



Appeal Decision

Site visit made on 18 October 2023

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd November 2023

Appeal Ref: APP/B5480/W/22/3305694

King Harold, 51 Station Road, Harold Wood, Romford RM3 0BS

- 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 Dyer Developments Ltd against the decision of the Council of the London Borough of Havering.
 - The application Ref P0282.22, dated 31 January 2022, was refused by notice dated 5 July 2022.
 - The development proposed is demolition of existing public house and residential units and erection of mixed use building comprising ground floor community café/pub and 25no. residential units, including provision of 6no. car parking spaces.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The description of the development was changed from that given on the application form in the Council's decision notice. There is no record before me of the parties agreeing the changed description and so I have used that given on the application form in the heading.
3. Amended plans¹ were submitted with the appeal, which were not before the Council when it made its decision. The amended plans make adjustments to internal partitions to increase the sizes of individual flats, increase some bedroom sizes and ensure wheelchair accessibility. The amended plans do not alter the size of the development, its external elevations, the number of units, or the number of bedrooms. Flat 10 would be a 5 person flat instead of a 6-person flat. I am satisfied that the amended plans do not significantly alter the proposed development and that no person's interests would be prejudiced if I accept them.
4. Accordingly, I shall take the amended plans into account. The Council has advised that the amended plans overcome its third and fifth reasons for refusal, which concerned the sizes of some of the proposed units, bedroom sizes and wheelchair accessibility. I shall not therefore consider these as main issues.
5. The Council's tenth reason for refusal concerned the absence of a planning obligation to secure affordable housing, contributions towards carbon reduction and restricting the availability of car parking permits. A signed unilateral

¹ 0142_GA01 Rev B, 0142_GA02_Rev B, 0142_GA03_Rev B and 0142_GA04_Rev B

undertaking (UU) was submitted with the appeal. The Council had made detailed comments on the draft UU, but the amendments suggested by the Council were not included in the submitted version. I shall accordingly consider the effectiveness of the UU as a main issue between the parties.

Main Issues

6. The main issues in the appeal are:

- i) the effect of the development on the character and appearance of the area;
- ii) its effect on the living conditions of adjacent occupiers and whether or not acceptable living conditions would be provided for its future occupiers;
- iii) its effects on social infrastructure provision;
- iv) highway safety;
- v) health and wellbeing;
- vi) biodiversity; and
- vii) air quality; and
- viii) the effectiveness of the planning obligation.

Reasons

Planning Policy

7. The development plan for the area consists of the London Plan (2021) (LP) and the Havering Local Plan (2021) (HLP). The Council advises that it cannot demonstrate a five-year housing land supply. On this basis the presumption in favour of sustainable development in paragraph 11(d) of the National Planning Policy Framework (the Framework) applies. This means that permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Character and Appearance

8. The site consists of a public house with garden and car park to the rear, which is at the eastern end of a local parade of shops. It is within a predominantly residential area and close to Harold Wood railway station. The adjacent residential areas to the north and east of the site are characterised by two storey houses.
9. At the western end of the row of shops, and immediately adjacent to the station, I saw that there are recently built blocks of flats of up to five storeys in height. These blocks occupy an area that has a distinct and different character from the two-storey residential development in the wider area. These buildings are set within areas of open space which complement their scale. The building at Rubus Place which is adjacent to two storey houses is smaller in scale and reduces in height from four to three storeys towards the housing.

