



Appeal Decision

Site visit made on 15 January 2024

by Ben Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th February 2024

Appeal Ref: APP/P1940/W/23/3320530

Ved House, Topilts Lane, Rickmansworth, Hertfordshire WD18 9AF

- 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 Rakesh Dua against the decision of Three Rivers District Council.
 - The application Ref 22/1562/FUL, dated 12 August 2022, was refused by notice dated 20 October 2022.
 - The development proposed is the construction of two additional storeys to provide 9no. one-bedroom residential flats, with associated parking spaces.
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Decision

1. The appeal is allowed, and planning permission is granted for the construction of two additional storeys to provide 9no. one-bedroom residential flats, with associated parking spaces at Ved House, Rickmansworth WD18 9AF, in accordance with the terms of the application, Ref 22/1562/FUL, dated 12 August 2022, and the plans submitted with it, subject to the attached schedule of conditions.

Preliminary Matters

2. The Council's second Reason for Refusal (RfR) related to the absence of an affordable housing contribution and evidence that such provision would render the scheme as unviable. During exchange of evidence, in advance of my site visit, main parties agreed that the scheme would be unviable if a full off site affordable housing contribution was required. A reduced sum of £56,000 has been agreed¹ as a suitable off-site affordable housing contribution in satisfaction of policy CP4 of the Core Strategy [2013](CS). A Legal Agreement, in the form of a Unilateral Undertaking² (UU), has been submitted that seeks to secure this sum. Accordingly, the Council no longer seeks to defend RfR2. I shall return to this later in my decision.
3. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 19 December 2023. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.

¹ Statement of Common Ground, with respect to RfR2

² Unilateral Undertaking by Rakesh Kumar Dua, All About Property Ltd and Cynergy Bank Ltd, 25 January 2024

Main Issues

4. The main issues are:

- The effect of the proposal on the character and appearance of the area, and
- Whether the UU would provide a suitable legal mechanism to secure the agreed affordable housing contribution.

Reasons

Character and appearance

5. Tolpits Lane, close to the appeal site, consists of a series of commercial and industrial estates. Century Court comprises a group of six two-storey buildings, principally in commercial use. These have differing footprints, but are of a similar design, with red brick elevations, blue brick detailing and aluminium windows. Entrances are defined by projecting gables and roofs are hipped with deep projecting eaves. These buildings are within landscaped car parks, creating a pleasant contemporary business park appearance. Ved House is set within the middle of the estate, alongside its eastern boundary, marked by Moor Lane Crossing. In being part of a consistent design for the estate, Ved House makes a positive contribution to the character and appearance of the area.
6. The proposed development would increase the height of Ved House by adding two further floors. The second floor would mimic the design language of the ground and first floor, whilst the top floor would be set within a mansard roof. The second-floor addition would complement the existing building in replicating existing features. The gable feature would be extended to accommodate the additional floor and the overall design of the proposal would largely complement the existing building.
7. However, the proposed roof would be higher and more pronounced than the existing roof form and the extended gable would emphasise the verticality of the building. The introduction of a wide crown roof would increase its pitch. As a result, the roof would be an overt feature that would be out of character with the estate and would draw undue attention. This would create extensive focus on the roof and unbalance the appearance of the building. Nonetheless, an increase of height is not necessarily intrinsically harmful, consideration of context and prominence of the building are important further considerations.
8. The increased height of the building would change its relationship with the existing buildings in Century Court. This would alter the existing sense of 'family' created by the building's shared architectural vernacular. Nonetheless, in the wider context, buildings have a variety of heights and scales with some forms that exceed the scale of the proposed building. Furthermore, the appeal building is nestled within the estate where views from outside the estate would be limited by frontage building and tree screening. Although it would be visible from Old's Approach, Moor Lane Crossing and upon entering Century Court, these views would be partial and seen within the context of surrounding built form. Therefore, the proposal would only have a limited visual impact on the wider area.
9. As such, whilst the proposed extended building would result in harm to the building's design, its impact on the wider area and in partial views from outside

the estate would be limited. As such, I have calibrated this harm as moderate. In finding harm, albeit modest, the proposal would erode the character and appearance of the area, in conflict with CS policies CP1 and CP12, policy DM1 and appendix 2 of the Development Management Policies [2013], and the Framework. These seek, among other matters, for development to be of high enduring design quality, to have regard to local context and to maintain an area's character.

