



Appeal Decision

Site visit made on 15 July 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 August 2020

Appeal Ref: APP/N1540/W/19/3240822

Service Bays, The Stow, Harlow CM20 3AB

- 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 Joseph Teitelbaum (c/o Harlow Properties Ltd) against the decision of Harlow District Council.
 - The application Ref HW/FUL/17/00370, dated 11 April 2017, was refused by notice dated 10 May 2019.
 - The development proposed is described as *'redevelopment of existing service bays (employment use) into a mixed-use development comprising of 87 no. 1 and 2-bedroom apartments, 11 live work units and 660sqm of B1 use. The proposals also incorporate an under-croft car parking, mews courtyard and residential gardens.'*
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Joseph Teitelbaum (c/o Harlow Properties Ltd) against Harlow District Council. This application is the subject of a separate Decision.

Procedural Matters

3. During the course of determination, it was brought to my attention by the appellant that a similar scheme was granted planning permission by the Council on 28 July 2020 pursuant to HW/FUL/19/00257 ('the approved scheme'). I was provided with the relevant details from both of the parties along with some further submissions relating to an updated viability report and a representation from St Andrew's Methodist Church ('the Church') that was put before the Council's Development Management Committee.
4. Despite the Council objecting to the updated viability report, both parties were given sufficient opportunities to respond on the implications of these for the appeal and various comments were received. I therefore find that no party would be prejudiced by my consideration of these submissions and comments and I have had regard to them in my determination of this appeal, as and where necessary.
5. I have been referred to the emerging Harlow Local Development Plan Pre-submission publication 2018 ('ELP'). The consultation in relation to the detailed Main Modifications to the ELP ended on 31 May 2020 and a final report is awaited. Given the stage of progress and in accordance with paragraph 48 of

the National Planning Policy Framework ('the Framework') I afford it limited weight.

Main Issues

6. The main issue is whether the proposal would be acceptable, with regard to its effects on the use and users of St. Andrews Methodist Church and the character and appearance of the area.

Reasons

St Andrews Methodist Church

7. The Church is a substantial building, part of which abuts the southern boundary of the appeal site and the existing open space and wide grassed verge that separates the buildings from Howards Way. On my reading of the Council's committee report it focuses entirely on the effects of the proposal on neighbouring residential occupiers and makes no reference to effects on the use of this building as a place of worship or community facility. The appellant refers to the use of these rooms as being non-habitable but again, this focuses on effects on residential occupiers only.
8. Following a request from the appellant and given the nature of the dispute between the parties I viewed the internal layout and accommodation arrangements of the Church at my site visit. I saw that a room at the western end of the Church closest to Howard Way was rectangular in shape and contained 3 obscurely glazed openings. It was formally laid out as a chapel and Bible study room and my observations were that this was not a temporary or short-term use of that room.
9. Despite development opposite, on this side of Howard Way the openness and the lack of any development between the existing buildings combines to allow for natural light into that part of the Church. Despite its location on a busy thoroughfare it allows for a more tranquil environment and setting which is important for the necessary quiet reflection and contemplation that is a fundamental requirement for the chapel as a place of worship.
10. The sheer proximity of the blank flank wall of the development and its size and height would block day and sun light into the chapel and make that room a significantly more gloomy and oppressive space, so much so that it would no longer be suitable for its function. There would also be some further disturbance from the proximity of parking spaces and resultant vehicle engine noises, emissions, and vibrations.
11. I also observed a larger 'Sunshine Room' which was located at the eastern end of the elevation. It benefits from 2 large and clear glazed openings facing directly onto the appeal site. My observations were that this was a community room available to a number of local groups and was utilised for meetings, get together and events. Despite there being little substantive evidence from either party on the frequency of use, it was clear from the internal arrangements, noticeboards, furniture, and other paraphernalia that it is not a sporadic or infrequent one.
12. The room would retain 2 openings facing south and onto the internal courtyard but the flank elevation of one of the blocks would directly abut these windows. During the latter part of the day and evening, when such a room is more likely

to be in use, the sheer proximity of the blank wall of the development in this part of the site would block these windows and again, would make that room an entirely more gloomy and oppressive space within which to spend time. It would no longer be reasonable or accurate to refer to it by its name and it would offer a much poorer and unsatisfactory standard of accommodation for its use and users.

