to the under-croft parking being vulnerable to crime, I have not been provided any substantive information or evidence that might lead me to conclude that the under-croft parking could not be sufficiently secured.
26. On the available evidence I do not consider that the design of the development would significantly undermine the occupiers' quality of life due to fear of crime taking place, either to individuals themselves or their property.
27. For the above reasons, I conclude that the safety of future occupiers would not be unreasonably compromised. Furthermore, I conclude that the development and/or future occupiers would not be unacceptably vulnerable to crime and disorder as a result of the design of the proposed development. The proposal, therefore, would not materially conflict with Policies EP3 and EP6 of the Local Plan that seek, amongst other matters, development to be designed and laid out to reduce the opportunity for crime against both people and property. I note that refusal reason two also refers to the Council's adopted Supplementary Planning Document 'Residential Design Guide' 2010, however, the Council has not directed me to any specific content within this document with which the proposed development might conflict.

Effective use of land and affordable housing provision

28. Core Policy 3 of the Core Strategy sets a threshold triggering an obligation to secure affordable housing as part of developments comprising 5 units or more or where the size of the site is 0.16 hectares or more. However, Core Policy 3 pre-dates the latest revision to the National Planning Policy Framework (the Framework) which sets out at paragraph 63 that affordable housing should not be sought for development that is not major development, other than in designated rural areas. The glossary to the Framework indicates that major

- development for housing would relate to development where 10 or more homes, or sites of 0.5 hectares or more are proposed. The proposal relates to a development of 9 residential units on a site of 0.07 hectares and, as such does not meet the threshold of the Framework to trigger affordable housing provision.
29. My attention has been drawn to the Framework's requirement for decisions to promote an effective use of land. This supports the Government's objective of significantly boosting the supply of homes. The Council has advised that it currently does not have a 5-year supply of housing sites in place. Paragraph 123 of the Framework indicates that where there is an existing shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities and ensure that developments make optimal use of the potential of each site.
30. Core Policy CP3 seeks to ensure that development is not built at a low density to avoid the need for affordable housing. I have been directed to the National Technical Housing Standards (Communities and Local Government March 2015) that sets out minimum gross internal floor areas for new dwellings. I accept that if these standards were applied, the proposed development could potentially accommodate one or possibly two additional units that could trigger the Core Policy 3 threshold. However, the Housing Standards serve to set a minimum standard for the purposes of ensuring that a basic standard of habitable living accommodation is achieved, and as such, serves a different purpose to that of establishing housing density.
31. I have been directed to the Council's Housing and Economic Development Needs Assessments 2017 and 2019. This has identified a need for both one and two-bed flats within the District up to 2036 with an indicated preference for a greater provision of 2-bed (or larger) flats. The proposal would provide six two-bed flats and three one-bed flats. The proposal, comprising a greater number of two-bed to one-bed flats appears to me to align with the Council housing needs trajectory.
32. The Framework sets the objective of creating mixed and balanced communities; however, this is in the context of an identified affordable housing need. I have not been directed to any substantive up-to-date evidence of a current affordable housing need in this location. In view of this, I attach greater weight to national policy on this matter. Furthermore, it appears to me the flat ratio would reflect the District's most recently assessed future housing needs requirements. On the available evidence before me, I do not consider the absence of affordable housing should be a reason for dismissing this appeal.

Other Matters

33. Some third-party concern has been raised to other aspect of the proposed development.
34. I observed at my visit that the dwelling of 1a Willow Avenue is offset from the common boundary with the appeal site by a driveway. Both the ground and first floor elements of the proposed development have been designed so that they are staggered away from the common boundary with 1a Willow Avenue. I note this approach is similar to that taken as part of the permitted office development. Given the design of the proposed development I do not consider

the proposal would harmfully dominate or overshadow 1a Willow Avenue. I note the Council considers that no unacceptable impacts would arise in terms of living conditions in these respects. With regard to privacy, two second floor windows are proposed within the flank elevation facing 1a Willow Avenue, however a suitably worded condition would ensure that harmful overlooking would be prevented.

35. To the south, as noted previously, permissions have allowed for the residential occupation of some of the existing commercial units. The proposal would create windows facing these units. However, given the separation between respective habitable accommodation I do not consider this would create mutual overlooking that would be substantially harmful to the living conditions of respective occupiers. Furthermore, given the separation between developments I do not consider light would be impeded to the occupiers of Apex Court or Unit 1, or that the proposed development would be overly dominant in these occupiers' outlook.
36. To the opposite side of Willow Avenue is 29 Hawthorn Drive. The side elevation of this property would be some distance from the front elevation of the proposed development. Due to the separation and orientation of the proposed development to this property, I do not consider the proposal would harm the living conditions of the occupiers of this property, even with outdoor balconies incorporated into the design frontage of the proposed development.
37. There would be some potential for disturbance to adjoining businesses and residential occupiers during the construction phase of the development, however this would be limited to the period in which building works would take place. Some concern has been expressed to long term traffic noise generated by the proposed development. Nonetheless, the vehicle movements would be of a domestic nature that would reflect the vehicle movements of the existing residential development within the surrounding area. I do not consider the traffic generated by the proposed development would be out-of-keeping in this context. With regard to parking provision the Highway Authority has not raised an objection to the number and parking arrangement proposed. I have no substantive reason before me that would lead me to come to a different view on this matter.

