

11. 18/2143/RSP - Retrospective: Installation of two condensing units, one air conditioning unit and an extractor fan at the rear of the property at 8 STATION APPROACH, SOUTH OXHEY, WD19 7DT (DCES)

Parish: Watford Rural
Expiry of Statutory Period: 17.01.2019

Ward: Oxhey Hall & Hayling
Case Officer: Claire Westwood

Recommendation: That Planning Permission be Granted.

Reason for consideration by the Committee: Council interest in the land.

1 Relevant Planning History

- 1.1 16/0005/FUL - Hybrid planning application for the phased comprehensive redevelopment of the land at South Oxhey (South Oxhey Central, Maylands Road, Hayling Road and Hallows Crescent) to include the demolition of existing buildings and provision of residential led mixed use development comprising Use Classes C3, A1/A2/A3/A4/A5 and D1/D2, with associated site preparation/enabling works, transport infrastructure works, landscaping works and provision of car parking. Permitted 31.05.16. Implemented.
- 1.2 16/2040/AOD - Approval of Details: Details pursuant to Condition 18 of hybrid planning permission 16/0005/FUL comprising layout, scale, appearance and landscaping for Phase 1B (Station Approach). Permitted 20.01.17. Implemented.
- 1.3 Various Discharge of Conditions (DIS) applications pursuant to the above applications.

Unit 6 (now known as Unit 15, Block W)

- 1.4 18/0904/FUL - Provision of two air conditioning condenser units and two extract grilles. Permitted. Implemented.

2 Description of Application Site

- 2.1 Station Approach is located to the east of Prestwick Road and is currently being redeveloped as part of the wider South Oxhey redevelopment (Phase 1B) following the grant of planning permission 16/0005/FUL and subsequent Reserved Matters application 16/2040/AOD.
- 2.2 The site slopes down from Prestwick Road to the Station (Carpenders Park Station) to the east of the site. The redevelopment of Station Approach (Phase 1B) includes an 'in' and 'out' loop access road with taxi stand, short stay parking, dual use bays, bus stop and access to the adjacent car park. Flexible 'Town Centre' floorspace is provided in four main blocks (W, X, Y and Z), two to either side and facing into Station Approach, and a single storey unit (Unit 19) centrally located beyond the loop access road to the front of the Station.
- 2.3 The current planning application relates to 8 Station Approach which is located within Block W. Block W is located to the northern side of Station Approach and backs onto the car park with the rear gardens of properties on Prestwick Road to the west. 8 Station Approach is the third unit within the Block of four. Block W is single storey with a flat roof that steps down from west to east with a maximum height of 5 metres. There is an enclosed refuse store to the rear of the block with access to the rear for service and deliveries. This will be shared by the 4 units making up Block W.

3 Description of Proposed Development

- 3.1 As noted above, planning permission 16/2040/AOD granted consent for the Reserved Matters (layout, scale, appearance and landscaping) for the redevelopment of Station Approach (Phase 1B) following the grant of planning permission 16/0005/FUL.
- 3.2 Planning permission 16/2040/AOD was granted subject to a number of planning conditions, those of relevance to this application are:
- 3.3 Condition 3 'Use Classes' – This restricts the use of the ground floor of Block W to uses falling within Classes A1, A2, A3, A4, A5, D1, D2 and Bookmakers (Sui Generis) of the Town and Country Planning (Use Classes) Order 1987 (as amended).
- 3.4 Condition 6 'Ventilation and Extraction Equipment' – this states that;
- No ventilation or extraction equipment shall be installed unless details of its method of construction, odour control measures, noise levels, its appearance and finish have first been submitted to and been approved in writing by the Local Planning Authority. The equipment shall be implemented and maintained as approved.*
- Reason: To safeguard the residential amenities of the occupiers of neighbouring properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).*
- 3.5 As a result of the inclusion of Condition 6, the current planning application seeks retrospective approval for the installation of two condensing units, one air conditioning unit and an extractor fan at the rear of the property.
- 3.6 The two condensing units are located approximately 0.5 metres above ground level. Each has a width of approximately 0.8 metres and height of approximately 0.6 metres. The air conditioning unit is sited above the condensing units, with similar dimensions, approximately 0.8 metres wide and 0.6 metres high. Both the condensing and air conditioning units are screened from view by the fencing enclosing the rear yard serving Block W.
- 3.7 The extractor is sited above the air conditioning unit. It has a total height of approximately 3.8 metres and projects approximately 0.9 metres above the roof line.
- 3.8 A Noise Impact Assessment has been submitted with the application.

4 Consultation

4.1 Statutory Consultation

- 4.1.1 Watford Rural Parish Council: No comments received.
- 4.1.2 Environmental Health Officer: Having reviewed the submitted documents including the noise impact assessment, this department would have no objections so long as the recommendations of the report are implemented. Particular reference to section 7.2 and the details of the silencers that are required. If the silencers are not installed this installation is likely to have an impact on residential properties.
- 4.1.3 National Grid: No comments received.

4.2 Public/Neighbour Consultation

- 4.2.1 Number consulted: 15
- 4.2.2 No of responses received: 1 objection, 0 letters of support

4.2.3 Site Notice: Expired 20.12.2018 Press notice: Not required.

4.2.4 Summary of Responses:

- Currently a 7 day a week, 12 hour a day problem with the premises which has been reported (diary sheet provided).
- Concerned that other similar premises will open in the area.
- Causes blight to garden and home.

5 Reason for Delay

5.1 No delay.

6 Relevant Planning Policy, Guidance and Legislation

6.1 National Planning Policy Framework and National Planning Practice Guidance

On 24 July 2018 the new National Planning Policy Framework was published. This is read alongside the National Planning Practice Guidance (NPPG). The determination of planning applications is made mindful of Central Government advice and the Local Plan for the area. It is recognised that Local Planning Authorities must determine applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise, and that the planning system does not exist to protect the private interests of one person against another. The 2018 NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

The NPPF states that ‘good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities’. The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would ‘significantly and demonstrably’ outweigh the benefits.

6.2 The Three Rivers Local Plan

The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP2, CP1, CP9 and CP12.

The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include DM1, DM6 and DM9 and Appendix 4.

The Site Allocations Local Development Document (SALDD) was adopted on 25 November 2014 having been through a full public participation process and Examination in Public.

6.3 Other

The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

The Localism Act received Royal Assent on 15 November 2011. The growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

7 Planning Analysis

7.1 Principle of Development

7.1.1 As noted above, planning permission has been granted and is being implemented for the redevelopment of Station Approach (Phase 1B of the wider South Oxhey redevelopment). The application site forms part of this.

7.1.2 The current application seeks retrospective permission for two condensing units, one air conditioning unit and an extractor fan to facilitate its use by Boston Chicken and it is noted that this use, whilst not forming part of the current application, would fit within those uses specified by Condition 3 of 16/2040/AOD.

7.2 Impact on Character and Street Scene

7.2.1 Policy CP1 of the Core Strategy (adopted October 2011) seeks to promote buildings of a high enduring design quality that respect local distinctiveness and Policy CP12 of the Core Strategy (adopted October 2011) relates to design and states that in seeking a high standard of design the Council will expect development proposals to 'have regard to the local context and conserve or enhance the character, amenities and quality of an area'.

7.2.2 The condensing and air conditioning units and extractor fan are located to the rear of the Unit where there is a private service yard serving Block W. Beyond this is the Station Car Park. The condensing and air conditioning units are sited towards the base of the rear elevation and are therefore screened from view by boundary treatments. The extractor fan is visible above the boundary treatments, however, it is not of significant scale and is not considered to appear out of context.

7.2.3 It is not considered that the development results in demonstrable harm to the character or appearance of the area and in this regard it therefore accords with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).

7.3 Impact on amenity of neighbours

7.3.1 Policy CP12 of the Core Strategy states that in seeking a high standard of design development proposals should protect residential amenities by taking into account the need for adequate levels and disposition of privacy, prospect, amenity and garden space.

7.3.2 Policy DM9 of the Development Management Policies LDD (adopted July 2013) states that development will not be permitted where it would have an adverse impact on the acoustic environment of existing or planned development, would have an unacceptable impact on countryside areas of tranquillity, or would be subject to unacceptable noise levels or disturbance from existing noise sources whether irregular or not. Reference is made to Appendix 4 of the Development Management Policies LDD (adopted July 2013) which sets out noise exposure categories for residential development.

7.3.3 Policy DM9 of the Development Management Policies LDD (adopted July 2013) also refers to contamination and pollution control. It states that development will not be permitted where it would have an adverse impact on air pollution levels or would be

subject to unacceptable levels of air pollutants or disturbance from existing pollutant sources.

7.3.4 The Unit adjoins Station Car Park to the rear, with the closest residential properties located to the west on Prestwick Road. The retrospective application for condensing and air conditioning units and extractor fan is accompanied by a Noise Impact Assessment. The submitted details have been reviewed by the Environmental Health Officer who raises no objection to the proposal on amenity grounds subject to the recommendations of the report being implemented. They refer particularly to section 7.2 of the report and the requirements regarding silencers. As such it would be necessary to condition any grant of consent to require that the recommendations are carried out within a specified period of time in the interests of neighbouring amenity. The Environmental Health Officer has confirmed that if the silencers are not installed, the installation is likely to have an impact on residential properties.

7.4 Wildlife and Biodiversity

7.4.1 Section 40 of the Natural Environment and Rural Communities Act 2006 requires Local Planning Authorities to have regard to the purpose of conserving biodiversity. This is further emphasised by regulation 3(4) of the Habitat Regulations 1994 which state that Councils must have regard to the strict protection for certain species required by the EC Habitats Directive.

7.4.2 The protection of biodiversity and protected species is a material planning consideration in the assessment of applications in accordance with Policy CP9 of the Core Strategy (adopted October 2011) and Policy DM6 of the DMLDD. National Planning Policy requires Local Authorities to ensure that a protected species survey is undertaken for applications that may be affected prior to determination of a planning application.

7.4.3 The development does not have any adverse impact on protected species.

8 **Recommendation**

8.1 That RETROSPECTIVE PLANNING PERMISSION BE GRANTED and has effect from the date on which the development was carried out and is subject to the following condition:

C1 Within 2 MONTHS from the date of this decision, a Flaktwoods Type B 560/2DM silencer shall be fitted on the atmosphere side of the kitchen extractor fan (shown on drawing number 02 Rev A) in accordance with the recommendations as set out within the submitted 'Noise Impact Assessment Report – Mechanical Plant Revision No. 1.0' prepared by Sound Licensing Limited and dated 18/11/2018. The silencer shall thereafter be permanently maintained.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011) and Policy DM9 of the Development Management Policies LDD (adopted July 2013).

8.2 **Informatives:**

I1 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £1116 per request (or £34 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse).

Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 0208 207 7456 or at buildingcontrol@hertfordshirebc.co.uk who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at www.hertfordshirebc.co.uk.

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. It is a requirement under Regulation 67 (1), Regulation 42B(6) (in the case of residential annexes or extensions), and Regulation 54B(6) (for self-build housing) of The Community Infrastructure Levy Regulations 2010 (As Amended) that a Commencement Notice (Form 6) is submitted to Three Rivers District Council as the Collecting Authority no later than the day before the day on which the chargeable development is to be commenced. DO NOT start your development until the Council has acknowledged receipt of the Commencement Notice. Failure to do so will mean you will lose the right to payment by instalments (where applicable), lose any exemptions already granted, and a surcharge will be imposed.

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work.

- 12 The applicant is reminded that the Control of Pollution Act 1974 allows local authorities to restrict construction activity (where work is audible at the site boundary). In Three Rivers such work audible at the site boundary, including deliveries to the site and running of equipment such as generators, should be restricted to 0800 to 1800 Monday to Friday, 0900 to 1300 on Saturdays and not at all on Sundays and Bank Holidays.
- 13 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the District.