



Appeal Decision

Site visit made on 27 June 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th October 2023

Appeal Ref: APP/N1920/W/22/3307351

Hollies House, 230 High Street, Potters Bar EN6 5BL

- 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 Ms Lucy Katsantonis on behalf of Venus Group Ltd against the decision of Hertsmere Borough Council.
 - The application Ref 20/1761/FUL, dated 30 October 2020, was refused by notice dated 31 March 2022.
 - The development proposed is the creation of 10 self-contained flats, 4 x 1 bed, 5 x 2 bed, 1 x 3 bed, incorporating communal roof garden, private terraces over two new additional floors to an existing 5-storey mixed-use building.
-

Decision

1. The appeal is allowed and planning permission is granted for the creation of 10 self-contained flats, 4 x 1 bed, 5 x 2 bed, 1 x 3 bed, incorporating communal roof garden, private terraces over two new additional floors to an existing 5-storey mixed-use building at Hollies House, 230 High Street, Potters Bar EN6 5BL in accordance with the terms of the application, Ref 20/1761/FUL, dated 30 October 2020, and the plans submitted with it, subject to the conditions set out in Schedule A.

Application for costs

2. An application for costs has been made by Venus Group Ltd against Hertsmere Borough Council. This application is subject to a separate decision.

Preliminary Matters

3. I have used the description of development provided on the application form, however, I have removed those elements that do not relate to acts of development.
4. The evidence includes a unilateral undertaking submitted during the appeal process. I will return to this below.

Main Issues

5. The main issues are:
 - the effect of the proposal upon the character and appearance of the area;
 - the effect of the proposal upon the setting of the Green Man public house Grade II listed building;
 - whether the proposal would provide adequate car parking, and;
 - whether the proposal would provide adequate provision for affordable housing.

Reasons

Character and appearance

6. The appeal site currently comprises a large five storey building in mixed commercial and residential use and associated car park. It is located on a busy route and sits adjacent to Potter's Bar bus garage. High Street is characterised by a mixed streetscene of domestically scaled residential and commercial properties interspersed with larger buildings and blocks of flats of a larger scale and of three, four, five or more storeys.
7. The proposal would not appear as an unacceptably large addition to the existing building. Hollies House already forms one of the larger buildings that punctuate High Street and is reflective of the mixed-use and mixed-scale character of the area. The additional storeys would step in from the existing elevations, reducing their apparent scale, and would incorporate significant levels of glazing. As result the building would not appear unreasonably box-like or monolithic as a result of the proposal.
8. Although the building would undoubtedly appear as a significant structure within the streetscene and would be greater in height than those buildings that immediately surround it, it would not appear as visually jarring when seen in the context of other large buildings in the area, or having regard to the overall character of High Street.
9. I therefore conclude that the proposal would not harm the character and appearance of the area. It would therefore be in accordance with Core Strategy ('CS') Policy SP1 and Hertsmere Local Plan Site Allocations and Development Management Policies Plan ('SADMPP') Policy SADM30. Together, and amongst other factors, these policies require new development to make a positive contribution to the built environment and achieve a high-quality design including in terms of scale, mass, bulk and height. The proposal would also accord with Part 12 of the National Planning Policy Framework ('the Framework') which states that developments should add to the overall quality of the area, and are sympathetic to the surrounding built development.
10. In addition, the proposal would accord with advice contained within the Planning and Design Guide Supplementary Planning Document, which states that new development should be respectful of existing development patterns, and that taller buildings may be appropriate in certain situations.

Effect on the Green Man public house

11. Neighbouring the appeal site is the Green Man ('the LB'), a Grade II listed public house. Accordingly, I have had regard to the duty contained within Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act').
12. I understand that the LB probably dates to the mid-17th century, with later remodelling and extension in the 18th, 19th and 20th centuries. Its significance is derived, insofar as it relates to this appeal, from its age and location on an important route into London from the north, and archaeological value as evidence of built development of the period.
13. The appeal site lies within the setting of the LB, and Hollies House as it exists presently, along with other development, has eroded this setting to a

significant extent due, partly, to the difference in scale between the buildings. This sense of encroachment has been further increased by the residential development to the rear of the LB. Nevertheless, the LB retains a degree of space around it which allows it to be viewed with a limited sense of separation which contributes positively to its significance.

