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## Appeal Decision

Hearing Held on 14 October 2020

Site visit made on 7 October 2020

**by H Butcher BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 02 December 2020**

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**Appeal Ref: APP/B5480/W/20/3246193**

**23-55 North Street, Romford, Havering RM1 1BJ**

- 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 Regency Homes Ltd against the decision of the Council of the London Borough of Havering.
  - The application Ref P1292.15, dated 28 August 2015, was refused by notice dated 13 August 2019.
  - The development proposed is redevelopment of 23-55 North Street, including retention of the part built structure, to provide a mixed use development comprising full planning permission for building (of 6 and 19 storeys) which includes 100 dwellings (Use Class C3), 842 sq.m of flexible uses at ground floor including retail, offices and community uses (Uses Classes A1-A4, B1, D1), associated basement car parking, cycle parking, storage and servicing.
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### Decision

1. The appeal is allowed and planning permission is granted for redevelopment, including retention of the part built structure to provide a mixed use development comprising a 6-16 storey building, 98 residential units (Use Class C3), 766sqm of flexible uses at ground floor including retail (A1-A4), offices (B1a) and community uses (D1), also associated basement car parking, cycle parking, storage and servicing at 23-55 North Street, Romford, Havering RM1 1BJ in accordance with the terms of the application, Ref P1292.15, dated 28 August 2015, subject to the conditions in the attached schedule.

### Preliminary Matters

2. During the course of the application the development was amended to 98 dwellings, 6-16 storeys, and 766m<sup>2</sup> of flexible uses at ground floor. Consequently, a revised description of development was agreed by the Council and the appellant as reflected on the appeal form. I have therefore determined the appeal on this basis and amended my formal decision above to this effect.
3. I carried out an unaccompanied site visit prior to the hearing. This approach was agreed verbally by the parties at the event.

### Main Issue

4. The Council's decision notice sets out eight reasons for refusal. Reasons 2-8 all relate to the absence of a legal agreement to secure various obligations. However, following discussions with the appellant these are no longer being

pursued by the Council following the submission of a unilateral undertaking (UU). I deal with these matters further in my decision below.

5. The main issue is the effect of the development on the character and appearance of surrounding area which includes the Romford Conservation area.

## **Reasons**

6. As set out in the Romford Conservation Area Character Appraisal and Management Proposals (CAMP) the Romford Conservation Area (CA) includes North Street, on which the appeal site is located, and the frontages of properties in these streets. At the time that the CAMP was written there were properties on the appeal site, the frontages of which would have fallen within the CA, but these have since been demolished and replaced with a partially constructed part four, part eight and part sixteen storey building granted planning permission and conservation area consent in 2006<sup>1</sup>. Notwithstanding this, the boundary of the appeal site on North Street falls within the CA. I have therefore had regard to my statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Romford Conservation Area.
7. As set out in the CAMP the principal special interest of the CA is a group of high quality, historic buildings, some of which are listed, which are located around an ancient crossroads at the junction of North Street, South Street, High Street and Market Place. These buildings are the focus of the CA and contribute to its significance.
8. The appeal site is located to the north-west of this historic crossroads adjacent to two notable tall buildings: North House; an eleven storey late twentieth century office block/retail, which sits to the east of the appeal site and predominantly addresses the ring road; and Rubicon Court located immediately to the south, which is an eight-storey residential development.
9. Also, of note, immediately to the east of the appeal site, planning permission has been granted for a mixed used development which includes a 16-storey tower. In addition to this it came to light at the hearing that on the opposite side of North Street (22-44 North Street) planning permission has recently been granted for a four to six storey development. Although there is the possibility that these may not be built out they nevertheless are material considerations which carry moderate weight.
10. When considered in this context, the six storey section of the development along North Street; adjacent to the eight storey Rubicon Court and opposite a potential development of four to six storeys, would be in keeping in terms of scale. The 16 storey tower located, at the end of North Street, next to the ring road, adjacent to the eleven storey North House and a site with planning permission for a 16-storey tower would also be in-keeping.
11. Rubicon Court and North House are arguably at odds with the more modest scale of the historic buildings around the crossroads. However, the character of the area surrounding the appeal site changes dramatically over small distances and reflects the evolution of the town over time. The tightly defined CA demonstrates this. The immediate context to the appeal site, although close to

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<sup>1</sup> APP/B5480/E/06/2009101/APP/B5480/A/06/2009382

the historic crossroads, is therefore entirely different to the character at the crossroads itself. As set out above, the development would be entirely in keeping with its immediate context.