10. In contrast to that character, the area immediately surrounding the site has much lower buildings of domestic scale. The buildings along Station Road are two and three storeys in height. The library building on the other side of Arundel Road is two storeys in height.
11. In this context the proposed development would be of significant mass and bulk. It would also be much taller than the adjacent development at five storeys, or six storeys including the mezzanine floor. Although the height of the building would be stepped in relation to the adjacent houses on Arundel Road, this would not be enough to successfully reduce the scale of the building in relation to the existing buildings. The visual dominance of the building would be particularly apparent given the falling ground levels along Arundel Road.
12. The adjacent building on Station Road is three storeys, and although the land levels rise towards the south-west, the development would be dominant and out of scale with the adjacent development.
13. Although the architectural treatment of the elevations would help to reduce its bulk, for example through the use of recessed elements, differing materials and by setting back the fourth floor from the façades, the development would be visually intrusive and out of character with the surrounding area.
14. For these reasons the proposal would not be supported by Policy 26 of the HLP. This promotes high quality design that respects, reinforces and complements the local street scene and that respects the established scale, massing and height of the surrounding physical context.
15. Policy D3 of the LP requires a design-led approach that optimises the capacity of sites. This approach requires positive responses to local distinctiveness, including in terms of scale. The proposal would not accord with that policy, for the reasons given.
16. The submitted design and access statement explains the design approach to the development. Although alternatives were considered and initial discussions were held with the Council, Policy D4 of the LP requires a more rigorous approach than has been demonstrated, in terms of consideration of design options and design scrutiny. The proposal has not been subject to a design review. On this basis the requirements of Policy D4 have not been followed.
17. The appellant also refers to other existing development in the area which is highlighted on Figure 2 of the appellant's statement. These blocks are of 3 storeys and of a lesser scale than the proposed development. The recent development at 1 Station Road is also of a much smaller scale, and of similar height to the adjacent buildings.
18. There are seven individual trees and a small group of trees around the car park and within the garden on the site. They contribute positively to the character and appearance of the area. The most prominent of these is a horse chestnut which is adjacent to the Arundel Road frontage. The Arboricultural Impact Assessment and Tree Constraints Plan both indicate that all trees, including the horse chestnut tree are to be removed to facilitate the development. New tree planting would be provided both on the street frontage and at the rear of the development.

19. There is however some inconsistency in the plans in that the proposed ground floor plan indicates that the horse chestnut (T1) is to be retained within a planter. Having seen the extent of the canopy spread on my visit I think it unlikely that this tree could realistically be retained given its close proximity to the proposed building.
20. Policy 27 of the HLP supports retention of landscape features that contribute positively to the setting and character of the local area. Because all of the existing trees would be removed, the proposal would not be supported by that policy. Policy G7 of the LP allows for removal of trees provided that there is adequate replacement planting based on the existing value of the benefits of the trees removed. Details of replacement planting could be required by a condition if the appeal were to be allowed. However, the removal of the established trees would have a negative effect on the character and appearance of the area.
21. For the reasons given I conclude on this issue that the proposal would unacceptably harm the character and appearance of the area.

Living Conditions

22. Adjacent to the site on Arundel Road there is a terrace of two storey houses. The part of the development on Arundel Road would be aligned with the existing development pattern and would not extend to the rear.
23. The part of the building fronting Station Road would be visible from the adjacent rear garden on Arundel Road. Although the height and bulk of the development would be visually dominant, it would be sited approximately 20 metres away from the garden. The outlook from the rear windows of the adjacent house is towards the south-west and not towards the proposed development. The adjacent rear garden is at a lower level than the site which would increase the apparent height of the building when viewed from that garden. Nonetheless, trees would be planted along the boundary which would offer screening. For these reasons the outlook from the adjacent garden would not be unduly harmed, and the proposal would not adversely affect the living conditions of those adjacent occupiers.
24. The three proposed units at ground and mezzanine floor levels facing Arundel Road would have small back gardens. The garden to Unit 1 would be directly adjacent to the rear of the building facing Station Road, which would be five storeys in height. The stairwell of the building would project into that garden. The height of the building and its close proximity to the rear windows would result in a strong sense of enclosure at the rear. Furthermore, it is likely that the garden to Unit 1 would be shaded by the building for significant periods of time. This aspect of the design, in my view would not be of a high quality as required by Policy 7 of the HLP and Policy D6 of the LP.
25. The remaining flats would have balconies and roof terraces which would all exceed the minimum areas required by Policy D6 of the LP. In addition, a small communal garden and play space would be provided between the car parking area and the adjacent garden to 2 Arundel Road. As this would be additional to the balconies, in principle it would have some support from Policy 7 of the HLP.

