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## Appeal Decision

Site visit made on 19 October 2020

**by T J Burnham BA (Hons) MSc MRTPI**

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

**Decision date: 14<sup>th</sup> January 2021**

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**Appeal Ref: APP/G5180/W/19/3237155**

**Kelsey House, 77 High Street, Beckenham BR3 1AN**

- 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 D Watson (Travelodge Ltd and Dunward Properties Ltd) against the decision of the Council of the London Borough of Bromley.
  - The application Ref DC/19/00286/FULL1, dated 22 January 2019, was refused by notice dated 4 September 2019.
  - The development proposed is a Five storey extension to the existing property to the west and south of the site, and an increase to footprint of the existing 6th floor to provide a 68 room hotel provision and 9 new residential units, including external balconies, undercroft access.
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### Decision

1. The appeal is allowed and planning permission is granted for a five storey extension to the existing property to the west and south of the site, and an increase to footprint of the existing 6th floor to provide a 68 room hotel provision and 9 new residential units, including external balconies, undercroft access at Kelsey House, 77 High Street, Beckenham BR3 1AN in accordance with the terms of the application Ref: DC/19/00286/FULL1, dated 22 January 2019 and subject to the conditions within the attached schedule.

### Procedural Matters

2. I have been supplied with a signed unilateral undertaking (UU) which includes the public realm and carbon off setting contributions that were sought by the Council. There is nothing to indicate the UU would be unsatisfactory to the Council and therefore its submission addresses the second reason for refusal.
3. The description of the proposal has been amended from the application form to the decision notice, however the application form adequately describes the proposal and I have determined the appeal on this basis.

### Application for costs

4. An application for costs was made by Mr D Watson (Travelodge Ltd and Dunward Properties Ltd) against the Council of the London Borough of Bromley. This application will be the subject of a separate decision.

### Main Issue

5. The main issue is whether the loss of office floor space within the building would be acceptable.

## Reasons

6. Kelsey House is a tired looking office block which is located centrally within Beckenham Town Centre. The building incorporates a public house at ground floor level and it is proposed to retain the existing use at ground floor.
7. Policy 97 of the Bromley Local Plan (2019) (BLP) relates to the change in use of upper floors. It states that where the proposal involves the loss of an office on upper floors, the applicant will need to demonstrate that it would not be feasible and/or viable to refurbish, renew or modernise the offices in order to meet the current requirements of occupiers. This should be demonstrated through marketing evidence and an independently validated viability assessment. In this sense the policy offers some protection to existing office uses. The context of this protection is that there is a recognition that a diversity of uses is essential to the vitality and viability of the town centre.
8. Some support for the protection and refurbishment of existing office space is also offered by Policies 4.2 and 4.3 of the London Plan (2016) (LP) along with Policies E1 and E2 of the Publication London Plan (2020) (PLP).
9. The evidence indicates significant disagreement between the parties in relation to the extent and findings of the submitted marketing details. Critically, I do not consider that the evidence contains the independently validated viability assessment required by the policy.
10. The evidence indicates that a very significant sum of money would be required to bring the building up to a modern office standard. Having viewed the building, which has a somewhat dated appearance, I am not surprised that this would be the case. Nevertheless, there is insufficient evidence before me to conclude that it would not be feasible or viable to renew the offices to meet the requirements of an occupier/s. The proposal therefore conflicts with Policy 97 of the BLP and Policies 4.2 and 4.3 of the LP.

## *Planning Balance*

11. The Council states within its officer report that a five-year supply of housing land cannot be demonstrated. The National Planning Policy Framework (2019) (the Framework) is clear that where a five-year supply of deliverable housing sites cannot be demonstrated the presumption in favour of sustainable development, as set out under paragraph 11 of the Framework, is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
12. The proposal would provide 9 new residential units, which would contribute towards reducing the housing shortfall and would comply with the Framework in terms of boosting the supply of homes. The delivery of this number of units represents a meaningful contribution in such circumstances, and I apportion this benefit of the scheme weight.
13. I acknowledge that there would be some harm through loss of diversity within the Town Centre in conflict with saved Policy 97 of the BLP, which is a policy that is consistent with the Framework in so far as it requires that planning decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. However, even should a narrow housing supply deficit be in place,

the harm and policy conflict that I have identified would not significantly and demonstrably outweigh the proposal's benefits when assessed against the Framework's policies taken as a whole. The presumption in favour of sustainable development, as set out in the Framework, applies therefore.

