



Appeal Decision

Hearing held on 13 October 2015

Site visits made on 12 & 13 October 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 November 2015

Appeal Ref: APP/W1905/W/15/3100810

New River Arms, High Road, Turnford, Broxbourne EN10 6DB

- 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 Argoplex Ltd against the decision of Broxbourne Borough Council.
 - The application Ref 07/14/0904/F, dated 3 October 2014, was refused by notice dated 27 January 2015.
 - The development proposed is the demolition of the existing building on site, and the erection of a new part three and part four storey mixed use building with a single commercial unit on the ground floor (use class A1-A4) and 45 new residential units (C3).
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building on site, and the erection of a new part three and part four storey mixed use building with a single commercial unit on the ground floor (use class A1-A4) and 45 new residential units (C3) at New River Arms, High Road, Turnford, Broxbourne EN10 6DB in accordance with the terms of the application, Ref 07/14/0904/F, dated 3 October 2014, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. At the hearing I was advised that, although it was in receipt of the legal agreement and satisfied with its contents, the Council had not yet been able to complete it. Shortly, after the hearing closed the pursuant completed legal agreement, made under section 106 of the Town and Country Planning Act 1990 (the S106 Agreement), was submitted. In the circumstances, although it was received after the hearing formally closed, I have taken this document into account in the determination of the appeal.
3. In light of the then anticipated S106 Agreement, the Council confirmed during the hearing that it would not be submitting any evidence to defend its fourth refusal reason regarding affordable housing. I have, therefore, determined the appeal on that basis and limited the main issues accordingly.

Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area, including in respect to potential overdevelopment, as well as to the bulk, mass and appearance of the scheme, and whether or not parking facilities would be adequate for the proposed use.

Reasons

Character and Appearance

5. The appeal site forms something of an island due to its location almost immediately to the north of two roundabouts and long frontages to High Road to the west and The Springs to the east. Given its size and siting relative to these junctions and roads, the site is readily visible from the surrounding public domain such that it is a prominent part of the local townscape.
6. The wider townscape is reasonably varied with a range building types, scales and architectural styles. Nonetheless, to the north, west and south the properties are predominantly in residential use and have a reasonably domestic, suburban scale and feel. This is particularly marked to the west of High Road, in West Side where the street scene is characterised by two-storey pairs of semi-detached houses.
7. To the northeast, in The Springs, the nearest domestic properties are more varied with three-storey flats located on the street corners and an intervening row of two-storey houses. To the south at Watery Lane, beyond the roundabouts, there is a reasonably large complex of the flats, which extend up to four storeys in height. These buildings, like the significant majority of the other residential properties in the area, have pitched roofs. In contrast at the college campus, located beyond The Springs to the east of the site, the buildings have a strong institutional feel with substantial, flat roof buildings of contemporary design set in reasonably substantial grounds.
8. The existing, vacant public house that stands on the appeal site is set back from the surrounding highway and is of a fairly modest scale. The mass of the proposed building would be substantially greater than that of the existing structure such that the proposed development would transform the character and appearance of the site. It would also be taller than many of the existing buildings in the area, particularly those to the west and north.
9. Nonetheless, the proposed building, while prominent, would sit a reasonably substantial distance from its neighbouring buildings, more than 75 metres from the college and Watery Lane and some 40 metres from West Side. Moreover, the floor plan of the proposed building would be staggered and its height would reduce from four to three storeys from south to north as the site narrows. In spite of being prominent and having lengthy frontages, especially to the east and west, through the gradual reduction in height and stepped footprint the proposed building would provide a good degree of articulation, while also militating against an over-dominant built form.
10. The evidence indicates that the three storey element of the proposed building would be at a similar height to the roof ridges of the houses in West Side. The four storey element would also be lower than the main college building and would rise a little higher than the ridge of the flats in Watery Lane. For these reasons and those set out in the preceding paragraph, in my view the general form and mass of the proposed development would sit comfortably in its context.
11. The building's design does not have a strong domestic character in the manner of the nearby residential buildings and the proposed flat roof appearance would contrast with those properties. It does, however, draw to some extent on the design characteristics and materials of buildings in the surrounding area including those at the college, while also creating a fresh, attractive entity in its own right. Given the substantial frontages, I consider that the proposed design approach of creating a degree of verticality, for instance through the use of balconies, deep rectangular windows and the steps in the elevations as described above, to be