12. It is also worth noting that much of the proposed development would be screened from views from the crossroads down North Street, being set behind Rubicon Court, and being lower than it where the two adjoin. Views of the development from the church yard of the Church of St Edward the Confessor would also be largely screened by the consented development at 22-44 North Street if this is built out. Even if it is not, I find no harm to the setting of this listed building, or those surrounding the crossroads, given the distances involved and intervening buildings. Whilst the 16-storey tower would be visible in longer views, it would be seen in the context of North House and, in time, the recently consented 16 storey tower at Angel Way.
13. There are contemporary designed buildings in the immediate vicinity of the appeal site; thus, that the proposal would be contemporary in design and would use contemporary building materials would not in itself be harmful. There is certainly much to commend the design in terms of its detailing with setbacks, balconies and the use of varying materials. Given the immediate context of the appeal site, and that this is distinct from the historic core of the CA, I find no reason to impose a strict repetition of the pattern of development or the use of a pastiche of materials replicating the more historic areas of the CA. Stringent consideration of materials at discharge of conditions stage would ensure delivery of a high-quality external finish.
14. Added to all of the above considerations is the unfinished development at the appeal site. Building work ceased in 2010 leaving the skeleton of a concrete structure and works have not resumed since. This gives the site a derelict appearance and is undoubtedly harmful to the character and appearance of the CA. Whilst I note enforcement action to remove the part built structure is currently on hold pending the outcome of this appeal, even if demolished the site would continue to be visually harmful as a vacant site. The proposed development in its place would therefore be an enhancement to the appearance of the CA.
15. Taking these points together I find that the proposal would preserve and, to a modest degree, enhance the character and appearance of Romford Conservation Area. I therefore find no harm to the character and appearance of the surrounding area. It follows therefore that I find no conflict with Policies CP17, CP18, DC61, DC68 of the Core Strategy and Development Control Policies Development Plan Document (2008) (CS) and policies 3.5, 7.4, 7.5, 7.6 and 7.8 of the London Plan (2016) which require new development to have regard to the form, function and structure of an area, place or street, and the scale, mass and orientation of surrounding buildings, and to maintain or improve the character and appearance of the local area in terms of scale and design, conserving heritage assets and preserving or enhancing the character or appearance of conservation areas. The National Planning Policy Framework (the Framework) also supports these aims.
16. In coming to the above findings I note that Romford Conservation Area is on the Historic England Heritage at Risk Register. However, this provides only limited information and in any event, I have not found harm in respect of the proposal.

## **Unilateral Undertaking**

17. A signed and dated UU has been provided which secures, amongst other things, affordable housing, a carbon offset contribution, an active transport contribution, a contribution towards traffic management, and a contribution for the provision of on-street cycle parking. It also restricts future occupiers applying for parking permits. It is necessary for me to consider these obligations in detail and reach a finding on them having regard to the tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and the Framework at para 56.

### *Affordable housing*

18. Policy 3.12 of the London Plan requires the maximum reasonable amount of affordable housing to be sought on mixed use schemes having regard to, amongst other things, individual circumstances including development viability. The appellant submitted a viability appraisal with their application and following negotiations with the Council 20 units have been offered on-site with a 50:50 split between affordable rent and shared ownership.
19. However, given that this amount of affordable housing is below the Council's requirement of 50% as set out under Policy DC6 of the CS, and below the London Plan's minimum of 35% as set out in the Homes for Londoners Supplementary Planning Guidance (SPG) the UU also secures early and late stage reviews to allow all options to increase the level of affordable housing to be explored at a later date.
20. I am satisfied the affordable housing contribution meets the three tests set out in the Framework, namely that it is necessary to make the development acceptable in planning terms, is directly related to the development, and fairly and reasonably related in scale and kind.

### *Carbon offset contribution*

21. Policy 5.2 of the London Plan requires new residential and non-domestic buildings to be zero carbon in terms of carbon dioxide emissions in all buildings. Where this cannot be fully achieved on site, any shortfall may be provided off-site or through a cash in lieu contribution to the relevant borough which is calculated at a carbon off-set price of £60 per tonne of carbon dioxide for a period of 30 years, as set out in the Housing SPG for London. The Council have also provided a list of Carbon Emission Programmes on which the contribution will be spent. The UU before me provides for this. I am therefore satisfied that the carbon offset contribution meets the relevant tests.

