



Appeal Decision

Site visit made on 22 March 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal Ref: APP/P1940/W/20/3260209

40-92 Grove Court, Grove Crescent, Croxley Green WD3 3JU

- 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 Thrive Homes against the decision of Three Rivers District Council.
 - The application Ref 20/0467/FUL, dated 2 March 2020, was refused by notice dated 1 July 2020.
 - The development proposed is the demolition of Grove Court and the construction of 42 apartments (19 x 1 bedroom and 23 x 2 bedroom units), with associated parking and landscaping, cycle and refuse/recycling stores and shared access.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of Grove Court and the construction of 42 apartments (19 x 1 bedroom and 23 x 2 bedroom units), with associated parking and landscaping, cycle and refuse/recycling stores and shared access, at 40-92 Grove Court, Grove Crescent, Croxley Green WD3 3JU in accordance with the terms of the application, Ref 20/0467/FUL, dated 2 March 2020, subject to the conditions on the attached schedule.

Application for costs

2. An application for costs was made by Thrive Homes against Three Rivers District Council. This application will be the subject of a separate decision.

Procedural Matters

3. As explained in an email dated 19 October 2020, the former agent erroneously cited her details as the applicant. As other documents refer to Thrive Homes as the applicant, that is who I have used in my banner heading above.
4. The Council's decision refers to Policy CA2 of the Croxley Green Neighbourhood Plan 2018 ('CGNP') which addresses extensions and conversions. That was a typographical error, and I have considered the scheme against its Policy CA1.

Main Issues

5. The main issues are the effect of the proposed development on:
 - the living conditions of neighbouring occupiers, with particular regard to noise, disturbance, and actual and perceived overlooking; and
 - the convenience of highway users, with particular regard to parking availability.

Reasons

Living conditions

6. The appeal site borders the rear gardens of a row of houses on Manor Way. In place of the existing two storey building, two blocks comprising 42 apartments would be erected, which would range from two to four storeys high.
7. Block A would be orientated with its narrower, and lower, side elevation facing Manor Way, and its longer elevations facing Block B and a parking area. It would be set back from the eastern boundary, with a gap of around 26 metres or more to the upper floor building line of the Manor Way dwellings.
8. Boundary treatment would prevent significant overlooking towards the dwellings in Manor Way from the block's ground floor windows. At first and second floor its few windows would be secondary light sources or would serve non habitable rooms. They would be small and very narrow. As such they would not be visually prominent features viewed from the properties in Manor Way. These openings could also be conditioned to be obscurely glazed and top opening only.
9. The balconies in Block A closest to the boundary with Manor Way would be set back from the building's flank. Additionally, as illustrated on drawing no. 045, they would have 1.7 metre high slatted metal posts, backed by a frosted glass screen, on their eastern edge. That treatment at that height would significantly limit actual or perceived overlooking towards Manor Way.
10. Turning to Block B, it would be orientated with its long rear elevation broadly facing the Manor Way dwellings, but angled to them, such that its tallest four storey section would be furthest from the common boundary. According to drawing no. 109 P3, the two storey part which would be closest to the boundary, would be around 23 metres or more from the upper floor building line of those dwellings, and the Council calculates that its four storey element would be around 34 metres from the rear of Manor Way.
11. The secondary upper floor living room windows closest to the boundary would be narrow and obscurely glazed. Their dimensions and the building's angled siting would significantly limit any perception of overlooking towards the Manor Way dwellings and their gardens. Some bedrooms would be served by oriel windows which would be angled in towards Block B's small balconies, and some bedroom windows would look directly onto those balconies. As those balconies and the roof terraces would have the same boundary treatment as on Block A, this would significantly limit actual or perceived overlooking towards the Manor Way properties.
12. In the interests of privacy and to prevent overlooking, Appendix 2 of the Three Rivers Development Management Policies Local Development Document 2013 ('TRDMP') provides indicative figures for minimum distances between buildings, with which parts of this scheme would fall short. However, it states that all applications will be assessed on their merits, and that some development which does not comply may nonetheless be acceptable.