13. Both rooms would also end up being unacceptably reliant on artificial light sources and this would be particularly harmful for the chapel which benefits from no other openings.

Character and appearance

14. The original purpose of the Service Industry Bays was to provide self-contained modest single storey and live/work units for 'start up' businesses. The units I observed were vacant with a small number of A5 (hot food takeaway) uses concentrated around the entrance to The Stow.
15. I share the view given in paragraph 3.43 of the Stow Supplementary Planning Document (adopted 2016) that the units are quite basic and small-scale industrial-type one-storey buildings. The existing units are of limited architectural quality by today's standards, but they are commensurate of their New Town location, are of their time and located adjacent a principal route within the town. To the rear lies The Stow Neighbourhood Centre, dominated by its monolithic 1950's new town centrepiece.
16. The proposal includes a mixed-use, outward facing development of between 3 to 5 storey and the density of the scheme would appear to be slightly above the relevant guidance¹, although the appeal site is in an accessible location. Moreover, a design led approach requires a number of less calculated considerations and judgements than those within a document that is for guidance only. A proposal must be appropriate to the local context with regard to the principles of good design and as such, density is therefore only one measure of acceptability as far as character and appearance is concerned.
17. Contemporary design can develop a further layer of townscape which complements, rather than competes with the past. It is critical however to understand how the proposals will visually engage with their context. For such development to be successfully achieved in design terms this does not necessarily mean it has to 'fit-in' or replicate existing patterns and styles of architecture but it must positively respond to the constraints and opportunities of the site and locality.
18. The large blocks would be sited close to the back edge of the footway and would occupy a substantial width and depth. Open space, a key component of the original layout would also be eroded but development would not extend beyond the existing building line and a frontage to Howard Way would be maintained. The local topography would mean the size and mass of the blocks would be conspicuous on the approach but from the north they would be seen in the context of the modern retail supermarket on the corner with First Avenue. Further, the Church is of a substantial scale and the buildings would be seen in the context of The Stow Neighbourhood Centre as an immediate backdrop to the rear and in the foreground, from the public realm of The Stow.

¹ Policy HS2 of the ELP states 70 dwellings and the Stow SPD 2016 states approximately 55 units.

19. The design approach of a collection of buildings allows for variety in the mass and scale and their would-be sufficient articulation and visual interest. Although this would be a much larger development than the existing bays and visually dominant when viewed from Howard Way, in such a context, the scale and number of dwellings have been satisfactorily mitigated by their design, form and massing.
20. The proposed buildings would include key features of The Stow including recessed ground floor units with varied elevations to the upper floors to differentiate between the B1 and residential uses. The proposal would also include brickwork, canopies, balconies, terraces and glazing to reflect The Stow which would help to provide variation and rhythm along with visual interest. It would also reduce the mass of the proposed buildings.
21. This is a modern interpretation of a strong local character with high quality finishes and materials, which could be secured by condition. It would respect the planned intentions of the original bays with 'start-up' units for smaller business² and overall, the proposal would enhance the environmental quality of the appeal site, would improve the character, image, and perception of The Stow and it would be a sufficiently high standard of appearance that it would not result in material harm to the character and appearance of the area.

Acceptable?

22. The Council's reason for refusal refers to overdevelopment, which is widely held to be an amount of development that is excessive in terms of demands on infrastructure and services, or impact on local amenity and character. In this appeal, the concerns are due to density and proximity to the Church and although I have found the proposal to be acceptable in terms of its compatibility with the character and appearance of the area, it would result in unacceptable effects on the use of the Church as a place of worship and its users.
23. This harm signifies to my mind that the proposal would result in the unacceptable overdevelopment of the site because the design of the proposal and its resultant scale, layout and form harms local amenity and fails to be specific to the context of this site and its neighbours. I also note the re-design of the approved scheme would not result in such harmful effects and overall, the proposal should not therefore be regarded as the high quality of design required by local and national planning policy.
24. This is the prevailing consideration and the proposal would not therefore be acceptable. It would conflict with Policies BE1, H10, ER11³ and BE3 and of the Harlow Local Plan 2006 ('LP') insofar as these require building design to be specific to this site and context, does not result in overdevelopment and protects neighbouring amenity and neighbouring developments. The site appears to be located adjacent to but outside of The Stow Neighbourhood Centre designation in the LP so even though the Council state RTCS16 should be acknowledged, it is not determinative.
25. In Framework terms, it would not be the positively planned provision for community facilities such as places of worship to enhance the sustainability of communities and residential environments. It would also fail to result in a high

² 3.1.4 of the Stow Supplementary Planning Document 2016.