### *Traffic management order review*

22. £10,000 is sought for a Traffic Management Order Review on Angel Way. This is directly related to the development as the proposal requires entrance to parking off Angel Way. Policy DC32 of the CS sets out that contributions may be sought from developers towards new road schemes or road improvements. It is clear the new parking entrance to the development is on Angel way so it is likely works would need to be done here to make the development acceptable. I have also been provided with details of how this figure was calculated. This therefore meets the relevant tests.

### *Active transport contribution*

23. The Council's statement sets out that a contribution of £115,000 is required towards the realignment of the Angel Way roundabout, from where access to the development is proposed, linked to a wider neighbourhood regeneration project and I have been provided with the calculations for this contribution. I am satisfied therefore that this meets the relevant tests.

### *On-street cycle parking contribution*

24. The Council are also seeking £15,000 for the provision of cycle parking in the vicinity of the appeal site. Policy DC35 of the CS sets out that, where appropriate, contributions should be sought towards off-site improvements to the cycle network and cycle facilities. However, I have no specific detail as to where the contribution would be spent and when. Furthermore, secure cycle parking is to be provided in the basement of the development. I am unable to conclude, therefore, that this contribution meets the relevant tests.

### *Parking permits*

25. The UU also seeks to restrict future occupiers of the residential units and business units from being granted parking permits. At the hearing I heard that this was to ensure such occupants don't add to local parking pressures, but no firm evidence was provided in respect of this. Parking is provided as part of the development and it is located in an area with a Public Transport Accessibility Level (PTAL) of 6. Furthermore, the site sits largely on a ring road and adjacent to a pedestrianised shopping centre, therefore, there are very limited opportunities to park legally on immediately adjacent roads to the development. Consequently, I find no reason to assume that the development would cause harm in terms of increased on-street parking. Such an obligation is therefore not necessary to make the development acceptable in planning terms.

### *Summary*

26. To summarise I find that the obligations in respect of affordable housing, carbon off setting, a traffic management order review and active transport contribution meet the relevant tests. However, the on-street cycle parking contribution and restricting future occupiers from obtaining parking permits do not. These latter obligations have therefore had no bearing on my decision.

### **Other matters**

27. I have no substantive evidence before me in terms of highway safety being adversely affected by the development or any firm plans in respect of the future potential relocation of the ring road. Nor is there any compelling evidence before me that the proposal would materially increase the risk of crime or antisocial behaviour.
28. In light of the distances involved I find no harmful impacts in terms of overlooking to neighbouring properties, or blocked views or light. Similarly, given the town centre location, I find no harm in terms of unacceptable noise generation from the proposed development.
29. Developer contributions towards local services are normally covered by the Community Infrastructure Levy which is not a matter for consideration in this

appeal. Whether there is a need for further retail development does not form part of my considerations. Planning is concerned with land use in the public interest therefore the protection of purely private interests such as the impact of a development on the value of a neighbouring property is not a planning matter.

30. Any disturbance during construction could be mitigated by suitable conditions which could be enforced against if not adhered to. Similarly, conditions can also deal with the emission of dust and dirt during construction, and hoardings.

### **Conditions**

31. In addition to the standard time limit condition I have included a plans condition as this provides certainty. Conditions requiring details of the external materials and finishes to be used on the building are also necessary to ensure a satisfactory appearance, as are hard and soft landscaping details. For the same reason it is necessary to remove permitted development rights with respect to telecommunications equipment or dishes, and to require the submission of details of the photovoltaic panels, external lighting and details of the maintenance and management of the green/living roof.
32. A condition requiring enhanced accessibility and adaptability is necessary to provide a high standard of inclusive design. It is also necessary to ensure the development adopts the principles and practices of the 'Secured by Design' Award Scheme to deliver a safe and secure development.
33. A condition restricting opening hours and deliveries of the non-residential uses is necessary to protect the living conditions of future occupiers of the development and occupiers of neighbouring properties. However, it is not reasonable to extend this to restricting people moving bottles, bins and rubbish. For the same reason I have also included conditions relating to the construction works.
34. The submitted plans show covered cycle parking facilities, therefore, it is not necessary to include a condition requiring cycle parking details to be submitted to the local planning authority. It is necessary, however, to ensure this is provided and to require the submission of a management plan to ensure security provisions for these spaces. Similarly, I have included a condition to ensure parking is provided as approved. It is not necessary, however, to require a car parking management plan as a parking layout is before me and there has been no indication from the Council that this is deficient in any way. It shows sufficient allocated parking spaces including the provision of 10 disabled parking spaces and loading/unloading bays.
35. To ensure a zero-carbon development in line with local planning policy I have attached a condition to achieve this in combination with the UU. I have also included conditions relating to water standards to meet the local requirements in respect of water efficiency, and electric vehicle charging points.
36. To protect the living conditions of future occupiers I have included a condition relating to noise attenuation, fire safety, air quality and contamination. A condition relating to surface water drainage is also necessary to minimise flooding, but it is not necessary to further require a final Sustainable Drainage Statement. Finally, pedestrian visibility splays are required at the access for

reasons of highway safety and a Travel Plan for the commercial use is necessary to reduce car travel.

