
Appeal Decision

Inquiry held on 14, 15 and 16 March 2017

Site visit made on 15 March 2017

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 13 April 2017

Appeal Ref: APP/Y1945/W/16/3157103

Caledonian House, 39 St Albans Road, Watford, Hertfordshire WD17 1HQ

- 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 Heronslea (Loom) Ltd (Mr James Craig) against the decision of Watford Borough Council.
 - The application Ref 15/01532/FULM, dated 28 October 2015, was refused by notice dated 7 April 2016.
 - The development proposed is the demolition of an existing building (Class B1) and the erection of a new stepped building with 95 self-contained residential units (Class C3) with associated basement parking, servicing/delivery bay and communal garden and private balcony amenity space.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing building (Class B1) and the erection of a new stepped building with 93 self-contained residential units (Class C3) with associated basement parking, servicing/delivery bay and communal garden and private balcony amenity space at Caledonian House, 39 St Albans Road, Watford, Hertfordshire WD17 1HQ in accordance with the terms of the application, Ref 15/01532/FULM, dated 28 October 2015, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development given in the heading above is taken from the application form. However, prior to the determination of the application, amended drawings were submitted and the number of units was reduced to 93. The Council's decision was based on the revised scheme and I have used it to determine the appeal.
 3. The second reason for refusal refers to the absence of a Planning Agreement under Section 106 of the 1990 Act to make provision for affordable housing, the removal of entitlement to parking permits in the Controlled Parking Zone for future occupiers and the provision of fire hydrants to serve the development. A completed Agreement was submitted at the Inquiry which, the Council confirmed, addresses its concerns in the second reason for refusal. I have framed the main issues accordingly. Nevertheless, I need to be satisfied that the Agreement would be effective and would meet the tests set out in the Community Infrastructure Levy Regulations 2010 (CIL Regs).
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Main Issues

4. The main issues are:

- whether the proposal would preserve or enhance the setting of the Nascot Conservation Area;
- the effect of the proposal on the character and appearance of the surrounding area.

Reasons

Setting of the Conservation Area

5. The appeal site abuts the Nascot Conservation Area on its southern and western boundaries and there is no dispute between the parties that it falls within the setting of this heritage asset. There is no statutory duty to pay special attention to the setting of a Conservation Area¹. Nevertheless, Watford Local Plan Core Strategy (adopted 2013) (CS) Policy UD1 requires new development to recognise and respond to features of historic value and Policy UD2 seeks to conserve, and where appropriate enhance, Conservation Areas and their settings. Saved Policy U17 of the Watford District Local Plan (adopted 2003) (LP) resists development which adversely affects the setting of a Conservation Area.
6. These policies are concerned with historic environment and character and appearance matters and, of themselves, do not seek to balance those considerations with any benefits of a proposal as required by the National Planning Policy Framework (the Framework). However, that balance is provided by other Policies in the Plans. When read as part of the Plans as a whole therefore, there is nothing to suggest that these policies are inconsistent with the Framework.
7. Paragraph 132 of the Framework states that, when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the conservation of the asset. Paragraph 137 advises that local planning authorities should look for opportunities for new development within the setting of a heritage asset to enhance or better reveal its significance. Further, that proposals which preserve elements of the setting which make a positive contribution to, or better reveal the significance of, the asset should be treated favourably. My attention has also been drawn to the Historic England guidance on the Setting of Heritage Assets² and to the Council's Nascot Conservation Area Character Appraisal 2015 (CAA).
8. The designated Conservation Area is extensive and, the CAA advises, was the first substantial area of Watford to be developed away from the historic High Street. Developed in phases from the railway station, in the vicinity of the appeal site it comprises mainly two storey, semi-detached dwellings formally arranged along a regular network of streets. This Victorian suburban form is largely intact. It illustrates the gradual development of the town and is an important contributor to the significance of the heritage asset.

¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 applies to buildings and land within a Conservation Area.