- appropriate. This approach could be further developed through the careful selection of facing materials.
12. The proposed development density would be substantially greater than what Policy H11 of the Broxbourne Local Plan Second Review 2001-2011, December 2005 (the Local Plan) indicates the Council would normally expect in this type of location. However, as the Council officer's Committee report on the appeal development states, a higher density is normally generated by a flatted scheme and the site does not have a material impact on the living conditions of occupants of neighbouring dwellings. I note that the Committee report also indicates that the Council has accepted higher density development elsewhere and that the Council has not found that the proposed development would conflict with Policy H11.
 13. For the foregoing reasons, therefore, overall the proposed development would not have a harmful effect on the character and appearance of the area, including in respect to potential overdevelopment or to its bulk, mass and appearance. Consequently, in this regard it would accord with Policies HD13 and HD16 of the Local Plan, and with the National Planning Policy Framework (the Framework).
 14. I am aware of another planning application for similar development at the appeal site that has been reported to the Council's Planning Committee and accepted in principle¹. I have, nonetheless, made my assessment of the effect of the appeal development on the character and appearance of the area based on its individual merits without according weight to that other scheme.

Car Parking

15. Among other things, Local Plan Policy T11 states that the car parking requirements of development will be assessed against the parking standards set out in the Local Plan and Supplementary Planning Guidance, and that a reduced level of parking is likely to be acceptable where the development is in a defined Accessibility Corridor. The Local Plan, including Policy T11, expresses the Council's parking standards as maximum rather than minimum standards. However, the Council has subsequently adopted its Interim Policy for Residential Car Parking Standards document (the Interim Parking Policy) which indicates that these standards should now be treated as minimum standards in light of changes to national planning policy.
16. The evidence indicates that the site is located within the designated Zone 2 Accessibility Corridor as identified in the Council's Borough-Wide Supplementary Planning Guidance (the SPG). The SPG states that the Council has adopted the zonal approach to the provision of car parking based upon accessibility to public transport and town centres, so that the Zone 2 Accessibility Corridor relates to an area within 200 metres of frequent bus routes and 400 metres of railway stations. The SPG adds that this approach will apply to all forms of development, including residential, and that within Zone 2 parking provision will be assessed on the basis of 75% of the maximum, which the Interim Parking Policy indicates should now be treated as the minimum.
17. The evidence of the main parties states that the on-site car parking proposed for the both the residential and commercial uses would meet, at least, the 'minimum' standard identified in these planning policy documents based on the reduced rate, due to the site's location within Zone 2. The Council, however, considers the reduced rate to be discretionary and that it should not apply in this case. Yet I

¹ Planning Application Ref No: 07/15/0423/F

have not found any reference in any of these policy documents which indicates that the 75% reduced rate should not normally apply in Zone 2.

18. In support of its case that more car parking should be provided, the Council's evidence refers to the quality of bus services in the vicinity of the appeal site along with its distance away from the two nearest railway stations. However, with reference to paragraph 12.3 of the SPG, it appears to me that the site's proximity to such public transport facilities is a key reason why it has been included within Zone 2, such that the reduced car parking standard is justified. I also note that, although originally adopted in 2004, the SPG was updated in 2013. On this basis and having regard to the wider evidence, I have no reason to believe that it does broadly not reflect the current quality and proximity of public transport services in the area of the site. Consequently, I consider that the proposed amount of car parking accords with Local Plan Policy T11, the SPG and the Interim Parking Policy.
19. The Council's submissions also refer to the development potentially resulting in greater reliance on use of the private car. However, this is not clearly substantiated in evidence. Indeed, based on the information before me, it appears that if more car parking were to be provided it would be more likely to encourage occupants and users of the development to own and use cars rather than to use alternative modes of transport. Accordingly, I give little weight to this aspect of the Council's case.
20. Concerns have also been raised regarding existing demand for on-street parking in the vicinity of the appeal site, at least in part due to parking associated with the college. While there is little evidence on this matter other than anecdotal information, I recognise that pressure for street parking can be a serious concern for local residents and can cause tension and inconvenience.
21. However, for the reasons outlined above, I am not persuaded that the proposed development would lead to a significant increase in demand for on-street parking. Moreover, I have not been provided with any evidence to demonstrate that, if the development was to give rise to additional demand for street parking, this would necessarily have a significantly harmful effect on the living conditions or convenience of the local residents.
22. For these reasons, therefore, the parking facilities would be adequate for the proposed use and the appeal scheme would accord with relevant local and national planning policy in respect to car parking.

Other Matters

23. In the event that planning permission were to be granted the S106 Agreement would potentially secure payments towards the provision of affordable housing and early years' education in the Borough. In assessing the S106 Agreement and requests for other matters to be secured via planning obligation in the wider evidence, I have been mindful of the appellant's submissions regarding viability and that the Council has not provided me with any evidence that directly contests its conclusions on this matter. Having reviewed the evidence I have no good reason to believe that the proposed scheme could support further planning obligations.
24. Having considered these obligations in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations, I am satisfied that the affordable housing obligation would be in line with the objectives of paragraph 50 of the Framework and that it would be directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning

terms. From the evidence before me I have no reason to believe that it would result in the pooling of more than five obligations for any one infrastructure project or type of infrastructure through planning obligations.

25. However, although there is reference in the evidence to the County Council's 'planning obligation toolkit' I have been provided with no details of that toolkit nor as to how the contribution towards early years' education has been calculated and it is also unclear how it would be used. Nor am I aware of any mechanism to ensure that it would be spent on education bearing in mind that the County Council as local education authority is not a party to the S106 Agreement. Consequently, from the information before me I cannot be sure that the education contribution would be directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms. Accordingly, I give the planning obligation to secure the education contribution no weight in my decision.
26. In addition to the foregoing matters, concern has been expressed locally, including as raised at the hearing by The Wormley & Turnford Society and Wormley and Turnford Big Local, regarding a number of matters. These include the development's effect on the living conditions of neighbouring occupiers, including in respect to the privacy and light to and the outlook from properties in Westside; on the protected oak tree; and on highway safety.
27. The concerns raised also relate to anti-social behaviour and littering; the adequacy of infrastructure and services, including foul and surface water drainage, schools, doctors, green space and leisure facilities; the loss of the former pub and recycling centre and the viability of the pub use; the adequacy of the retail assessment undertaken as part of the planning application process and the effect of a new shop on local shops and businesses in the area; the site should be redeveloped for other purposes, such as a care home or similar community building; the loss of grass verge; any contributions secured via a S106 Agreement should be used locally; the mix and type of residential units proposed; and the proposed parking facilities are impractical.
28. These matters are largely considered within the Council's Committee report on the appeal development. They were also before the Council when it prepared its evidence and when it submitted its case at the hearing. The Council did not conclude that they would amount to reasons to justify withholding planning permission. Subject to the identified obligation of the S106 Agreement and the imposition of planning conditions, I see no good reasons to disagree.

Conditions and Conclusion

29. I have been provided with a schedule of conditions much of which, but not all, is agreed by the main parties. I have considered these conditions in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly. For the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be necessary.
30. Conditions requiring the submission and approval of sample materials to be used in the construction of the external surfaces of the development, hard surfaced areas, details of boundary treatment, and landscaping along with its maintenance would be necessary to safeguard the character and appearance of the area. For that reason and in the interests of highway safety and of residents' living conditions, a condition would be necessary requiring the submission and approval of lighting. In the interests of highway safety, conditions would be necessary to secure the

- implementation of the proposed car parking, access arrangements and closure of existing points of access. While the recommended conditions refer only to the parking for the residential use, a similar condition regarding the parking proposed to serve the commercial premises would also be necessary for the same reason.
31. A condition to secure the implementation of a construction vehicle management plan would also be necessary in the interests of highway safety and to protect the living conditions of local residents during the construction period. A condition requiring that a site investigation of the nature and extent of contamination affecting the site, along with any necessary remediation, would also be necessary to safeguard the health of future occupiers.
 32. A condition to require the submission and approval of details of surface and foul water would be necessary to safeguard the development from the risk of flooding and to protect the environment. A condition would also be necessary to secure management of the appeal property in the interest of highway safety, of the living conditions of residents of the development and those of neighbours, and of the character and appearance of the area. To ensure that the Oak Tree which is the subject of a preservation order is protected, a condition would be necessary to ensure that the development is implemented in line with the arboricultural method statement submitted with the application.
 33. To protect the living conditions of neighbouring residents, the main parties agree that conditions would be necessary to control the hours of opening and hours of deliveries to the proposed commercial premises. However, they disagree concerning the timeframe, particularly with regard to mornings; the appellant favours 6.00am and 7.00am respectively, whereas the Council requests 8.00am for both.
 34. I note that the Council's environmental health service did not directly address this matter in its consultation response in respect to the appeal development. Given the orientation of the proposed development, including the position of the vehicular access, and the distance that the commercial unit would be located away from neighbouring dwellings along with the intervening busy roads, I see no good reason why the hours requested by the appellant would have a significant effect on the living conditions of occupants of existing property.
 35. However, due to their very close proximity and notwithstanding any potential noise mitigation scheme, I am concerned the commercial use and associated deliveries before 8.00am on Mondays to Saturdays would be likely to create noise and disturbance such that unacceptable living conditions would result for at least some residents of the proposed development. On this basis the hours requested by the Council would be justified and necessary.
 36. The main parties have also suggested differing conditions concerning noise control/mitigation. In principle, such a condition would be necessary in the interests of residents living conditions. I favour the approach suggested by the Council on the basis that plant/equipment would not necessarily require a further consent, as is suggested by the appellant, and as it would offer protection to residents of existing property as well as those of the proposed development.
 37. For all of the reasons given above, I conclude the appeal should, subject to the identified conditions, be allowed.

G D Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr K Rafferty KR Planning

FOR THE LOCAL PLANNING AUTHORITY:

Mr D Noble David Noble Planning Consultancy

INTERESTED PERSONS:

Mr M Briggs The Wormley & Turnford Society
Mr P Cassell Wormley and Turnford Big Local

DOCUMENTS SUBMITTED AT THE HEARING

- 1 The Council's letter confirming the date, time and location of the Hearing and the list of those to whom that notification was sent
- 2 Extract copy of Local Plan Policy H11
- 3 Copy of Mr Briggs' address to the hearing and associated photograph of the protected oak tree
- 4 Copy of Mr Cassell's address to the hearing and details of Wormley and Turnford Big Local
- 5 Draft schedule of conditions

DOCUMENTS SUBMITTED FOLLOWING THE HEARING

- 1 Final list of suggested conditions with annotations where there remains disagreement between the parties
- 2 Agreement Pursuant to Section 106 of the Town and Country Planning Act 1990 dated 14 October 2015

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/P1425/W/15/3008810:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwg No 985-7-P1-001; Dwg No 985.7-PRE-100; Dwg No 985-7-P1-110; Dwg No 985-7-P1-111; Dwg No 985-7-P1-112; Dwg No 985-7-P1-113; Dwg No 985-7-P1-114; Dwg No 985-7-P1-201; Dwg No 985-7-P1-202; Dwg No 985-7-P1-300; Dwg No 985-7-P1-301; Dwg No 985-7-P1-302.
- 3) Prior to work commencing on the relevant part of the development, details/samples of all external facing and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall implement in accordance with the approved details.
- 4) Prior to work commencing on the relevant part of the development, full details/samples of all hard surfacing materials to be used shall be submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to work commencing on the relevant part of the development, full details of all screen and boundary walls, fences and any other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority; such approved means of enclosure shall be erected before any of the dwellings hereby approved is/are occupied.
- 6) Prior to work commencing on the relevant part of the development, a landscaping scheme comprising a plan and specification shall be submitted to and approved in writing by the Local Planning Authority. It shall be carried out and implemented prior to occupation of the development or such timetable as may be approved in writing by the Local Planning Authority.
- 7) The landscaping scheme submitted in compliance with Condition 6 above shall comprise a contoured plan to a minimum scale of 1:500 showing the existing features to be retained, new features proposed and the treatment thereof and a specification, unless otherwise approved in writing by the Local Planning Authority. The features to be shown on the plan shall include:-
 - (i) All existing trees (including details of their trunk position, spread and species) shrubs, hedges, grass areas and whether these are to be retained, or removed.
 - (ii) Proposed planting of trees, shrubs, hedges, grass areas showing the species, size of plants, planting distances/densities, and the number of plants to be used.
 - (iii) Details showing the location/depth and extent of any proposed underground works services within the spread of existing trees.
 - (iv) Any alterations in ground level around existing trees, shrubs or hedges.
 - (v) Public footways, steps and other paved areas and the materials to be used.
 - (vi) The location and height of all earthworks, embankments and walls and the materials to be used.The landscaping specification shall provide details of clearance works, ground preparation, planting and maintenance techniques.
- 8) In the event of the death or destruction of any tree, shrub or hedge to which Conditions 6 above relate, within 5 years of first occupation, due to felling, cutting down, uprooting or in any other manner, then unless the Local

Planning Authority have dispensed in writing with this requirement there shall be replanted in its place, within such period and of such size and species as shall have been previously approved in writing by the Local Planning Authority, another tree, shrub or hedge.

- 9) No dwelling shall be occupied until all motor vehicles parking facilities for the dwellings hereby permitted have been completed.
- 10) The commercial use hereby permitted shall not commence until all parking facilities for that use have been fully completed.
- 11) A 10m visibility splay shall be provided each side of the access to The Springs within which there shall be no obstruction to visibility above a height of 600mm above carriageway level.
- 12) The development hereby permitted shall not be occupied until the existing vehicular accesses from the High Road and The Springs are permanently stopped up, kerb raised and footway reinstated.
- 13) Development shall not commence until details of sewage disposal and surface water drainage including on and off-site works have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior the first use of the development.
- 14) Full details of a construction vehicle management plan shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on site. The approved management plan shall be operated as approved for the duration of construction on site.
- 15) Prior to the commencement of development approved by this planning permission or such other date or stage in development as may be approved 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) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
 - ii) A site investigation scheme, based on (i) 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.
 - iii) The site investigation results and the detailed risk assessment (ii) 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.
 - iv) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in (iii) are complete and identifying any requirements for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action. Any change to these components requires the express consent of the Local Planning Authority. The scheme shall be implemented as approved.

- 16) Prior to work commencing on the relevant part of the development, full details of external lighting to be used in the scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved external lighting scheme shall be installed and permanently retained as such unless otherwise approved in writing by the Local Planning Authority.
- 17) The use of the commercial premises shall be restricted to the hours of 8.00am to 11.00pm.
- 18) No deliveries to the commercial premises shall take place outside the hours of 8.00am to 9.00pm Monday to Saturday.
- 19) Prior to work commencing on the relevant part of the development, full details of all air ventilation and extraction systems to be used in the scheme shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed and permanently retained as such unless otherwise approved in writing by the Local Planning Authority.
- 20) A comprehensive Management Plan for the future maintenance of the entire development site, including allocation of car parking spaces, shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented as approved prior to first beneficial occupation of the site.
- 21) The development shall be implemented strictly in accordance with the Arboricultural Method Statement submitted with the planning application.

Richborough Estates