26. However, the usability of this space has not been demonstrated. In particular there is no information before me as to the number of children likely to use the play space, or its area, this being information required under Policy S4 of the LP. Because this would be a small and narrow area between the car park and the adjacent garden, I have some doubt as to its value in terms of providing amenity or play space. It has not been demonstrated that this space would function as an attractive, safe and accessible living environment for the new residents as required by Policy 7 of the HLP.
27. For these reasons I am not satisfied that the communal garden and play space would provide design of sufficient high quality as required by Policy D6 of the LP.
28. I conclude on this issue that the development would not adversely affect the living conditions of adjacent occupiers, but its quality of design would not be sufficient to ensure a good standard of living conditions for all of its future occupiers.

Social Infrastructure

29. The existing public house is a 19th century building which was originally erected as a hotel to serve the developing residential area following the arrival of the railway. The Council is of the view that the building does not merit inclusion on its local list of non-designated heritage assets because original architectural features have been lost and the building has been extended and altered, removing much of its historic character. I see no reason to disagree with this view.
30. There was a tragic accident at the pub in 2018 and following this the pub was closed pending investigations by the Health and Safety Executive. The main parties have provided differing accounts as to whether the facility remains open. On my visit I saw no evidence to indicate that it had been permanently closed. There are two flats above the pub and at the time of my visit it appeared that at least one of those was occupied.
31. Policy HC7 of the LP protects public houses which have heritage, economic, social or cultural value to local communities and resists their loss. Although the building is not identified as a heritage asset it is nonetheless of some historic interest.
32. Interested parties have referred to the value of the public house in providing a social facility for the local community. The appellant has pointed out that there are a number of other public houses in the area, however, these are in Romford or Hornchurch and some distance away from the local area. Interested parties have also stated that the pub has been open in the period since 2018. Although its association with the accident may have deterred visitors, this does not mean that the pub is no longer viable.
33. The appellant has stated that the building is in poor condition and requires investment. No information is before me as to any works that are necessary, their cost or their effect on viability. The building has not been subject to marketing. For these reasons it has not been demonstrated that the pub is not capable of providing a social facility of value to the local area. The loss of the existing public house would not accord with Policy HC7 of the LP on this basis. Furthermore, because it has not been demonstrated that the public house is

redundant, the proposal would not accord with Policy 16 of the HLP or Policy S1 of the LP.

34. Those policies are supportive of new social infrastructure provision such as the proposed new café/pub. Policy S1 requires that this is high quality and inclusive and that it addresses a local or strategic need. The proposed café/pub would have a small outdoor seating area on the road frontage, which would be of lesser quality than the existing garden. The ground floor plan indicates a small 'back of house' area but does not indicate any provision for toilets, kitchen, or storage areas. There is little or no evidence before me to show how this would provide a social facility of equivalent value to the existing public house. It has not been demonstrated that it would be of suitable high quality or inclusive, or that it would address local need and the proposal would not accord with Policy S1 of the LP.
35. For the reasons given, the loss of the existing public house facility has not been justified, and it has not been demonstrated that the proposed café/pub would adequately compensate for the loss of this social infrastructure.