² Historic Environment Good Practice Advice in Planning 3

9. Although the CAA refers to the variety of architectural styles and the diversity of detailing in the Conservation Area as a whole, near the appeal site, the appearance of the buildings is generally fairly consistent. A notable exception is the Cassio Apartments/1 Malden Road building. Located immediately to the south of the appeal site at the corner of Malden Road and St Albans Road, it rises to four storeys and is unmistakably modern in appearance. Whilst the building post-dates the original designation of the Conservation Area, it was not excluded when boundary changes were considered as part of the CAA. Nor is it identified in the CAA as a neutral or negative feature, suggesting that the Conservation Area can accommodate modern development.
10. The appeal site and the properties to the north form a group of later buildings on the west side of St Albans Road which are excluded from the designated area. The CAA indicates that they form a weak edge in views into the Conservation Area from St Albans Road. By virtue of their larger scale and footprint, looser layout and appearance the group is clearly distinguishable from the older Conservation Area buildings. The group has a greater affinity with the modern development on the east side of St Albans Road, notwithstanding that the tallest building in the group, Caledonian House, is four storeys rather than the seven storey height of two of the buildings opposite. St Albans Road itself is a four lane dual carriageway.
11. The broad setting for this part of the Conservation Area therefore, comprises predominantly modern, fairly large scale, urban development. To an extent, it helps to define the historic area and shows the continued evolution of the town, but otherwise makes a very limited contribution to the significance of the heritage asset.
12. With regard to the appeal site specifically, Caledonian House is a nondescript post war building whose 'L' shaped footprint turns the corner from St Albans Road into West Street. The rear of the site is taken up by a raised car parking deck which adjoins the rear boundaries of properties in Nascot Street and Malden Road. The height and scale of the building is only slightly greater than the Cassio Apartments and this helps in the transition from the taller buildings on the east side of St Albans Road to the mainly two storey properties in the Conservation Area. However, the limited articulation in the form of the existing building, its drab appearance and the raised decking to the rear are not sympathetic and, overall, I consider that the appeal site has a minor negative impact on the setting of the Conservation Area.
13. The proposed building would be eight storeys (plus a semi-basement) tall at the corner of St Albans Road and West Street, stepping down to six storeys (plus semi-basement) adjoining the Cassio Apartments and four storeys at the western end of the north elevation. The building would, therefore, be significantly larger in height and scale than the building being replaced or any other buildings on the west side of St Albans Road. Moreover, the part of the new building nearest to the Conservation Area boundary to the west would be almost 12m closer and one storey taller than the existing building. The height of the building would also increase more steeply across its West Street elevation.
14. That said, the mass of the proposed building would be well articulated. Steps in the roof height would coincide with a layered grid of contrasting brick finishes and window patterns in the elevations. Together with full height set-

backs and areas of projecting glazing on the St Albans Road and West Street elevations, this would create rhythm and interest which would help to break down the visual bulk of the building. A condition could be used to ensure the use of suitable external materials. Therefore, whilst I am not persuaded that the design would be truly outstanding or innovative to the degree envisaged in Framework paragraph 63, the appearance of the proposed building, if not its scale and height, would be a considerable improvement compared with the existing building.

15. The proposal would not interrupt views into the Conservation Area so as to obscure the definition of the historic fabric and I have already concluded that the broad setting makes a limited contribution to the significance of the heritage asset. Nevertheless, given its greater height and scale, the proposed building would not perform the transitional role of the existing building and the contrast with the Victorian buildings in the Conservation Area would be amplified.
16. The existing building is prominent in views out of the Conservation Area from the rear gardens of the adjoining properties in Nascot Street and Malden Road. Experienced in the round, these views allow the Victorian buildings and the appeal site to be seen together. Nevertheless, beyond defining its extent, they do little to reveal the significance of the heritage asset. The increased height and scale and closer proximity of the new building would intensify the contrast between new and old and it would be a more striking presence in views from the rear of adjoining properties. This would be offset, to a degree, by the improved appearance of the new building, the reduction in the height of the basement parking deck to a level close to natural ground level and the proposals for enhanced planting on the site boundary.
17. The proposed building would also be more prominent in other views into and within the Conservation Area. I have already noted that, in views from the north along West Street, the new building would be significantly taller and closer to the rear of the Nascot Street properties than the existing building. However, the appreciation of those properties in this view is currently limited by the raised car parking deck and the mature boundary planting to the rear of the appeal site.
18. The proposed building would be between two and four storeys taller than the Cassio Apartments and this distinct change in scale would be apparent in views from St Albans Road and Wellington Road. Notwithstanding their inclusion in the designated area, the Cassio Apartments are not representative of the built form which gives the heritage asset its significance. The change in scale would be seen in the context of the variety of building sizes and forms found along St Albans Road and the broad and highly engineered character of that road. These considerations, together with the well articulated design of the new building, would ensure that relationship with the Cassio Apartments would not be jarring.
19. In views from the south along Essex Road the new building would rise a considerable distance above the Cassio Apartments and the two storey Victorian houses on Malden Road³. However, it would be set well back behind those buildings and would be experienced in the context of the large buildings on the east side of St Albans Road, as well as the rear of the modern three

³ Verified wireframe view at page 26 of Mr Froneman's proof

storey terrace at 2-12 Malden Road. Consequently, it would not introduce modern development into a view where none existed previously and, by virtue of its siting behind the Cassio Apartments and its modulated appearance, would not have a dominating effect.

20. These considerations also apply to the view of the proposal from the gap to the rear of the locally listed building at the junction of St Albans Road and Langley Road to the north⁴. This viewpoint, and the locally listed building, are within the Conservation Area. However, most of the component parts of the view are modern buildings and utilitarian spaces which are not part of the heritage asset and do not reveal or enhance its significance. Whilst the new building would add to the height and bulk of built form in the view, it would be seen in the middle distance, clearly separated from the locally listed building and with no other part of the heritage asset in sight.
21. The proposed building would be visible in the gap between the rear of 25/27 Malden Road and the flank wall of 50 Nascot Street. Seen from here, the new building would be no taller than the adjoining two storey properties⁵ and views would be filtered, if not entirely screened, by mature evergreen and deciduous trees close to the site boundary. This would be the case even when the deciduous tree is not in leaf⁶. Glimpses of the building would also be available in the gaps between the houses at 3 to 11 Malden Road and between the rear of 53 Malden Road and 48 Denmark Street. Again, however, the building would be seen in the distance and below the roof levels of adjoining buildings.
22. In summary therefore, I find that the proposal would not result in harm to the views described in paragraphs 17 to 21 above. However, it would cause minor harm to the significance of the heritage asset as a result of the loss of the transitional role of the existing building on the site and the amplified contrast in scale with the two storey Victorian buildings in this part of the Conservation Area. The latter consideration would be particularly apparent in views from the rear of the Nascot Street and Malden Road properties. As such, the proposal would lead to a correspondingly limited degree of conflict with CS Policies UD1 and UD2, LP Policy U17 and Framework paragraph 137.
23. Whilst the degree of harm would be minor, Framework paragraph 132 requires great weight to be attached to the conservation of designated heritage assets. Paragraph 134 advises that where, as in this case, a proposal would lead to less than substantial harm, that harm should be weighed against the public benefits of the proposal. I consider this matter in the Planning Balance below.

Character and Appearance

24. The Watford Character of Area Study 2011 (WCAS) divides the Borough into a series of character areas. It places the appeal site within sub-area 30B which, although it adjoins late nineteenth century terraced development, has gradually changed due to road widening and the redevelopment of residential plots with larger footprint commercial and residential buildings. Those buildings are up to eight storeys high, but typically four to six storeys, and are large in the Watford context.

⁴ Inquiry document 2, photograph 3

⁵ Verified wireframe view at page 32 of Mr Froneman's proof

⁶ Inquiry document 2, photograph 1

25. This is a good representation of the appeal site and its surroundings. Whilst there is a general increase in the scale of buildings moving towards the town centre to the south east, the St Albans Road street scene takes in a range of large modern buildings which are interspersed with earlier, generally smaller, buildings. The openness, scale and strong linear character of the road itself is also an important influence. Consequently, although Caledonian House is the tallest building on the east side of St Albans Road, expansive views encompass buildings on both sides.
26. The seven storey residential and hotel buildings on the west side of the road form part of the site's setting. The hotel building, in particular presents a broad elevation to the road. It is relevant that WCAS sub-area 30B spans St Albans Road and does not seek to distinguish between the scale of buildings on the east and west sides of the road. Moreover both sides of the road accommodate a mix of uses. As such, I am not convinced that the east and west sides of the road play clearly differing roles in the determining the legibility of this part of the town. This context informs the capacity of the appeal site to accommodate a taller building.
27. The proposed building of up to eight storeys (plus semi-basement) would be the tallest in the area. However, it would be seen in the context of buildings directly opposite which are almost as tall⁷, as well as the broad, modern highway. Notwithstanding that the status in the local highway network of the St Albans Road/West Street junction does not justify a 'landmark' building, placing the highest part of the building where it would correspond with this corner would be an appropriate response to the street scene.
28. The building would step down in height across its St Albans Road and West Street elevations and those elevations would be carefully articulated and fenestrated to reduce the visual bulk of the building. I consider that its massing and elevational features would help to assimilate the height and scale of the building into its surroundings. I have already found that its appearance would be a significant improvement over the existing building on the site. The views from St Albans Road, including those where it rises to the north, take in a range of large modern buildings. Therefore, whilst I recognise that the height of the building does not follow the general pattern of increasing scale closer to the town centre, in this case, I find that the proposal would not be out of place in the wider townscape.
29. The inclusion of a semi-basement car parking level would result in the ground floor of the new building being raised approximately 2m above street level on the St Albans Road and part of the West Street elevations. As a consequence, the Council is concerned that the eye level view for pedestrians would be of a plain wall, rather than windows or other features which may otherwise help to give the building a human scale.
30. However, the proposals include planting in front of the building along both of these facades. As well as being an attractive feature in its own right, the planting would act as a buffer between pedestrians and the lower wall and deflect views away from it. Passers-by would see the ground floor windows and other articulating components of the building a short distance above the planting. As such, I consider that absence of windows at street level would not give the building an overbearing scale. With an appropriate planting scheme in

⁷ Inquiry documents 5 and 8

place, the details of which could be controlled by condition, the proposal would relate satisfactorily to its immediate surroundings.

