



Appeal Decision

Site Visit made on 18 January 2021

by R E Jones BSc (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2021

Appeal Ref: APP/P1940/W/20/3259397

Ladywood, 24 Wyatts Road, Chorleywood, Rickmansworth WD3 5TE

- 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 Kevin Andrews of Lois Gastoneaux Ltd against the decision of Three Rivers District Council.
 - The application Ref 20/0355/FUL, dated 13 February 2020, was refused by notice dated 13 August 2020.
 - The development proposed is demolition of No.24 and the erection of 7 dwellings on land to the rear of Nos. 20,22,26 and 28 Wyatts Road together with the construction of an associated access road.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of No.24 and the erection of 7 dwellings on land to the rear of Nos. 20,22,26 and 28 Wyatts Road together with the construction of an associated access road, at 24 Wyatts Road, Chorleywood, Rickmansworth, WD3 5TE in accordance with the terms of the application Ref 20/0355/FUL, dated 13 February 2020, subject to the conditions contained in the attached schedule.

Preliminary Matter

2. Following the refusal of the application, the Council has published an updated policy position on affordable housing¹, in addition to the publication of the referendum version of the Neighbourhood Plan². The appellant has had the opportunity to comment on this additional information.

Main Issue

3. The main issue is whether there is justification for a financial contribution towards off-site affordable housing provision.

Reasons

Background

4. The appeal site is largely situated behind the residential frontage of Wyatts Road and is made up of a series of adjoining garden areas that extend to a rear boundary with the M25 motorway. The Council's sole reason for refusal relates to the lack of an affordable housing contribution, and it has not been demonstrated

¹ Evidence Relating to the Application of the Affordable Housing Threshold in Core Strategy Policy CP4: Affordable Housing, December 2020

² Chorleywood Neighbourhood Development Plan (Referendum Version, August 2020)

that such a requirement is unviable. Subject to conditions, the Council, considered that all other matters are acceptable.

Policy Context

5. Policy CP4 of the Three Rivers District Council Local Development Framework - Core Strategy (2011) (the Core Strategy) seeks to increase the provision of affordable homes and meet local needs by seeking an overall provision of around 45% of all new housing as affordable housing incorporating a mix of tenures. The Council's Affordable Housing Supplementary Planning Document 2011 (SPD) sets out a formula by which to calculate commuted sums payable. The preference is for affordable housing provision to be made on site but in relation to small sites delivering between one and nine dwellings, consideration will be given to the use of commuted payments towards provision off-site. The overall provision figure is reinforced in the Council's updated policy position on affordable housing, which also highlights that provision is deteriorating year on year and the need is ever growing.
6. However, both Policy CP4 of the Core Strategy and the SPD predate the most recent version of the National Planning Policy Framework (the Framework), which at Paragraph 63 states that the provision of affordable housing should not be sought for residential developments that are not major development, unless in designated rural areas. Given that the appeal scheme is for 7 dwellings it is not categorised as a major development.
7. Notwithstanding this, I consider that the specific circumstances within this district together with the updated evidence to support Policy CP4 are sufficient, in this case, to outweigh the guidance of the Framework. Furthermore, this finding is consistent with other Inspectors who have considered this issue in relation to appeals on similar sites.
8. The Core Strategy and the SPD do not impose burdens where they would render a scheme unviable and the requirement for a contribution towards the provision of affordable housing is subject to viability considerations. This is also in line with paragraph 122 of the Framework.
9. For viability assessments of a specific site or development, the Planning Practice Guidance³ states that market evidence (rather than average figures) from the actual site or from existing developments can be used. Any market evidence used should be adjusted to take into account variations in use, form, scale, location, rents and yields, disregarding outliers.

Viability

10. The appellant's viability information indicates that the Gross Development Value (GDV) for the site is £6,260,000 and has been informed by a Red Book Valuation (RBV). The independent valuations in the RBV indicate lower GDV figures after applying the 5% reduction for sales negotiation suggested by the Council. The appellant's GDV produces a project deficit of £66,225, which makes an affordable housing contribution, in their view, unviable.
11. The Council, however, consider that higher sales values can be attained, and they refer to comparable properties to the appeal site, in terms of their size and location close to the motorway. On this basis they conclude that a higher GDV is achievable, which in turn produces a project surplus of £112,758. This figure would

³ Paragraph: 011 Reference ID: 10-011-20180724, Planning Practice Guidance

- be the affordable housing contribution that would be required from the developer at the commencement of development.
12. Despite this difference between the main parties, there is general agreement that the proximity to the motorway can influence property value. In this regard the Council states that local sales evidence points to lower property values, while an estate agent asked to provide evidence to the appellant considers that the proximity to the M25 will have a considerable adverse effect on the saleability and value of the properties on the appeal site.
 13. One of the comparable properties that has informed the Council's GDV, No 22 Wyatts Close (No 22), is said to be directly adjacent to the motorway. Yet, from my site visit observations, that property has a road and other dwellings between it and the motorway, while also having a private garden facing in the opposite direction and backing onto Briary Court to the west. The appeal dwellings in contrast would be closer to the motorway while there would be limited intervening development, especially in relation to Plot 5. In my view, and notwithstanding the proposed noise abatement measures, No 22 would not offer a reasonable comparison to the appeal properties in terms of unit value.
 14. Furthermore, the RICS guidance⁴ indicates that across a particular site, there may be a variety of different plot characteristics that could affect the value of property, such as a railway line, road or pylon. As such the decision at least by one of the estate agents for the Council to carry out a "drive-by" visit places an element of doubt on the accuracy of the Council's valuation.
 15. I therefore find the GDV provided by the appellant offers a more accurate and convincing estimate of residential sale values at the site for the purpose of calculating viability in this case.
 16. It is acknowledged that the District has an acute shortage of affordable housing that continues to grow, and the Council's required financial contribution, would provide a modest contribution in addressing this shortfall. Yet, in this case, an unrealistic planning obligation could be an obstacle to house building, which is much needed in the District given that the Council cannot currently demonstrate a 5-year housing land supply.

Conclusions on Affordable Housing

17. Considering my findings, the requirement for an affordable housing contribution is not viable and as a result I have found there to be no justification for a financial contribution towards off-site affordable housing provision. Accordingly, there would be no conflict in this respect with Policy CP4 of the Core Strategy and the SPD, which, in seeking affordable housing recognises the need to have regard to scheme viability and this is echoed in the Framework.

Other Matters

18. It has been suggested that the proposal would create overcrowding of the site, however, the plot layouts are generous in terms of their space, while also being comparable in terms of their dimensions to many of those situated nearby at Wyatts Road. Therefore, the spacing and layout of the proposal is acceptable in this regard.
19. In terms of the concerns relating to unsatisfactory noise exposure, measures proposed by the developer, include acoustic fencing and existing and additional

⁴ RICS Professional Standards and Guidance, UK – Valuation of Individual New-Build Homes, 3rd edition, December 2019

planting. These would reduce the impact of noise to acceptable levels and I note that the Council's Environmental Health officer is satisfied with the mitigation proposed.

20. The Council's Landscape Officer notes that the development would not include the removal of any further significant trees relative to that already agreed in relation to a previous scheme at the site, and therefore raises no objection. Moreover, the inclusion of bat and bird boxes on the retained trees would address ecological impacts to the satisfaction of the Council's Ecological adviser. I have no reason to take a different view on these matters.
21. Concerns regarding increases in traffic levels and parking from the proposal have been raised. However, each dwelling has forecourt parking clear of the highway. It is acknowledged that there would be an increase in movements associated with the 7 new dwellings from within the appeal site, but Wyatts Road is a satisfactory carriageway with good visibility. I note that no objection was raised by the Highway Authority in terms of parking spaces and the access road proposals.
22. The construction of the development would be disruptive; however, it would be short lived, and a construction management condition can be put in place to ensure that activity during the build phase is minimised.

Conditions

23. I have had regard to the Council's suggested conditions, amending them where necessary for clarity and to ensure compliance with the tests set out in paragraph 55 of the Framework. I also sought agreement from the Appellant to the pre-commencement conditions.
24. I have imposed a condition specifying the approved plans as this provides certainty.
25. A construction management plan is necessary to establish safety and environmental procedures for the work phase of the scheme. Details that require protection measures around existing landscape features are necessary to protect their health and that they do not become damaged during construction. Accordingly, these measures should be agreed before work begins.
26. In terms of the appearance of the site and surrounding areas, a condition requiring hard and soft landscaping is necessary. An external finishes condition is necessary to ensure the development is constructed in materials appropriate to the area.
27. Mindful of the living conditions of future residents, the proposed noise abatement measures should be completed in accordance with the details submitted with the application before occupation of the dwellings. It is also necessary in the interests of privacy that boundary enclosures between the properties are also agreed and implemented at the same stage. For the same reason, the insertion of obscure glazing at first floor flank wall windows is necessary.
28. Conditions that require the proposed estate road, new access to Wyatts Road and driveways to be completed before occupation of the development are necessary in the interests of highway safety. Surface water drainage conditions are also necessary to minimise flood risk.
29. In order to ensure that refuse facilities are adequate and appropriately sited it is necessary that details are approved and implemented before the proposed houses are occupied.

30. To protect local biodiversity a condition to secure bat and bird boxes is necessary. Finally, I have included conditions to ensure the development meets the sustainability and climate change requirements of the development plan.
31. A condition for the provision of fire hydrants is suggested by the Council, but there is no specific requirement for these in the development plan policies referred to. I consider that such a condition is unnecessary.

Conclusion

32. For the reasons given, and having had regard to all matters raised, the appeal is allowed.

RE Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: L1150/11, L1150/12, L1150/13, L1150/14.
3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Management Plan shall include details of:
 - a. Construction vehicle numbers, type and routing;
 - b. Access arrangements to the site;
 - c. Traffic management requirements;
 - d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - e. Siting and details of wheel washing facilities;
 - f. Cleaning of site entrances, site tracks and the adjacent public highway;
 - g. Timing of construction activities (including delivery times and removal of waste);
 - h. Provision of sufficient on-site parking prior to commencement of construction activities;
 - i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
4. No development (including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery) shall commence on site in connection with the development hereby approved until the branch structure and trunks of all trees shown to be retained and all other trees not indicated as to be removed and their root systems have been protected from any damage during site works, in accordance with the Arboricultural Method Statement prepared by Arbtech dated 22/01/2018 and tree protection plan TPP01 Rev D.

The protective measures, including fencing, shall be undertaken in accordance with the approved scheme before any equipment, machinery or materials are brought on to the site for the purposes of development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the Local Planning Authority. No fires shall be lit or liquids disposed of within 10.0m of an area designated as being fenced off or otherwise protected in the approved scheme.

5. No development, except for demolition works, shall take place until details of the proposed access road including the new junction with Wyatts Road with appropriate visibility splays have been submitted to and approved in writing

by the Local Planning Authority. The development shall not be occupied until the access has been constructed in accordance with the approved details.

6. Prior to the first occupation of the development hereby permitted the accesses and other necessary highway works shall be completed in accordance with the Hertfordshire County Council residential access construction specification. Prior to use arrangements shall be made for surface water drainage to be intercepted and disposed of separately so that it does not discharge from or onto the highway. The existing vehicular access shall be permanently closed, and the verge and footway shall be reinstated in accordance with a detailed scheme to be agreed with the Local Planning Authority in consultation with the Highway Authority, concurrently with the bringing into use of the new accesses.
7. Before being brought into use the new parking areas hereby approved shall be surfaced in durable bound material and arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.
8. The development shall not be occupied until a scheme for the separate storage and collection of domestic waste has been submitted to and approved in writing by the Local Planning Authority. Details shall include siting, size and appearance of refuse and recycling facilities on the premises. The development hereby permitted shall not be occupied until the approved scheme has been implemented and these facilities should be retained permanently thereafter.
9. Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials (including hard surfacing materials) 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 /samples.
10. Prior to the first occupation of the dwellings hereby permitted the acoustic barrier as detailed in the submitted Background Noise Assessment (3791-R1, dated 15/08/17) shall be installed. The acoustic barrier shall be permanently maintained as such thereafter.
11. The development shall be completed in accordance with the mitigation measures set out within the submitted Background Noise Assessment (3791-R1, dated 15/08/17) including window design and ventilation.
12. The development shall not be occupied until a scheme of hard and soft landscaping works has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include long term design objectives, implementation programme, management responsibilities, timescales and maintenance schedules for all landscaped areas, the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained.
13. All hard-landscaping works required by the approved scheme shall be carried out and completed prior to the first occupation of the development hereby permitted. All soft landscaping works required by the approved scheme shall

be carried out in accordance with the approved implementation programme. The completed scheme shall be maintained including the replacement of any trees or plants which die, are removed or become seriously damaged or diseased in the next planting season with others of a similar size or species, for a period of five years from the date the approved scheme was completed.

14. Prior to occupation of the development hereby permitted, a plan indicating the positions, design, materials and type of boundary treatment to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be erected prior to occupation in accordance with the approved details and shall be permanently maintained as such thereafter.
15. Prior to the first occupation of the dwellings hereby permitted the bathroom and en-suite windows in the first floor flank elevations of all dwellings shall be fitted with obscured glazing and shall be top level opening only at 1.7m above the floor level of the room in which the window is installed. The windows shall be permanently retained in that condition thereafter.
16. The development shall not be occupied until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated into the approved development.
17. Within one month of the first occupation of the development hereby permitted, bat boxes and bird boxes shall be installed in accordance with the recommendations as set out at Sections 7.5 and 7.6 of the submitted Preliminary Bat Survey (dated 29/9/2017) and shall be permanently maintained thereafter.

*****End of Schedule*****