
Appeal Decision

Hearing Held on 9 May 2024

Site visit made on 9 May 2024

by Jonathon Parsons MSc BSc DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 May 2024

Appeal Ref: APP/Y1945/W/23/3332296

Wellstones Car Park, Watford, Hertfordshire, WD1 2AF

- 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 Telereal Securitised GP Limited against the decision of Watford Borough Council.
 - The application Ref 22/01226/FULM, dated 10 October 2022, was refused by notice dated 17 May 2023.
 - The development proposed is the redevelopment of the existing car park and the construction of a part 5, part 6, part 7, part 8 storey building comprising 89 self contained flats (Class C) and a flexible non-residential unit at ground floor, associated roof top plant, private and communal amenity space, landscaping, refuse storage, cycle and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the existing car park and the construction of a part 5, part 6, part 7, part 8 storey building comprising 89 self contained flats (Class C) and a flexible non-residential unit at ground floor, associated roof top plant, private and communal amenity space, landscaping, refuse storage, cycle and car parking at Wellstones Car Park, Watford, Hertfordshire, WD1 2AF in accordance with the terms of the application, Ref 22/01226/FULM, dated 10 October 2022 , subject to the following conditions on the attached Schedule A.

Procedural Matters

2. A s106 agreement dated 14 May 2024 provides obligations relating to affordable housing provision and sustainable transport. Such matters will be commented upon later in the decision.

Main Issues

3. The main issues are the effects of the proposal on (a) the settings of a Grade I listed building, known as Holy Rood Church, and Grade II listed buildings, known as Holy Rood House (Presbytery), Former Holy Rood Roman Catholic School and Former Convent of Saint Vincent, and (b) the living conditions of the occupiers of existing flats at The Clock House, having regard to light and outlook.

Reasons

Heritage assets

4. The appeal site comprises a surface car park accessed off Wellstones, a minor road off Exchange Road, a town centre ring road, and is sited between these two roads. On the opposite side of Wellstones, there are high storey flats, including The Clock House, 7 storeys in scale, that lie between Wellstones and the town High Street. To the north, there is the 5 storey Telephone Exchange building and to the south, 3 to 4 storey mainly commercial units along Market Street.
5. On the other side of Exchange Road, there is the Grade I listed Holy Rood Church, and Grade II listed buildings at Holy Rood House (the Presbytery), the Former Holy Rood Roman Catholic School, and Former Convent of St Vincent. The church infills land between Exchange Road, Market Street and Percy Road, the attached Presbytery fronts onto Exchange Road, and the adjacent school and convent lies between the Exchange Road/Marlborough Road and Percy Road.

Significance and special interest - Holy Rood church

6. The catholic church's foundation stone was laid in 1889 and the church was opened for worship in 1890, when the sanctuary, nave, transepts and south aisle had been completed. It was paid for by Stephen Taprell Holland (1843-1922) from the building firm Holland & Sons, a catholic convert, and it replaced a nearby Catholic Church. The 1829 Catholic Emancipation Act revoked 17th and 18th century anti-Catholic laws and during the Victorian Period saw new Catholic churches being built. The famous ecclesiastical Victorian architect, J. F. Bentley designed and installed the interior finishings and the tower, baptistery, Holy Ghost Chapel and north aisle. J.F. Bentley was the architect for Westminster Cathedral. The tower foundation stone was laid in 1894 by Cardinal Vaughan and the completed church was consecrated by Auxiliary Bishop Brindle in 1900.
7. Under the statutory list entry (number 1101104), the church is identified as an outstanding late Gothic revival church constructed in flint and stone in a perpendicular style. It has a substantial five bay nave with 2 bay width transepts, clerestory, low pitched aisles, 3 bay chancel with upper level ambulatory, 2 bay north-east and south-east chapels with low vestries extending out to the line of the east end. There is porch to the south west and clasped between transepts and chancel, 2 distinctive octagonal stair turrets with copper caps.
8. The tower is constructed with flint below, a top band of flint and stone chequer work, and its bell stage is banded flint and stone with 2 light openings. Over the corner stair turret, there are panelled battlements and a lead spirelet. Stone banding is also used in all gables and on the 2 octagonal turrets and there are large perpendicular style transepts on east and west elevations. Internally, Bentley was able to furnish and decorate the church as he intended, and mostly designed by him. An exception is the west transept window designed by Burlison and Grylls (1904) and the Stations of the Cross by N.H.J. Westlake.

9. In terms of archaeological and evidential interest, surviving fabric retain potential for detailed understanding of the development of the property over time. Bentley's stained glass, architectural sculpture, statuary, light fittings, liturgical decoration, tiling, inlaid floors and joinery detailing are of exceptional artistic value.
10. Within the national context, the church is a fine and little altered urban church of the late 19th century reflecting a mature Gothic Style and the influence of the Arts and Crafts movement. The church has been designed by a celebrated ecclesiastical architect and illustrates the growth, development and consolidation of a faith community in a provincial centre during the late industrial period. It has group value with the neighbouring listed buildings, associated with the catholic faith. Such qualities are of high significance and special interest.

Significance and special interest - Holy Rood House (the Presbytery)

11. The presbytery was built to provide accommodation for the priest who would be serving the church. It is two storey, completed around 1890, commissioned by the Archdiocese of Westminster and designed by Bentley. Its construction was contemporaneous with that at the church.
12. Under the Watford Borough Council's (WBC) listing document¹, the building is detailed as flint and roughcast facing materials to the front, plain tile roof, deep eaves and with 2 truncated brick stacks with stone band, and a three window range. A stone string separates the ground floor flint-facing from the first floor rough cast facing and there is a moulded gothic arched doorway with a deep recess. At the ground floor, there is a 3 light stone mullioned window with flat mounded head and 2 wood small paned sashes, flush to the wall, with one a 3 light and the other a 4 light. At the first floor, there are 2 slayed oriel windows rising to the eaves and one triple window, flush to the wall at the first floor. Apart from the mullioned window, the windows are of a small paned sash type.
13. The presbytery's design integrates it with the church, but its scale and domestic fenestration denotes its ancillary use. The church's Gothic Revival architecture and influence of the Arts and Craft movement are evident in the design of the building. Archaeologically, the building demonstrates building techniques and the use of materials of the late 19th century and an understanding of the requirements of domestic accommodation for priests. As with the church, it illustrates the growth of the Catholic community in Watford. These architectural, historic, archaeological, artistic and its group qualities contribute to significance and special interest of the building.

Significance and special interest - Former Holy Rood Roman Catholic School

14. The school is single storey and was built around 1893, altered in 1898 and later. The school was established as a boys' school by the Dominican sisters and was commissioned and designed by the Archdiocese of Westminster and designed by Bentley. It originally comprised three classrooms for infants, juniors and seniors, and following World War Two (WWII), was enlarged following the former convent building becoming available for use. It remained a primary school until a replacement school was built nearby.

¹ Nationally Listed Buildings in Watford (Updated 2011), Watford Borough Council.

15. Under the WBC listing document, the statutory listing indicates a modest flint and brick school building with a plain tile roof. It has a gable cross-wing at the west end, a long main range with a rear, south-east wing attached. Within the gable, there is a tall pair window in the centre, with lower flanking windows either side, and stone lintels and brick relieving arches for each window. The main range has four groups of three glazing bar casements on the north side whilst the rear wing has a tile hung gable with a row of 4 casements.
16. The school building's Victorian architecture and in common with the listed buildings, its age, architect, and archdiocese connections, are of importance and value. It has similar archaeological and evidential values, and illustrates the growth of the Catholic faith as well. Along with group value, such qualities contribute to significance and special interest of the listed building.

Significance and special interest – Former Convent of St Vincent

17. The two storey convent was built between 1890-2 and upon completion, occupied by the Sisters of the Third Order of St Dominic. The building contained the convent and a girls' school; the boy's school was created soon after in the adjacent school building. During WWII, the building was used for offices by the army, and following this, the building became part of a larger Holy Rood Primary School before it relocated.
18. Under the WBC listing document, the statutory listing indicates a neo-late 17th century William and Mary revival style. It is constructed with purple brick, with red brick dressings, and tiled hipped roof with 8 pedimented dormers. Its façade has irregularly spaced windows, glazing bar sashes in gauged brick head surrounds. Architectural decorations include wood modillion cornice at eaves, apron panels below first floor windows and projecting brick angle quoins at outer corners. Projecting brick quoins also provide vertical separation from a first floor 3 window section and 9 window section of the façade. There is also a brick string between floors and set to the right of the façade, there is a stuccoed main doorway, with Ionic half columns and entablature, with small open pedimented niche above containing a statue.
19. The convent building has now been converted into residential use, with alterations and extension to the rear. The original sash windows have been replaced with uPVC alternatives. Being not designed by J F Bentley, the artistic interest of the convent is not of note. Nevertheless, the historical, architectural, archaeological and group values of the building are of significance and special interest.

Setting

20. The listed buildings occupy a parcel of land sandwiched between different road frontages. Holy Rood House, the Catholic School and Convent have a smaller scale and extent than the church, but they are inextricably linked to the church. Together with the church, they possess high quality design giving deliberate distinctiveness and prominence, and confirm a very public role in serving the Catholic community in Watford. As a group, they were built and evolved in a central urban area during a period of great growth for the town. There still remains 19th/early 20th century housing built at a similar time to the west of these listed buildings.

21. The height, scale and architecture of the church's tower, including its 'Rood' turrets, nave and east transept deliberately emphasise distinctiveness and prominence, such that the tower is a landmark feature that the eye is intentionally drawn to. The tower's lead spirelet has a deliberate central point of visual contact when looking down Percy Road. It's significance and special interest, along with associated listed buildings, can be appreciated in views along Exchange Road, Percy Road and the junction of Marlborough Road and Exchange Road, and Market Street.
22. The establishment of the town centre ring road, along Exchange Road, now heavily trafficked, has damaged the visual connection of these listed buildings with the urban area to the east. However, the church's landmark quality and its hierarchical relationship with the surrounding listed buildings can still be appreciated when looking southeast along Exchange Road. Such areas include the top end of this road, where Upton Road meets it, its east side approaching the appeal site and its west side close to its junction with Marlborough Road. Although setting is not solely determined by visual aspects, it is these viewing areas where the significance and special interest of this group of listed buildings are best understood.

Contribution of appeal site to setting

23. Ordnance Survey mapping shows that the appeal site was open in 1897 at the time of the building of the ecclesiastical group of listed buildings. Terraced housing was developed along Marlborough Road (south part), Percy Road, Market Street and Francis Road (a road further west connecting with these roads). By 1932, an aerial photograph shows the site to be occupied by a saw-tooth and flat-roofed, two storey brick range along Marlborough Road with a large central opening which was thought to be a factory of a local pie and sausage producer. Subsequently, development continued in Watford and in the 1960s, the appearance of Exchange Road (part Marlborough Road) as minor residential road changed when it was altered and repurposed to be part of the town ring road system.
24. Exchange Road now provides significant spatial separation between the appeal site and the listed buildings, and the setting has changed over time, negatively. The appeal site was open at the time of the development of the ecclesiastical listed building group, but Watford was experiencing a sustained period of growth at the time, and the site was subsequently developed as a factory. Although tidy, the expanse of hard surfacing and vehicle parking is an unsightly contemporary feature and appears as an uncharacteristic gap in otherwise built-up surroundings. Consequently, the site would detract from views of the listed buildings when seen from along Exchange Road and Marlborough Road, and the understanding of the significance and special interest is impaired. Taking into account the above factors, the appeal site detracts from the settings of these listed buildings in a small negative way.

Effects of proposal

25. The proposed development would be stepped in scale between 5 and 8 storeys, mainly flat roofed and would be designed with noticeable façade divisions onto Wellstones, the Telephone Exchange building, and Exchange Road. In relation to Wellstones, it would be 6 storeys in the northeast corner, opposite The Clock House, and 5 storeys in the southeast corner, closer to Market Street. On Exchange Road, the building would compromise different parts identified by

- differing use of materials, vertical set back separations, size of openings, and a gable roof for the lower 5 storey part adjacent to Market Street.
26. On Exchange Road, the position of the openings at first floor and above would result in a grid-iron framing effect mirroring the design of adjacent modern buildings. Many openings, glazed windows and balcony doorways, would be recessed. On the Exchange Road frontage, the basement would have a dark glazed brick and openings for commercial floorspace, plant and bike areas. The main 8, 7 and 5 storeys would comprise buff, red and brown brickwork respectively, with these elements being separated by recessed grey panelled sections. The end 5 storey adjoining Market Street would have upper parts clad in grey panelling. As with all the elevations, the building has also been stepped back from boundaries of the site, approximately 3m from its Exchange Road boundary.
27. As a result, the massing of the Exchange Road building façade would be well-articulated through design and use of different materials. At the site visit, the relationship between the group of listed buildings, including the Church and its tower, and the proposed development were viewed from many areas when looking down Exchange Road in a southeast direction. The infilling of a gap with the Exchange Road frontage would remove a visual detractor to the setting of the listed buildings. Such infilling would also divert the eye more towards the listed buildings, including the church and its tower, in longer range views from the top end of the road close to Upton Road.
28. However, as you get closer, to the appeal building, its full extent, including its scale and massing, would be revealed. There would be physical separation provided by Exchange Road, the ring road, and the setting has been harmed by this, associated traffic, and the more modern development on the appeal site's side of Exchange Road. However, the church and tower were deliberately designed to stand out as a landmark building in the community it served, in an area characterised by a domestic scale, and still do. Despite the high quality design, the development would compete for interest with the church and its tower, and to a lesser degree with the lower scaled listed presbytery, school and convent, close to the appeal site.
29. At the bottom of Percy Road, close to its kink, the appeal building would appear in views behind the school and convent. The tower would not be readily seen and understood due to the enclosed built nature of Percy Road. However, the appeal building would rise up behind the roofscape of the convent building and compete with views of it and the school. A recent residential tower, part of a permitted development on Clarendon Road, has been erected and appears above the roofscape. Nevertheless, the appeal building would introduce further modern development and would be detrimental to the understanding of these smaller domestic scaled listed buildings. Based on my site visit observations, there would be no intrusion of the development into the settings of the listed buildings from Market Street or Exchange Road from the southeast.
30. For all these reasons, there would be less than substantial in terms of the National Planning Policy Framework (the Framework) to the settings of these listed buildings. Taking all considerations into account, on the spectrum of this harm, this would be low for the Grade I listed church, including the tower, and given their Grade II status, slight for the presbytery, school and convent.

Living conditions

31. The Council's Residential Design Guide (RDG) (amended August 2016) indicates that Building Research Establishment (BRE) 2011 guidelines² provide advice on avoiding unacceptable impacts and set out nonmandatory targets for levels of daylight and sunlight within existing and proposed development. The RDG further indicates unacceptable impacts to light to nearby properties should be avoided.
32. Paragraph 129 c) of the Framework states authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making the efficient use of a site (as long as the resulting scheme would provide acceptable living standards). Latest 2022 BRE³ Guidelines further states that guidelines are not mandatory and should be interpreted flexibly because natural lighting is only one of many factors in site layout design.
33. Daylight considerations relate to light levels obtained from the sky and under the 2022 BRE guidance, the Vertical Sky Component (VSC) value of at least 27 or no less than 0.8 times its former value, would give reasonable results with a limited perceived reduction of daylight. A Daylight and Sunlight Assessment (DSA)⁴ has been carried out in accordance with the 2022 BRE and with the new development, the DSA shows that 34 of the 49 neighbouring windows (69%) would transgress from the test. The affected windows serve the three flats at each first, second and third floor level and one flat at fourth floor level.
34. The lowest VSC values are for the first floor level flats, with living/dining area and bedrooms values ranging from 13.17 to 18.72 and 14.55 to 18.92 respectively. Under figure 1 of the 2022 BRE guidance, VSC values between 15 and 27 would necessitate special measures to room layout to provide adequate daylight, such as changes to room layout, whilst VSC values between 5 and 15, indicate that it would be very difficult to provide adequate daylight.
35. The No Sky Line (NSL) test, calculates the area of the room from which you cannot see the sky from. If the test result is less than 0.8 times its former value, then this effectively means a reduction in daylight of 20% and will require supplementary lighting. The DSA shows that 27 of the 49 rooms (55%) have values below 0.8. Again, the first floor flats would be most affected, living dining rooms having values of 34 and 54 for two flats and bedrooms of all three flats having values varying from 31 to 66. The exception would be a living dining room of the northernmost positioned first floor flat which has a value of 96.
36. Although intended for proposed developments, the BRE illuminance test is an advanced way of measuring daylight within a building being based on climate based daylight modelling, taking into account light reflection. The DSA shows that only 7 of the 49 windows would transgress from the illuminance test, a living dining room of a first floor flat and 6 bedrooms of separate flats at first, second and third floor levels. For the flat's living area, the illuminance test contouring plan show roughly half of the room being acceptable, that being the

² Building Research Establishment Guidelines Site Layout for Daylight and Sunlight; A Guide to Good Practice 2011.

³ Building Research Establishment Guidelines Site Layout for Daylight and Sunlight: A Guide to Good Practice 2022.

⁴ Daylight and Sunlight Hearing Statement, Car Park at Wellstones, Watford, CONSIL, December 2023.

half closest to the window. This would necessitate the rear section of the room having artificial lighting, but this would not be unduly restrictive for occupiers if used as a dining area as indicatively shown. Whilst 6 bedrooms would transgress, such rooms would not be so sensitive given their sleeping purpose. Consequently, these BRE daylight tests indicate a reduction in daylight levels to some rooms and occupiers of The Clock House, albeit that the more comprehensive illuminance test indicate deterioration would be less significant.

37. Section 2.2.3 of 2022 BRE guidance indicates that in special circumstances, different target values may be used, for example in an area with modern high-rise buildings, where a high degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings. Such special circumstances exist in this instance, with the appeal site within a dense town centre location with predominantly mid-rise buildings in the immediate vicinity, and where redevelopment of the site would inevitably result in reductions in daylight to surrounding properties. Mid-rise buildings include The Clock House and neighbouring flatted building known as 60 High Street. Within this context, The Clock House flats are positioned on the outer edge of their redevelopment plot facing Wellstones. Importantly, they benefit from uncharacteristically high levels of light in an urban location due to the openness of the appeal site.
38. Appendix F of the 2022 BRE guidance gives advice on how to develop 'mirror image' analysis in such a context. In this regard, the DSA has carried out VSC and NSL tests comparing the daylight received in the proposed conditions under the appeal with that which would be received if a mirror image of The Clock House were constructed on the appeal site. The DSA analysis demonstrates that The Clock House windows and rooms would retain lower levels of VSC and NSL if a mirror-image of The Clock House was constructed on the site compared to the appeal development.
39. The Clock House fronts onto the High Street, backs onto the Wellstones and is positioned between developed sites. In comparison, the appeal site has greater separation from built development provided by intervening accesses, parking and footway areas. However, The Clock House has residential units facing out from the site on three sides. On its northern flank, adjoining lower storey buildings enable units to face out in this direction and the design also incorporates a courtyard which units face. Based on heritage mapping/photographs, there is no historical reason why The Clock House flats needed to be sited so close to Wellstones. Such considerations do not suggest that the site was unusually constrained within an urban area and would not prevent the application of the 'mirror image' analysis.
40. In appeals at Buckle Street and Tavistock Works⁵, Inspectors have looked favourably upon the use of 'Mirror image' analysis. Inevitably, every appeal proposal will differ in nature, circumstances and context, but these decisions do illustrate that 'Mirror image' analysis can be used in built-up areas, where justified such as here.
41. In conclusion, the VSC and NSL tests indicate changes to room neighbour's layouts to provide adequate daylight, with instances of difficulty to achieve this. However, the illuminance test, a more comprehensive modelling technique shows a far better daylight scenario. Importantly, the appeal site is

⁵ APP/E5900/W/17/3191757 21 Buckle Street and APP/R5510/W/21/32888333 Tavistock Works.

located within a built-up town centre location where obstruction to daylight is inevitable, and The Clock House flats are positioned close to Wellstones. In such a scenario, the 'mirror image' assessment is an appropriate tool to use to judge daylight and from what I also assessed on my site visit, in terms of the built storey environment, all these considerations indicate acceptability for the occupiers of the first, second, third floor and fourth floor rooms and flats in terms of daylight. Taking into account the various BRE daylight tests and my site visit assessment, there would also be no significant loss of daylight to the occupiers of the flats in The Clock House which have not been identified as affected by the Council.

42. Turning to outlook, The Clock House flats face onto an open car park with views towards the listed buildings on Exchange Road and with appeal scheme, they would face directly onto a flatted building. However, there would be a separation of between approximately 12m and 19m between the two buildings and the design of new flatted building would be high quality, with attractive materials and articulation. The loss of a view would not normally be material. The Clock House is within a densely developed town centre where development would be expected, and with the separation distances, there would be no significant sense of being enclosed and hemmed in. Therefore, there would be no material loss of outlook to the occupiers of The Clock House which was evident from what I observed on my site visit.

Other matters

43. The appeal site lies within a built-up town location and there would be sufficient separation between the proposed flats and the those at 60 High Street, Market Street and the listed buildings to avoid significant loss of daylight, sunlight, outlook and privacy, taking into account the DSA report and my site visit assessment. This separation would also prevent any significant loss of privacy and sunlight to the residents of The Clock House. There would be the loss of a surface pay and display car park but the appellant's Transport Statement (TS) demonstrates that its loss would be negligible compared to overall parking provision in the town centre, including for up to 24 hours. Whilst the existing car park is relatively cheap compared to others, there is no guarantee that this would continue and therefore, this would not be sufficient grounds to turn down the proposal.
44. There would be commercial floor space and provision for 3 parking spaces eligible for blue-badge owners. However, with the development of the site, there would be less traffic generation emanating from the site based on the TS and analysis of existing and predicted vehicular trip patterns. The appellant's air quality assessment shows that annual mean and hourly concentrations of NO₂, PM_{2.5} and PM₁₀ comply with local and national policy. The proposal would generate additional demand on local infrastructure, including GP surgeries, dentists, and hospitals, but in absence of evidence based objections from service providers, an objection cannot not be sustained.

Planning Obligations

45. Obligations provide for affordable housing, the type and tenure of 9 affordable housing units is specified, and a viability assessment requiring affordable housing contributions in the event of agreed improved viability. This is in accordance with Policy H03.3 of the Watford Borough Council's Local Plan (LP) 2021 -2028 (adopted 2022) which identifies need and requirements for this

type of housing, and viability reassessment. Under the policy, the proposal's viability assessment disapplies a 35% affordable housing quota of all units to be provided. Nevertheless, such affordable housing provides a positive benefit.

46. To ensure car free housing (apart from that provided for a small number for blue-badge persons), a contribution would be secured to vary a traffic regulation order for the controlled parking zone which would prevent people from the development applying for parking permits. This would accord with national and local plan policies, in particular LP Policy ST11.1 which encourages sustainable modes of transport in Watford. In accordance with similar planning policies, obligations require a travel plan, with provisions for evaluation, monitoring and if necessary remedial action by the highway authority and contributions toward local bus stop facilities in accordance with costings detailed by the highway authority.
47. For all these reasons, the obligations are necessary to make the development acceptable in planning terms and the statutory tests of the Community Infrastructure Levy (CIL) Regulations 2012 (as amended) and those of paragraph 57 of the Framework would be met. They are necessary, directly related to the development and fairly and reasonably related in scale and kind.

Benefits of the development

48. LP Policy SS1.1 sets out the spatial strategy for Watford with development to be focussed in the Core Development Area, noting its high sustainability credentials, which is where the appeal development would be sited. Proposals are to be supported where they optimise the use of land through mixed-use high density development and opportunities should be taken to improve linkages to adjacent areas and improve infrastructure provision.
49. The LP was adopted in 2022 and as such, there is no requirement to annually update the 5 year housing supply position and the agreed position at Examination remains the latest housing land supply position. Nevertheless, paragraph 60 of the Framework stresses that it is important that a sufficient amount and variety of land can come forward where it is needed and that the needs of groups with specific housing requirements are met. The development would provide the provision of 89 dwellings, with provision of 9 affordable housing units. in a town centre location accessible to services, facilities and employment through sustainable modes of transport.
50. Despite the recent adoption of the LP, the latest 2022 Housing Delivery Test (HDT) was detailed at 73%, just below the threshold of 75% and therefore, the Council has undertaken an action plan and the latest HDT are an improvement over the 2021 HDT result of 48% delivery. The provision of 9 affordable housing would be below the 35% quota detailed in LP Policy ST11.1 but is justified on viability grounds. The proposals would also exceed the requirement of LP Policy H03.10 in providing 10% of units as Building Regulation Part M4(3) wheelchair adaptable rather than the policy requirement of 4%. As such, there would be housing supply, affordable housing provision and accessible housing benefits attracting significant weight.
51. The surrounding area comprises a varied townscape in terms of building scale, massing, materials and design. The Council's Place Shaping Panel have commented that architecture of the scheme is well-considered, high quality and effective in massing terms. Having viewed the site and surroundings, I would

concur with such a view. The ground floor commercial unit would maintain an active town centre frontage and there would be improved pedestrian infrastructure around the site, including along Wellstones, between Wellstones and Exchange Road, and a crossing point across Exchange Road. It would reuse a brownfield site and improve the appearance and character of a car parking site and provide further public realm improvements, in the form of landscaping around the edge of the development. Taken together, the appearance and character of the area would be modestly improved.

52. Under a sustainability statement, there would be a 64% improvement in carbon emissions over Part L Building Regulations (2011) and a 52% energy saving. Local Plan Policy CC8.3 requires a 19% improvement. Carbon reductions would be achieved through the on-site renewable energy measures. Energy consumption of the development would be minimised through various measures, including high performance building fabric with upgraded 'U' values and energy efficient fittings and controls. Although Building Regulation requirements have changed, this would still represent reduced carbon emissions and energy efficiencies, and a small benefit.
53. Development construction would provide employment and new residents would spend in the town centre benefitting its vitality and viability according with paragraph 81 of the Framework which indicates residential development often plays an important role in ensuring the vitality of centres on appropriate sites. Taking into account the regenerative nature of the scheme, there would be modest benefits to the local economy.

Heritage and Planning Balance

54. Paragraph 208 of the Framework states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
55. The contribution of the new housing to housing supply, provision of much - needed affordable housing and accessible housing would be significant public benefits. The provision of this housing and commercial floorspace would result in the re-use of a brownfield site and regeneration benefits in accordance with LP Policy helping the local economy. There would be an overall improvement to the character and appearance of the area through the removal of unsightly car park and replacement with high quality designed building incorporating public realm enhancements. More minor benefits would arise from reduced CO2 emissions and energy savings. Cumulatively, the weight to be attached to these benefits would be of a great magnitude.
56. Set against these benefits, there would be harm to the significance of each of the listed buildings. In considering to grant planning permission, s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Considerable importance and weight is attributed to the less than substantial harm in each of the separate heritage asset balances. However, taking each heritage asset individually, the extent and scale of the public benefits would be overriding and of sufficient weight to outweigh the less than substantial harm.

57. By reason of the latest HDT, there would be a requirement to assess whether the presumption in favour of sustainable development would apply, as detailed paragraph 11. D) ii. Given the extent and scale of the identified benefits identified above, the adverse impacts of granting planning permission would not significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.
58. Turning to the development plan balance, public benefits outweigh the less than substantial heritage harms and the living conditions of residents of The Clock House would not be harmed having regard to daylight and outlook. Policies HE7.1, HE7.2 and CC8.5 of LP, collectively and amongst other matters, require the enhancement and protection of the setting of heritage assets, attach great weight to the conservation of heritage assets, support high quality design, and require development to be designed to protect the amenity of adjoining residents. LP Policies HE7.1 and HE7.2 also indicate heritage harm can be justified in detailing that it must be balanced against heritage and public benefits, and any harm to require clear and convincing justification in accordance with national policy. Clear and convincing justification has been provided and accordingly, the proposal would comply with these policies of the LP.
59. Under the LP, the appeal site is allocated for redevelopment with an indicative yield of 40 residential units but for the reasons indicated, the scale and extent of the development would be acceptable in relation to heritage assets and the living conditions of existing residents at The Clock House would not be harmed. For all these reasons, the proposal would comply with the development plan when its policies are taken as a whole. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore, planning permission should be granted. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Conditions

60. Suggested conditions have been considered in light of the tests of paragraph 56 of the Framework and the advice in Planning Practice Guidance. Some have been amended, shortened and amalgamated in the interests of clarity and precision taking into account the tests and guidance. There are pre-commencement condition requirements for the approval of details where they are a pre-requisite to enable the development to be constructed. The appellant has raised no objection to these. In some instances, references to compliance with technical guidance and procedures has been omitted in the interests of precision, the superseding of such documentation over time, and the control exercised by the Council in approving or otherwise of relevant details.
61. A condition requiring that the development to be carried out in accordance with the details shown on the plans is necessary in the interests of proper planning and for the avoidance of doubt. In the interests of the character and appearance of the area, conditions are required to secure the implementation of acceptable external materials, landscaping and lighting. Although not a suggested condition, the quality of materials was a key aspect of the high quality design of the appeal development. For the sake of neighbours' living conditions and highway safety, conditions are required to implement an

approved Construction Method Statement and Drainage Construction Management Plan. To prevent pollution and safeguard human health, contamination remediation conditions are necessary.

62. To secure public realm and highway alterations, a condition requiring off-site highway works is necessary. Conditions are necessary to secure the implementation of a noise impact assessment and details of plant machinery in the interests of safeguarding living conditions of new residents. To prevent flooding, a condition is necessary to secure implementation of the agreed drainage measures. To address climate change, conditions are justified to secure a Site Waste Management Plan, water consumption limit, and implementation of approved energy and sustainability statement measures.
63. In the interests of sustainable transport, conditions are required to secure cycle parking provision. To ensure acceptable disposal of waste, conditions are required to secure adequate bin storage facilities for residents and commercial users. To secure accessible homes complying with Building Regulation requirements, a condition is necessary. For the sake of biodiversity, a condition securing net gain is necessary. Given building regulation requirements, there is no justification for a condition requiring electric vehicle charging points.

Conclusion

64. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

Inspector

Schedule A – Attached 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: 099-A1 P02; 100-A1 P02; 101-A1 P02; 105-A1 P02; 106-A1 P02; 107-A1 P02; 108-A1 P02; 109-A1 P02; 205-A1 P02; 200-A1 P02; 201-A1 P02; 202-A1 P02; 203-A1 P02; 204-A1 P02; 300-A1 P02 and 301-A1 P02.
- 3) No development shall commence above slab level until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall commence until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for:
 - a. Construction vehicle numbers, type and routing;
 - b. Access arrangements to the site;
 - c. Traffic management requirements;
 - d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - e. Siting and details of wheel washing facilities;
 - f. Cleaning of site entrances, site tracks and the adjacent public highway;
 - g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
 - h. Provision of sufficient on-site parking prior to the commencement of construction activities;
 - i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
 - j. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements;
 - k. Phasing Plan.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall commence (or by a date or stage in development as may be agreed in writing with the local planning authority), the following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
 - i) An options appraisal and remediation strategy (based on the site investigation results and the detailed risk assessment in the Phase II Environmental Site Investigation prepared by Ramboll (Report ref.

1620012367), giving full details of the remediation measures required and how they are to be undertaken.

ii) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (i) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

- 6) Following the completion of measures identified in the approved remediation scheme and prior to the first use or occupation of the development, a verification report that demonstrates the effectiveness of the remediation carried out must be produced together with any necessary monitoring and maintenance programme and copies of any waste transfer notes relating to exported and imported soils shall be submitted to the local planning authority for written approval. The approved monitoring and maintenance programme shall be implemented.
- 7) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken, and where remediation is necessary a remediation scheme must be prepared, which is subject to the approval in writing of the local planning authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority.
- 8) Notwithstanding the details indicated on the submitted drawings no on-site works above slab level shall commence until a detailed scheme for the offsite highway improvement works as indicated on drawings numbered (JNY10280-RPS-0100-006 Rev D, JNY10280-RPS-0100-005 Rev B) has been submitted to and approved in writing by the local planning authority. This shall include all offsite works, including but not limited to, the site access works, highway, footway, cycleway and changes to traffic regulation orders and the speed limit on Wellstones.

The offsite highway improvement works shall be completed in accordance with the approved scheme prior to the first occupation of any dwelling on the development hereby permitted unless otherwise agreed in writing beforehand by the local planning authority.
- 9) No development shall commence until a Noise Impact Assessment, has been carried out, specifying the full specification and dimensions of all the openings. Any recommendations from that assessment shall be completed in full prior to first occupation of dwellings hereby permitted, maintained and retained.
- 10) No development (except demolition) shall commence until the specification of a mechanical air supply/extract for each of the residential dwellings requiring acoustic double glazing, based upon the recommendation of the Noise Impact Assessment secured under the above condition, has been submitted to and approved in writing by the local planning authority. The system must be capable of providing background and rapid ventilation for cooling with the windows of the respective dwellings remaining closed. The system must not compromise

the sound insulation of the facades. No dwelling shall be occupied until the approved ventilation system has been installed in full.

- 11) No development shall commence until a Site Waste Management Plan (SWMP) for the site has been submitted and approved in writing by the local planning authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.
- 12) No development shall commence until a Drainage Construction Management Plan, specifying details and a method statement for interim and temporary drainage measures during the demolition and construction phases, has been submitted to and approved in writing by the local planning authority. This Plan shall provide full details of who will be responsible for maintaining such temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. Where temporary discharges to a sewer are proposed, written confirmation from the sewer owner that these have been accepted shall be provided. The site works and construction phase shall thereafter be carried out in accordance with approved Plan, unless alternative measures have been approved beforehand in writing by the local planning authority.
- 13) The development, hereby permitted, shall be carried out in accordance with the following documents; Flood Risk Statement and Surface Water Management Report, JCIS Design Limited, Document Reference; 10891, Revisions B, dated January 2023 and proposed Site location plan, prepared by CJC, revision P01, dated 30 September 2023.
- 14) No building on any phase (or within an agreed implementation schedule) of the development hereby permitted shall be occupied until a Verification Report, pertaining to the surface water drainage system, has been submitted to and approved in writing by the local planning authority. The Report shall demonstrate that the drainage system constructed is consistent with that which was approved. The Report shall contain information and evidence (including photographs) of details and locations of inlets, outlets, and control structures; landscape plans; full as built drawings; information pertinent to the installation of those items identified on the critical drainage assets drawing; and the submission of an operation and maintenance manual for the sustainable drainage scheme as constructed.
- 15) The development shall not be occupied until details of the maintenance and management of the sustainable drainage scheme have been submitted to and approved in writing by the local planning authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:
 - i. a timetable for its implementation.

- ii. details of SuDS feature and connecting drainage structures and maintenance requirement for each aspect including a drawing showing where they are located.
 - iii. a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime. This will include the name and contact details of any appointed management company.
- 16) No dwelling shall be occupied until full details of the cycle storage for the residential occupiers has been submitted to and approved in writing by the local planning authority. Details shall include design and type of cycle stands, and security scheme. The storage details approved under this condition shall be installed and made available for use prior to the occupation of any dwelling within the development and shall be retained at all times for cycle storage only and shall not be used for any other purpose.
 - 17) No dwelling shall be occupied until details of all new external plant or machinery shall be submitted to and approved in writing by the local planning authority. In respect of any plant that emits sound, details shall include appropriate noise assessments carried out and undertaken by appropriately qualified technical consultants. The noise assessment shall include details of any necessary mitigation, which shall be installed prior to the plant being brought into operation.
 - 18) No dwelling shall be occupied until a detailed hard landscaping scheme for the site, including details of the roof gardens, hardstanding, site boundary treatments and children's play area has been submitted to and approved in writing by the local planning authority, and the works have been carried out in accordance with the approved details.
 - 19) No dwelling shall be occupied until a detailed soft landscaping scheme for site, including details of the roof gardens and appropriate irrigation systems, and a landscape management and maintenance plan, has been submitted to and approved in writing by the local planning authority. The approved soft landscaping scheme shall be carried out not later than the first available planting and seeding season after completion of 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 in writing by the local planning authority.
 - 20) No dwelling shall be occupied until full details of an external lighting scheme (including location, design, illuminance levels, and illuminance contour plans) shall be submitted to and approved in writing by the local planning authority. No external lighting shall be installed on the site other than that shown on the approved lighting scheme.
 - 21) No dwelling shall be occupied until the bin storage has been provided for the use of residents, in accordance with the approved drawings. These facilities shall be retained at all times for the use of the residential occupiers of the dwellings.

- 22) No part of the commercial use within the development shall be occupied until the bin storage has been provided for the commercial premises, in accordance with the approved drawings. These facilities shall be retained at all times for the use of the office occupiers.
- 23) No part of the development shall be occupied until the energy saving and renewable energy measures detailed within the approved Energy and Sustainability Statement (September 2022), prepared by Cudd Bentley, are incorporated as detailed into the approved development.
- 24) No dwelling shall be occupied until details have been submitted to and approved in writing by the local planning authority to confirm that the dwellings have been completed to meet the water efficiency optional requirement of 110 litres of water per person per day.
- 25) No dwelling shall be occupied until details have been submitted to and approved in writing by the local planning authority to confirm that all of the permitted dwellings have been built to the Building Regulations (2010) Access to and use of Buildings, Approved Document M (2015 as amended), Volume 1: Dwellings, M4 (2): Accessible and adaptable dwellings.
- 26) No dwelling shall be occupied until the following details relating to the on-site biodiversity enhancement measures, as detailed in the Landscape and Biodiversity Strategy (Logika 5th October 2022), have been submitted to and approved in writing by the local planning authority:
 - 1) A management plan for the provision and maintenance of the biodiversity enhancement measures for not less than 30 years from the date of implementation of the measures;
 - 2) A monitoring and reporting plan for not less than 30 years, including proposed remedial measures;
 - 3) Details of the body or organisation responsible for the monitoring and reporting of the scheme and the implementation of remedial measures identified;The approved management plan and monitoring and reporting plan shall be implemented in full for not less than 30 years following the occupation of the final permitted flat, unless otherwise approved in writing by the local planning authority.

APPEARANCES

FOR THE APPELLANT:

C Boyle, KC	Landmark Chambers
J Wilson	Newsteer Planning Consultants
G Cooper	Newsteer Planning Consultants
C Griffiths	HCUK – Heritage Consultant
P Smith	Consil – Daylight/Sunlight Consultants
J Williamson	Consil – Daylight/Sunlight Consultants
T Tolcher	CJCT -Architect
S Akeju	TTG -The Appellant
M Kelly	TTG - The Appellant
D Brisbane	TTG – The Appellant

FOR THE LOCAL PLANNING AUTHORITY:

A Reade	Watford Borough Council
A Clarke	Watford Borough Council
M Kitts	Watford Borough Council

INTERESTED PERSONS:

Mrs Mercedes	Local resident
Mr Johnson	Local resident

MAIN DOCUMENTS BEFORE, DURING & AFTER HEARING

- 1 Historic England response dated 22 February 2024.
- 2 Health and Safety Executive response dated 12 March 2024.
- 3 Statement of Common Ground dated 15 March 2024.
- 4 Updated photographic view points and HCUK commentary, received 9 April 2024.
- 5 Title and aerial photographs of appeal site, received 1 May 2024.
- 6 Appeal hearing site visit itinerary, received 1 May 2024.
- 7 Agreed list of planning conditions, received 2 May 2024.
- 8 Approved layout plans, illustrative plans and surrounding area photographs, planning permissions 06/01355/FULM and 13/00828/VAR., received 9 May 2024.
- 9 Appeal decisions, APP/E5900/W/17/3191757 Enterprise House, 21 Buckle Street, London E1 8NN and APP/R5510/W/21/3288333, Tavistock Works, Tavistock, Yiewsley, West Drayton Ub7 7QX received 9 May 2024.
- 10 VSC and NSL figures annotated on 3D images for 60 High Street, Clock House received 9 May 2024.
- 11 CIL obligation justification report received 8 May 2024.
- 12 S106 dated 14 May 2024.
- 13 Evidence of title received 14 May 2024
- 14 Confirmation s106 is true copy received 14 May 2024.
- 15 Finalised planning conditions dated 17 May 2024.