14. Although the appeal scheme would increase the level of bulk and massing of Hollies House, it would step inwards from the existing elevations and, due to the level of glazing proposed, would appear as a comparatively lightweight addition to the building. As a result, it would not add a significant additional sense of encroachment to the setting of the LB.
15. However, the remodelled building would be larger than existing and would be viewed as such, particularly in longer views towards the LB. In this sense, although the Green Man would remain legible within the streetscene, the disparity of scale between the buildings would be evident in longer views, and this would be to the detriment of the setting of the LB.
16. Consequently, I conclude that the proposal would lead to harm to the setting of the Green Man public house, a designated heritage asset. I find that the level of harm would be less than substantial.
17. The proposed development would cause less than substantial harm to the significance of the setting of the LB. This is something to which I give considerable importance and weight. Paragraph 202 of the National Planning Policy Framework ('the Framework') states that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal.
18. The appeal scheme would lead to the provision of 10 new dwellings. This would represent a positive contribution towards boosting housing supply, in an area where there is currently a shortfall in housing delivery. Given the Council can only demonstrate 2.3 years of housing land supply, the extent of the shortfall is acute, and as a result the boost to the supply that would result from the proposal is a benefit to which I afford moderate weight. In addition, the proposal would involve the use of previously-developed land, and would represent an efficient use of it. The Framework advises that substantial weight should be given to the value of using suitable brownfield sites within settlements for homes.
19. The development could also, in turn, provide employment during construction, although this would be time limited. There would be other social and economic benefits to the area in terms of supporting services and facilities. I ascribe these further benefits moderate weight in reaching my decision.
20. On balance, the public benefits that I have identified would outweigh the less than substantial harm that would occur as a result of the development. Therefore, the Framework does not indicate that planning permission should be refused.
21. SADMPP Policy SADM29 states that development proposals which would materially harm the setting of a listed building will not be permitted, however it also states in outlining the policy, that proposals will be considered in the accordance with the Framework. The Framework requires the less than

substantial harm to be weighed against the benefits of the scheme, an exercise that I have carried out above. As I have found that the Framework does not indicate that planning permission should be refused in this instance, I therefore also conclude that the proposal would be in accordance with SADMPP Policy SADM29.

Car parking

22. Hollies House currently incorporates a large car park to the rear of the building, along with 8 bays at the front. It is not disputed by the Council that parking provision at the site amounts to a total of 24 spaces for existing residential flats, and a further 36 spaces assigned to the commercial units within the building.
23. The scheme would not introduce additional car parking, rather, it would reassign spaces currently associated with the commercial units to provide a total of 31 residential parking bays and 26 commercial parking bays, with two bays being repurposed for cycle parking and another designated for use by disabled motorists.
24. I understand that the site is located within a controlled parking zone ('CPZ') within which on-street parking is restricted between Monday and Saturday, from 0800 – 1830. The evidence indicates that there is a high demand for on-street parking facilities in the area of the site at peak times.
25. SADMPP Policy SADM40 requires new development to provide off-street parking in accordance with CS Policy CS25 and to be consistent with the Council's Parking Standards Supplementary Planning Document ('the Parking Standards'). CS Policy CS25 states that off-street parking requirements will be based on a number of factors including location, local car ownership, the potential for shared parking, and local on-street parking conditions.
26. The Parking Standards indicate that the scheme would require the provision of 13.5 spaces, along with a further two short-term stay spaces. However, the standards also make provision for parking above or below required levels where evidence is provided, and in this respect the provided evidence of car ownership census data for flats in Hertsmere indicates that it is reasonable to expect a lower level of car ownership for the appeal proposal. On the basis of this data, the appellant has indicated that it would be expected that the proposal would generate demand for 7 additional residential car parking spaces.
27. The appeal site is located within a busy urban area with access to shops and facilities, and there is access to a number of bus services with an up to half hourly service from a stop within easy walking distance of the appeal site and serving a number of destinations. It is therefore located in a location where it is reasonable to expect that future residents occupying the proposal would not be wholly reliant upon the use of a car to make many day-to-day trips. Accordingly, I have no reason to disagree with the parking figures set out by the appellant.
28. The evidence indicates, despite the concerns of interested parties, that current demand for parking at the appeal site both for commercial and residential purposes is below capacity, and that there would be sufficient capacity to accommodate the additional demand that would be generated by the proposal.

Although the provided survey results are only snapshots in time, I saw on my site visit that the car park was not approaching full capacity and find the conclusions of the survey to be reasonable.

29. Furthermore, even acknowledging that existing residents at Hollies House may currently experience some parking pressures, the additional residential parking provision would be provided from within those spaces currently allocated for commercial use, with no reduction in spaces allocated for residential properties. The appellant has advised that agreement has been reached with an existing user of the commercial spaces to reduce capacity by the required number of spaces. With appropriate car park management, which could be secured by means of a planning condition, I am satisfied that the proposed allocation of spaces could operate acceptably.
30. Additionally, even if the scheme was to generate additional demand beyond the current capacity of the car park, the evidence indicates that although on-street demand is high at peak times, capacity does remain, and that it would be likely sufficient to accommodate any surplus demand. In any event, the evidence indicates that any excess demand would be likely to be low in number.
31. The appellant has also provided a unilateral undertaking to advise future occupiers that they would not be eligible for on-street park permits within the CPZ, and that future occupiers would waive any such rights or entitlements. However, as the eligibility for such permits would not be within the control of the appellant, I am unable to afford this weight in reaching my decision.
32. I conclude that the proposal would provide adequate car parking. It would therefore be in accordance with SADMPP Policy 40 and CS Policy CS25, the requirements of which I have set out above. It would also be consistent with the levels of provision set out in the Parking Standards.

Affordable Housing

33. The scheme does not propose any affordable housing provision. This level of provision is clearly below the 35% target of affordable homes on sites providing 5 or more new residential units within the postcode area, as set out in CS Policy CS4. However, this policy does make allowance for lower levels of provision to be accepted where exceptional circumstances are demonstrated.
34. The evidence includes detailed financial information submitted with the application that has been independently reviewed by the Council's own assessors, as well as a subsequent update. I understand that the Council's own assessors did not, ultimately, dispute that the scheme would not be viable if affordable housing was provided, and that the proposal would not be viable even if delivered on the basis of 100% market housing. The Council has offered no further comment on the updated financial information that has accompanied the appeal, and which continues to indicate that the proposal would not be viable.
35. In the absence of any further evidence in relation to the Council's concern that the submitted viability assessment did not provide sufficient evidence that the scheme could not support affordable housing, there is no reason for me to question the robustness of the appellant's evidence in this regard.
36. Although the scheme would fail to provide the level of affordable housing required by CS Policy CS4, the detailed financial information demonstrates that

to do so would render the scheme unviable. Furthermore, the appellant has contacted registered housing providers seeking expressions of interest in the any affordable units that might be provided, with no positive responses being received, either on the basis of the numbers of units likely to be available, or costs associated with a mixed-tenure development. Again, I have no reason to disagree with the appellant's evidence in this respect.

37. The appellant has provided a unilateral undertaking which incorporates a viability review mechanism. This would allow any positive surplus from the development due to changing circumstances to be shared between the Council and the appellant for the delivery of off-site affordable housing provision up to the cost equivalent of four dwellings. However, as it is not a signatory, the Council would not be bound by the unilateral undertaking and would not be required to spend the contribution as stated. As a result, I cannot afford the unilateral undertaking weight in reaching my decision.
38. Nevertheless, I conclude that it has been adequately demonstrated that the scheme could not viably support the provision of affordable housing. It would therefore be in accordance with CS Policy CS4, the requirements of which I have outlined above. It would also accord with Part 4 of the Framework which advises that the use of site-specific viability assessments should be justified.
39. In addition, the proposal would also accord with the Hertsmere Borough Council Affordable Housing Supplementary Planning Document which states that where a viability assessment establishes that residual land value is less than the land value benchmark, then a reduced affordable housing contribution may be appropriate.

Other Matters

40. Several interested parties have raised concerns relating to the effect that the proposal would have upon living conditions of existing occupiers of Hollies House in terms of noise and disruption during construction works. Whilst I acknowledge that construction work would be likely to lead to an element of disruption, this would be temporary in nature and could be adequately controlled by means of a construction management plan, to be secured by means of a planning condition.
41. The proposal is accompanied by a structural report which indicates that the required additional loads that would result from the proposal could be adequately supported by the existing building and foundations. There is no evidence before me which would lead me to disagree with the conclusions reached.
42. The appellant has advised that bin collections would continue as currently arranged and the plans indicate additional bin storage capacity in order to accommodate the additional residential units. In this respect, I conclude that the scheme would incorporate adequate measures for the storage and disposal of waste.
43. The appeal scheme would be likely to lead to an increase in traffic movements to and from the appeal site. However, neither the Highway Authority nor National Highways have raised concerns with regards to the effect that the proposal would have upon the operation of the road network. In the absence of substantive evidence to the contrary, I am not led to a different conclusion.

44. Interested parties have raised concern with regards to the effect that the proposal would have upon the living condition of occupiers of properties on High Street situated opposite the appeal site, and in the residential development to the rear of the Green Man. A sunlight and daylight report has been provided by the appellant which indicates that adequate levels of both sunlight and daylight would remain available to the occupiers of existing dwellings following the development. Furthermore, given the separation of buildings, and the existing level of residential accommodation within Hollies House, the scheme would not result in the unacceptable loss of privacy.

Conditions

45. I have had regard to the various planning conditions that have been suggested by the Council. Where necessary, I have amended the conditions in order to ensure that they meet the relevant tests set out at Paragraph 56 of the Framework and within the Planning Practice Guidance. Where necessary, I have received agreement from the appellant with regards to pre-commencement conditions in accordance with Section 100ZA(5) of the Town and Country Planning Act 1990.
46. In addition to the standard time limit condition, I have attached a condition requiring adherence with the approved plans in the interests of clarity, and securing a satisfactory form of development in the interests of the character and appearance of the area.
47. I have attached conditions requiring the provision of electric vehicle charging points and solar panels in the interests of addressing climate change. A construction management plan is required in order to protect the living conditions of existing occupiers of Hollies House during construction works, and tree protection measures are required in order to protect existing trees during construction works.
48. Additionally, I have attached conditions requiring the agreement and installation of noise attenuation measures, and the installation of balcony privacy screens, and obscure glazing in bathroom windows in order to ensure adequate living conditions for future occupiers of the proposed development.
49. Conditions relating to the laying out of the car park and the submission of a car park management plan are required in order to ensure that adequate parking provision is made within the site. The agreement and implementation of a landscaping scheme is required in order to ensure that the proposed green roof is appropriately established and maintained in the interests of the character and appearance of the area. A condition requiring details of a drainage scheme is required in order to ensure that the proposal does not increase flood risk.
50. However, I have not attached the suggested condition requiring pre-occupation noise attenuation testing as the condition would be unreasonably onerous and imprecise. In the event that the noise attenuation measures were not to perform as expected, the suggested condition would only require the re-implementation of previously agreed measures, which would be unlikely to achieve significantly different results. As it would be unreasonable for a condition to re-visit details previously agreed under another condition, I am unable to amend the condition, and have therefore omitted it.

Conclusion

51. The proposal would lead to less than substantial harm to the setting of a listed building. As outlined above, I have concluded that the benefits of the proposal would outweigh this harm. Accordingly, the Framework does not indicate that permission should be refused on this basis.
52. I have found that the proposal accords with the development plan as a whole, and there are no other material considerations that would justify taking a decision other than in accordance with it.
53. Accordingly, and having regard to all other matters raised, the appeal is allowed.

C Harding

INSPECTOR

*** SCHEDULE A – 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:

O.S. Map, Existing Site Block Plan, Site Photos & Aerial Views - 1640-E01-00 P2
Existing Site/ Topographical Plan & Additional Site Photos - 1640-E01-01 P2
Existing Ground Floor Plan - 1640-E02-00 P2
Existing First Floor and Typical Second, Third & Fourth Floor Plans - 1640-E02-01 P2
Existing Fifth Floor & Roof Plans - 1640-E02-02 P2
Existing Street Scene/ South-East & Side (1)/ North-East Elevations - 1640-E03-00 P2
Existing Rear/ North-West & Side (2)/ South-West Elevations - 1640-E03-01 P2
Existing Sections - 1640-E04-00 P2
Proposed Site Plan - 1640-P01-00 P2
Proposed Ground Floor Plan - 1640-P02-00 P2
Proposed Typical Second, Third, Fourth & Fifth Floor Plans - 1640-P02-01 P2
Proposed Sixth Floor & Roof Plans - 1640-P02-02 P2
Proposed Streetscene/ South-East & Side (1)/ North-East Elevations
Proposed Rear/ North-West & Side (2)/ South-West Elevations - 1640-P03-01 P2
Proposed Sections - 1640-P04-00 P2
Existing & Proposed 3D Models: Sheet 1 - 1640-P05-00 P2
Existing & Proposed 3D Models: Sheet 2 - 1640-P05-01 P2
Received 30 October 2020
Structural Engineers & SUDS Report - ads consultancy - 19062/R001_R01/RS (December 2020 Revision P5)
Planning Statement - CA/3043 (October 2020)
Transport Statement (February 2022)

Construction Traffic Management Plan (received 30 October 2020)
Heritage Statement - 5328A (September 2020)
Financial Viability Assessment (11 August 2020)
Therm Energy Assessment - XH-31 (3 October 2019)
Daylight and Sunlight Assessment - 3159 Issue: 4 (September 2019)
Verified Visual Montages - V-REAL Ltd. (August 2020)
Design & Access Statement - REV 01 (29 October 2020)
Cover Letter (29 October 2020)

Summary of Amendments/ Additional Information (received 30 October 2020)

3. Prior to the commencement of development, a Construction Management Plan shall be 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) and to avoid school pick up/drop off times;
 - 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;
 - k) Phasing Plan
4. Prior to the commencement of development, a scheme for the protection of the existing trees shall be submitted to and approved in writing by the local planning authority. The scheme will comply with the provisions of BS5837 and BS 3998, and shall be implemented prior to the commencement of development and be maintained in full until the development has been completed.
 5. Prior to the commencement of development, a scheme to protect the proposed development from noise due to traffic and the railway line shall be submitted to, and in approved in writing by the local planning authority.

The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014 and The WHO Guidelines for Community Noise.

Where opening windows raises the internal noise levels above those within BS8233, a ventilation system (mechanical or passive) must be installed, with ventilation rates required to provide 4 ACH to habitable rooms.

Alternative methods and rates can be considered, however, evidence that overheating will not occur will need to be provided in the form of a report produced which takes into account the need for windows to remain closed due to the external noise environment.

Outdoor amenity spaces must comply with the 55dB WHO Guidelines for Community Noise Level.

The approved scheme of noise attenuation shall be implemented prior to the first occupation of the development.

6. Prior to the commencement of development, a detailed drainage plan, including micro-drainage calculations and a timetable for implementation shall be submitted to, and approved in writing by the local planning authority. Thereafter the development shall only be carried out in accordance with the approved details.
7. Prior to the first occupation of the development hereby permitted, a scheme for the provision of electric vehicle (EV) charging points, including a timetable for implementation shall be submitted to and agreed in writing by the local planning authority. At least one active (ready to use) EV charging point shall be provided within the scheme. The scheme shall be installed in accordance with the approved details and thereafter, permanently retained.
8. Prior to the first occupation of the development, a scheme of landscaping, which shall include details of the green roof, shall have been submitted to, and approved in writing by, the local planning authority. The scheme as approved shall be carried out in the first planting season following the first occupation of the development. Any trees, shrubs or plants that die within a period of five year, or are removed and/or become seriously damaged or diseased in that period, shall be replaced (and if necessary, continue to be replaced) in the first available planting season with others of similar size and species.
9. Prior to the first occupation of the development hereby approved, privacy screens between terraces shall be installed. Thereafter they shall be retained and maintained in perpetuity.
10. Prior to the first occupation of the development hereby approved, the parking arrangement shown on plan reference 1640-P01-00 P2 shall be laid out and completed in accordance with this plan and kept available for its intended purposes thereafter.
11. All new bathroom and en-suite windows to be created at sixth floor level, as indicated on Plan No 1640-P02-02 P2, shall be in fully obscure glass (to Pilkington Level 3 or equivalent) and non-opening below a height of 1.7 metres measured from the internal finished floor level. The windows shall be installed prior to first occupation, and thereafter retained and maintained in accordance with this specification in perpetuity.
12. Prior to first occupation of the development, a Car Parking Management Plan shall be submitted to and approved in writing by the LPA. The Car Parking Management Plan must include the following:
 - details of car parking allocation and distribution;
 - details of the car parking operation, management, and implementation scheme;

- methods to minimise on-street car parking;
- a scheme for the monitoring of the Car Parking Management Plan.

Thereafter the development shall be occupied only in accordance with the approved details.

13. Prior to the first occupation of the development, the provision of solar panels within the development shall be implemented in accordance with plan no. 1640-P02-02 P2 as part of the energy strategy for the building and retained thereafter.

END OF SCHEDULE A

Richborough