31. Overall therefore, I find that the proposal would not have a harmful effect on the character and appearance of the area. Consequently, it would comply with CS Policy UD1 insofar as it requires new development to respect and enhance local character. The proposal would also accord with the Council's Residential Design Guide 2016 (RDG) which, among other things, advises that development should respect, but not necessarily replicate, the height and scale of adjoining buildings (paragraph 7.3.4) and ensure an appropriate relationship between street widths and building heights (paragraph 7.2.13). It would also meet the aims of Framework paragraph 56 which attaches great weight to the design of the built environment and paragraph 60 which seeks to reinforce local distinctiveness.
32. The first reason for refusal also refers to Policies TB1 and TB2 of the emerging Watford Local Plan Part 2 (LP2) which deal with the location and design of taller buildings. The reason for refusal also cites the Supplementary Planning Document 'Skyline, Watford's Approach to Taller Buildings' (SPD) which was adopted in 2016. Part 2 of the Local Plan has yet to be submitted for examination and the Council accepts that it can be accorded limited weight. Moreover, paragraphs 11.6 to 11.8 of LP2 and the SPD define taller buildings according to their height in relation to their context and proportions. For the reasons set out above, I find that the proposed building would not amount to a taller building based on these considerations.

Other Matters

33. As well as being taller, the new building would be closer to the rear of neighbouring dwellings, in particular those in Nascot Street.
34. A daylight and sunlight report was submitted with the application and an update letter provided with the appeal submissions⁸. These assessments are based on Building Research Establishment guidance and consider the effects of the proposal on the daylight and sunlight reaching the facing windows and rear gardens of the Cassio Apartments, Nos 1 to 15 Malden Road, 32 to 50 Nascot Street and the closest apartment in Caledonian Court. The effect of the proposal on the daylight reaching neighbouring properties has also been assessed using the methodology set out in the RDG (the '25 degree' rule). In both assessments, the proposal was found to allow acceptable levels of daylight to reach the windows of all the neighbouring dwellings and the daylight and sunlight report also found that it would not lead to an unacceptable reduction in sunlight or overshadowing of the gardens. Therefore, whilst I recognise the concerns of neighbouring occupiers with regard to the loss of light, there is firm evidence to show that the proposal would not have the effect anticipated.
35. With regard to outlook, the part of the building closest to the Nascot Street properties would be four storeys in height, just under 10m from the common boundary and at least 24m from the rear elevations of the dwellings⁹. Inevitably it would have a greater presence from the rear windows and gardens of the adjoining dwellings. However, notwithstanding its proximity, the new

⁸ Prepared by BVP and dated 12 February 2016

⁹ Dimensioned drawings at Appendix 7 of Mr Carr's proof

- building would take up a relatively narrow segment of the overall view from the rear windows and gardens of even those properties directly opposite it. Moreover, it is proposed to supplement the existing planting on this boundary and the facing elevation of the new building would be planted to create a 'green wall' which would be an improvement over the appearance of the existing building. The reduction in the height of the basement car parking compared with the existing building would also be a visual benefit in views from the adjoining properties. Consequently, I consider that the proposal would not have an overbearing effect on the outlook of neighbouring occupiers.
36. Upper floor flats at the rear of the building would have windows and balconies facing the rear of the Nascot Street and Malden Road properties. Paragraph 7.3.16 of the RDG advises that separation distances of 27.5m to facing windows and 11m to boundaries should be achieved in order to maintain the privacy of neighbouring occupiers. For the most part the distances between the proposed windows and the adjoining properties would comfortably exceed these measurements. Nevertheless, the balconies of proposed flat Nos A1-1, A2-1 A3-1, A4-1 and A5-1 would offer oblique, but shorter range, views to the rear of Nos 1 to 3 Malden Road. However, if I were to allow the appeal then privacy could be ensured by the imposition of a suitable condition requiring the provision of privacy screens on the balconies of those flats. For the avoidance of doubt, I will also impose a condition preventing the use of the roof outside flat Nos A6-1 and A6-7 as a balcony, terrace or sitting out area.
 37. A degree of noise and disturbance is likely to be unavoidable whenever new development takes place. However, this would be a temporary situation. In the event that the appeal is allowed, a condition could be used to control the hours of working in order to limit the effects. Conditions could also be used to control the storage and collection of refuse and the discharge of surface water from the development in order to ensure that those matters do not adversely affect the living conditions of nearby occupiers.
 38. It has been suggested that local schools would not be able to accommodate additional pupils living in the proposed flats. The developer will be responsible for the payment of a community infrastructure levy charge which is intended to mitigate the effect of the development on education provision, amongst other things.
 39. Hertfordshire County Council highways department has considered the Transport Statement submitted with the application and found that the new development would generate fewer vehicle movements than the existing office use of the site. I see no reason to disagree with that finding. Nor is there substantive evidence of highway safety or convenience problems at the St Albans Road/West Street junction. As such, I consider that the proposal would not lead to congestion at that junction. I deal with parking issues below.
 40. It has been suggested locally that the developer has made unsubstantiated claims in connection with the proposed development. The Council also questions the evolution of the scheme through the Design and Access Statement and the Heritage Statement submitted with the application. However, I have determined the appeal based on the evidence submitted at appeal and the planning merits of the proposal.
 41. Concern has also been expressed locally that allowing the proposal would set a precedent for similar developments elsewhere. My decision is based on the

particular circumstances of the appeal site and the proposal and there is no substantive evidence to indicate that comparable circumstances exist at other sites. The effect of the proposal on the value of neighbouring properties is not a planning matter.

Planning Obligation

42. Regulation 122 of the CIL Regs states that a planning obligation may only constitute a reason for granting planning permission if it is necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind.
43. Policy HS3 of the CS requires 35% of all new homes on sites of 10 units or more to be affordable, unless exceptional circumstances justifying a lower figure can be demonstrated through the submission of a viability assessment. The subsequently published South West Hertfordshire Strategic Housing Market Assessment 2016 (SHMA) found that the Borough has a net affordable housing need of 617 units per annum¹⁰ whilst the Council's Annual Monitoring Report found that only 25 affordable units were delivered in 2015-16. This indicates an unmet need for affordable housing in the area.
44. A Viability Appraisal was submitted with the application and the Council accepts that it demonstrates that the offer of 14 affordable housing units (15% of the total) meets the exceptional circumstances test in Policy HS3. One of the obligations in the Planning Agreement would secure this provision by preventing the occupation of more than 59 of the 79 market units until a legally binding agreement has been completed. The agreement would grant a lease, or the transfer of such part of the land required in respect of the provision of the affordable units, to a Registered Provider. A further obligation makes provision to transfer to the Council 55% of any 'surplus' above the agreed development profit based on a re-assessment of the viability of the development. The requirement would be capped at £2,514,692. As such, I am satisfied that these obligations are necessary, relevant and, given the size of the proposed development, reasonably related in scale and kind.
45. The proposal would provide 75 on site car parking spaces for the 93 units proposed. There is no dispute that the appeal site is well located with regard to access to public transport and local services and facilities. On this basis, nor is there dispute that the proposed parking provision would comply with the maximum standards required by LP Policy T24.
46. Nevertheless, given that there would be fewer parking spaces than flats, it would be reasonable to expect pressure from future occupiers to park on the surrounding streets. These streets are within a controlled parking zone where there is a high demand for spaces. This concern has been raised by a number of neighbouring occupiers and is borne out by my observations on the site visit. In these circumstances, further parking pressure would be likely to lead to conflict with existing residents and potentially unsafe manoeuvres as drivers circulate the narrow streets in search of the limited number of parking spaces available.
47. Policy T26 of the LP allows for car free residential development in highly sustainable locations, subject to the provision of satisfactory controls. An

¹⁰ Inquiry document 4

obligation in the Agreement would require the developer to make a financial contribution of £2000 towards the variation of the relevant Controlled Parking Zone Order to exclude future residents from entitlement to apply for a permit within Zones in the vicinity of the site. The Council has also written an accompanying letter¹¹ undertaking to use best endeavours to complete the variation within 12 months of receipt of the contribution. The contribution would be made prior to the commencement of development and the additional undertaking is intended to ensure that, having regard to the time needed to construct the development, the variation would be in place before the first units are occupied. I consider that this obligation is necessary, relevant and fairly related to the proposal as required by Regulation 122.

48. Policy INF1 of the CS and Policy H10 of the LP require contributions towards infrastructure made necessary by the increased demand arising from development. Hertfordshire County Council's Planning Obligations Guidance Toolkit¹² requires developments to provide fire hydrants for all new residential development. I was assured by the Council that this requirement is not included within its subsequently adopted CIL charging schedule¹³. The provision of fire-fighting infrastructure is necessary and relevant to the development in order to ensure public safety.
49. The relevant obligation would require the submission and approval of a 'water scheme', to provide any fire hydrants reasonably and properly indicated in that scheme and their maintenance until they are adopted by the Fire and Rescue Service. This provision would ensure that the obligation is reasonably related in scale and kind to the development.
50. I have, therefore, taken all of the obligations in the Agreement into account. The Agreement would overcome the second reason for refusal and ensure that the proposal would comply with CS Policies HS3 and INF1 and LP Policies H10, T24 and T26.

Conditions

51. The Council and appellant submitted an agreed list of 24 conditions. The list was finalised during the Inquiry¹⁴. With minor amendments for clarity, I consider that all of the conditions in the final list meet the tests set out in the Planning Practice Guidance. A condition specifying the approved drawings is required in the interests of certainty. Conditions controlling the hours of construction works, the provision of privacy screens and the restriction on the use of the roof area as detailed above are required to safeguard the living conditions of neighbouring occupiers. Having regard to the adjoining busy highway and the nearby garage use in St Albans Road, a condition requiring the approval and implementation of a scheme of noise insulation is necessary to safeguard the living conditions of future occupiers.
52. Conditions dealing with the further approval and implementation of external materials, elevational design details, the green wall and green roof, soft and hard landscaping, further investigation of the roots of existing trees, the protection of trees during construction works and a condition to prevent below ground services being routing through tree root protection areas are all

¹¹ Inquiry document 12

¹² Inquiry document 7

¹³ Inquiry document 6

¹⁴ Inquiry document 14

necessary to maintain the character and appearance of the area. Conditions dealing with bin and cycle storage and details of ground and finished ground floor levels are also necessary for this reason and to protect the living conditions of neighbouring occupiers.

53. Conditions to secure the approval and implementation of a surface water drainage scheme, drainage of the green roof and a scheme of ground investigation and remediation are necessary in the interests of public health. Conditions to deal with on-site parking provision, the proposed vehicle crossover, the management of the proposed drop-off point adjoining the new access and details of the control of access to the basement are necessary in the interests of highway safety.

Planning Balance and Conclusion

54. I have found that the proposal would result in minor harm to the setting of the Conservation Area and that this consideration should be accorded great weight. However, since the harm would be less than substantial it is also necessary to weigh this harm against the public benefits of the proposal. Such benefits could be anything that delivers social, economic or environmental progress as described in Framework paragraph 7.
55. The Council accepts that it cannot demonstrate a five year supply of housing land. The Statement of Common Ground puts the supply at three years; this amounts to a considerable shortfall. Irrespective of the presumption in favour of sustainable development where there is not a five year supply of housing land¹⁵, Framework paragraph 47 seeks to significantly boost the supply of housing and paragraph 50 seeks a wide choice of high quality homes.
56. The proposal would provide 93 flats in a mix of one, two and three bedroom units. Prior approval has been granted for the conversion of Caledonian House to 54 residential units (application reference 15/01130/OPD). However, those units would be single bedroom and only one would meet the Nationally Described Space Standards for new dwellings. Nor would the prior approval scheme deliver any affordable housing. As well as the 14 affordable units therefore, the appeal proposal would deliver an additional 39 residential units. They would be of higher quality and in a mix which better reflects the housing needs identified in the SHMA. I consider these to be very significant social benefits.
57. The proposal would also provide economic benefits through the provision of housing to support economic growth, the generation of funds through the New Homes Bonus and, in the short term, job creation and additional expenditure during the construction phase.
58. The appeal site is sustainably located and would make more efficient use of previously developed land. It would also increase considerably the amount of planting on the site compared with the existing building. These environmental benefits weigh in favour of the proposal.
59. Taken together therefore, I consider that the public benefits of the proposal clearly and demonstrably outweigh the minor harm to the setting of the Conservation Area, even when great weight is attached to that harm. Those

¹⁵ As set out in Framework paragraphs 14 and 49

benefits would also overcome the limited degree of conflict with CS Policies UD1 and UD2, LP Policy U17 and Framework paragraph 137.

60. I have also found that the proposal would not lead to other harms. As such, I conclude that it amounts to sustainable development and benefits from the presumption of favour of sustainable development set out in Framework paragraph 14.

61. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

Appearances

FOR THE COUNCIL

Paul Shadarevian of Queens Counsel, instructed by the Council's Solicitor

He called

Philip Hughes BA(Hons), MRTPI, Dip Man, MCMI Principal, PHD Charter Town Planners

FOR THE APPELLANT

Andrew Tabachnik of Queens Counsel, instructed by Woolf Bond Chartered Town Planning Consultants

He called

James Carr RIBA, ARB Senior Design Partner, Barton Willmore

Ignus Froneman B Arch Stud, ACHfA, IHBC Director, Heritage Collective

Steven Brown BSc(Hons), Dip TP, MRTPI Principal, Woolf Bond

INTERESTED PERSON

Mark Watkin Councillor, Watford Borough Council

Documents Submitted at the Inquiry

- 1 Draft Planning Obligation
- 2 Photograph Nos 1 to 4 submitted by the Council
- 3 Computer generated image of the proposed building
- 4 Missing pages from Core Document 11
- 5 Email setting out the agreed heights of buildings near the appeal site
- 6 Watford Borough Council Community Infrastructure Levy Charging Schedule
- 7 Extract from Hertfordshire County Council's Planning Obligations Toolkit
- 8 Photographs accompanying Inquiry document 5
- 9 Plan of Watford's Controlled Parking Zones
- 10 Signed Planning Obligation dated 16 March 2017
- 11 Report on the content of the Planning Obligation
- 12 Letter from Watford Borough Council accompanying the Planning Obligation
- 13 Missing page from Core Document 10
- 14 Final set of agreed planning conditions
- 15 Closing submissions on behalf of the Council
- 16 Closing submissions on behalf of the appellant

**Schedule of conditions attached to
Appeal Ref: APP/Y1945/W/16/3157103
Caledonian House, 39 St Albans Road, Watford, Hertfordshire WD17 1HQ**

1. The development to which this permission relates shall be begun within a period of three years commencing on the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved drawings:-

101 Rev P10; 110 Rev P10; 120 Rev P10; 121 Rev P10; 199 Rev P12; 200 Rev P12; 201 Rev P12; 202 Rev P12; 203 Rev P12; 204 Rev P12; 205 Rev P12; 206 Rev P12; 207 Rev P12; 208 Rev P12; 300 Rev P12; 301 Rev P12; 400 Rev P12; 401 Rev P12; TPP/CHSARWH/010 Rev B; and LP/CHSARWH/020 Rev B.
3. No demolition or construction of the development hereby permitted shall take place outside the hours of 0800 to 1800 Mondays to Fridays, or 0800 to 1300 Saturdays or at any time on Sundays and Public Holidays.
4. No part of the development shall be occupied until details of privacy screens for the balconies at Flats numbered A1-1; A2-1; A3-1; A4-1; and A5-1 have been submitted to and approved in writing by the Local Planning Authority. Dwellings A1-1; A2-1; A3-1; A4-1; and A5-1 shall not be occupied until the balcony privacy screens have been installed in accordance with the approved details. The privacy screens shall be retained at all times thereafter.
5. The roof outside Flats numbered A6-1 and A6-7 on level 6 shall not be used as a balcony, terrace or sitting out area in association with any Flat and shall only be accessed in relation to the general maintenance of the building.
6. No development other than demolition shall commence until a detailed scheme for protecting the proposed flats against noise from road traffic and the nearby garage at 57 - 61 St Albans Road has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of ventilation and shall be based on the recommendations and mitigation measures detailed in the submitted Noise Impact Assessment reference RF85573/DNA/REV B dated 9 February 2016, unless otherwise agreed in writing by the Local Planning Authority. No part of the development shall be occupied until all the works forming part of the approved scheme have been completed.
7. No development other than demolition, shall commence until details of the materials to be used for all the external finishes of the building, including walls, roofs, doors, windows and balcony railings, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved materials.
8. No development other than demolition shall commence until detailed drawings of the elevations, including details of the reveals, projections, recessed areas, balconies, brick bonds and the proposed capping for the walls, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details.
9. No development other than demolition shall commence until details, including timing of installation, of the green wall to the rear of the building (shown on approved Plan No. A2659 401 Rev P12) and the green roof system (shown on approved Plan No. LP/CHSARWH/020 Rev B) have been submitted to and approved in writing by the Local Planning Authority. The green wall and green

roof system shall be installed in accordance with the approved details prior to occupation of any dwelling.

10. No part of the development shall be occupied until full details of a soft landscaping scheme have been submitted to and approved in writing by the Local Planning Authority. The approved landscaping scheme shall be carried out not later than the first available planting and seeding season after completion of the development. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, or in accordance with details approved by the Local Planning Authority.
11. No part of the development shall be occupied until full details of a hard landscaping scheme, including details of all site boundary treatments and all fencing or enclosures within the site, have been submitted to and approved in writing by the Local Planning Authority, and the works have been carried out in accordance with the approved details.
12. No development other than demolition shall commence until further site investigations have been carried out to establish whether roots of off-site trees are present within the site. The investigation shall be carried out in accordance with the submitted Arboricultural Method Statement prepared by David Clarke dated October 2015. Other than demolition, no development shall commence until the results of the site investigation and any necessary tree protection measures have been submitted to and approved in writing by the Local Planning Authority. The tree protection measures shall be implemented in accordance with the approved details for the duration of the construction of the basement, unless otherwise agreed in writing by the Local Planning Authority.
13. The tree protection measures shown in the Arboricultural Method Statement prepared by David Clarke dated October 2015 and drawing no. TPP/CHSARWH/010 Rev B shall be implemented for the duration of the construction work, unless otherwise agreed in writing by the Local Planning Authority.
14. No below ground services and cabling (electricity, gas, telephone, water, cable T.V. etc.) shall be routed through the Root Protection Zones of retained trees, unless otherwise agreed in writing by the Local Planning Authority.
15. No part of the development shall be occupied until bin and cycle storage facilities have been provided in accordance with the details shown on the approved drawings. The storage facilities shall be retained at all times thereafter.
16. No development shall commence until details of the proposed ground levels and the finished ground floor levels of the building have been submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in accordance with the approved details.
17. The development permitted shall only be carried out in accordance with the drainage strategy prepared by EAS, job number 812, dated September 2015; and the following mitigation measures detailed within the drainage strategy:
 - (i) Limiting the surface water run-off generated by the critical storm event so that it will not exceed the rate of 5 l/s.

- (ii) Implementing appropriate SuDS measures giving priority to above ground measures such as green roofs, as shown in drawing SK05 Appendix L of the drainage strategy prepared by EAS.
 - (iii) Providing attenuation to ensure no increase in surface water run-off volumes for all rainfall events up to and including the 1 in 100 year + climate change event providing a minimum of 100 m³ of storage volume between the green roofs and the underground attenuation tank.
 - (iv) Provision of a petrol interceptor in accordance to drawing SK05 in Appendix L.
 - (v) Discharge of surface water into the existing Thames Water sewer network.
- The mitigation measures shall be fully implemented prior to occupation.
18. No development other than the demolition of the existing building shall take place until the final design of the green roofs and the rest of the drainage network has been submitted to and approved in writing by the Local Planning Authority. An attenuation volume of 100 m³ should be provided by green roofs and underground attenuation tanks. The design of the green roofs should be in line with best practice standards as shown in The SuDS Manual (CIRIA C-753). The design of the drainage scheme shall also include:
- (i) Details of how the green roof, underground attenuation tanks, petrol interceptors and the rest of the elements of the drainage network shall be maintained and managed after completion.
 - (ii) Detailed engineering details of the design of the proposed green roof in line with The SuDS Manual.
- The drainage scheme shall be full implemented prior to occupation.
19. No development other than demolition shall commence until a Phase I Report to assess the actual or potential contamination at the site has been submitted to and approved in writing by the Local Planning Authority. If actual or potential contamination and/or ground gas risks are identified further investigation shall be carried out and a Phase II report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. If the Phase II report establishes that remediation or protection measures are necessary a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority and, other than demolition, no development shall commence until the mitigation measures have been implemented. For the purposes of this condition:
- A Phase I Report consists of a desk study, site walkover, conceptual model and a preliminary risk assessment. The desk study comprises a search of available information and historical maps which can be used to identify the likelihood of contamination. A simple walkover survey of the site is conducted to identify pollution linkages not obvious from desk studies. Using the information gathered, a 'conceptual model' of the site is constructed and a preliminary risk assessment is carried out.
 - A Phase II Report consists of an intrusive site investigation and risk assessment. The report should make recommendations for further investigation and assessment where required.

- A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.
20. All remediation or protection measures identified in the Remediation Statement referred to in Condition 21 shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement and a Site Completion Report shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of any part of the development hereby permitted.

For the purposes of this condition a Site Completion Report shall record all the investigation and remedial or protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.

21. No part of the development shall be occupied until the 75 car parking spaces shown on drawing No 199 Rev P12 have been laid out and constructed in full. These spaces shall be retained for parking cars at all times.
22. No part of the development shall be occupied until the new vehicular crossover, as shown on drawing No 200 Rev P12, has been laid out and constructed in full.
23. No part of the development shall be occupied until a management plan to ensure that the 'Drop Off Point' shown on drawing No 200 Rev P12 is only used for refuse collection, deliveries and loading/unloading has been submitted to and approved in writing by the Local Planning Authority and the approved measures have been provided in full. These measures shall be retained as approved at all times.
24. No part of the development shall be occupied until details of access control and security measures for the basement car park have been submitted to and approved in writing by the Local Planning Authority. The access control and security measures shall be installed in accordance with the approved details prior to the occupation of the development and implemented at all times thereafter.