Conditions

38. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Framework and the advice in the Planning Practice Guidance. Having regard to this I have amended some of the wording of the conditions to aid their robustness. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved amended plans.
39. Conditions relating to materials, landscaping and boundary treatments are necessary in the interests of the character and appearance of the area. A condition requiring the windows in the north elevation to be permanently fixed, of non-opening design and obscure up to a minimum finished floor level of 1.7m is necessary to protect the privacy of the adjoining occupiers at 1a Willows Avenue. I have amended the wording of this condition to relate to second floor windows only as the first-floor skylights would provide outlook toward the sky as opposed to the adjoining occupiers.

40. Conditions relating to contamination of the site are necessary given the previous commercial uses of the site that may have resulted in contamination possibly presenting a health risk to future occupiers. Given these works would be required to take place prior to the construction of the development it is, therefore, necessary for a scheme to deal with the risks associated with contamination of the site to be submitted prior to development taking place. Therefore, a pre-commencement condition is necessary to deal with potential contamination at the site.
41. I note the Ecological Officer has suggested an ecological enhancement of the site condition be imposed. The Environmental Health Team has also sought a noise condition to safeguard future occupiers living conditions from noise arising from the adjacent trade premises and road transport. The Council has not put these conditions forward within its list of suggested conditions were the appeal to be allowed. On the available evidence I do not consider significant harm would arise either to ecology or to future occupiers if these conditions were not imposed. I, therefore, have not imposed such conditions.

Conclusions

42. I have found that the proposed development would not have a significant harmful effect on the character and appearance of the area and the CA or on the safety of future occupiers. Neither do I consider the proposal to have a significantly harmful effect on the effective use of land and affordable housing provision. In all other respects I find the proposal to be acceptable. The development is in accordance with the development plan and there are no considerations before me that would lead me to a different decision. Having regard to the above the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall commence no later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: H.M Land Registry application site red line boundary; 916:1120/PL101 Revision B; 916:1120/PL102 Revision B; 916:1120/PL103 Revision B and 916:1120/PL104 Revision B. The development shall thereafter be retained and maintained in accordance with the approved plans for the lifetime of the development.
3. No development shall take place above ground level until a schedule of materials to be used in the elevations of the development hereby permitted and a specification of all finished materials for any hard surfaces have been submitted to, and approved in writing, by the local planning authority. The development shall be carried out in accordance with the approved materials details. The materials shall thereafter be retained for the lifetime of the development.
4. The development hereby permitted shall not be occupied until a scheme for landscaping (including all existing trees, shrubs and hedgerows on site and details, including crown spreads of those to be retained) shall be submitted to, and approved in writing, by the local planning authority. None of the trees, shrubs or hedgerows shown for retention shall be removed or felled, lopped or topped within a period of five year from the date of this permission. The development shall be carried out in accordance with the approved landscaping scheme details.
5. All planting, seeding or turfing comprised in the approved landscape scheme shall be carried out in the first planting and seeding season following the occupation of the development hereby permitted or the substantial completion of the development, whichever is sooner. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from the occupation or substantial completion of the development, whichever is the later, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. Prior to any works above ground level of the development hereby permitted (excluding demolition and remediation), details of the proposed boundary treatments shall be submitted to, and approved in writing, by the local planning authority. The development shall be carried out in accordance with the approved boundary treatment details. The boundary treatments shall thereafter be retained for the lifetime of the development.
7. The windows at second floor level in the north elevation of the development hereby permitted shall be of a permanently fixed, non-opening design to a minimum height of 1.7m above finished internal floor level and shall be fitted and permanently maintained with obscure glass.

8. Prior to the commencement of the development hereby permitted, the following components of a scheme to deal with the risks associated with contamination of the site shall each be 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 including sources, pathways and receptors; and
 - Potentially unacceptable risks arising from contamination at the site.
 - B) A site investigation scheme, based on A) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to; human health, property (existing and proposed), including buildings, crops, pets, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and an ancient monument.
 - C) The site investigation results and detailed risk assessment B) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - D) Following completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relation to exported and imported soils shall be submitted to, and approved in writing, by the local planning authority. The approved monitoring and maintenance programme shall be implemented in full.
9. In the event that contamination not previously identified is found at any time when carrying out the development hereby permitted, this contamination must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Condition 8, which is subject to submission to, and approval in writing, by the local planning authority. Following the completion of measures identified in the approved remediation scheme a verification report must be prepared, submitted to, and approved in writing, by the local planning authority, in accordance with Condition 8. The development shall be carried out in accordance with the approved remediation scheme verification report.

End of schedule

APPEARANCES

FOR THE APPELLANT:

Inness Gray, Consensus Planning
Lewis Eldridge, Icewi Projects
Anjoli Foster, Landmark Chambers

FOR THE LOCAL PLANNING AUTHORITY:

Graham Mansfield, Chiltern and South Bucks District Council
Melissa Turney, Chiltern and South Bucks District Council
Laura Peplow, Chiltern and South Bucks District Council
Craig Howell Williams, Francis Taylor Building Chambers

INTERESTED PERSONS:

Noel McManus, Observer and Speaker
Clive Patterson, Observer and Speaker
Russell Patterson, Observer and Speaker
Rayit Ghattouva, Observer
Nigel Channer, Observer

DOCUMENTS SUBMITTED AT THE HEARING

1. Record of hearing attendance.
2. Copy of letter confirming date, time and place of hearing, along with list of recipients.
3. A copy of South Bucks District Council Uxbridge Lock Conservation Area Character Appraisal January 2008.
4. Map showing locality post-Kings Mill Development.
5. Corresponding map relating to viewpoint CGIs appendices.
6. Aerial view of the appeal site.