Affordable housing

10. CS policy CP4 requires an affordable housing provision of 45% for all new housing. Policy CP4(e) identifies that whilst on site provision is preferred, an off-site provision would be acceptable for sites of up to 9 dwellings. The commentary associated with this policy identifies that house prices in the district are some of the highest in the country outside London. This explains that the Council's Strategic Housing Market Assessment identified demand for affordable housing to be exceptionally high, especially for intermediate affordable housing. The commentary also demonstrates an understanding that viability can affect the delivery of affordable housing and that such financial considerations should be undertaken on a site-by-site basis.
11. The Council's Housing Needs Analysis [2023] provides an up-to-date and robust assessment of the Council's affordable housing need. This demonstrates that the need for annual affordable housing need for rent and to buy represents 80% of the district's total housing need. The Council identifies that it has been securing a provision of 22.5% affordable housing units between 2001 and 2022, substantially below its policy requirement. Furthermore, the Council has demonstrated that around 89% of applications received for residential development, over a recent 5-year period, have been small sites. The contributions collected from these have enabled the Council to deliver a significant number of affordable dwellings. The Council's Housing Needs Analysis is of significant weight in my assessment of this proposal and supports the need for an affordable housing contribution and explains its importance.
12. The Appellant's offered affordable housing sum is less than the maximum such a scheme would generate. However, the Appellant has demonstrated that the offered sum, tested by a financial viability assessment, would be the most that could be paid without rendering the scheme as unviable. I see no reason within the submitted evidence to disagree with this finding. The sum would contribute towards affordable housing in the district, such a provision would comply with Regulation 122 of the Community Infrastructure Regulations (2010) as an amount which is both reasonably required and necessary for the scheme to be approved. As such, subject to the provision of this sum, the proposal would comply with CS policy CP4.
13. The UU promises the payment of the required sum to the Council, prior to the commencement of development. The Council will put this sum towards the provision of much needed affordable housing in the district. The UU is a certified and executable document and therefore provides a robust mechanism to secure this sum.

Other Matters

14. The Council cannot demonstrate a 5-year Housing Land Supply (HLS). The Council's Housing Supply Update [2022] identifies that the Council had a

supply of 1.9 years, and a Housing Delivery Test figure [2022] of 46%. Based on the evidence submitted, I see no reason to disagree with this position. Where a local planning authority is unable to demonstrate a 5-year supply of deliverable housing sites, footnote 8 of paragraph 11 of the Framework, indicates that relevant policies for the supply of housing should not be considered up-to-date. Paragraph 11 of the Framework explains that where relevant policies are out-of-date 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.

15. An objection was made by County Highways on the basis that the proposal would not support sustainable travel as the site is poorly located. However, the proposal seeks to extend an existing residential use. Also, whilst providing limited access to sustainable travel, the site is connected to existing pedestrian routes and cycleways, within a built-up area. These provide some, albeit limited, accessibility benefits.
16. Occupiers of the flats would not have direct access to external amenity space. Nonetheless, this is similar to the existing provision for occupiers of the existing building. Furthermore, the site is within a 5-minute walk of Croxley Common Moor, providing good access to local amenity space for future occupiers.
17. Concerns have been raised by an interested party that the scheme does not have a secondary means of escape. This is principally a matter for Building Regulations and the legislation is clear that decision makers should not duplicate the requirements of other legislation.
18. The building is a minimum distance of 18 metres from surrounding buildings. As such, despite the concerns raised in respect to overshadowing and overlooking, the separation distance is sufficient to prevent a material loss of amenity to occupiers of adjacent commercial buildings.
19. The works associated with the construction of the proposed scheme would cause some disruption to existing occupiers of the business park. However, disturbance would be limited and over a short duration. Being located in a business park and close to other commercial activity, the effect of noise and other disturbance would be unlikely to be significant or invasive.
20. The Council has noted that the proposal would result in some stacking of habitable and non-habitable rooms which could lead to noise disturbance to occupiers located on different floors. The second floor would largely align with the existing layout of the flats at first floor. Two bedrooms of flats at first-floor would have living space above them. Equally, whilst the second-floor layout places several bedrooms over bedrooms, flat 17 would have a bedroom over a living room and flat 18 would include a kitchen over a bedroom. Nonetheless, overall, the conflict between floors is minor and most flats place bedrooms over and below other bedrooms, limiting the overall conflict of space and potential to cause disturbance between occupiers.
21. Interested parties have identified that the parking provision within the business park is limited and that the scheme would place greater demand on this provision. The building currently contains ten flats. This generates a parking demand, based on the Council's parking standards, of 14.5 spaces. The proposed development would require 15.75 spaces based on the same

