



Appeal Decision

Site visit made on 11 July 2024

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th August 2024

Appeal Ref: APP/P1940/W/23/3330598

Cedar House, Sandy Lane, Northwood, Hertfordshire HA6 3EZ

- 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 Ms Sariah Eagle against the decision of Three Rivers District Council.
 - The application Ref is 23/0576/FUL.
 - The development proposed is demolition of existing dwelling and erection of 18no. flats with associated car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dwelling and erection of 18no. flats with associated car parking and landscaping at Cedar House, Sandy Lane, Northwood, Hertfordshire HA6 3EZ in accordance with the terms of the application, Ref 23/0576/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2023, after the Council refused the planning application. The appellant and the Council have been able to comment on any alleged implications of this during the appeal process.
3. The appellant's evidence refers to the Housing Delivery Test. The latest results, which were published following the decision, show that the Council delivered only 46 percent of the homes required over the test period. Consequently, the presumption in favour of sustainable development as set out by paragraph 11(d) of the Framework is a relevant consideration. However, I have not sought the views of the main parties regarding this matter, as the presumption in favour of sustainable development was relevant at the time of the Council's decision in any case due to previous test results and as only 1.9 years supply of deliverable housing sites can be demonstrated.
4. In an attempt to address some of the Council's concerns regarding the scheme, an updated Flood Risk Assessment and Surface Water Drainage Strategy was submitted to support the appeal. The document constitutes new evidence which does not seek to fundamentally alter the scheme. The Council and interested parties have had an opportunity to comment on it as part of the appeal process. I have therefore taken it into account in making the decision, as I am satisfied that prejudice does not arise in doing so.

Main Issues

5. The main issues are:

- the effect of the proposal on the character and appearance of the site and the surrounding area, including its effect on protected trees;
- the effect of the proposal on the living conditions of occupiers of neighbouring properties, with particular regard to overlooking;
- whether the proposal would provide a satisfactory standard of accommodation, with particular regard to outlook and light;
- whether the proposal should provide affordable housing, with particular regard to financial viability;
- whether the proposal would make satisfactory provision for sustainable drainage systems and mitigate flood risk; and
- the effect of the proposal on highway safety, with particular regard to egress for service vehicles.

Reasons

Character and appearance

6. The site includes a large, detached, two storey house to the rear of a substantial plot enclosed principally by landscaping which includes several trees subject to preservation orders. There is a densely vegetated landscape buffer in front of the site and on both sides of its access onto Sandy Lane. Residential properties named Wildacre and Knoll Oak are adjacent to the site, with the latter sharing the access but derelict. Oxhey Cottage to the rear is also residential. Notwithstanding Northwood Headquarters, which is a military base on the opposite side of the highway, the properties and many others in the locality share characteristics despite being of widely varying designs, insofar as they are large properties in a wooded and thus verdant and sylvan setting.
7. The proposed apartment building would be much larger and project closer to the highway than the existing dwelling. A substantial amount of hardsurfacing would be present at the front of the building to provide for vehicular access, manoeuvring and parking. The development would therefore require the removal of or works to much of the landscaping. This would include the loss of three protected trees, including a Douglas fir which is near the vehicular access, in good condition and estimated to live for at least 40 more years¹. Additionally, in order to provide adequate visibility splays for the access, trees and vegetation would need to be removed from the landscape buffer.
8. The upper parts of the Douglas fir were visible from the highway in short distance views during my visit but would be more so in winter months when much of the landscaping in front of it would not be foliate. Accordingly, it offers amenity value and contributes to the sylvan and verdant qualities of the locality. Both its removal, and the loss of trees and vegetation from the landscape buffer, would have an adverse impact on the character and appearance of the site and the surrounding area having regard to their condition, quality and visibility. The removal of landscaping within the rest of

¹ Identified as T3 in the appellant's Arboricultural Impact Assessment and Method Statement

the site would add to the harm caused, albeit the significance of this is limited by its lesser condition or quality, or limited visibility from outside the site.

