



Appeal Decision

Site visit made on 3 November 2022

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2023

Appeal Ref: APP/Y1945/W/21/3281473

8 Oxhey Road, Watford, WD19 4QE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Sibtain Allibhai (Maybrook House Ltd) against the decision of Watford Borough Council.
 - The application Ref 21/00753/VARM dated 17 May 2021, was refused by notice dated 7 July 2021.
 - The application sought planning permission for Variation of Condition 2 (approved drawings), Condition 6 (design details), Condition 9 (electric charging points) and Condition 14 (non-vision panels) of planning permissions 19/00703/VAR and 18/00323/FULM for the demolition of existing dwelling and outbuildings and redevelopment into 10 no. apartments (Use Class C3) with associated car parking, landscaping improvements, new accesses onto Oxhey Road and Hollybush Close and other associated external alterations, without complying with a condition attached to planning permission Ref 19/01411/VAR, dated 2 April 2020.
 - The condition in dispute is No 8 which states that: No part of the development shall be occupied until the hard landscaping scheme detailed on drawing no. 738/2/01 B by Draffin Associates, as approved under ref. 19/00149/DISCON, has been constructed. The soft landscaping scheme detailed drawing no. 738/2/01 B and in the Summary Tree and Landscape Statement by Draffin Associates, as approved under ref. 19/00149/DISCON, shall be carried out not later than the first available planting and seeding season after completion of the development. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, or in accordance with details approved by the Local Planning Authority.
 - The reason given for the condition is: In the interests of the visual appearance of the site and the wider area, in accordance with Policy UD1 of the Watford Local Plan Core Strategy 2006-31.
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Decision

1. The appeal is dismissed.

Procedural matters

2. During the determination of the appeal the Council informed me that the emerging Local Plan had been adopted¹ ('the Local Plan'), with Policies QD6.2, QD6.4, NE9.1 and NE9.2 replacing those referred to on the Decision Notice from the District Plan² and Core Strategy³. The appellant was given the

¹ A Sustainable Town, Watford Local Plan, 2021-2038, Adopted 17 October 2022, Watford Borough Council.

² Watford District Plan 2000.

³ Watford's Local Plan, Part 1 – Core Strategy 2006-31, Adopted 30 January 2013, Watford Borough Council.

opportunity to comment on this, but no response was received. I am required to consider the appeal on the basis of the development plan which is in place at the time of my decision, and I have accordingly determined it on that basis.

3. During my assessment, I found conflicting information on the plan illustrating the revised scheme (Drawing no. 738/2/01 Rev C) in that while the southern boundary does not contain any green shaded areas (as is shown to illustrate hedging on the eastern boundary and plan key), there is in fact wording adjacent to this which states 'Existing closeboard fencing to be replaced with 700mm high brick wall and hedge planting' (with a light-blue line between this wording and the southern boundary position). However, the appellant has clarified this matter on the application form which states that the boundary treatment to Hollybush Close has been changed to a tall fence with no hedging. This accords with my observations on-site, which revealed a 2-metre high (approx.) close boarded fence. For the avoidance of doubt, I have therefore considered the scheme on the basis of the application form which refers to a tall fence with no hedging.

Background

4. Planning permission was granted for the demolition of the existing dwelling and development of 10 residential apartments on 7 September 2018⁴ (the 'first approved scheme').
5. Following this, a revised scheme for 10 residential apartments was submitted and granted planning permission on 5 September 2019⁵ (the 'second approved scheme').
6. A further revised scheme for 10 residential apartments was then submitted and granted planning permission on 2 April 2020⁶ (the 'third approved scheme'). This is the scheme that has been implemented by the appellant and constructed on-site. At the time of my site inspection, it appeared to be occupied.
7. Condition 8 of the third approved scheme required the hard and soft landscaping to be carried out in accordance with Drawing no. 738/2/01 Rev B, which was previously approved under a planning condition application submitted in connection with the first approved scheme⁷ (the 'approved hard and soft landscaping scheme').
8. The development has not been carried out in accordance with the approved hard and soft landscaping scheme and the appellant now proposes in the current appeal application⁸ that condition 8 be amended to require it to be implemented in accordance with a revised scheme (shown on Drawing no. 738/2/01 Rev C).
9. Prior to construction on the site, all existing trees (some of which were protected by a Tree Preservation Order) were felled to make for the development (there is no evidence before me as to when this was carried out or by whom).