standards. The building has 30 spaces assigned to it. As such, the Council's parking requirements would be satisfied and this would provide a reasonable provision of parking for existing and future occupiers.

Conditions

22. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose these with some amendments and adjustments for clarity.
23. I have imposed the standard conditions with respect to timeframe and approved plans as advised by the PPG for clarity and certainty [conditions 1 and 2]. Conditions are also necessary with respect to materials in the interests of the character and appearance of the area [3]. A condition is necessary to ensure compliance with the Appellant's Energy Statement to contribute towards sustainable development principles [4]. Furthermore, a condition is required to ensure that the car parking areas are provided and maintained in the interests of the free-flow of local traffic and highway safety [5].

Planning balance and conclusion

24. The Framework seeks to boost the supply of housing. The proposal would deliver 9 new dwellings in the form of one-bedroom flats, making a modest contribution to the housing needs of the district which has an extensive housing supply shortfall. These could be delivered relatively quickly, making a rapid positive contribution to the local supply of housing in the area. The proposal would make efficient use of land, which is previously developed land, in accordance with the Framework and policy CP1. Furthermore, the scheme would make an affordable housing contribution, which is attributed significant further weight in support of the proposal.
25. The site is not within a Key Centre, but connected to development that links with the outskirts of Holywell. Tolpits Lane is a classified A main distributor road with a 40mph speed restriction. It does not include a footpath or streetlights preventing its safe use for pedestrians or cyclists. However, the estate already includes residential development and is adjacent to Moor Lane Crossing. This road connects to Ebury Way, although not a right of way, provides walking and cycling routes to Watford and Rickmansworth. Furthermore, Croxley Green railway station is around one kilometre from the site via a right of way, providing an accessible option for pedestrians and cyclists. As such, the site would be relatively accessible to nearby local centres through sustainable travel options.
26. There would be some economic benefits during construction and upon occupation. During construction the development would provide jobs and opportunities for local companies and once occupied future residents would support services in Rickmansworth and the surrounding area.
27. Weighed against these benefits is my finding that the appeal scheme would not comply with the Council's policies that relate to character and appearance. However, the weight afforded to this conflict is reduced as the identified harm is modest. Set against this is the Council's inability to demonstrate it has a 5-year supply of deliverable housing sites, where its housing policies would be deemed to be out of date. Furthermore, the proposal would also make an

affordable housing provision which would contribute towards the Council's strong requirement for funding of new affordable housing. As such, the identified harm to the character and appearance of the area, does not significantly and demonstrably outweigh the benefits of the proposal, when assessed against the policies in the Framework taken as a whole and therefore the presumption in favour of sustainable development applies.

28. For the reasons given above, the proposal would accord with the development plan as a whole. Therefore, the appeal is allowed, and planning permission is granted subject to the attached conditions.

Ben Plenty

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: Location Plan, proposed site plan 601, proposed ground floor plan 602, proposed first floor plan 603, proposed second floor plan 604, proposed third floor plan 604.1, proposed roof plan 605, proposed north elevation 606, proposed south elevation 607, proposed west elevation 608, proposed east elevation 609 and proposed section AA 610.
- 3) The development shall not be erected other than in the materials as have been stated in the submitted materials schedule and no external materials shall be used other than those approved.
- 4) 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.
- 5) The parking spaces shall be constructed and allocated in accordance with drawing number 601 prior to the first occupation of any part of the development hereby permitted. The parking spaces shall thereafter be kept permanently available for the use of residents and visitors to the site and allocated in accordance with the details shown on Drawing 601.

End of conditions