³ Although not in the RfR it is referred to and considered by both parties and is therefore before me to consider.

standard of amenity for existing and future users and would undermine quality of life for users of the Church.

Other Matters

26. I note that an updated viability assessment has been submitted and despite the Council concluding no contributions were necessary in the approved scheme, a 'goodwill gesture' was agreed. The appellant has therefore invited me to similarly confirm the lack of viability of the appeal before me and that there is no need for financial contributions. Whatever the case may be, this is not an issue before me in this appeal given the scope of the reason for refusal and because I have dismissed the appeal for other reasons. I do not consider it is therefore necessary for me to reach a finding on this matter other than to acknowledge it in the planning balance below.
27. Lengthy negotiations took place and positive advice was given at officer level and that is reflected in the positive recommendation to the committee. However, it is the decision of the Council that I must have regard to, such cases invariably involve a degree of subjectivity and the Council's administration and determination of the application has no bearing on the planning merits of the proposal before me. The lack of objections from statutory consultees is also not determinative.
28. My attention has also been drawn to a proposal at 1-7 Burnt Mill, Harlow and a major housing development at the YWCA Hostel, Harlow. The former was allowed on appeal in 2017 but on my reading involved different considerations and issues for that Inspector. Whilst some similarities can be drawn with both cases, each case must be determined on its own merits and such large-scale proposals are subject to various site-specific and bespoke considerations and judgements. Consequently, I cannot be certain that they are directly comparable to the scheme and the considerations before me. Thus, none of these other considerations, on their own or in combination, alter my view to allow the appeal.

Planning balance and overall conclusion

29. Notwithstanding the now seemingly agreed position on viability, the proposal before me would still generate significant economic and social benefits, providing the redevelopment and more effective use of previously developed land. It would deliver 87 smaller homes and 11 Live/Work units providing a modest boost to the supply of homes in an area within an area where the appellant suggests there has been historic under delivery of housing. It would also create additional jobs through new employment floorspace and associated economic benefits. It would complement The Stow Neighbourhood Centre, although there is nothing substantive to indicate it would act as a catalyst for the regeneration of that centre, a long-term aspiration of the Council.
30. It would also result in the development of a site allocated in an emerging plan, albeit that plan carries limited weight in this appeal. There would-be short-term construction benefits and future occupiers would provide support for those services from occupiers. I ascribe negligible additional benefit in respect of accessibility to local services, as I consider this to be an absence of harm. Overall, I give these benefits substantial weight.

31. Set against this, the redevelopment of the site would be to the substantial detriment of the use of the Church as a place of worship and by the local community. Its users would experience substantially harmful adverse effects on their use of that building. The harm and the conflict that I have identified is compelling, such that the proposal should be regarded as being in conflict with the development plan, when read as a whole. The proposal would also fail to fulfil the social dimension of sustainable development in the Framework and conflict with some of its design, community, and protection of amenity objectives.
32. I am also mindful that whilst each case is determined on its own merits, I agree with the appellant that the approved scheme is very similar to the proposal before me. Accordingly, in the event the appeal was to be dismissed there is more than a reasonable prospect that those benefits would still be forthcoming through that scheme. Moreover, greater consideration of the effects on the Church has resulted in revisions to the layout so that the effects were deemed acceptable, and a scheme for the redevelopment of the site that is satisfactory to both of the same parties has been granted planning permission.
33. Drawing my conclusions together and in any event, even if I were to conclude the policies which are most important for determining the application are out of date and therefore paragraph 11 d) of the Framework is engaged, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore represent sustainable development.
34. Material considerations, including the Framework do not indicate that the proposal should be determined other than in accordance with the development plan.
35. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR