
Appeal Decision

Hearing held on 18 August 2016

Site visit made on 18 August 2016

by R W Allen B.Sc PGDip MRTPI

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

Decision date: 28 September 2016

Appeal Ref: APP/N1540/W/16/3146636

Ywca Hostel, Fourth Avenue, Harlow, Essex, CM20 1DN

- 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 Mr Ian Christmas (South Anglia Housing Ltd) against the decision of Harlow District Council.
 - The application Ref HW/FUL/15/00193, dated 29 April 2015, was refused by notice dated 19 January 2016.
 - The development proposed is demolition of all existing buildings and construction of 69 new residential dwellings, including flats and houses, ranging from 3 to 13 storeys, with associated car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of all existing buildings and construction of 69 new residential dwellings, including flats and houses, ranging from 3 to 13 storeys, with associated car parking and landscaping at Ywca Hostel, Fourth Avenue, Harlow, Essex, CM20 1DN in accordance with the terms of the application, Ref HW/FUL/15/00193, dated 29 April 2015, subject to the 12 conditions set out in the schedule of conditions at the end of this Decision.

Main Issue

2. The main issue is whether the scheme's provision for affordable housing and on-site parking, and the loss of the existing music venue are justified.

Reasons

3. The appeal site lies at the north west corner of the intersection between Fourth Avenue and Haydens Road. Roughly triangular in shape, it contains a prominent but derelict seven-storey former hostel building. Adjacent to the former hostel is a music venue building known as 'The Square' which is currently operational. The former hostel and its immediate grounds lie in an unkempt state and which the Council says is subject to repeated acts of vandalism. Its condition detracts substantially from and relates poorly to the character and appearance of the area.

Provision of affordable housing

4. Policy H5 of the Adopted Replacement Harlow Local Plan 2006 (Local Plan) states the Council will negotiate a suitable provision of affordable housing based on the prevailing housing needs assessment, taking into account the

economics of provision and site suitability. The policy states that the starting point for the negotiation will be 30%, although this is increased to 33% within the Council's Adopted Affordable Housing Supplementary Planning Document 2007. The appeal scheme would provide 10% affordable housing, which is secured by a signed Unilateral Undertaking dated 16 August 2016. The main parties agree that the appellant's Viability Assessment demonstrates that the proposal is not viable. The Council accepts that the lower affordable housing provision, as well as a relatively small financial contribution towards a travel plan, is the limit to which the scheme can contribute to local services and facilities made necessary by the development. On the evidence before me I have no reason to take an alternative view. The crux of the matter here is whether or not the proposed development would be deliverable notwithstanding its financial position.

5. I was informed by the appellant at the Hearing that not only is it within its interest to implement the scheme, but that the scheme would be deliverable by directing additional funding from other housing projects to the appeal scheme. Although this course of action requires the approval of the Homes and Communities Agency, nothing before me would suggest that such approval would unlikely to be achievable. The Council has offered no alternative evidence in this regard, and as such I am have no reason to doubt that the appellant has the means to, and the capability of delivering the proposal development.
6. Paragraph 173 of the National Planning Policy Framework (the Framework) states that plans should be deliverable, and that sites and the scale of development should not be subject to a scale of obligations and policy burdens that their ability to be developed viably is threatened. Moreover, it states that the costs of any requirements such as affordable housing should when taking account of the normal cost of development and mitigation provide competitive returns to a willing land owner and willing developer to enable the development is deliverable.
7. I understand why the Council seeks affordable housing provision to be closer to its policy requirement, particularly as I was informed of a considerable need for such accommodation in the borough. However, if I accepted the Council's approach, and in the absence of any demonstration of an alternative scheme for the site, I find it highly likely that the site would remain undeveloped and in its current ominous condition for some time to come. That being the case, it would make no affordable or market housing contribution to the Council's housing supply. A reduced affordable housing contribution would evidently better than nothing, and improving the ability for the site to be redeveloped would accord with the Framework's approach to significantly boost the supply of housing.
8. I therefore find that the proposed development would be deliverable, and the affordable housing provision would accord with Local Plan policy H5 details of which I have set out above, and with the relevant part of the Framework.
9. In reaching this conclusion, I have had regard to the Council's concerns that it would be powerless to object to a revised scheme in which no affordable housing could be offered. This is not a matter before me. Nevertheless whether such a scheme would be acceptable in such circumstances would be a

decision for the Council following assessment of a revised scheme, and a revised viability assessment.

Parking provision

10. Local Plan policy T9 states that vehicle parking for new developments shall be provided in accordance with the Council's adopted vehicle parking standards (VPS), which are expressed as a maximum. Both Local Plan policy T9 and the VPS pre-date the Framework. Paragraph 39 of the Framework states that if local parking standards are to be set, local planning authorities should take into account, amongst other things, the accessibility of the development and the availability of public transport. One of the Framework's core planning principles as set out in paragraph 17 is to actively manage patterns of growth to make the fullest use of public transport, walking and cycling, and focus on significant development in locations which are or can be made sustainable.
11. The appeal site is located on the opposite corner to the northern edge of the town centre. Bus stops align Fourth Avenue on either side of the road and I observed a considerable number of routes operate frequently from them. Two controlled crossing points on Fourth Avenue are only a short walk from the site. Uncontrolled crossing points lie directly outside the site and at all crossing points close to the intersection, which I found could be navigated with little difficulty or danger. A designated pedestrian and cycle path borders the site's northern boundary, which provides a direct access to the town centre via an underpass below Fourth Avenue. While this path cannot be said to be in mint condition, I observed at my site visit that it was in not in any way unusable, undesirable or unattractive. Harlow Railway station lies a little further to the north east of the appeal site; the main parties agree that walking or cycling to it from the appeal site would not be an insurmountable task.
12. The Council accepts that the proposed development need not necessarily meet the VPS requirements in full. However it has offered little evidence as to why the proposed quantum of parking would be unacceptably small or identified the harm that would be caused by the level of under provision. In contrast, I am satisfied that because of the site's sustainable location and easy accessible connections to the town centre, future occupiers of the proposed units would find navigating the area by means other than the private motor car to be highly attractive and very likely. The parking level proposed while would in my judgement be entirely appropriate having regard to the site's location. The proposal would accord with Local Plan policy T9, details of which I have set out above, and with the Framework.

Music venue

13. As I stated above, the music venue is currently operational, although at the time the application was made the Council it had ceased. I heard from Mr Harcourt, who co-manages the music venue, that the live music venue is a unique establishment in the town, and was very popularly used. The Council supports this view and I have no reason to find otherwise.
14. However, irrespective of its reasons for being so, the music venue is a commercial enterprise, and as such I find it does not enjoy preservation protection under Local Plan policies L3 and CP6, which seek to protect against the losses of public amenities such as sports, leisure, recreational or community facilities. However, even if I were to accept these policies apply,

and also accepting that the music venue has a cultural role as specified in paragraph 70 of the Framework, no evidence is before me to suggest that alternative and available premises do not exist in the vicinity of the appeal site for the music venue to relocate to, or that its longevity would be threatened by such a move to new premises. Indeed I noted that the appellant stated, and not disputed by any party, that it is working towards finding alternative premises for the music venue. Accordingly, I therefore find it unlikely that the music venue would be permanently lost, and no harm would occur.

Conditions

15. I have considered the conditions suggested by the Council against paragraph 206 of the Framework, and made changes necessary to comply with those requirements. I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. Conditions relating to materials, landscaping and entrance gates are necessary to ensure the appearance of the development would be satisfactory. A condition requiring an updated Arboricultural Method Statement is necessary to ensure trees would be adequately protected during construction. A condition requiring windows within Block B to be obscured glazed on the south east courtyard elevation is necessary to protect the living conditions of the future occupiers of the surrounding units. Conditions requiring a construction method statement, parking areas to be provided, cycle parking to be agreed and provided, and the provision of a residential travel pack and residential travel plan are necessary to ensure there would be no obstruction to the highway and to promote sustainable travel patterns. However I have removed the specific requirement for the cycle parking to provide 96 spaces and neither main party persuaded me that such a precise figure was necessary or reasonable.

Conclusion

16. For the reasons set out above, I find that the proposed development would be capable of being delivered and would make a valued and necessary contribution to affordable housing, albeit lower than the policy requirement, for the borough. The parking quantum is sufficient given its location and ease of access to the town centre and public transport. No evidence is before me that demonstrates that the music venue would not be capable of finding and thriving in alternative premises in the area. The proposed development would fulfil the social, economic and environmental tests in the Framework to amount to sustainable development.

17. Therefore for the reasons given above I conclude that the appeal should be allowed.

R Allen

INSPECTOR

SCHEDULE OF 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: AA5224/2000; AA5224/2001; AA5224/2002; AA5224/2003; AA5224/2004; AA5224/2005; AA5224/2006; AA5224/2010; AA5224/2011; AA5224/2012; AA5224/2013; AA5224/2014; AA5224/2015; AA5224/2016; AA5224/2030; AA5224/2031; AA5224/2032; AA5224/2033; AA5224/2040; AA5224/2050; AA5224/2200; AA5224/2201; AA5224/2202; AA5224/2203; AA5224/2204; AA5224/2205; AA5224/2206; AA5224/2207; AA5224/2208; AA5224/2209; AA5224/2210; AA5224/2211; AA5224/2212; AA5224/2213; AA5224/2214; AA5224/2215; AA5224/2216; AA5224/2217; AA5224/2218; AA5224/2219; AA5224/2220; AA5224/2221; AA5224/2222; and AA5224/2223.
- 3) No development shall commence until details and samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details and samples.
- 4) No development shall commence until details of the gates to be used on the private access road as indicated on the approved plans have been submitted to the Local Planning Authority for approval in writing. Development shall be carried out in accordance with the approved details.
- 5) No development or other operations shall commence on site in connection with the development hereby approved (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or other operations involving the use of motorised construction vehicles or machinery) until full details of both hard and soft landscaping proposal have been submitted to the Local Planning Authority for approval in writing. Details shall include hard surfacing; an implementation and maintenance statement; planting plans and boundary treatments. Development shall be carried out in accordance with the approved details.
- 6) No development shall take place until an Arboricultural Method Statement, to include details of trees to be retained and how they would be protected during the construction of the development hereby approved has been submitted to the Local Planning Authority for approval in writing. The development shall be carried out in accordance with the approved details.
- 7) Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any Order revoking or re-enacting that Order with or without modification) the windows on the south eastern (courtyard) elevation of the building identified as 'Block B' as shown on page 77 of the Design and Access Statement Rev A (November 2015) shall be fitted with obscured glazed and permanently retained in that form thereafter.

- 8) No development shall take place, including any demolition or ground works, until a Construction Method Statement has been submitted to the Local Planning Authority for approval in writing. The approved Construction Method Statement shall be adhered to throughout the construction period for the development. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development; and
 - iv) wheel and underbody washing facilities.
- 9) No dwellings shall be occupied until such time as the vehicle parking areas as shown on the approved plans, including any parking spaces for the mobility impaired, have been surfaced, sealed and marked out in parking bays. The vehicle parking bays shall be retained as such and not used for any other purpose thereafter.
- 10) No dwellings shall be occupied until space has been laid out within the site for bicycles to be parked, details of which shall first be submitted to the Local Planning Authority for approval in writing. The approved location and quantum of spaces shall thereafter be kept available for the parking of bicycles.
- 11) No dwellings shall be occupied until a residential travel information pack has been provided and distributed to future occupiers of the development hereby approved, details of which must first be submitted to the Local Planning Authority for approval in writing.
- 12) No dwellings shall be occupied until a residential travel plan including a scheme for monitoring has been submitted to the Local Planning Authority for approval in writing. The residential travel plan shall then be implemented in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

Ms Jane Barnett	Planning Consultant
Mr Gareth Turner	Planning Consultant
Mr Jonathan Pillow	Planning Consultant
Mr Paul Hicks	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Mr Mark Philpott	Principal Planning Officer
Mr Andrew Jarratt	Development Manager

INTERESTED PERSONS:

Mr Steve Harcourt
Mr Chris Gilham