



Appeal Decision

Site visit made on 30 July 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th September 2024

Appeal Ref: APP/P1940/W/23/3330848

Alpine Press, Station Road, Kings Langley, Hertfordshire WD4 8LF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Harman Properties Ltd. against the decision of Three Rivers District Council.
 - The application Ref is 22/2025/FUL.
 - The development proposed is construction of mixed use scheme comprising 244 sqm of retail space (Class E(a)), 36 flats (16 x one bed, 20 x two bed), associated access, car parking, bin and cycle storage and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for construction of mixed use scheme comprising 244 sqm of retail space (Class E(a)), 36 flats (16 x one bed, 20 x two bed), associated access, car parking, bin and cycle storage and landscaping at Alpine Press, Kings Langley WD4 8LF in accordance with the terms of the application, Ref 22/2025/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Council's second reason for refusal relates to the absence of a signed planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) (planning obligation) relating to a contribution towards affordable housing. As part of the appeal the main parties have agreed, and signed, a planning obligation. As such, the Council has withdrawn its second reason for refusal. I shall, in any case, return to the obligation later in my decision.
3. The appeal follows an earlier planning application (Ref: 19/1550/FUL) for a similar but smaller scheme, which was approved. There is no dispute between the main parties that a valid commencement has taken place and thus a fallback position exists for a four storey building on the site. Moreover, I have no reason to not consider that it would be implemented were this appeal to be dismissed. Accordingly, I have given it significant weight in my appeal decision.
4. The Council referred to Policy DM2 of its Development Management Policies (DMP) in its reason for refusal. However, this relates to Green Belt matters, and instead the Council has confirmed that Policy DM1 of the DMP relates to the matter in dispute. I have considered the appeal on this basis.

Main Issue

5. The main issue is the effect of the proposed development on the street scene in Station Road.

Reasons

6. The appeal site is located within a mixed commercial and residential area and is positioned near the Kings Langley railway station. There is a broad mix of buildings including two storey cottages, modest single storey buildings and sizeable commercial and apartment buildings nearby.
7. The proposed building would be six storeys in height, and due to its location between the two storey cottages and the single storey structures at the railway station, it would be a highly prominent building. This prominence would be exacerbated by the forward positioning of the building closer to Station Road than the two storey cottages, the alignment of Station Road, its footway and drop off area outside the station which bends around the site and the proximity to the station platform to the rear. The result would mean that all four sides of the building would be a prominent feature in the street scene.
8. The design of the building incorporates a stepped approach with its highest part stepped in from the sides before rising by two floors. Nonetheless, relative to the other buildings along this side of Station Road, it would still appear an overtly tall building. In reaching this conclusion I recognise that there are sizeable buildings to the west of Station Road near the appeal site. However, these are on a much lower ground level and do not share the same relationship to the two storey and single storey buildings either side of the appeal site. Moreover, even considering the relationship to the fallback position the appeal proposal would be a strikingly taller and bulkier structure.
9. The absence of harm from other aspects of the design such as the materials and fenestration does not alter or outweigh my findings in relation to the height and bulk of the building.
10. Given the space around the building, and the mixed character of the area, the extent of harm from being a more overtly bulky and taller structure in the street scene would be small. Nonetheless, there would be harm.
11. I therefore find that the proposed development would have a harmful effect on the street scene in Station Road. As such, I find conflict with the requirements of Policies CP12 of the Council's Core Strategy (CS) (2011), Policy DM1 and Appendix 2 of the Council's DMP (2013), when taken together and in so far as they relate to this main issue. These say, amongst other things, that development will only be supported where it can be demonstrated that the proposal will not result in layouts unable to maintain the particular character of the area in the vicinity of the site in terms of plot size, plot depth, building footprint, plot frontage width, frontage building line, height, gaps between buildings and streetscape features (e.g. hedges, walls, grass verges etc.).
12. However, the level of harm would be at the lower end of the scale and there is broad support for making an efficient use of land in Policy CP12 of the CS and the National Planning Policy Framework (the Framework) (2023), moderating the weight that I attach to the conflict with the above-mentioned policies.

Other Matters

13. Given the parking restrictions nearby and the location near the railway station I am satisfied that the shortfall in parking spaces against the Council's standards would not result in unacceptable highway safety harm. Subject to conditions, the proposal would also make provision to ensure that future occupiers are not

subject to unacceptable noise levels, appropriate landscaping is implemented, and construction works are managed in a manner that would ensure that any disturbance to the living conditions of occupiers of neighbouring properties is not unacceptable. The profits of a developer is not a consideration that carries weight in my appeal.