9. It would take a considerable amount of time for replacement trees to be of comparable merit to the Douglas fir and the older trees proposed for removal. While a condition to require new landscaping could provide some mitigation and so would be necessary, the harm would not be addressed sufficiently in an appropriate timescale. Nonetheless, the wooded character and appearance of the site and the area more widely is so dominant that this would prevail overall despite the localised landscape removal.
10. The development would not be harmful in other respects as it would not be prominent from the highway, but broadly compatible with the varied designs and large scale of other properties in the vicinity. This includes the redevelopment of Knoll Oak for 29 flats which is to be granted outline planning permission subject to the completion of a legal agreement² (hereafter referred to as permitted for simplicity), and an approved redevelopment scheme for 8 flats at Wildacre³. Furthermore, despite the site's wooded setting, the building would be set far enough away from its boundaries and the proposed communal amenity space would be sufficiently large and practicably usable such that the development would not be cramped nor the site overdeveloped. A materials condition would ensure that the proposed buildings would have satisfactory impacts on the character and appearance of the site and the surrounding area, but harm would nevertheless remain for the reasons identified.
11. The proposal thereby conflicts with policies CP1, CP3 and CP12 of the Core Strategy (CS), and Policy DM1 and the associated design criteria in Appendix 2 of the Development Management Policies (DMP). These seek to protect and enhance the natural and built environment and respect the character of the district and landscaping.

Living conditions

12. Appendix 2 of the DMP indicates that there should be at least 28 metres between buildings where privacy needs to be achieved and greater distances between those exceeding two storeys. It also says that first floor windows to habitable rooms should not generally be in flank elevations and should otherwise be obscure glazed and non-opening below 1.7m from internal floor level. Balconies which overlook neighbours to any degree are not supported. It also states that where privacy is achieved gardens may be of varied lengths, but where garden length alone is relied upon to provide privacy the minimum length should be 14 metres. However, it recognises that mitigating circumstances may apply and landscaping can provide screening, but this should not be solely relied upon.
13. The Site Constraints drawing⁴ and various appendices to the appellant's appeal statement indicate that the separation distances between the proposed apartment building and both Knoll Oak and Wildacre in the existing and permitted scenarios would fail to satisfy the DMP Appendix 2 criteria identified above. Moreover, in both cases windows are and would face towards the site, though it is doubtful that Knoll Oak would be reoccupied in its current form

² Council reference: 22/1875/OUT

³ Council reference: 23/1032/FUL

⁴ Drawing reference: 0452-P-002 Rev A

given its condition, and balconies have also been approved. The proposal would include several first and second floor openings facing the neighbouring plots, including balconies and rooflights low enough for most adults to look outwards and downwards from them.

14. Fairly robust vegetation and trees in good condition, including evergreens, would be retained between the proposal and Wildacre. This would filter views but there would still be some overlooking and intervisibility between the buildings given the separation distance. Trees and vegetation would also be retained and provide screening along much of the boundary with Knoll Oak, but the landscaping next to the side elevation of the existing house is patchy and substantial trees near there would be removed. Consequently, there would be unfiltered overlooking of parts of the existing neighbouring property, and intervisibility issues would arise with the permitted scheme. Planting could provide replacement screening to offset the impacts to an extent over time and, as the permitted scheme would feature communal areas between the buildings, the significance of the impacts would be lessened in that scenario. However, the residual overlooking would be unsatisfactory in either case.
15. The space between the proposed apartment building and the site's rear boundary with the garden to Oxhey Cottage would be less than advised by Appendix 2 of the DMP. Nevertheless, the development would not harm the living conditions of the occupiers of that neighbouring property due to the size of its garden, the extent of landscape cover at the shared boundary and the separation distance between the buildings.
16. There is no substantive or technical evidence indicating that the proposal would harm the living conditions of neighbouring occupiers in any other respects. Nonetheless, I conclude there would be harm to the occupiers of Knoll Oak and Wildacre in both the existing and permitted scenarios by reason of overlooking. It thereby conflicts with Policy CP12 of the CS and Policy DM1 and Appendix 2 of the DMP, which seek to protect residential amenity.

Standard of accommodation

17. The Council's concerns in respect of outlook for prospective occupiers of the development relate to bedrooms for proposed units 15, 16 and 17, which would only have views from rooflights. However, I have already identified that the rooflights would be low enough to provide outward views. Further, these units would have other rooms, including living rooms served by balconies, that the occupiers could spend time in or on, and look out from. Overall, outlook from those units would be acceptable.
18. The concerns regarding light relate to proposed units 4, 8 and 14. Unit 4 would be dual aspect, with its living room benefitting from a terrace and all habitable rooms having south facing windows. Units 8 and 14 would also have dual aspect living rooms, albeit only because of a small window and a rooflight respectively, and the other rooms would be north facing. However, the habitable rooms would be served by full height glazing to balconies, would not be especially deep, and those parts of the living rooms furthest from the openings could be used as kitchens and hence not be so negatively impacted by lower light levels. On the whole, the occupiers would benefit from appropriate levels of light receipt. In that context, pressure for works to or the felling of trees in the site to improve the living conditions of the occupiers would be limited.

19. Accordingly, the proposed units would offer a satisfactory standard of accommodation. In this respect, the proposal accords with CS Policy CP12, and DMP Policy DM1 and Appendix 2, the purposes of which are identified above.

Affordable housing

20. The dispute between the main parties in respect of this issue is whether the scheme is sufficiently viable to contribute towards affordable housing, with the principal misalignment in the parties' figures relating to existing land value.
21. The appellant has put forward compelling shortcomings with the Council's approach in this regard, which adopts figures from a building society and a property website allegedly based on an algorithm informed by last sold prices. The appellant has set out that the website indicates that Cedar House could fall within a wide range of estimated values, which vary significantly from the values produced by a similar property website. None of these claims have been contested, and I consider that the appellant's assessment of the local market and actual sold house prices provides a more robust basis for assessment. Additionally, the Council has not presented anything substantive to indicate that an inappropriate landowner premium has been applied to the appellant's calculations. Moreover, even if the Council's proposed premium were adopted, the scheme would still be unable to provide a contribution towards affordable housing based on the more robust of the existing land value figures.
22. On the basis on the evidence and arguments presented, the scheme is unable to viably provide a contribution towards affordable housing. The proposal accords with CS Policy CP4, which sets out that 45 percent of the development should be affordable housing but makes provision for financial viability to be taken into account. I also find no conflict with the Council's Affordable Housing Supplementary Planning Document, which supports the policy.

Drainage

23. The Council objected to the proposal due to alleged deficiencies with the Flood Risk Assessment and Surface Water Drainage Strategy supporting the application. The updated evidence seeks to address the issues raised, such as through the undertaking of infiltration testing. No response to the updated strategy has been provided by the Council. However, the site is in Flood Zone 1, at very low risk of surface water flooding and sustainable drainage elements are proposed. There are no obvious signs that the appellant's approach is substantively flawed, and so I have no compelling reasons to conclude that the development would fail to make adequate provision for sustainable drainage or increase flood risk.
24. While the strategy states that further detail is required in some cases, such as in terms of soakaway and green roof specifications, there is a reasonable prospect that such matters can be dealt with by a pre-commencement condition to require an updated strategy which includes those details. The proposal therefore accords with CS Policy CP1 and DMP Policy DM8 in respect of this matter, which set out that development should include sustainable drainage systems and mitigate surface water runoff and flood risk.

Highway safety

25. Sandy Lane is a main distributor road subject to a 40 miles per hour speed limit. It would be inappropriate for vehicles to regularly reverse onto or wait on

the highway and so sufficient manoeuvring space to enable egress from the site in a forward gear would be required. The appellant's Transport Statement includes a tracking drawing which shows that vehicles up to 8.8 metres in length would be able to turn within the site as proposed, which would include larger vehicles including fire appliances and some waste vehicles. However, the Council's waste vehicles are just short of 11 metres long. DMP Policy DM10 indicates that waste and recycling areas should be easily accessed by local authority or private waste providers. The appellant proposes that private waste collections occur, and I do not doubt that this could be secured using vehicles small enough to turn within the site. A condition to require a waste and recycling collection scheme to be put in place would address this matter.

26. The Transport Statement shows that two vehicles could pass one another clear of the carriageway safely and a limited number of vehicle movements would be generated at peak times. While the statement's findings are disputed by interested parties, the Highway Authority raises no issues with it, and evidence comparable to it has not been provided. I am satisfied that the development together with the permitted schemes would not result in unacceptable transport issues on the immediate road network, or for Northwood Headquarters. Although concerns were expressed in that regard at application stage, the Ministry of Defence confirmed it has no objection in response to the appeal consultation. The development would also provide an appropriate amount of car parking, given the site is within walking distance of bus stops. Satisfactory cycle parking would also be provided.
27. Conditions to require the upgrading of the access and its provision prior to the occupation of the development, together with the parking and turning areas and adequate visibility splays, would be needed for highway safety and to promote cycling as a sustainable travel mode. The Council has also recommended a condition to require the submission of a Parking Management Plan, but the balance of allocated, unallocated and disabled persons parking spaces would be satisfactory. In addition, negative impacts associated with the construction process could be adequately addressed by a pre-commencement condition to require compliance with a Construction Management Plan.
28. Subject to the aforementioned conditions, the proposal would not decrease highway safety or result in unacceptable transport impacts in other respects. It accords with CS Policy CP10 and DMP Policy DM10, which seek to ensure that development has acceptable impacts on the highway, transport and travel and makes adequate provision for the storage and recycling of waste.

Other Matters

29. During the application process, concerns were raised that the proposal would compromise security at Northwood Headquarters. However, as the Ministry of Defence now has no objection, I have no compelling reasons to conclude that there would be security issues. Additionally, there is nothing firm before me which suggests that the proposal would give rise to harmful increases in pollution. Furthermore, the development would be liable to a Community Infrastructure Levy Regulations 2010 charge and there is no evidence that the scheme would lead to unacceptable burdens on local infrastructure. Concerns have also been raised that there is a covenant on the land which limits development to one dwelling per hectare, but this is a private rather than planning matter.

30. The appellant's Preliminary Ecological Appraisal Report (PEA) and Bat Survey indicate that the development would not have harmful ecological impacts, subject to various controls and mitigation in respect of protected species. However, the surveys reported therein were undertaken some time ago and it is unclear when they may need to be reviewed as each document refers to different dates. Further, the documents were informed by drawings of a different scheme at the site to the one now proposed, and the landscaping that needs to be cleared to provide for the visibility splays was not assessed.
31. Notwithstanding this, the schemes used to inform those documents share similarities with this proposal, and visibility splays of the same size to those now required form part of the Knoll Oak scheme. For these reasons and having regard to the suitability of the site for habitats and species, I do not consider that the survey results are invalid. However, to confirm the continued absence of protected species and because the survey data might be out of date before development commences, it is appropriate to require updated surveys where necessary, based on the recommendations and limitations detailed in the PEA and the Bat Survey, and mitigation to be delivered accordingly. Otherwise, the development would need to be carried out in accordance with the precautionary and ecological protection measures recommended in the submitted ecological evidence. Such considerations may be controlled by conditions.

Conditions

32. I have considered whether the conditions recommended by the Council and other parties satisfy the tests for conditions identified at paragraph 56 of the Framework. In order to satisfy those tests, minor editing of some of the conditions is necessary. Pre-commencement conditions are required in some cases as a later trigger point for those to take effect would be unsuitable.
33. In addition to the conditions already identified, the standard time limit and plans ones are required for certainty. A pre-commencement condition is necessary to require the approval and implementation of a Site Waste Management Plan to minimise waste given the scale of the development and the earthworks that would be undertaken. Another relating to a Landscape and Ecology Management Plan is needed to provide appropriate wildlife enhancements, ensure that the site is appropriately managed and results in biodiversity net gain as required by the Framework. A condition to require any external lighting to be approved is necessary in the interests of the character and appearance of the area, neighbour amenity and ecology. A condition to require that the development be carried out with the appellant's Energy and Sustainability Statement is also required to secure reductions in carbon emissions as sought by DMP Policy DM4.
34. The Council recommends that a condition to require details of existing site and finished floor levels to be approved for landscaping and neighbour amenity reasons. However, this is unnecessary as it would not meaningfully mitigate the effects of the development and levels details are already included within the evidence in any case. A recommended condition to require a scheme for protecting existing landscaping is also unnecessary, as such details are included within and can be secured by a condition relating to the submitted Arboricultural Impact Assessment and Method Statement. The Council has also recommended a condition to require the proposed rooflights to have minimum

cill heights of 1.7 metres above internal floor level, but this is inappropriate given that it would require a fundamental change to the design of the scheme.

35. The Highway Authority recommends electric vehicle charging provision on site, but this is unnecessary as such matters are addressed by Approved Document S of the Building Regulations. Additionally, Hertfordshire County Council's Fire and Rescue Service have recommended a condition to require the provision of fire hydrants, but I have no evidence that there are currently supply issues in that regard and thus find it unnecessary.

Planning Balance and Conclusion

36. The application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the proposal. Accordingly, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
37. The scheme would make a significant contribution to housing supply and delivery in the context of the Council's housing issues, having regard to the extent of the shortfalls and the amount of housing proposed. The housing would also be beneficial insofar as it would be sustainably constructed and incorporate renewable technologies. There would also be limited benefits arising from the construction process and wildlife enhancements. The Framework supports the development in these respects, which weigh significantly in favour of the scheme when taken together. Conversely, the visibility of the site and the landscaping to be lost, and the separation distances between the development and neighbouring properties, lead me to conclude that the harm to the character and appearance of the site and the surrounding area and the neighbour's living conditions, and the consequent conflicts with the development plan and the Framework, would be moderate overall.
38. Consequently, the adverse impacts of granting permission do not significantly or demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. The proposal therefore benefits from the presumption in favour of sustainable development.
39. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that any determination must be taken in accordance with the development plan unless material considerations indicate otherwise. In this case the presumption in favour of sustainable development is a material consideration which outweighs the conflicts with the development plan. A decision should thus be taken otherwise than in accordance with the development plan.
40. For the reasons set out above, the appeal should be allowed.

Mark Philpott

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 numbers: 0452-P-001; 0452-P-002 Rev A; 0452-P-003 Rev A; 0452-P-004 Rev A; 0452-P-005 Rev C; 0452-P-006 Rev A; 0452-P-007 Rev A; 0452-P-008 Rev A; 0452-P-009 Rev A; 0452-P-011 Rev A; 0452-P-012; 0452-S-001; 0452-S-002 Rev A; 0452-S-003; PD/393/SE/01; PD/393/SE/02.
- 3) No development shall take place until a Construction Management Plan (CMP) has been submitted to and approved in writing by the local planning authority. The CMP shall include details of: construction vehicle numbers, type, and routing; any traffic and pedestrian management requirements; construction and storage compounds including areas designated for loading/unloading and turning areas; siting and details of wheel washing facilities; cleaning of the site entrance, internal road and the public highway; timings of construction activities; and provision of on site parking. The approved CMP shall be adhered to throughout the construction period for the development.
- 4) No development shall take place until a Site Waste Management Plan (SWMP) has been 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 estimated and actual types and amounts of waste removed from the site and to where that waste will be taken. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a detailed surface water drainage scheme for the site, based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development shall take place until a Landscape and Ecology Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The LEMP shall include the following: a description and evaluation of the features to be managed; ecological trends and constraints on site that might influence management; aims and objectives of management; appropriate management options for achieving aims and objectives (for example but not limited to compensatory native-species tree and hedgerow planting; and enhancements such as wildflower areas, areas of longer vegetation, pond creation, use of plant species of benefit for invertebrates and bats, woodland enhancement, building-integrated and tree-mounted bat and bird boxes, habitat piles and bio-diverse roofs); prescriptions for management options; preparation of a works schedule (including an annual work plan capable of being rolled forward over a minimum five year period); management responsibilities; and ongoing monitoring and remedial measures. The works shall be carried out in accordance with the approved details.

- 7) The development hereby permitted shall be carried out in accordance with the precautionary measures and ecological protection measures identified within table 6.2 of the Preliminary Ecological Appraisal Report (PEA) dated 20 January 2023 and table 6.1 of the Bat Survey dated 21 June 2023, except where updated surveying of particular protected or important habitats or species are necessary before the development commences, based on the recommendations and limitations detailed in the PEA and the Bat Survey. Where updated surveying is necessary, no development shall take place until such surveying has been undertaken and details of the findings of the surveys and any necessary mitigation have been submitted to and approved in writing by the local planning authority; and thereafter the development shall be carried out in accordance with the approved details.
- 8) No development above ground level shall take place until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include size, species, planting heights, densities and positions of any proposed soft landscaping, and a specification of all hard landscaping including boundary treatments and surfacing materials. The hard landscaping works shall be carried out in accordance with the approved details prior to the first occupation of the development hereby permitted. The soft landscaping works shall be carried out in accordance with the approved details in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 9) No development above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 10) Prior to the first occupation of the development hereby permitted a scheme for the presentation and collection of waste shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 11) Prior to the first occupation of the development hereby permitted the existing shared vehicular access from Sandy Lane shall be upgraded to a kerbed access with kerb radii of 6 metres and tactile paving shall be installed on each side of the access. The access shall be retained in that form thereafter.
- 12) Prior to the first occupation of the development hereby permitted the proposed internal access road, car parking and turning areas shall be laid out, demarcated and surfaced, and the cycle parking shall be constructed, in accordance with drawing numbers 0452-P-004 Rev A and 0452-P-005 Rev C and retained in that form thereafter.
- 13) Prior to the first occupation of the development hereby permitted visibility splays shall be provided in accordance with drawing number 179.0014-0001 Rev P02. The splays shall thereafter be maintained in

that form at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.

- 14) Prior to the first occupation of the development hereby permitted energy saving and renewable energy measures shall be carried out in accordance with the Energy & Sustainability Statement dated 15 March 2023.
- 15) Prior to the installation of any external lighting within the site, a scheme for such lighting shall be submitted to and approved in writing by the local planning authority. The lighting shall thereafter be installed in accordance with the approved details.
- 16) Works to trees and vegetation and measures and working methods to protect trees and vegetation to be retained shall be carried out in accordance with the Arboricultural Impact Assessment and Method Statement dated March 2023 and drawing number 22-1494-TTP.

End of schedule

Richborough