14. The evidence indicates that prior approval was granted in July 2020 for the change of use of the first, second, third and fourth floors at Kelsey House from Class B1(a) office to Class C3 dwellinghouses to form 20 flats (London Borough of Bromley ref. DC/20/01749/RESPA). There would not seem anything unrealistic about the provision of residential flats in what would be an accessible and attractive town centre location served by a wide range of services. Therefore, there is a greater than theoretical possibility that this development might take place. The scheme would involve loss of all the existing office space. For these reasons, the fallback position is a material consideration which should be afforded significant weight.
15. Policy 88 of the BLP supports the provision of hotels within central locations where there would be no unacceptable impact on nearby occupiers in relation to noise and disturbance. There is no indication that there would be such impact in relation to this proposal and I subsequently afford weight to the support that this policy offers the proposal.
16. Therefore, notwithstanding the identified conflict with Policy 97 of the BLP and Policies 4.2 and 4.3 of the LP, support to the proposal is offered elsewhere within the BLP and there are material considerations which indicate that the proposal should be determined otherwise than in accordance with the development plan in this case.

### **Other Matters**

17. The evidence indicates that the proposal would preserve the character and appearance of the Beckenham Town Centre Conservation Area. I have no reason to disagree. I also note concerns of objectors in relation to parking and highways issues. However, the site is in a highly accessible location by public transport and I have included a number of conditions relating to highways matters. These issues did not form a refusal reason and I have no reason to believe that there would be any significant detrimental impacts in this regard.
18. The provision of a large number of hotel rooms in combination with the provision of 9 new residential units and the significant extension of the premises would be likely to result in additional pressure on the public realm, particularly as it is indicated that the hotel will be non-serviced meaning that guests are likely to utilise services in the local area.
19. A public realm contribution of £200,000 is therefore proposed within a unilateral undertaking. Policy justification for such a contribution is provided by Policy 125 of the BLP which amongst other things requires development to provide for the infrastructure, facilities, amenities and other planning benefits that are necessary to support and serve it. The carbon off setting contribution of £32,598 is justified by Policies 123 and 124 of the BLP which relate amongst other things to sustainable design and construction and carbon dioxide reduction.
20. The submitted planning obligation is therefore necessary to make the development acceptable in planning terms. It is directly related to the

development and fairly and reasonably related in scale and kind to the development. The planning obligation therefore meets the tests within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and at Paragraph 56 of the Framework.

### **Conditions**

21. The conditions set out in the accompanying schedule are based on those suggested by the Council in their appeal statement. The appellant was given the opportunity to comment on them. Where necessary I have amended the wording of the suggested conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance.
22. Planning permission is granted subject to the standard time limit and in accordance with the approved plans in the interests of clarity. Conditions 3 and 18 are necessary to protect the living conditions of nearby occupiers. Condition 4 is necessary to fully consider any archaeological interest in the site. Condition 5 is necessary to ensure that the site is adequately drained. Conditions 10, 11 and 14 are necessary in the interests of highways safety at the site, while condition 8 is necessary to promote the use of sustainable modes of travel.
23. Conditions 6, 16, 19 and 20 are required in the interests of the sustainability of the scheme. The provision of low NOx boilers is supported by Policy 120 of the BLP, while Policy 3.8 of the LP has a target for 90% of new housing to meet the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings'.
24. Conditions 7, 12, 13 and 17 are necessary in the interests of the living conditions of future occupiers at the site, while condition 15 is necessary in the interests of the character and appearance of the area.
25. Condition 9 is necessary such that appropriate security for all users would be achieved at the site. Given the mixed use, this issue requires a bespoke solution that would go beyond the standard building regulations requirements for dwellings.
26. I have not included a condition requiring the provision of a landscaping scheme as I have deemed this not necessary given the very limited space that would be available at the site for such a scheme. I have also not included a suggested condition relating to parking permits as it would seek to impede the actions of a person and would not be a restriction on land or buildings. It would therefore not be relevant to planning and would not meet all the required tests.

### **Conclusion**

27. For the reasons set out above I conclude that the appeal should be allowed subject to the conditions.

*T J Burnham*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not 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: 081-LOC-P1, 081-SITE-P1, 081-EXSITE-P1, 081-EXGA00-P1, 081-GA00-P1, 081-EXGA01-P1, 081-EXGE01-P1, 081-GA01-P1, 081-GE01-P1, 081-EXGA02-P1, 081-EXGE02-P1, 081-GA02-P1, 081-EXGA03-P1, 081-EXGE03-P1, 081-GA03-P1, 081-GE-03-P1, 081-EXGA04-P1, 081-EXGE04-P1, 081-GA04-P1, 081-GA05-B-P1, 081-GARF-P1 & 081-GS-P1.
- 3) No development shall take place until a construction method statement (CMS) has been submitted to and approved in writing by the local planning authority. The approved CMS shall thereafter be adhered to throughout the construction period and shall provide for:
  - loading and unloading of plant and materials;
  - storage of plant and materials to be used in construction;
  - the erection and maintenance of security hoarding where required;
  - measures to control the emission of dust and dirt during demolition and construction;
  - measures to deal with safe pedestrian movement;
  - measures to control demolition and construction noise;
  - details of a complaint procedure and the provision of a designated contact responsible for complaint handling;
  - contact details for the person responsible for the day to day management of works at the site;
  - a scheme for recycling/disposing of waste resulting from demolition and construction works; and
  - delivery, demolition and construction working hours.
- 4) No development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI no demolition or development shall take place other than in accordance with the agreed WSI and the programme and methodology of site evaluation and the nomination of a competent person/s or organisation to undertake the agreed works.

If assets of archaeological interest are identified by stage 1 then those parts of the site shall be subject to a stage 2 WSI which shall be submitted to and approved in writing by the local planning authority. For land that is included with the stage 2 WSI no demolition or development shall take place other than in accordance with the agreed stage 2 WSI which shall include -

- (a) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person/s or organisation to undertake the agreed works.
- (b) The programme for post-investigation assessment and subsequent analysis, publication, dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.
- 5) (a) Prior to the commencement of development (excluding any ground clearance or demolition) a scheme for the provision of surface water drainage shall be submitted to and approved in writing by the local planning authority.
- (b) Before the details required to satisfy part (a) are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system (SuDS) in accordance with the drainage hierarchy within LP Policy 5.13 and the advice contained within the National SuDS standards.
- (c) Where a sustainable drainage scheme is to be provided, the submitted details shall provide information about the design storm period and intensity, the method employed to attenuate and control the rate of surface water discharged from the site as close to greenfield runoff rates as possible, and the measures taken to prevent pollution of the receiving groundwater and/or surface water.
- The approved drainage scheme shall be implemented in full prior to the first occupation of any part of the development.
- 6) Details of the measures outlined in the approved Energy and Sustainability Statement (build energy ltd V2 15/11/2018), including detailed drawings showing the installation of Solar Panels on the roofs of the approved buildings shall be submitted to and approved in writing by the local planning authority prior to the commencement of any above ground works. The approved details shall be implemented prior to the first occupation of the development and shall be retained for the lifetime of the development.
- 7) (a) No above ground construction shall commence until full details of adaptations to party walls and/or ceilings between residential and non-domestic uses have been submitted to and approved in writing by the local planning authority. The scheme shall include details of proposed measures to attenuate direct noise transmission and flanking transmission through walls, windows, pillars and beams. The details shall include relevant drawings and specifications of the proposed works of sound insulation against airborne noise to meet  $D'Nt, w + Ctr$  of not less than 55Db.
- (b) Prior to the first occupation of the development the agreed soundproofing works in part (a) shall have been implemented in accordance with the agreed details and details of post completion testing shall have been submitted to and approved in writing by the local planning authority. The soundproofing shall be retained for the lifetime of the development.