14. Reference has been made to an appeal decision (Ref: 3274404). However, that site is off Mill Link Road and whilst it is within the vicinity of the site, its characteristics differ to the appeal site's location along Station Road between the two storey cottages and the single storey station building. In this regard, I have considered the appeal scheme on its own merits having regard to the street scene in this part of Station Road.

Planning obligation

15. A signed and dated planning obligation has been completed and submitted with the appeal. The financial contributions include £479,484 toward affordable housing subject to a review prior to the occupation of more than 20 units. This has been agreed between the parties as being financially viable for the scheme and I have no reason to dispute these findings.
16. The provision of a financial contribution toward affordable housing in the obligation is necessary to meet identified needs and would accord with Policy CP4 of the CS and is necessary to make the development acceptable in planning terms. I also accept that it would be directly related to the development, and fairly and reasonably related to it in scale and kind. Accordingly, it would meet the tests set out in paragraph 57 of the Framework and in Regulation 122 of the CIL Regulations.

Planning Balance

17. The proposed development would cause harm to the street scene resulting in conflict with the development plan as a whole. However, I give moderate weight to this conflict as set out above.
18. The Council is not currently able to demonstrate a five-year supply of deliverable housing sites with its Housing Supply Update (2022) identifying that the Council had a supply of 1.9 years, and a Housing Delivery Test figure (2022) of 46%. The plan-led system is embedded in planning law, with the Framework placing great emphasis on the engagement of communities in shaping development plans. This is intended to provide certainty. However, it also means that to meet community requirements for homes, jobs and other facilities, development plans must be up to date. In situations such as this, where future housing needs are not being met, the Framework sets out that the policies which are most important for determining the application, in this case Policy CP 12 of the CS and Policy DM1 and Appendix 2 of the DMP, are out of date. Specifically, this means that the presumption in favour of sustainable development set out in paragraph 11d) of the Framework is engaged.
19. The government places considerable importance on making effective use of land to boost the supply of housing, including specifically on previously developed land and in locations with good access to services and facilities, such as the appeal site, which is immediately adjacent to the railway station.
20. Cumulatively, these benefits would significantly and demonstrably outweigh the modest adverse impacts on the street scene. Therefore, the presumption in

favour of sustainable development applies and paragraph 11 d) indicates that permission should be granted. There are no other material considerations to override this finding.

Conditions

21. I have adapted the Council's suggested conditions where necessary and in the interests of precision and brevity. Where necessary, consent has been obtained from the appellant for the use of a pre-commencement condition, as the carrying out of building work in advance of approval could prejudice the scope to agree any changes to the submitted details.
22. In addition to the standard time limit condition (1), I have imposed a condition (2) specifying the relevant drawings and to require that the development is carried out in accordance with them as this provides certainty.
23. Conditions 3, 17 and 33 are necessary in the interests of the character and appearance of the development. Condition 4 is necessary in the interests of the environment. Conditions 5, 6, 7, 26 and 28 are necessary in the interests of highway safety and to ensure that the development functions in the interests of the amenity of the area. Condition 8 is necessary to promote sustainable travel options. I have adapted the Council's four drainage conditions into the single condition 9 in the interests of brevity. It is necessary in the interests of the natural environment.
24. Conditions 10, 11, 12, 13, 20 and 24 are necessary in the interests of the functioning of the railway. Conditions 14, 15 and 16 are necessary to ensure that any contamination is mitigated. Condition 18 is necessary in the interests of underground infrastructure. Condition 19 is necessary in the interests of visual amenity and the adjacent railway operations. Conditions 21, 22, 23, 25, 29, 30, 31 and 32 are necessary in the interests of the amenity of residents. Condition 27 is necessary in the interests of tackling climate change and the natural environment. Condition 34 is necessary to ensure that the development functions and in the interests of safety.

Conclusion

25. The proposed development would be contrary to the development plan but material considerations, especially the presumption in the Framework, outweigh this conflict. Therefore, for the reasons given, the appeal should succeed.

Mr R Walker

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 drawing nos: APSR/22/LP01; APSR/19/EX01; APSR/22/L01 A; APSR/22/L02 A; APSR-22-PL01B; APSR/22/PL02B; PSR/22/PL03A; APSR/22/PL04A; APSR/22/PL05A; APSR/22/PL06A; APSR/22/PL08A; APSR/22/PL09; APSR/22/PL10A; APSR/22/PL11B; 22082/001B; and LP/TASRKLH/020/C.
- 3) No development shall take place until details of the existing site levels and the proposed finished floor levels and sections of the proposed buildings 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.
- 4) Prior to the commencement of development, a Site Waste Management Plan (SWMP) shall be submitted to and approved in writing by the Local Planning Authority. The SWMP shall aim to reduce the amount of waste being produced on site and shall contain information including types 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.
- 5) A. No on-site works above slab level shall commence until a detailed scheme for the necessary offsite highway improvement works as indicated on drawing number 22082/001B have been submitted to and approved in writing by the Local Planning Authority. These works shall include:
 - Vehicle bellmouth access into the site from Station Road.
 - Tactile paving and pedestrian dropped kerbs on either side of the proposed bellmouth access.

B: Prior to the first use/occupation of the development hereby permitted the offsite highway improvement works referred to in Part A of this condition shall be completed in accordance with the approved details.
- 6) Prior to the first occupation/use of the development hereby permitted the proposed internal access roads, on-site car parking/cycle parking and turning areas shall be laid out, demarcated, surfaced and drained in accordance with the approved plans and retained thereafter available for that specific use.
- 7) No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan: The Construction Management Plan shall include details of:
 - a) Construction vehicle numbers, type, 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).
 - h) Provision of sufficient on-site parking prior to 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.
- 8) Prior to the first use of the development hereby permitted, an updated Travel Plan Statement for the site shall be submitted to and approved in writing by the Local Planning Authority. This shall include:
- a) details of an interim travel plan co-ordinator for until the travel plan co-ordinator (TPC) is appointed.
 - b) a secondary contact to the TPC.

The Travel Plan Statement shall be implemented following its approval.

- 9) No development shall take place until the final design of the drainage scheme has been submitted to, and approved in writing by, the Local Planning Authority. The surface water drainage system will be based on the submitted Drainage Strategy Drainage Strategy (M42841-JNP-XX-XX-RP-C-1002 P04) and Planning Response (M42841-JNP-XX-XX-FQ-C-1001) (02.03.2023). The drainage scheme shall also include:
- a) Detailed infiltration tests to BRE Digest 365 standard carried out at the location and depth of proposed infiltrating features, with all calculations/modelling based on the results of the tests.
 - b) The proposed soakaway should be designed to ensure half drain down times.
 - c) Detailed engineered drawings of all the proposed SuDS features including their location, size, volume, depth and any inlet and outlet features including any connecting pipe runs and all corresponding calculations/modelling to ensure the scheme caters for all rainfall events up to and including the 1 in 100 year + 40% allowance for climate change event.
 - d) Demonstrate an appropriate SuDS management and treatment train.
 - e) Silt traps for protection for any residual tanked elements.
 - f) Details of final exceedance routes, including those for an event which exceeds the 1:100 + 40% for climate change rainfall event.
 - g) A timetable for its implementation.

h) A management and maintenance plan for the lifetime of the development which shall include the arrangements to provide copies of built drawings for the site drainage, the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

Thereafter the development shall be carried out and maintained in accordance with the approved drainage scheme.

- 10) Prior to the commencement of development, a method statement and risk assessment shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of earthworks and excavations to be carried out adjacent to the railway boundary and measures to ensure that the adjacent railway is not adversely affected. The works shall be undertaken in accordance with the approved details.
- 11) Prior to the commencement of development, details of scaffolding works within 10m of the railway boundary shall be submitted to and approved in writing by the Local Planning Authority. The scaffolding works shall thereafter be undertaken only in accordance with the approved details.
- 12) Prior to the commencement of any vibro-impact works on site, a risk assessment and method statement shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be undertaken only in accordance with the approved details.
- 13) Prior to the commencement of the development details of how both surface water and foul water drainage shall be disposed of and directed away from the railway shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.
- 14) Prior to the commencement of development approved by this planning permission, 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:
 - a) A site investigation scheme, based on the Phase I Geo-environmental Report prepared by JNP Group (Report ref. M42841-JNP-XX-XX-RP-G-1001 P01), to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site. This should include an assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, pests, woodland and service lines and pipes, adjoining land, ground waters and surface waters, ecological systems, archaeological sites and ancient monuments.
 - b) The site investigation results and the detailed risk assessment (i) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
 - c) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (ii) 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 consent of the local planning authority. The scheme shall be implemented as approved.

- 15) Following 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 approval. The approved monitoring and maintenance programme shall be implemented.
- 16) 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.
- 17) Before any building operations above ground level hereby permitted are commenced, samples and details of the proposed external materials shall be submitted to and approved in writing by the Local Planning Authority and no external materials shall be used other than those approved by this condition.
- 18) No piling shall take place until a Piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 19) No external lighting shall be installed on the site or affixed to any buildings on the site unless the Local Planning Authority has first approved in writing details of the position, height, design and intensity. The lighting shall be installed in accordance with the approved details before the use commences and maintained as such thereafter.
- 20) Prior to the first occupation of the development, details of appropriate vehicle safety protection measures along the boundary with the railway shall be submitted and approved in writing by the Local Planning Authority. The approved vehicle protection measures shall be installed prior to first occupation and maintained as such thereafter.
- 21) Prior to the first occupation of the development, a ventilation scheme shall be submitted and approved in writing by the Local Planning Authority. The approved ventilation scheme shall be maintained thereafter. In addition, details of the noise attenuation measures, as detailed in the submitted noise report shall be implemented in their entirety. Such works shall be retained thereafter at all times.
- 22) Prior to the first occupation of the development hereby permitted, details of all plant, machinery and equipment installed or operated in connection

- with the Class E(a) use and measures to enclose these and/or attenuate noise arising from their operation shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the first occupation of the development and shall be permanently maintained in accordance with the approved details.
- 23) Prior to the first occupation of the development, details of opaque flank screens to the proposed balconies to a height of 1.8m shall be submitted to and approved in writing by the Local Planning Authority in respect of Flat numbers 2, 9, 17, 25, 31. The screens shall be installed in accordance with the approved details prior to the first occupation of the flats listed above and permanently retained thereafter.
- 24) Prior to the first occupation of the site, details of a trespass proof fence adjacent to the boundary with the railway shall be submitted to and approved in writing by the Local Planning Authority. The fencing shall thereafter be installed in accordance with the approved details prior to the first occupation of the building and be permanently retained thereafter.
- 25) Prior to the first use/occupation of the development, full details of the proposed air source heat pumps including location, appearance and any necessary acoustic mitigation shall be submitted to and approved in writing by the Local Planning Authority. The air source heat pumps shall thereafter be installed in accordance with the approved details prior to the first occupation of the development and permanently maintained as such thereafter.
- 26) Prior to the first occupation/use of the development, a parking management plan including the allocation of vehicle parking spaces and cycle storage spaces within the development, management and allocation of disabled parking spaces, and long term management responsibilities and maintenance schedules for all communal parking areas shall be submitted to and approved in writing by the Local Planning Authority. The parking management plan shall be carried out in accordance with the approved details.
- 27) The development shall not be first occupied/brought into use until the energy saving and renewable energy measures detailed within the Energy Statement submitted as part of the application are incorporated in full into the approved development.
- 28) Prior to the commencement of the commercial use hereby permitted, a Servicing and Delivery Plan shall be submitted to and approved in writing by the Local Planning Authority. The Servicing and Delivery plan shall incorporate the servicing arrangements for the commercial use and adequate provision for the storage of delivery vehicles within the site and shall be adhered to at all times.
- 29) The commercial use hereby permitted shall not operate other than between the hours of 7am-10.30pm on Mondays to Saturdays and 7.30am-10.30pm on Sundays and Bank Holidays.
- 30) No machinery or commercial vehicles shall be operated, no process shall be carried out nor any deliveries to the retail unit be taken or dispatched from the site otherwise than between the hours of 8am-8pm Mondays to Saturdays and 8am-8pm on Sundays and Bank Holidays.

- 31) The premises as shown on APSR/PL03A shall be used as Class E (A) and for no other purpose (including any other purpose in Class E; of Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
- 32) The fourth floor flank terrace facing no.1 Railway Cottages shall only be accessed and used for maintenance purposes as highlighted on APS5/22/PL11B and shall at no time be used as an amenity space.
- 33) All hard landscaping works required by the approved scheme shall be carried out in accordance with LP/TASRKLH/020 C and completed prior to the first occupation of the development hereby permitted.

All soft landscaping works required by the approved scheme shall be carried out in accordance with LP/TASRKLH/020 C before the end of the first planting and seeding season following first occupation of any part of the buildings or completion of the development, whichever is sooner.

If any existing tree shown to be retained, or the proposed soft landscaping, are removed, die, become severely damaged or diseased within five years of the completion of development they shall be replaced with trees or shrubs of appropriate size and species in the next planting season (i.e. November to March inclusive).

- 34) Should they be required, detailed proposals for fire hydrants serving the development as incorporated into the provision of the mains water services for the development, whether by means of existing water services or new mains or extension to or diversion of existing services or apparatus, shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of development. The development shall thereafter be implemented in accordance with the approved details prior to occupation of any building forming part of the development.

End of Schedule