



Appeal Decision

Site visit made on 13 February 2024

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2024

Appeal Ref: APP/H1515/W/23/3324416

Heron Court, 198 Brentwood Road, Herongate, Essex CM13 3PN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr T Sanders against Brentwood Borough Council.
 - The application Ref: 22/01331/FUL, is dated 15 September 2022.
 - The development proposed is the demolition of the 20th century wings and southerly day room, existing ground level to be reduced, and new extension on two floors forming a secure courtyard enclosure resulting in an increase in bedroom numbers from 33 to 55 bedrooms.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the 20th century wings and southerly day room, existing ground level to be reduced, and new extension on two floors forming a secure courtyard enclosure resulting in an increase in bedroom numbers from 33 to 55 bedrooms at Heron Court, 198 Brentwood Road, Herongate, Essex CM13 3PN in accordance with the terms of application Ref 22/01331/FUL, dated 15 September 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. In late 2023, a revised version of the National Planning Policy Framework (the Framework) was released. The changes were not material to the appeal proposal and I have taken them into account without needing to re-consult the main parties.
3. The appeal is against non-determination of the planning application. The Council took the application to its planning committee, which resolved that it would have approved it, subject to the completion of a s106 Planning Agreement to secure a payment towards NHS primary healthcare provision and appropriate conditions. A s106 Unilateral Undertaking, dated 24 January 2023 (the UU) has been submitted, which secures a contribution of £4,500 towards the NHS, to be paid prior to commencement of the development.
4. The NHS contribution is targeted specifically for new facilities to be provided because the capacity of primary healthcare facilities in the area of the proposed development are already over capacity. The figure is based on Building Cost Information Service data and Department of Health guidance and is directly linked to the proposed increase in occupancy of the care home. I am therefore satisfied that the provisions of the submitted agreement would meet the tests set out in Regulation 122 of the Community Infrastructure Levy (CIL)

Regulations 2010 (as amended) and at Paragraph 57 of the Framework, and I have taken them into account. I return to matters of weight and detail of the UU throughout my Decision as appropriate.

5. There are therefore no contested issues between the main parties. It is common ground, and I agree, that the proposal accords with the Development Plan policies most important for the appeal, including Policies MG01, MG02, BE01, BE02, BE04, BE05, BE07, BE09, BE10, BE11, BE12, BE13, BE14, BE15, BE16, HP04, NE01, NE02, NE03, NE05, NE08, NE09, NE1 and NE11 of the Brentwood Local Plan 2016-2033.

Other Matters

6. Although there are no contested issues between the main parties, several neighbours and interested parties have maintained objections to the proposal, including the Herongate and Ingrave Parish Council. In addition, because the appeal site lies within the Green Belt, whether or not the development is inappropriate and whether it affects the openness of the Green Belt both need to be considered. I deal with these matters below.

Local listing

7. The building the subject of the appeal proposal, ie Heron Court, is a locally listed building. The older part of the building is in the Arts and Crafts style. It has been substantially altered internally. The 20th Century extension is of, at best, nondescript appearance and has no historic fabric. The significance of the non-designated heritage asset therefore largely relates to the external appearance of the older part of the building.
8. There would be no material changes to the external appearance of the older part of the building as part of the proposal. The proposal would demolish the 20th Century extension and replace it with a new extension. This would be larger than as existing but would be of high quality design. The overall massing would be partially mitigated by digging into the ground to reduce the height. Landscaping surrounding the building would be enhanced. The new extension would represent an improvement on the character and appearance of the existing modern extension. Overall, the proposal would therefore enhance the significance of the non-designated heritage asset and would comply with Paragraph 209 of the Framework.

Conservation area

9. The appeal site lies in the Herongate Conservation Area (the Herongate CA) and I have, therefore, paid special attention to the duty set out in paragraph 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
10. As set out in the Herongate Conservation Area Appraisal and Management Plan, the Herongate CA is characterised by relatively substantial, historic residential homes that are set out in a village that has retained its coherent identity. The village and conservation area are set in context of the Green Belt and wider agricultural and open land but also suburban development leading to Brentwood to the north. The older part of Heron Court is noted as a positive contributor to the conservation area, whilst the 20th century extension is considered to be neutral. I therefore identify that the character and appearance

of the older part of Heron Court is the key contribution of the appeal site to the significance of the CA.

11. As set out above, the proposal would be an improvement on the character and appearance of the existing modern extension and would have no material effect on the external appearance of the older part of the building. Therefore, the proposal would enhance the character and appearance of the building, and therefore the Herongate CA, and would comply with Paragraph 203 of the Framework.

Ecology

12. The site has a low existing ecological value, as would be expected because of the existing development and the domesticated nature of the open spaces. However, there is evidence of use of the existing building and some of the trees by bats, and of the potential use of the site by breeding birds. The effect of the construction and operation of the proposal on these habitats could be controlled by conditions and therefore any effect of the proposal on bats or breeding birds would be acceptable.

Highway safety and the free-flow of traffic

13. The proposal would use the existing fairly long access road. It would increase car parking from nine to 23 spaces, which would result in an increase in the number of car parking spaces per bedroom in the care home and would meet Essex Parking Standards – Design and Good Practice 2009 standards. This would therefore likely result in a betterment of car parking provision and the reduction in likelihood of overspill car parking on surrounding streets or the access drive. The provision of car parking could be controlled by condition. In addition, there is no record of safety issues at the junction of the access road with Brentwood Road and the Highways Authority do not object to the proposal. I am therefore satisfied that the proposal would not harmfully affect highway safety or the free-flow of traffic.

Green Belt

14. The proposed extension would increase the footprint of the building by 140% and the overall bulk and mass by more. This would result in a clearly disproportionate extension to the original building and would have a greater impact on openness of the Green Belt than as existing. The proposal would therefore be inappropriate development in the Green Belt by reason of inappropriateness and the effect on openness.
15. However, the current accommodation in Heron Court is sub-standard. The proposal would result in a more efficient and higher quality layout with better facilities. It would also create a larger care home that meets the critical mass to provide high quality care facilities in this location. The need for additional care home beds within the catchment area of Heron Court has been demonstrated. As set out above, there would be an enhancement to the character and appearance of the locally listed building, the Herongate CA, and the wider area. The Council consider these other considerations clearly outweigh the harm to the Green Belt and therefore that 'very special circumstances' exist. I agree with this assessment and the proposal therefore complies with Paragraph 153 of the Framework.

16. There have been previous applications¹ and appeals² for an extension to Heron Court, all of which were refused or dismissed. However, the current proposal is smaller in scale to the previous proposals, and I have assessed it on its own merits.

Conditions

17. The Council suggested a number of conditions which I have considered and amended in the light of government guidance on the use of conditions in planning permissions. The appellant had the opportunity to comment on the conditions as part of the appeal process.
18. In addition to the standard time limit condition, a condition specifying the relevant drawings provides certainty.
19. The arboricultural method statement, materials, soft and hard landscaping, external illumination, boundary treatment, and boxes and vents conditions are necessary to protect the character and appearance of the area, the Herongate CA, and the locally listed building Heron Court.
20. The Construction Method Plan and external illumination conditions are necessary to protect the living conditions of neighbouring occupiers.
21. The Construction Method Plan and car parking conditions are necessary to protect the highway safety of Brentwood Road and the wider area.
22. The bats, soft and hard landscaping, Arboricultural Method Statement and external illumination conditions are necessary to protect biodiversity.
23. The existing pipes, Surface Water Drainage Scheme, electric vehicle charging point, Maintenance Plan, Class C2 restriction, cycle parking, yearly logs, and energy and sustainability conditions are necessary in the interests of ensuring a satisfactory standard of development and to ensure that relevant technical standards are met.
24. The Construction Method Plan, bat survey, Arboricultural Method Statement, and existing pipes conditions are necessarily worded as pre-commencement conditions, as a later trigger for their submission and/or implementation would limit their effectiveness or the scope of measures which could be used.

Conclusion

25. There are no contested main issues between the main parties for the appeal. Appropriate mitigation, where necessary, has been provided through the UU as set out above, or can be controlled by condition. I have found no material harm from the proposal on any other matter. The proposal would therefore accord with the Development Plan when considered as a whole, and I conclude that the appeal be allowed.

O S Woodward
INSPECTOR

¹ Refs 18/00099/FUL and 19/00346/FUL

² Refs APP/H1515/W/18/3219321 and 3237055

ANNEX: CONDITION SCHEDULE

- 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: 5551-LP; PA01; PA02; PA03; PA04; PA05; PA06; PA07; PA08; PA09; PA10; PA11; PA12; PA13; PA14; PA15; 7485-1 1 of 3; -2 2 of 3; -3 3 of 3.

Pre-commencement

- 3) No development shall take place, including any ground works or demolition, until a Construction Method Plan has been submitted to, and approved in writing by, the local planning authority. The approved Plan shall be adhered to throughout the construction period. The Plan shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - a waste management plan (including excavated soil);
 - details of measures to minimise noise and vibration during construction and demolition;
 - measures to control the emission of dust and dirt during construction;
 - loading and unloading of plant and materials;
 - site set-up including arrangements for the storage of plant and materials used in constructing the development;
 - wheel and underbody washing facilities; and,
 - hours of works.
- 4) No development shall take place, including any ground works or demolition, until a copy of the results of additional survey work undertaken in relation to bats as well as a copy of the licence from Natural England in relation to the bat roosts that will be impacted by the works has been submitted to, and approved in writing by, the local planning authority. The works shall then be carried out in accordance with the agreed licence.
- 5) No development shall take place until an Arboricultural Method Statement has been submitted to, and approved in writing by, the local planning authority. The development shall then be carried out in accordance with the Statement as approved.
- 6) No development shall take place until the existing pipes within the extent of the site, which will be used to convey surface water, are cleared of any blockage and are restored to a fully working condition.

Pre-specific part of the development

- 7) No development works above slab level, excluding demolition works, shall take place until full details of all the materials to be used in the construction of the external surfaces, including windows and doors, of the development hereby permitted have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details.
- 8) Full details of the soft landscape works on the site shall be submitted to, and approved in writing by, the local planning authority prior to any works occurring above ground level. These details shall include details of:

- proposed schedules of species of trees and shrubs to be planted, planting layouts with stock sizes and planting numbers/densities;
- the planting scheme implementation programme, including ground protection and preparation, weed clearance, stock sizes, seeding rates, planting methods, mulching, plant protection, staking and/or other support;
- biodiversity mitigation and enhancement measures to be incorporated into the soft landscaping of the development; and,
- the aftercare and maintenance programme.

The soft landscape works shall be carried out as approved within the first available planting season (October to March inclusive) following the occupation of any part of the development hereby approved. If within a period of five years from the date of the planting of any tree or plant, or any tree or plant planted in its replacement, is removed, uprooted, destroyed, dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted in the same place.

- 9) Full details of the hard landscape works on the site shall be submitted to, and approved in writing by, the local planning authority prior to any works occurring above ground level. These details shall include details of:
- walls with brick types, construction design and dimensions;
 - paved surfacing, with materials finishing and edgings;
 - street furniture, with designs materials and dimensions; and,
 - biodiversity mitigation and enhancement measures to be incorporated into the hard landscaping of the development.

The hard landscape works shall be carried out as approved prior to the first occupation of any part of the development hereby approved and retained and maintained as such thereafter.

- 10) No works, excluding demolition works, shall take place until a detailed Surface Water Drainage Scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydro geological context of the development, has been submitted to, and approved in writing by, the local planning authority. The scheme should include but not be limited to:
- limiting discharge rates to 2.83l/s for all storm events up to and including the 1 in 100 year rate plus 40% allowance for climate change;
 - confirmation of the brownfield rate so that variable rate can be considered;
 - provide sufficient storage to ensure no off-site flooding as a result of the development during all storm events up to and including the 1 in 100 year plus 40% climate change event;
 - demonstrating that all storage features can half empty within 24 hours for the 1 in 30 year plus 40% climate change critical storm event;
 - final modelling and calculations for all areas of the drainage system;
 - the appropriate level of treatment for all runoff leaving the site, in line with the Simple Index Approach in chapter 26 of the CIRIA SuDS Manual C753;

- detailed engineering drawings of each component of the drainage scheme;
- a final drainage plan which details exceedance and conveyance routes, FFL and ground levels, and location and sizing of any drainage features; and,
- a written report summarising the final strategy and highlighting any minor changes to the approved strategy.

The Scheme shall subsequently be implemented prior to occupation.

Pre-occupation

- 11) The development shall not be occupied until such time as the whole vehicle parking area, including a minimum of three parking spaces for the mobility impaired, have been hard surfaced, sealed and formally marked out. The vehicle parking areas and associated turning areas shall be retained in this form at all times. Each parking space shall have minimum dimensions in accordance with current parking standards. The vehicle parking shall not be used for any purpose other than the parking of vehicles that are related to the use of the development. Full details of the car parking layout shall have first been submitted to, and approved by, the local planning authority.
- 12) Prior to first occupation of the development, a report and accompanying scaled drawing(s) shall detail where the space and infrastructure for electric vehicle charging/plug-in points shall be submitted to, and approved in writing by, the local planning authority. The documents shall detail the type, capacity/charge rate, design, scale, location and include manufacturers information as a minimum. The development shall be carried out in accordance with the approved details and the charging points shall be fully operational prior to first occupation of the development hereby permitted.
- 13) Prior to first occupation of the development, details of all external illumination of the site including the luminance and spread of light and the design and specification of the light fittings shall be submitted to, and approved in writing by, the local planning authority. All illumination within the site shall be retained in accordance with the approved details. There shall be no other lighting of the external areas of the site.
- 14) The development shall not be occupied until details of the treatment of all boundaries including drawings of any gates, fences, walls or other means of enclosure have been submitted to, and approved in writing by, the local planning authority. The approved boundary treatments shall be completed prior to the first occupation of the development and shall thereafter be permanently retained and maintained.
- 15) Prior to first occupation of the development, a Maintenance Plan detailing the maintenance arrangements including who is responsible for different elements of the Surface Water Drainage System and the maintenance activities/frequencies shall be submitted to, and agreed in writing by, the local planning authority. Should any part be maintainable by a maintenance company, details of long term funding arrangements should be provided.

For observation

- 16) No electricity, gas, water meter boxes, antennae (roof level) or extraction vents shall be fixed to the façade of the development hereby permitted unless details have first been submitted to, and approved in writing by, the local planning authority. All soil and waste plumbing shall be run internally and shall not be visible on the exterior of the building.
- 17) The development hereby permitted shall only be used for residential care home purposes as defined within Class C2 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order) and for no other purpose.
- 18) Cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facilities shall be secure, convenient, covered and provided prior to occupation and retained at all times.
- 19) The applicant or any successor in title must maintain yearly logs of maintenance as agreed under Condition 15 which should be carried out in accordance with any approved Maintenance Plan. These must be available for inspection upon a request by the local planning authority.
- 20) The development shall be carried out in accordance with the recommendations contained within the Planning Stage Energy & Sustainability Statement by SES, dated 18th April 2023.

===== END OF SCHEDULE =====