⁴ Planning application ref 18/00323/FULM granted 7 September 2018.

⁵ Planning application ref 19/00703/VAR granted 5 September 2019.

⁶ Planning application ref 19/01411/VAR granted 2 April 2020.

⁷ Planning condition application ref 19/00149/DISCON approved 3 April 2019.

⁸ Planning application ref 21/00753/VARM refused 7 July 2021.

10. The approved hard and soft landscaping scheme included six replacement trees to be planted (2 Pyrus, 3 Betula and 1 Sorbus), 4 multi-stemmed specimens (2 Syringa and 2 Amelanchier) and clipped hedging to all boundaries enclosing the site & two rear terraced areas.
11. The revised scheme the subject of this appeal has reduced the tree planting to 3 trees (1 Pyrus, 1 Betula and 1 Sorbus) and 2 multi-stemmed specimens (2 Syringa). It also proposes new close-boarded fencing to the southern boundary and western boundary (instead of retaining the existing close-boarded fencing). Clipped hedging is no longer proposed adjacent to these two boundary fences, the two rear parking spaces and two rear terrace areas.

Main issues

12. The main issue is the effect of varying the hard and soft landscaping details referred to in condition 8 on the;- (a) living conditions of future occupiers; and (b) character & appearance of the host building and surrounding area.

Reasons

13. The appeal site is set amongst mature detached and semi-detached houses set on spacious plots with a significant number of mature trees lining the roads and within private gardens. Overall, the area has a spacious and verdant character.
14. The development as constructed currently has a hard appearance with very little vegetation to soften its impact and help it integrate with the verdant character of the wider area.
15. The revised landscaping scheme before me contains very little in the way of soft landscaping to address this deficiency. In particular, the amount of trees and hedging proposed to the front and rear of the building would be insufficient and fail to provide any meaningful soft landscaping mitigation which I consider to be of fundamental importance to reduce the hard finish of the overall development. Furthermore, it would also leave the stark and visually intrusive 2-metre high (approx.) close-boarded southern boundary fence and part of the western boundary fence at the front of the site exposed to the public realm, with both failing to provide a cohesive link with the front boundary wall.
16. As a consequence, the overall development would, in the absence of a more comprehensive scheme of soft landscaping and brick wall boundary treatment, detract from the appearance of the host building and harm the verdant character of the area. I do not however consider the proposed soft landscaping scheme to be so diminutive that it would result in poor living conditions for future occupiers.
17. The appellant has raised concerns that the hedging would restrict manoeuvring for cars and leave them prone to being scratched. However, I consider there to be more than ample space for occupiers to manoeuvre into car spaces without this occurring. I recognise that residents have asked for the turfed area to be kept open for children to play in the communal garden. However, I am satisfied that there is ample space for this to occur even with additional trees. I am also satisfied that such trees would not cause any significant obstruction to outlook from the apartments or unduly restrict natural light. In any event, the very marginal impact upon living conditions would be outweighed by the harm to the appearance of the host building and verdant character of the area.

18. In view of the above, I conclude that varying the hard and soft landscaping details in condition 8 would harm the character and appearance of the host building and surrounding area. The scheme would therefore conflict with Policies QD6.2, QD6.4, NE9.1 and NE9.2 of the Local Plan, which collectively seek to ensure, amongst other things, that development:- (a) is of a high quality design; (b) reflects the character of the wider area; (c) conserves and enhances the extent and quality of green infrastructure; and (d) results in the replacement of existing trees where their loss is unavoidable.
19. I also find that the scheme conflicts with Paragraph 130 of the Framework⁹, which seeks, amongst other things: (a) development that is sympathetic to local character; and (b) schemes that maintain a strong sense of place. It would also conflict with Paragraph 131 which states that trees make an important contribution to the character and quality of urban environments and that planning decisions should ensure opportunities are taken to incorporate them into developments.
20. Furthermore, it is also my view that the quality of the third approved scheme (which has now been constructed) would be materially diminished by changes proposed in the current appeal application and as a consequence, the proposal also fails to accord with Paragraph 135 of the Framework.

Conclusion

21. I have found that if the development was amended in the manner proposed, this would harm the character and appearance of the host building and surrounding area and that condition 8 is therefore reasonable and necessary. No matters have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR

⁹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, 20 July 2021.