13. As a result of their style, treatment, location and dimensions, the windows and balconies in these two buildings would not give rise to significant overlooking of the Manor Way dwellings, nor a significant perception of overlooking.
14. Whilst these buildings would be taller than the one it would replace, and would include some darker materials, their distance and angled siting relative to the boundary, the gap between them, and their articulated and cascading form, would ensure that they would not have a significant overbearing impact on the Manor Way properties, nor significantly harm the outlook from them.
15. The scheme would introduce parking, along with vehicular movements, into an area close to the rear gardens of Manor Way, which is currently a green amenity area. However, a fence and a proposed narrow landscaping strip to supplement existing planting would provide a physical screen to those gardens from the parking area; and a condition could require details of any external lighting to be submitted to protect nearby residential occupiers.
16. Moreover, according to the Transport Statement by Cannon Consulting Engineers, at peak times the scheme would generate around 10 two way trips per hour. Whilst that would entail significantly greater activity in this location than currently, traffic speeds in this private parking area would be low, and the comings and goings associated with the use would be relatively modest.
17. I have no reason to conclude that reasonable domestic use and occupation of the apartments and their outdoor areas would cause significant noise or disturbance to nearby residents.
18. Consequently, whilst I observed on my visit that this is a quiet residential area, from the evidence before me, the limited noise, disturbance and vehicular pollution as a result of the scheme would not harmfully impact nearby occupiers' living conditions.
19. Having regard to the siting and form of the proposed development, its context, and the sun's trajectory, together with the submitted Sunlight Analysis drawing no. 050 P4, it would not give rise to a significant loss of sunlight or natural light to adjacent occupiers.
20. Amongst other things, and in general terms, Policies CP1 and CP12 of the Three Rivers Core Strategy 2011 ('TRCS'); TRDMP Policy DM1; and CGNP Policy CA1 require schemes to contribute to sustainable development, with design which protects residential amenities and private gardens, having regard to matters including privacy and prospect. For the above reasons, the scheme would not conflict with those policies, nor with the broad thrust of TRDMP Appendix 2.

Highways

21. Whilst there were on road parking spaces available on Grove Crescent at the time of my visit, I appreciate that at times, parking availability is limited. The 27 existing units on the site have only 6 allocated parking spaces, whilst the proposed 42 apartments would be served by 47 parking spaces. That falls below the 80 spaces ordinarily required by TRDMP Appendix 5, although it states that in areas of high accessibility and good service provision a reduction in parking may be appropriate.

22. This site is located within a Key Centre, which the TRCS identifies as one of the most sustainable locations in the district. It has good accessibility on foot and by bicycle to a range of services and facilities, including a nearby parade of shops, and is close to a number of bus routes with onward train connections.
23. Moreover, the scheme's secure cycle parking provision would easily exceed the number of spaces that the Council states it would normally require; and as part of the submitted Travel Plan, a Car Club is proposed. Additionally, the Highway Authority indicates that as the proposed units would be affordable housing, car ownership may be lower, and it concludes that potential on street parking demand may be less than for the existing development on the site.
24. Consequently, and having regard to the findings in the Transport Statement that the development will not have a material impact on the surrounding highways infrastructure, I have no cogent reason to disagree with the view set out in the officer report that on-street parking demand on Grove Crescent would not significantly change as a result of the proposal.
25. Notwithstanding the site's location on a bend, and in an area where on-road parking is limited, for the above reasons, the scheme would not significantly inconvenience highway users, and I have no cogent evidence that it would pose a significant risk to highway safety.
26. On this issue it would not therefore conflict with TRCS Policies CP1, CP10 or CP12; or Policy DM13 of the TRDMP which, amongst other things, require development to provide necessary infrastructure, including transport measures and adequate vehicle parking, and to promote sustainable travel modes. Additionally, it would not conflict with the broad thrust of TRDMP appendix 5.