Highway Safety

36. Policy 24 of the HLP states that the maximum parking standards in the LP apply across the borough. Policies T6 and T6.1 of the LP are relevant and the maximum parking standards are set out in Table 10.3. The Council has explained that the site has a public transport accessibility level (PTAL) rating of 3. In outer London, developments with this level of accessibility are expected to provide maxima of 0.75 spaces per dwelling for 1- or 2-bedroom dwellings and 1 space for 3-bedroom dwellings. The maximum car parking requirement under these policies would be 20.5 spaces. The proposal would provide 9 parking spaces, including one disabled space and three on the frontages of the duplex units.
37. Although the standards required under Policies T6 and T6.1 of the LP are maxima, the proposed 9 parking spaces would fall significantly short of the maximum requirement of 20.5 spaces. It is likely therefore that the development would result in increased on-street parking. The proposal would not accord with Policy 24 of the HLP or with Policies T6 and T6.1 of the LP.
38. The submitted UU gives an undertaking that occupiers of the development will not apply for parking permits. Section 106(1) of the Town and Country Planning Act 1990 provides that a planning obligation must restrict the development or use of land. It does not provide for any restriction on personal rights such as the right of a future occupier to apply for a parking permit.
39. I note that the Council suggested an amendment to the UU to make reference to the powers available under the Greater London Council (General Powers) Act 1974 but that this amendment was not included in the signed version. The use of these powers would have provided a mechanism to restrict future applications for parking permits.
40. For these reasons, the UU would not be effective in restricting future residents' ability to apply for parking permits and would not reduce the demand for on-street parking arising from the development.
41. I saw on my visit that permit restricted parking is available on Station Road and Arundel Road during daytime hours. There are parking restrictions

imposed by single and double yellow lines, with the former restricting parking between 10:30 and 11:30 on weekdays. I saw also that many of the houses on Arundel Road have off-street parking spaces in their front gardens, meaning that large parts of the road frontages provide access to those parking spaces. Although there is unrestricted on-street parking available in the evenings and at weekends, in practice the availability of on-street parking space is restricted by the individual accesses to dwellings along Arundel Road.

42. The site is in an accessible location close to the railway station and local facilities, enabling the use of alternative modes to the private car. A facility for the storage of bicycles is to be provided in the scheme. The location of the development would enable a reduced level of reliance on the car for transport in comparison to less well served areas.
43. The increased level of on-street parking that would result from the development could lead to drivers parking in unsafe locations notwithstanding the parking controls in the area. It could also lead to inconvenience to residents unable to access their parking spaces. However, it has not been demonstrated beyond doubt that the development would have an unacceptable impact on highway safety.

Health and Wellbeing

44. A health impact statement was submitted with the application, but the Council considers that this does not fulfil the requirements of Policy 12 of the HLP. That policy is supportive of development that provides opportunities for healthy lifestyles, contributes to healthier communities and reduces health inequalities.
45. The development would enable active travel in that it would be accessible to public transport and would enable travel by walking and cycling. In other ways the health impact statement demonstrates that the development would accord with the requirements of the policy in terms of sustainable energy and green roofs. There is no evidence before me that there would be any unacceptable public safety risk.
46. It has not been demonstrated that the development would have any harmful impact on health and wellbeing.

Biodiversity

47. The Council has explained that the site is within 100m of a Site of Importance for Nature Conservation.² The trees and hedges within the site could potentially provide habitat for protected species, but there is no evidence before me to demonstrate the likelihood of this. No ecological assessment was provided with the application.
48. Nonetheless, Policy G6 of the LP requires proposals to secure net biodiversity gain. It has not been demonstrated how the proposal would secure this requirement. Neither does the proposal demonstrate how it would protect and enhance the natural environment, as required by Policy 30 of the HLP.
49. For these reasons the proposal does not demonstrate its impact on biodiversity or how this would be managed, and it does not accord with relevant planning policies in this regard.

² Romford to Harold Wood Railsides

Air Quality

50. The Council has advised that the whole of its administrative area is designated an Air Quality Management Area, indicating that air quality throughout the borough is poor. Policy SI 1 of the LP resists development that would lead to further deterioration of existing poor air quality or create unacceptable risk of high levels of exposure to poor air quality. In order to meet these requirements, the policy requires that development must be at least air quality neutral. Part B of the policy requires the submission of an air quality assessment with major development proposals. Policy 33 of the HLP is supportive of development that is at least air quality neutral.
51. The development would enable travel by public transport and other sustainable means. I note that it is proposed to use air source heat pumps and solar panels in the development. While these factors indicate that there is potential to mitigate impacts on air quality, no air quality assessment has been submitted. The absence of such an assessment means that the proposal does not accord with Policy SI 1 of the LP.