- 8) Details of bicycle parking facilities shall be submitted to and approved in writing by the local planning authority prior to the commencement of any above ground works. The facilities shall be available for use prior to the first occupation of any part of the development and retained for the lifetime of the development.
- 9) No above ground construction shall take place until details of measures to minimise the risk of crime to meet the secured by design standards of the Metropolitan Police have been submitted to and approved in writing by the local planning authority. The approved measures shall be in place prior to the first occupation of the development and retained for the lifetime of the development.
- 10) Prior to the commencement of any work on the highway, a stage 1 and where appropriate, a stage 2 road safety audit shall be submitted to and approved in writing by the local planning authority. Any required works shall be implemented in accordance with the approved details before the first occupation of any part of the development.
- 11) Prior to the first occupation of the development details of the car parking arrangements shall be submitted to and approved in writing by the local planning authority. Details shall include a car park management plan, lighting scheme, two designated parking spaces for users with a disability (one of which shall include an electric vehicle charging point), mobility scooter charging points, drawings to demonstrate a minimum 2.6m clear height or headroom for vehicles in the undercroft car park, parking spaces for hotel use (8no.), parking spaces for residential use (6no.) and electric vehicle parking spaces (1no. active and 1no. passive). Development shall not be carried out other than in accordance with the approved details and the parking spaces and lighting scheme shall be retained for the lifetime of the development.
- 12) Prior to the first occupation of the development the noise mitigation measures detailed within the Environmental Noise Impact Assessment by Sound Advice Acoustics Ltd (October 2018) shall be installed within the development. The measures shall thereafter be retained for the lifetime of the development.
- 13) Prior to the first occupation of the development, details of the privacy screening for all balconies shall be submitted to and approved in writing by the local planning authority. The agreed balcony screening shall thereafter be installed prior to their first use and retained for the lifetime of the development.
- 14) Prior to the first occupation of the development, a delivery and servicing plan shall be submitted to and approved in writing by the local planning authority. It shall include details of how deliveries to the site will be managed to ensure that they will not have a detrimental impact on the local highway network and should also reflect the need for robust safety standards from freight operators. The requirements for providers of goods transport services to offer Fleet Operator Recognition Scheme (FORS) or FORS bronze-equivalent or better safety accreditation should be included. The scheme shall be implemented in line with the agreed details.

- 15) Prior to their installation, details of the materials to be used on the external surfaces of the building shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the agreed details.
- 16) Prior to its installation, details of the green roof to include the construction method, layout, species and maintenance regime shall be submitted to and approved in writing by the local planning authority. The green roof shall be implemented in accordance with the approved details before the first occupation of any part of the development and retained for the lifetime of the development.
- 17) Details of arrangements for the storage and collection of waste and recycling materials shall be submitted to and approved in writing by the local planning authority prior to their installation. The storage areas shall be available for use, and the collection arrangements in place, before the first occupation of any part of the development. The storage areas shall be retained for their intended purpose for the lifetime of the development.
- 18) (a) At no time shall the combined plant noise rating level exceed the measured typical background L90 level at any noise sensitive location. For the purposes of this condition the rating and background levels shall be calculated fully in accordance with the methodology within BS 4142:2014+A1:2019. Furthermore, at any time the measured or calculated absolute plant noise level shall not exceed 10db below the typical background noise level (LA90 15 minute) in this location. All constituent parts of the new plant shall be maintained and replaced in whole or in part as often as is required to ensure compliance with the noise levels.  
  
(b) Before any mechanical plant is used on the premises it shall be mounted in a way which will minimise transmission of structure borne sound or vibration to any other part of the building in accordance with details which shall be agreed within a scheme to be submitted to and approved in writing by the local planning authority.  
  
(c) following installation, but before the new plant comes into operation, measurements of noise from the new plant must be taken and a report demonstrating that the plant as installed meets the design requirements shall be submitted to and approved in writing by the local planning authority.
- 19) In order to minimise the impact of the development on local air quality any gas boilers at the site must meet a dry NO<sub>x</sub> emission rate of 40mg/kWh or under.
- 20) The dwellings hereby permitted shall be built in accordance with the criteria set out in Building Regulations M4(2) 'accessible and adaptable dwellings'.