Other matters

27. The scheme would be taller than the tired looking building it would replace. Whilst there is no nearby precedent for this style of contemporary architecture with this palette of facing materials, including dark brickwork, there is also no prevailing design amongst the nearby apartment blocks, which range from two to four storeys high. The scheme's articulation and its cascading form would assist in breaking up its visual bulk, as would its separation into two blocks set amongst landscaping.
28. The scheme would not therefore harm the character and appearance of the area, and on this matter, it would not conflict with the development plan, including CGNP Policy CA1, and Appendix B which refers to the two to four storey apartments in Grove Crescent.
29. Any disturbance during construction would be temporary, and could be mitigated by an appropriate Construction Management Plan. The scheme was supported by a Preliminary Ecological Appraisal and Preliminary Roost Assessment and Bat emergence and Re-entry surveys, which found it to be acceptable subject to appropriate mitigation measures, which could be addressed by a condition.
30. I have no detailed evidence to conclude that existing social infrastructure would not be able to cope with the additional demand as a result of this scheme.

31. Finally, whilst the buildings' setting would be more open than the current arrangement, it would have ground floor windows overlooking communal areas. Given that natural surveillance, I am not persuaded that the scheme would result in an increased incidence of antisocial behaviour, or that it would pose significant safety concerns.

Conditions and Conclusion

32. I have considered the suggested conditions against the tests in the National Planning Policy Framework ('Framework'), and against policies in the development plan, making amendments where necessary to improve precision, clarity and enforceability. The appellant supports these, subject to some re-phrasing of pre-commencement conditions.
33. I have imposed the standard time limit condition, and, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans.
34. Some pre-commencement conditions are necessary to ensure appropriate control over issues that may arise from the outset of the development. In order to mitigate the impacts of construction on nearby residents' living conditions, a Construction Management Plan is necessary; as is a Site Waste Management Plan in order to mitigate amenity impacts and to promote sustainable development.
35. Additionally, as retained landscaping, and trees, some of which are subject to a Tree Preservation Order, could be damaged from the outset of development, in the interests of the character and appearance of the area, my condition nos. 5 and 6 are necessary. I have imposed my condition no. 7, which combines the requirements of the Council's suggested conditions C6 and C16 for the same reason, and in the interests of biodiversity and habitat protection, with the details to be agreed between the principal parties.
36. The proposal would contribute to the provision of affordable housing in the district in accordance with TRCS Policy CP4. The Council has discussed and agreed with the appellant the precise terms of such a condition. Having regard to the Framework's six tests for conditions, and its advice at paragraph 54, my pre-commencement condition no. 8, is therefore necessary to require the submission of a scheme detailing the provision of the affordable housing.
37. I have imposed condition no. 9 in the interests of the provision of a suitable means of surface water drainage, but in so doing have combined the Council's suggested conditions C7 and C20, with the full details to be agreed between the parties. Condition no. 10 is necessary for the same reason, and condition no. 11 to ensure an appropriate water supply in the interests of fire safety.
38. Condition nos. 12 and 13 are imposed in the interests of the safety and convenience of highway users; whilst no. 14 is imposed in the interests of the character and appearance of the area. Condition nos. 15 and 16 are necessary in the interests of sustainable development, whilst no. 17 is necessary to safeguard protected species and in the interests of biodiversity. As the Ecological Appraisal includes measures to cover trenches or provide mammal ramps, the Council's suggested condition C21 is unnecessary.

39. Finally, to ensure appropriate living conditions, various conditions are necessary. My condition no. 18 ensures that appropriate provision for refuse storage and collection are made. Condition nos. 19 to 21 are necessary for the reasons set out in this decision in order to protect neighbouring amenities.
40. However, with regards Block B, I have excluded the oriel windows, and those bedroom windows with an adjacent balcony, from my condition no. 19 as it is not necessary for these to be obscurely glazed and top opening to prevent overlooking. I have also excluded from my condition the first floor windows in the southern flank of Block B as these proposed openings, together with the openings in the block beyond, have an aspect over a communal parking and access area.
41. For the above reasons, I conclude that the scheme would not impact the living conditions of nearby occupiers to a harmful degree, and that it would not significantly inconvenience highway users. Consequently, having regard to all other matters raised, including representations by interested parties, the appeal is allowed.

Chris Couper

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: 001 P2, 003 P1, 012 P6, 100 P10, 105 P3, 107 P3, 108 P2, 109 P3, 110 P3, 111 P5, 112 P4, 113 P4, 114 P3, 121 P3, 122 P2, 123 P5, 124 P3, 131 P2, 133 P2, 139 P3, 140 P5, 045, DS27061801.03 B, DS27061801.04 B, TS18-405S 1A, Y131 PL DR 200 P02, Y131 PL DR 201 P05, Y131 PL DR 202 P04, and Y131 PL DR 203 P04.
- 3) No development shall commence until a Construction Management Plan (CMP) has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall be carried out in accordance with the approved CMP.