The Planning Obligation

52. I have found that the UU would be ineffective in terms of restricting resident's ability to apply for parking permits. I shall turn now to its other provisions. It includes obligations to secure provision of affordable housing and a carbon offset contribution. A number of amendments were suggested by the Council which have not been included in the submitted signed document.
53. I have concerns that the UU would not be fully effective in securing the affordable housing. First, it includes no requirement for details of the affordable housing units to be submitted to the Council, and there would be uncertainty in this respect. Second, the UU restricts occupation of more than 80% of the open market dwellings until 50% of the affordable units have been offered to a registered provider. The UU specifies that 9 units would be affordable, leaving 16 open market dwellings. The percentages given in the obligation would result in fractions of dwellings and there would be uncertainty as to the required number of affordable homes to be delivered and the trigger point for their delivery.
54. For these reasons the planning obligation would not be effective in securing affordable housing and the development would not accord with policies H4 and H5 of the LP and Policy 4 of the HLP which require this provision.
55. Policy SI 2 of the LP requires major development to be net zero-carbon. The policy sets out required carbon-reduction targets to be met through energy efficiency measures. Where the target cannot be met on site, the policy requires a financial contribution towards a carbon offset fund.
56. The UU includes an obligation to submit an updated energy assessment to the Council for its approval within 6 months of occupation. Because the energy assessment should inform energy efficiency measures to be incorporated into the development, its submission after the development is occupied would not be fully effective. The carbon offset contribution would be calculated in accordance with the updated energy assessment and then paid within 6 months of approval of the assessment by the Council. This period for payment

would be significantly later than the completion of the development and its occupation and has not been justified.

57. There are, for these reasons, uncertainties as to how the development would meet the requirements of Policy SI 2 of the LP. There are also uncertainties as to whether the requirement of Policy 36 of the HLP to optimise energy efficiency would be met.
58. Aside from these concerns about the effectiveness of the obligations, I note that the site owner identified in the application and appeal is not a party to the UU. The definition of "the application" in the UU gives an incorrect planning application reference. No site plan was appended to the submitted document. For these reasons there are a number of uncertainties as to the submitted document and these raise significant doubts as to its effectiveness.
59. The obligations would be necessary to make the development acceptable, but for the reasons given they would not be effectively secured. I cannot therefore give any material weight to the UU in my decision.

Planning Balance

60. The Council has advised that it cannot demonstrate a five-year supply of deliverable housing sites but no details of the extent of the shortfall have been provided. Although the Council's Housing Delivery Test result was above 75% this does not alter the position set out in paragraph 11(d) and footnote 8 of the Framework that the presumption in favour of sustainable development applies.
61. The provision of 25 flats would be a net increase of 23 units on the site and would contribute to the housing supply. There would be economic benefit through the employment provided by construction and demand for supplies and materials. The café/pub would also provide employment. There would also be social benefit from the provision of new housing. The development would have good accessibility to bus and rail services and to local shops and facilities. Having regard to the number of proposed dwellings and their level of accessibility I give significant weight to the social and economic benefits of the proposal.
62. For the reasons given above, I have concerns regarding the effectiveness of the UU in delivering affordable housing and cannot give material weight in favour of this provision as a benefit.
63. I have found that the proposal would result in harm to the character and appearance of the area, and I give significant weight to this harm. I have also found that the design of the development would not fully provide for a good standard of living conditions for some of its occupiers. I give moderate weight to this harm.
64. There would be further harm from the loss of the public house facility. The loss of this social infrastructure and its replacement with the proposed café/pub has not been fully justified. I give further significant weight to this harm.
65. For the reasons given, the proposal does not accord with the development plan as a whole. The lack of a five-year housing land supply means that the policies which are most important for my decision are deemed to be out-of-date. However, those policies are in a recently adopted local plan and are consistent with the Framework. I have identified conflicts with policies regarding parking,

biodiversity, air quality and affordable housing. Those policy conflicts weigh further against the proposal.

66. Taken together the adverse impacts of the development carry sufficient weight to significantly and demonstrably outweigh the benefits of the development.

Conclusion

67. For the reasons given, I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR