



Appeal Decision

Site visit made on 20 April 2010

by **Janet L Cheesley BA (Hons)**
DipTP MRTPI
an Inspector appointed by the Secretary of
State for Communities and Local Government

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Decision date:
12 May 2010

Appeal Ref: APP/P1940/A/09/2115034

Morningside, 8 Uxbridge Road, Rickmansworth, Hertfordshire WD3 7AL

- 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 Hightown Praetorian and Churches Housing Association against the decision of Three Rivers District Council.
- The application (Ref 09/1012/FUL), dated 1 July 2009, was refused by notice dated 21 September 2009.
- The development proposed is demolition of existing sheltered housing scheme and the erection of nineteen one and two bed flats.

Decision

1. I dismiss the appeal.

Main issues

2. I consider that there are three main issues:

the effect of the proposal on the character and appearance of the surrounding streetscene and the setting of the Nightingale Road and Rickmansworth Town Centre Conservation Areas;

the effect of the proposal on the provision of social and community facilities;
and

the effect of the proposal on the provision of affordable housing.

Reasons

Character and Appearance

3. The *Planning (Listed Buildings and Conservation Areas) Act 1990*, imposes duties requiring special regard to be had to the desirability at Section 72(1), of preserving or enhancing the character or appearance of a Conservation Area.
 4. Saved Policy C2 in the Three Rivers Local Plan 1996-2011 states that development proposals outside the boundary of a Conservation Area should not adversely affect the setting, character, or appearance of that Conservation Area (including views into or out of the area). Saved Policy GEN3 requires new development to meet design criteria.
 5. The appeal site lies on a prominent corner site adjacent to the Nightingale Road Conservation Area and on the opposite side of the Ebury roundabout to the Rickmansworth Town Centre Conservation Area. The former is primarily a residential area comprising of a mix of Victorian and art and crafts style dwellings. The town centre Conservation Area includes both residential and commercial properties with the dwellings closest to the appeal site being mid
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Victorian to early 20th century properties and later. On the opposite side of Uxbridge Road to the appeal site, but outside of the Conservation Areas, is a Victoria terrace of two-storey dwellings with distinct gable ends.

6. The building would have a longer frontage to Uxbridge Road than the existing building and part of the building on the corner of the Ebury Roundabout would be three-storey. The building would have a greater depth than the frontage of the existing building, with the roof being greater in scale. The contemporary design, scale and mass of the proposed building and particularly the height of the three-storey element would, in my opinion, appear overbearing and visually obtrusive in the streetscene, contrary to the objectives of Local Plan Policy GEN3.
7. The proposal includes the replacement of an existing building onto a different footprint, which would open up the rear of the site adjacent to the Nightingale Road Conservation Area, concentrating development of the building primarily along the frontage to Uxbridge Road. Whilst this opening up of the site is welcome to the setting of the Nightingale Road Conservation Area, my concern is with the design, scale and mass of the proposed building.
8. The proposed building would be visible from parts of both Conservation Areas. Whilst contemporary design can sit comfortably adjacent to Conservation Areas, in this particular instance, the contemporary design of such scale would not relate well to the local vernacular in this prominent location.
9. For the reasons stated above, I consider that the proposal would adversely affect the settings of both Conservation Areas and thus neither preserve nor enhance the character or appearance of either. Therefore, the proposal would be contrary to Local Plan Policy C2.

Unilateral Undertaking

10. Saved Local Plan Policy GEN8 is clear that the Council may require developers to enter into a planning obligation to provide environmental works, infrastructure, community facilities and services that directly relate in scale and kind to a proposed development. Saved Policy GEN1 and Appendix 1 require sustainable development principles to be satisfied. Saved Policy L10 requires the provision of amenity and children's play space provision. Saved Policy T7 is concerned with highway safety.
11. The appellant has submitted a Unilateral Undertaking with regard to the provision of educational, library, youth and childcare facilities, fire hydrants, sustainable transport and affordable housing. Apart from affordable housing, the Council has confirmed that they are satisfied that the Unilateral Undertaking would make appropriate contributions in accordance with their policies.
12. Regulation 122 of the Community Infrastructure Levy Regulations came into force on 6 April 2010. I have not been made aware of whether a local Community Infrastructure Levy is in operation. In the absence of such a local levy, from the representations before me and leaving aside affordable housing matters, I consider that the need for the other facilities in the Unilateral Undertaking arises from the development in line with Regulation 122.

13. As regards affordable housing, *Planning Policy Statement 3 Housing (PPS3)* states the Government's commitment to providing high quality housing for people who are unable to access or afford market housing. Saved Local Plan Policies H5 and H6 define affordable housing and seek the provision of an element of affordable housing from developers where appropriate. The Unilateral Undertaking makes provision for 30% of the proposed development as affordable housing. From the information before me, the need for this provision arises from the development in line with Circular 05/2005 *Planning Obligations*. I note that the remainder of the flats would also be affordable housing outside of this agreement.
14. The remaining area in dispute between the parties with regard to affordable housing is that the Council requires the development to comply with Code Level 3 of the Code for Sustainable Homes. It appears that the Council are requesting this for two reasons. Firstly to achieve sustainable development and secondly to ensure that the affordable housing would be eligible for a social housing grant.
15. On the first point, the Code is currently voluntary and the Council do not have a specific local plan policy. However, the appellant has indicated that the flats would be built to Level 3. In the interest of sustainable development, if I were to allow this appeal I consider that it would be reasonable and necessary to impose a condition with regard to this matter, and therefore it would not be essential to secure such provision through the Unilateral Undertaking.
16. On the second point, I understand that if the affordable housing is to be built in accordance with the Homes and Communities Agency's Design and Quality Standards, this includes compliance with Code Level 3 of the Code for Sustainable Homes. On this basis, I am of the opinion that this is a matter to be considered by the housing association and the regulators rather than in the Unilateral Undertaking.
17. In conclusion on this matter, for the reasons stated above, I am satisfied that the proposal would make appropriate provision for social and community facilities and affordable housing. Thus, the proposal would be in accordance with PPS3 and saved Local Plan Policies GEN1, GEN8, L10, T7, H5, H6 and Appendix 1. However, in the light of the harm I have identified above, I do not consider that this matter justifies allowing the appeal.

Conclusion

18. I have found that the proposed Unilateral Undertaking would make appropriate provision for social and community facilities and affordable housing. However, I have found that the proposal would have an adverse effect on the character and appearance of the surrounding streetscene and the setting of the Nightingale Road and Rickmansworth Town Centre Conservation Areas. These are sufficient reasons to dismiss the appeal.

Janet Cheesley

INSPECTOR