The CMP shall include details of construction vehicle numbers, type and routing; access arrangements to the site; traffic management requirements; construction and storage compounds; siting and details of wheel washing facilities; cleaning of site entrances, site tracks and the adjacent public highway; timing of construction activities (including delivery times and removal of waste); provision of on-site parking prior to commencement of construction activities; and post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- 4) No development shall commence until a Site Waste Management Plan (SWMP) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved SWMP.
- 5) No development shall commence, including tree felling, pruning, demolition works, soil moving, temporary access construction, or any other operation involving the use of motorised vehicles or construction machinery, until the tree protection as shown on drawing no. DS27061801.04 B is in place on site.

The fencing shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials 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. No fires shall be lit or liquids disposed of within 10m of an area designated as being fenced off or otherwise protected in the approved scheme.

- 6) No development shall commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the location of all existing trees and hedgerows affected by the proposed development, and details of those to be retained, together with a scheme detailing measures for their protection in the course of development.

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 a programme to be agreed before development commences, and 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 for five years from the date of the approved scheme was completed.

- 7) No development shall commence until a Landscape and Ecological Management Plan (LEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The LEMP shall be carried out as approved in accordance with an agreed timetable.
- 8) No development shall take place until a scheme for the provision of forty two dwellings to be constructed on the site pursuant to the planning permission as Affordable Housing has been submitted to and approved in writing by the Local Planning Authority. The Affordable Housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex2: Glossary of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i) the 11 one-bed two person units and 7 two-bed three person units within Block A (identified on plans 105 P3 and 107 P3) which shall be constructed on the site and provided as Affordable Rented Dwellings;
 - ii) the 8 one-bed two person units, 2 two-bed three person units and 14 two-bed four person units within Block B (identified on plans 110 P3, 111 P5, 112 P4 and 113 P4) which shall be constructed on the site and provided as Shared Ownership Dwellings;
 - iii) the arrangements for the transfer of the Affordable Housing to an Affordable Housing Provider or the arrangements for the management of the Affordable Housing if those dwellings are not to be transferred to an Affordable Housing Provider;
 - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the Affordable Housing;
 - v) the occupancy criteria to be used for determining the identity of occupiers of the Affordable Housing and the means by which such occupancy criteria shall be enforced;
 - vi) the timing of the completion of a Nominations Agreement to be entered into formalising the details to be agreed in respect of paragraphs iv) and v) above (in any event that Nominations Agreement to be completed prior to first Occupation of the Affordable Housing); and
 - vii) the arrangements for the use of any Net Proceeds following the sale of an interest in any of the Affordable Housing (in accordance where applicable with Homes England guidance).

The Affordable Housing shall be provided in accordance with the approved scheme. The dwellings constructed shall not be used for any

other purpose than as Affordable Housing in accordance with that approved scheme, subject to:

