



Appeal Decision

Site visit made on 5 December 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th January 2025

Appeal Ref: APP/N1920/W/24/3343543

Potters Bar Station Car Park, Darkes Lane, Potters Bar EN6 1AU

- 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 W.E. Black Ltd and City and County Ltd against the decision of Hertsmere Borough Council.
 - The application Ref is 23/1003/FUL.
 - The development proposed is the redevelopment of the existing site to provide residential development (Use Class C3) with commercial space at ground floor (Class E) with associated amenity space, car parking, cycle storage and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment of the existing site to provide residential development (Use Class C3) with commercial space at ground floor (Class E) with associated amenity space, car parking, cycle storage and landscaping at Potters Bar Station Car Park, Darkes Lane, Potters Bar EN6 1AU in accordance with the terms of the application Ref 23/1003/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. The proposed development relates to the setting of a listed building. Accordingly, I have had regard to the statutory duties set out in section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. A signed unilateral undertaking under Section 106 of the Town and Country Planning Act 1990, dated 21 August 2024, has been submitted. I deal with this matter further below.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the appeal site and surrounding area; and
 - whether the proposed development would preserve the setting of Grade II listed building, Wylllyotts Manor.

Reasons

Character and appearance

5. The appeal site comprises a surface car park, positioned to the northwest of Darkes Lane. The site is located within a designated Town Centre Area and a

Transport Development Area. The site is visible from multiple vantage points, particularly elevated positions. This includes from Potters Bar Station and from the car park off Station Close. The site is also visible from the site entrance on Darkes Lane. This is by reason of the lack of built form at the site or any intervening features between the site and this part of Darkes Lane.

6. The proposed development seeks the erection of a residential building rising to ten storeys. This would accommodate 55 dwellings with commercial floorspace at the ground floor.
7. The area surrounding the site is varied, formed of a mixture of residential, commercial and community uses. The scale and design of buildings, in particular, varies. Building heights range from a more modest one, two and three storeys to the immediate south and west, rising to a range of four to eight storeys to the southeast, east and north. The tallest buildings are typically positioned along Darkes Lane and near to the station. These established buildings are highly visible from the surrounding area and form part of its character.
8. The proposed building, rising to ten storeys, would undoubtedly be large and would introduce built form where this does not currently exist. It would appear prominent within the streetscene, particularly along Darkes Lane. The upper part of the building would also be visible from further afield, including from Wylyotts Place, as illustrated within the submitted Townscape and Visual Amenity Appraisal.
9. Nevertheless, the proposed development would be set amongst an established and varied townscape, as described above, which includes taller buildings. It would be detailed in such a way as to break up its overall massing, while also providing interest and texture. The introduction of built form at the appeal site would positively infill an unwelcome gap in townscape, helping to enliven this part of Darkes Lane and the Town Centre. Moreover, the proposed development could reasonably be described as forming a visual landmark, marking the entrance to Potters Bar Station. Ultimately, although large, the proposed development would be of a scale and design which would respect its immediate surroundings and the local pattern of development.
10. Overall, I conclude that the proposed development would have an acceptable impact on the character and appearance of the appeal site and surrounding area, in accordance with the relevant provisions of Policies CS22 of the Hertsmere Core Strategy (CS, 2013) and Policy SADM30 of the Site Allocations and Development Management Policies Plan (DMPP, 2016). These policies, in summary, seek to ensure high quality design in development.

Heritage assets – special interest and significance

11. Wylyotts Manor lies to the south of the appeal site. It is a Grade II listed building¹ formed of a former house and barn, now public house and restaurant. The barn dates from the late 16th century and house from the 18th century, both with later alterations. The building is of timber frame construction (exposed) with brick nogging within and a tiled hipped roof over.

¹ List Entry Number: 1103537

12. The special interest and significance of the listed building is largely derived from its historic and architectural interests. Important contributors in these regards are its age, illustration as a former house and barn that has evolved over time, the use of traditional materials and building methods and surviving historic fabric.
13. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The tightly defined grounds of the building, which includes the small, enclosed area to the rear and modern car park and seating area to the front, have an historic, visual and functional connection with the heritage asset. It is from these grounds that the asset is best appreciated. They form the asset's immediate setting. This immediate setting, despite its modern interventions, contributes considerably to the asset's special interest and significance.
14. Beyond this, the surrounding area is made up of urban development comprising residential and commercial buildings, car parks and railway infrastructure. This surrounding area forms the asset's wider setting. The contemporary development which surrounds the asset, and which forms the wider setting, has altered how the asset is experienced and thus has moderated the contribution the wider setting, which includes the appeal site, makes to its special interest and significance.

Heritage assets - appeal significance and effects

15. The proposed development would appear as a stark and dominant feature when viewed from the immediate setting of Wylyotts Manor, introducing a significant mass of built form behind the building, forming a backdrop to the asset. The cumulative totality of the proposed development would harmfully erode the wider setting, including largely undeveloped skyline behind the asset. Although established built form is partly visible beyond the asset, the proposed development would further diminish the contribution the wider setting makes to the significance of the heritage asset.
16. Overall, I conclude that the proposed development would fail to preserve the setting of Grade II listed building, Wylyotts Manor. Consequently, the development would harm the significance of this designated heritage asset. In doing so, it would be contrary to the requirements of section 66(1) of the Act.

Heritage assets – public benefits and balance

17. Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development or works on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.
18. With reference to Paragraphs 214 and 215 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the development and works relative to the building as a whole, I find the harm to the listed building would be 'less than substantial' in this instance. Under such circumstances, Paragraph 215 advises that this harm should be weighed against the public benefits of the proposal.

19. The submitted evidence indicates that the Council cannot demonstrate a five-year housing land supply. The appellant sets out a supply of 1.36 years. This is a very low figure and one which is not disputed by the Council. I have no reason to come to an alternative conclusion, noting references to the housing land supply within a recent appeal decision at Land at Barnet Lane and Furzehill Road². The proposed development would represent a contribution of 55 dwellings to housing supply in an area with an acknowledged, and severe, lack of future provision. I give this consideration substantial weight.
20. There would also be some other social and economic benefits of the proposed development, including in supporting employment during construction and the bringing of increased trade to nearby services and facilities once occupied, particularly in the Town Centre. Moreover, the proposed development would result in the optimisation of a previously developed site in a highly sustainable location, a clear objective of the Government. I give these considerations substantial weight.
21. Collectively, these public benefits are of substantial weight. In this instance, I conclude that the public benefits outweigh the less than substantial harm to the setting of the designated heritage asset that I have identified above. Accordingly, the harm would have clear and convincing justification and therefore a conflict with CS Policy CS14 and DMPP Policy SADM29 would not occur. These policies, in summary, seek to ensure that the significance of heritage assets is protected, conserved or enhanced.

Other Matters

22. As noted above, I am aware of the Council's lack of a five year housing land supply. However, as I have found the proposal acceptable in respect of the main issues, there is no need for me to consider this matter, or Framework paragraph 11 further.
23. I note the personal circumstances raised by a neighbouring resident. These points are acknowledged and I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. It does not follow from the PSED that the appeal should succeed and wider planning considerations are paramount but nevertheless the particular need of the appellant in this location is a matter to which I give moderate weight in assessing the proposal. However, I have reasoned above the limited harm that the proposed development would cause, and have found no harm in respect of the PSED factors.

Third party comments

24. A number of comments have been received from neighbours and others including in respect of character and appearance, loss of light, privacy and views, noise and disturbance, additional traffic, impact on community infrastructure, flood risk, affordable housing and housing mix.
25. Matters of character and appearance have been discussed under the appeal's main issues, above. The Council acknowledges, in its officer report, that there

² Reference APP/N1920/W/24/3346928

would be some change to nearby properties as a result of the proposed development. In particular, this relates to an increase in mutual overlooking and a loss of light to some nearby habitable windows. I concur. However, the effect of the proposed development on the living conditions of neighbouring properties was not a reason for refusal. Moreover, based on the evidence before me, together with the public benefits of the scheme, this matter would not lead me to an alternative conclusion.

26. Matters relating to loss of views from residential properties are noted but do not form planning considerations that would lead me to an alternative conclusion on the main issues. Noise during construction work would be adequately controlled by condition.
27. The highway authority raises no objection in respect of highway safety or parking provision. Based on the plans before me, I have no reason to conclude differently. Moreover, the appeal site is positioned in a highly accessible location, and existing residential parking spaces would be re-provided. Parking provision would also be retained in the neighbouring surface car park. Matters relating to infrastructure, including healthcare, are dealt with below in respect of planning obligations. There is no dispute between the Council and appellant in relation to flooding, subject to the imposition of conditions.
28. The Council have found the affordable housing offer and mix of accommodation to be satisfactory and in line with planning policy objectives and definitions. I have no reason to disagree. The affordable housing offer would be secured as a planning obligation.

Unilateral Undertaking

29. A signed Unilateral Undertaking (UU) has been submitted by the appellant. This would secure the provision of a financial contribution towards off-site affordable housing. The UU would also secure the provision of a biodiversity net gain scheme, a primary healthcare contribution and a carbon offsetting fund contribution.
30. Paragraph 58 of the Framework and Regulation 122 of the CIL Regulations sets out three tests that planning obligations must meet. Firstly, they must be necessary to make the development acceptable in planning terms. Secondly, they must be directly related to the development. Thirdly, they must be fairly and reasonably related in scale and kind to the development.
31. I am satisfied that the planning obligations would meet the requirements of the Framework and the CIL Regulations.
32. I note that two counterpart obligations are provided which are identical in all respects except that each is signed by a different relevant party. I am satisfied that certified copies of all the individually signed documents have been provided and that they constitute one and the same agreement.

Conditions

33. The Council has provided a list of conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance, and have amended

the wording of some, and combined provisions of others, without altering their fundamental aims.

34. In addition to requiring commencement within the relevant statutory period, I have imposed a condition requiring adherence to the relevant plans for certainty.
35. Conditions relating to materials, details and landscaping are imposed in the interests of character and appearance. A suggested condition relating to boundary treatments has not been included as this is adequately dealt with under the landscaping scheme condition.
36. Conditions relating to a scheme for the protection of residents from noise, noise level limits, contamination and a construction management plan are necessary in the interests of the protection of the living conditions of existing and future residents, and to protect nearby businesses.
37. Conditions relating to the protection of existing trees are imposed in the interests of tree health and the character and appearance of the area. Conditions relating to drainage and flooding have been imposed. These are necessary in the interest of sustainability and to avoid flood risk.
38. A condition requiring the submission of an Ecological Enhancement Plan is required in the interests of sustainability and the protection and enhancement of biodiversity. Conditions relating to a travel plan and access arrangements for onsite car and cycle parking are required in the interests of sustainability and to ensure appropriate provision of parking space. Conditions relating to a site waste management plan and fire hydrants are necessary to ensure that appropriate facilities and infrastructure are provided for future residents.
39. A suggested condition requiring that units would be accessible and adaptable is unnecessary in my view as this matter would be dealt with under Building Regulations.
40. Conditions relating to materials, landscaping, the protection of trees, noise mitigation, sustainable drainage measures and ecological enhancement are pre-commencement as they are necessary for certainty and to ensure that any potential mitigation is properly designed in prior to the commencement of development.

Conclusion

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

A Price

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.

The development hereby permitted shall be carried out in accordance with drawing numbers: Site Location Plan; Proposed Site Plan - 23/3534/1 Rev F; Proposed Ground - Sixth Floor Plans - 23/3534/2 Rev C; Proposed Seventh, Eighth, and Ninth Floor Plans - 23/3534/3 Rev C; Proposed Elevations - Sheet 1 - 23/3534/4 Rev A; Proposed Elevations - Sheet 2 - 23/3534/5 Rev B; Proposed Elevations - Sheet 3 - 23/3534/6 Rev A; Detailed Planting Plan - CLPD 122 P01 Rev C.

- 2) Prior to the commencement of the development hereby permitted (above damp proof course) samples of the materials to be used in the construction of the external surfaces of the development 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.
- 3) Prior to the commencement of the development hereby permitted (above damp proof course) bay studies elevations and sections (drawn at a metric scale of 1:50 /1:20) of typical areas of the facade, as well as the residential entrance and commercial frontage, shall be submitted to and approved in writing by the Local Planning Authority. These studies should provide details of the materiality, doors, windows, cills, reveals, parapet junctions, copings, and facade accessories. The development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of the development hereby permitted (above ground floor level) a scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, shall be submitted to, and approved in writing by, the Local Planning Authority. These details shall include
 - a) proposed finished levels and contours showing any earthworks and/or mounding;
 - b) surfacing materials;
 - c) boundary treatments and means of enclosure;
 - d) car parking layouts;
 - e) other vehicle and pedestrian access, circulation/turning areas;
 - f) hard surfacing materials;
 - g) minor artefacts and structures (outdoor seating areas, cycle storage, refuse/recycling, storage units);
 - h) proposed and existing functional services above and below ground (for example drainage, power, communications cables and pipelines, indicating lines, manholes, supports and other technical features).

All hard surfacing, car parking, minor artefacts and structures as detailed above shall be provided prior to the first occupation of the development.

The approved scheme for soft landscaping shall be carried out in the first planting season following the completion of the development. Any trees, shrubs or plants that die within a period of five years from the completion of the development or are removed and/or become seriously damaged or diseased in that period, shall be replaced in the first available planting season with others of a similar size and species.

- 5) Prior to the commencement of the development hereby permitted (above ground floor level) a Landscape Management Plan (LMP) for a minimum of 5 years shall be submitted to and approved in writing by the Local Planning Authority. This should include:
 - a) drawings showing the extent of the LMP.
 - b) a written specification detailing all operations and procedures for soft landscape areas: inspection, watering, pruning, mowing, clearance and removal of arisings and litter, removal of temporary items (fencing, guards and stakes) and replacement of failed planting.
 - c) all operations and procedures for hard landscape areas: inspection, sweeping, clearing of accumulated vegetative material and litter, maintaining edges and painted or finished surfaces; furniture (bins, benches, lighting, signage and play equipment).
 - d) all operations and procedures for surface water drainage system: inspection of linear drains and swales, removal of unwanted vegetative material and litter.
 - e) a maintenance task table which explains the maintenance duties across the site in both chronological and systematic order.
- 6) Prior to the commencement of the development hereby permitted details relating to a scheme to protect the proposed development from noise due to transport sources and commercial/industrial premises shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before any part of the accommodation hereby approved is occupied.

The scheme shall ensure that indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Internal L_{max} levels should not exceed 45dB more than ten times a night in bedrooms. Good acoustic design should be implemented throughout the development to reduce façade noise levels as much as possible.

Where opening windows raises the internal noise levels above those within BS8233, other methods of ventilation/attenuation will have to be implemented. To assess overheating with windows closed, a CIBSE TM59 (Fixed Temperature method CIBSE Guide A (2015a)) overheating assessment must be undertaken and submitted for review and approval.

If mechanical ventilation is to be installed, details of the system being installed must be provided such as the ventilation rates that the system can deliver. Ventilation rates for the development must comply with the latest Building Regulation requirements.

Outdoor amenity areas should meet the 55dB WHO Community Noise Guideline Level. A slight relaxation of this level (up to 3dB) will be

considered, if it can be demonstrated that all reasonable steps have been taken to reduce the level as much as possible (such as noise barriers, shielding, good acoustic design etc). If outdoor amenity areas cannot comply, then it should be shown through measurements that a suitable place is available within a 5 minute walk from the development that complies with the amenity noise level.

- 7) Prior to the commencement of the development hereby permitted 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) 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;
 - j) phasing plan.
- 8) Prior to the commencement of the development hereby permitted a Site Waste Management Plan (SWMP) shall be submitted to the Local Planning Authority and approved in consultation with the Waste Planning Authority. The SWMP should aim to reduce the amount of waste being produced on site and should contain information including estimated and actual types and amounts of waste removed from the site and where that waste is being taken to. The development shall be carried out in accordance with the approved SWMP.
- 9) Prior to the commencement of the development hereby permitted (including works involving excavations e.g. piling or the implementation of a geothermal open/closed loop system) the following shall be submitted to and approved in writing by the Local Planning Authority in consultation with Affinity Water:
 - a) an Intrusive Ground Investigation to identify the current state of the site and appropriate techniques to avoid displacing any shallow contamination to a greater depth;
 - b) a Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination including turbidity;

- c) a Method Statement detailing the depth and type of excavations (e.g. piling) to be undertaken including mitigation measures (e.g. turbidity monitoring, appropriate piling design, off site monitoring boreholes etc.) to prevent and/or minimise any potential migration of pollutants including turbidity or existing contaminants such as hydrocarbons to public water supply. Any excavations must be undertaken in accordance with the terms of the approved method statement;
 - d) a Piling Risk Assessment identifying both the aquifer and the abstraction point(s) as potential receptor(s) of contamination;
 - e) a Monitoring Plan for parameters within a borehole at a location between the site and the abstraction point. The applicant or developer shall notify Affinity Water of excavation works 15 days before commencement in order to implement enhanced monitoring at the public water supply abstraction and to plan for potential interruption of service with regards to water supply.
- 10) Prior to the commencement of the development hereby permitted (above ground floor level) an Ecological Enhancement Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include provision of 10 swift boxes in minimum sets of 5 to reflect the communal nature of this species.
 - 11) Prior to the commencement of the development hereby permitted details and a method statement for interim and temporary drainage measures during the demolition and construction phases shall be submitted to and approved in writing by the Local Planning Authority. This information shall provide full details of who will be responsible for maintaining such temporary systems and demonstrate how the site will be drained to ensure there is no increase in the off-site flows, nor any pollution, debris and sediment to any receiving watercourse or sewer system. The site works and construction phase shall thereafter be carried out in accordance with the approved method statement.
 - 12) Prior to the occupation of the development hereby permitted the approved Travel Plan Statement shall be implemented. Those parts of the approved Travel Plan that are identified as being capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the development is occupied.
 - 13) Prior to the occupation of the development hereby permitted the proposed access arrangements/onsite car and cycle parking area shall be implemented in accordance with the approved plans and include appropriate designation of the car parking spaces proposed (disabled/car club). Such parking shall be provided and retained thereafter available for that specific use.
 - 14) Prior to the occupation of the development hereby permitted, at least one fire hydrant shall be installed to serve the approved development at no cost to Hertfordshire County Council or Herts Fire and Rescue. The number of fire hydrants required shall be confirmed with Herts Fire and Rescue by the applicant prior to their installation.
 - 15) Prior to the occupation of the development hereby permitted a Flood Emergency Plan shall be submitted to and approved in writing to the Local Planning Authority.

- 16) Prior to the occupation of the development hereby permitted details of the maintenance and management of the sustainable drainage scheme shall be submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be implemented prior to the first occupation of the development hereby approved and thereafter managed and maintained in accordance with the approved details in perpetuity. The Local Planning Authority shall be granted access to inspect the sustainable drainage scheme for the lifetime of the development. The details of the scheme to be submitted for approval shall include:
- a) a timetable for its implementation;
 - b) details of SuDS features and connecting drainage structures and maintenance requirements for each aspect including a drawing showing where they are located;
 - c) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage scheme throughout its lifetime. This will include the name and contact details of any appointed management company.
- 17) Prior to the occupation of the development hereby permitted the solar PV panels shall be installed and fully operational prior to first occupation of the development hereby approved.
- 18) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing within 7 days to the Local Planning Authority and once the Local Planning Authority has identified the part of the site affected by the unexpected contamination, development must be halted on that part of the site.
- Before development recommences on the part of the site where contamination is present, a scheme outlining appropriate measures to prevent the pollution of the water environment, to safeguard the health of intended site users, and to ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation and approved conclusions shall be submitted to and approved in writing by the Local Planning Authority in consultation with Affinity Water. Thereafter the development shall not be implemented otherwise than in accordance with the approved remediation scheme.
- 19) All development shall be constructed in accordance with the submitted and approved Flood Risk Assessment (FRA/SuDS Potters Bar Car Park, dated 16 November 2023) and Drawings (Proposed Surface Water Drainage Strategy (Drawing No.: SK03 – REV B). This includes all new residential dwellings to have a finished floor level raised a minimum of 300mm above any flood level and 150mm above the surrounding proposed ground level unless otherwise first approved in writing by the Local Planning Authority.
- 20) During construction of the development hereby permitted, the trees located at Potters Bar Railway Station Car Park shall not be lopped or felled (except where approved within the submitted arboricultural documents).

- 21) The approved scheme for the protection of the existing trees shall be implemented prior to the commencement of the development hereby permitted, including any below ground works, and shall be maintained in full for the entire duration of the works.
- 22) Noise from plant and equipment associated with the development shall be 10dB (LAeq) below the background noise level (LA90) at the nearest residential properties (5dB below the background noise level if evidence is provided which shows that no tonality is present).
- 23) In the event that soil is imported from an outside site, a scheme shall be submitted to and approved in writing by the Local Planning Authority verifying that any imported topsoil is certified as suitable for use prior to the first on-site usage.

END OF SCHEDULE

Richborough