37. It is not necessary, however, to include a condition requiring an updated ground floor plan given that internal layouts can change without the need for planning permission. In any event, there is very little detail as to what changes are required or why.
38. In light of recent changes to the Town and Country Planning (Use Classes) Order 1987 which have been made to provide the flexibility for businesses to adapt and diversify to meet changing demands, and advice within the Planning Practice Guidance which states that conditions restricting the future use of permitted development rights or changes of use may not pass the test of reasonableness or necessity, I also find it is not reasonable or necessary to impose a condition limiting uses at ground floor on the basis of the current use classes.
39. BREEAM is a technical standard and should no longer be applied to housing, and, in any event, the achievement of a zero-carbon development will be covered by alternative means. In a similar vein I am not satisfied that a condition specifying boilers is necessary to make the scheme acceptable in planning terms.
40. The submitted plans show details of a refuse store. Therefore, a condition requiring submission of details of these is not necessary. It is also not necessary to control delivery and servicing for the residential dwellings or the commercial premises. Delivery and servicing during construction can be adequately controlled through the Construction Management Plan.
41. There is nothing before me to lead me to conclude a condition relating to the non-road mobile machinery register is necessary. A condition suggested by the Council in respect of highway works is covered under the S106. Finally requiring vehicle cleansing wheel washing I find not to be necessary.

## **Conclusion**

42. For the reasons given, and subject to the above conditions, the appeal is allowed.

*Hayley Butcher*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4150-PA-01, 4150-PA-02, 4150-PA-03, 4150-PA-04, 4150-PA-05, 4150-PA-06, 4150-PA-07, 4150-PA-08, 4150-PA-09, 4150-PA-10, 4150-PA-11, 4150-PA-12, 4150-PA-18, 4150-PA-19, 4150-PA-20, 4150-PA-21, 4150-PA-22, 4150-PA-23, 4150-PA-24, 4150-PA-25, 4150-PA-26, 4150-PA-27, 4150-PA-28, 4150-PA-29, 4150-PA-30, 4150-PA-31, 4150-PA-32, 4150-PA-33, 4150-PA-34, 4150-PA-35, 4150-PA-44, 4150-PA-45, 4150-PA-50, 4150-PA-51, 4150-PA-52, 4150-PA-53, 4150-PA-54, 4150-PA-55, 4150-PA-56.
- 3) Full details, including a samples board, of the materials to be used for the external surfaces of the building shall be submitted to and approved in writing by the local planning authority prior to those relevant works being carried out. The development shall be carried out in accordance with the approved sample details.
- 4) Prior to occupation of the development hereby approved a scheme of hard and soft landscaping shall have been submitted to and agreed in writing by the local planning authority and implemented on site in accordance with the approved details.
- 5) Details of window reveals and balcony finishes shall be submitted at the appropriate scale (1:10/1:20) to the local planning authority and agreed in writing prior to those relevant works being carried out. The development shall be carried out in accordance with the approved details.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no telecommunications equipment or dishes shall be erected on the external surfaces of the development hereby approved without the prior written approval of the local planning authority.
- 7) Prior to the occupation of the development hereby approved details of the size, design and setting of all photovoltaic panels to be installed as part of the development shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Prior to the occupation of the development hereby approved details of the external lighting scheme for the development shall be submitted to and agreed in writing by the local planning authority. The lighting scheme shall also be implemented in full accordance with the approved details prior to the first occupation of the development and thereafter be maintained as such.
- 9) Prior to occupation of the development hereby approved the green/living roof shall be implemented in accordance with a detailed scheme, including maintenance and management arrangements, that has first been submitted to and approved in writing by the local planning authority.

- 10) The dwellings shall not be occupied until 90% have been constructed to comply with Building Regulations Optional Requirement Approved Document M4(2) Category 2: Accessible and adaptable dwellings (2015 edition) and 10% of the residential units provided shall be capable of easy adaptation to Building Regulations Optional Requirement Approved Document M4(3) Category 3: (Wheelchair user dwellings) (2015 edition).
- 11) Prior to the commencement of the development hereby approved details of how the principles and practices of the 'Secured by Design' Award Scheme have been adopted into the development shall be submitted to and agreed in writing by the local planning authority. The development shall be carried out in accordance with the agreed details prior to occupation.
- 12) The non-residential uses hereby permitted shall only be open to members of the public between the hours of 07:00 to 23:00. Deliveries to and collections from the non-residential uses shall only take place between the hours of 07:00 and 21:00.
- 13) A Management Plan for the cycle parking facilities shall be submitted to and approved in writing by the local planning authority which shall include security provisions for the cycle storage areas. The cycle parking shall thereafter be laid out in accordance with the approved plans prior to the occupation of the development hereby approved and the measures in the approved management plan implemented.
- 14) Prior to occupation of the development hereby approved, the car parking shall be laid out in accordance with the approved plans and surfaced in accordance with details that shall have first been submitted to and approved in writing by the local planning authority. The car parking shall be retained permanently thereafter for the accommodation of vehicles and shall not be used for any other purpose.
- 15) Prior to the occupation of the development hereby approved an updated energy statement (assessing actual carbon output for the development) demonstrating that the development meets a minimum 35% CO2 emissions rate shall be submitted to and approved in writing by the local planning authority.
- 16) The development hereby permitted shall be designed so that main water consumption does not exceed the water target use of 105 litres or less per person per day.
- 17) Prior to occupation of the development hereby approved electric vehicle charging points shall be provided in accordance with details that shall have previously been submitted to and approved in writing by the local planning authority. The approved electric vehicle charging points shall be retained in perpetuity.
- 18) Prior to the commencement of the development hereby approved a noise attenuation scheme detailing the acoustic/noise insulation performance specification of the external building envelope of the residential units (having regard to the building fabric, glazing and ventilation) and other mitigation to reduce the level of noise experienced internally at the proposed residential units as a result of high ambient noise levels in the area shall be submitted to and approved in writing by the local planning

- authority. The approved scheme shall be fully implemented prior to occupation of the residential units.
- 19) Prior to occupation of the development hereby permitted an updated fire statement shall be submitted to and approved in writing by the local planning authority. The statement shall include details of a firefighting lift installed in the tower, wet rising main in the firefighting shaft (within 18 metres of appliance parking provision), and a sprinkler system to be installed in the south-east stairwell (inlet within 18 metres of appliance). The development shall be carried out in accordance with the approved details.
  - 20) Prior to the commencement of the development hereby approved an Air Quality Assessment and Air Quality Neutral Assessments shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
  - 21) If during development contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how the contamination shall be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented as approved, and following completion of the remediation works a Verification Report must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.
  - 22) Any plant or machinery within the development shall achieve the following standard: noise levels expressed as the equivalent continuous sound level LAeq (1hour) when calculated at the boundary with the nearest noise sensitive premises shall not exceed LA90-10dB.
  - 23) Prior to the commencement of the development hereby approved a surface water drainage strategy for the site shall be submitted to and approved in writing by the local planning authority. The strategy shall be implemented as approved prior to occupation and maintained in perpetuity.
  - 24) Prior to occupation of the development hereby approved 2.1m by 2.1m pedestrian visibility splays shall be provided on either side of the vehicular access set back from the boundary of the public footway. There must be no obstruction higher than 0.6m within the visibility splays.
  - 25) Prior to occupation of the development hereby approved an updated Travel Plan for the commercial uses shall be submitted to and approved in writing by the local planning authority, and implemented in accordance with the approved details.
  - 26) Prior to the commencement of the development hereby approved a Construction Method Statement and a Demolition and Construction Logistics Plan shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved documents.
  - 27) Demolition or construction works shall take place only between 08:00 and 18:00 on Monday to Friday and 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.

## **APPEARANCES**

### **FOR THE APPELLANT:**

|                    |                       |
|--------------------|-----------------------|
| Stephen Hung       | Regency Homes Limited |
| Jan Donovan        | Rolfe Judd            |
| Rupert Litherland  | Rolfe Judd            |
| Andy Leahy         | BPG Limited           |
| Christine Hereward | Hereward Solicitors   |
| Adrien Vick        | GML Architects        |
| Nick Bridges       | Bridges Associates    |

### **FOR THE LOCAL PLANNING AUTHORITY:**

|                |                                               |
|----------------|-----------------------------------------------|
| Nanayaa Ampoma | The Council of the London Borough of Havering |
| Nicolas Page   | Essex County Council                          |
| Huw Trevorrow  | The Council of the London Borough of Havering |