- A) any rights to acquire pursuant to the Housing Act 1996 or any equivalent statutory provision for the time being in force;
- B) any right to buy pursuant to the Housing Act 1985 or any equivalent statutory provision for the time being in force;
- C) where a tenant of a Shared Ownership Dwelling granted a Shared Ownership Lease has purchased the remaining shares so that the tenant owns the entire Shared Ownership Dwelling;
- D) the restriction upon the use and disposal of the Affordable Housing shall cease to apply to the whole or any part of an Affordable Dwelling (hereafter referred to as the 'Affected Affordable Dwelling') where that whole or part is transferred or leased, pursuant to an event of default by any mortgagee or chargee of the Affordable Housing Provider or the successors in title to such mortgagee or chargee, or by any receiver or manager (including an administrative receiver) appointed pursuant to the Law of Property Act 1925 (hereafter referred to as the "Chargee"), PROVIDED THAT:
 - i) the Chargee has first given the Council and the Affordable Housing Provider (as appropriate) 5 months prior notice in writing (the "Chargee's Notice") of its intention to exercise any power of sale or lease in respect of any Affected Affordable Dwelling; and
 - ii) the Chargee has first given the Council or the Affordable Housing Provider the opportunity to complete a transfer of the Affected Affordable Dwelling in order to ensure that it continues to be used for the purposes of Affordable Housing. The Chargee's Notice shall not be a valid Chargee's Notice unless it is accompanied by a conveyancer's certificate signed and dated by the conveyancer and confirming that, at the date of the notice, the Chargee giving the notice is entitled to execute a transfer of the freehold of the Affected Affordable Dwelling and all land required to gain access to the Affected Affordable Dwelling from the public highway; and
 - iii) the price for the purchase of the Affected Affordable Dwelling by the Council or the Affordable Housing Provider demanded by the Chargee shall not be permitted to exceed the market value of the Affected Affordable Dwelling at the date of the transfer on the valuation assumption that it is to be retained in perpetuity as Affordable Housing.
 - iv) If the Council or the Affordable Housing Provider is unable to secure the transfer of the Affected Affordable Dwelling under the terms and in the circumstances described above within the said period of 5 months in accordance with sub-paragraph (i) above then the Chargee shall be entitled to dispose of the Affected Affordable Dwelling on the open market not subject to the condition above that it shall not be used for any other purpose than as Affordable Housing.

- 9) No development, other than demolition, shall take place until a surface water drainage scheme for the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to the first occupation of the development.
- 10) Upon completion of the drainage works, a management and maintenance plan for the SuDS features and drainage network shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include maintenance and operational activities, arrangements for adoption and any other measures to secure the operation of the scheme throughout its lifetime. The development shall thereafter be carried out in accordance with the approved scheme.
- 11) Details of any required fire hydrants serving the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details prior to its first occupation.
- 12) Prior to the first occupation of the development hereby permitted, the proposed access, on-site car parking and turning areas shall be laid out, demarcated, levelled, surfaced and drained in accordance with the approved plans, and shall thereafter be retained for users of, and visitors to, the development only.
- 13) Prior to the first occupation of the development hereby permitted, a parking management plan, including details of the allocation of vehicle parking spaces and cycle storage spaces; management and allocation of disabled parking spaces; and long term management responsibilities and maintenance schedules for all communal parking areas, shall be submitted to and approved in writing by the Local Planning Authority. The parking shall be implemented in accordance with the approved management plan and thereafter retained in accordance with it.
- 14) Before any building operations above ground level are commenced, samples and details of all proposed external materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 15) Prior to the first occupation of the development hereby permitted, the energy saving and renewable energy measures detailed within the approved Energy and Sustainability Statement by Eco Energy & Environmental Limited (18074 Version 4) shall be implemented.
- 16) The approved Travel Plan by Cannon Consulting Engineers (Y131 dated 12/02/20) shall be implemented in accordance with the timetable contained therein and shall continue to be implemented for so long as any part of the development is occupied.
- 17) The development shall be carried out in accordance with the recommendations set out within the Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey (prepared by Arbtech, Issue 2.1 7/2/20).

- 18) Prior to the first occupation of the development hereby permitted, a scheme for the separate storage and collection of domestic waste shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved scheme has been implemented and these facilities shall thereafter be retained in accordance with the approved details.
- 19) Prior to the first occupation of the development hereby permitted, the following windows shall be fitted with purpose made obscured glazing and shall be top level opening only at 1.7 metres above the floor level of the room in which the window is installed:
- All first and second floor windows to the east elevation of Block A; and
 - All first and second floor windows to the east elevation of Block B, other than the oriel windows and those bedroom windows with an adjacent balcony.

The windows shall be permanently retained in that condition thereafter.

- 20) Prior to the first occupation of the buildings hereby permitted, privacy screening shall be erected in accordance with the specification on approved plan no. 045 to the eastern flank elevations of the balconies to Blocks A and B as indicated on drawing nos. 121 P3 and 123 P5, and to the third floor roof terraces as shown on drawing no. 113 P4. The screening shall be retained and maintained as such thereafter.
- 21) No external lighting shall be installed on the site, or affixed to any buildings on the site, unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details before the use commences, and shall be retained as such thereafter.
