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## Appeal Decision

Site visit made on 7 July 2015

**by David M H Rose BA (Hons) MRTPI**

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

**Decision date: 15 July 2015**

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**Appeal Ref: APP/K0425/W/15/3006151**

**Former BT car park, land adjacent to 23 Easton Street, High Wycombe, Bucks, HP11 1NJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
- The appeal is made by Property Matters (Albion) Ltd against the decision of Wycombe District Council.
- The application Reference 14/07141/FUL, dated 14 August 2014, was approved on 1 December 2014 and planning permission was granted subject to conditions.
- The development permitted is 'Redevelopment of existing BT car park with a 3-storey office building along Easton Street and erection of 12 x 2 bed flats in one block with associated bin/cycle storage along Abbey Place'.
- The Conditions in dispute are Nos 2, 18, 20 and 21 which provide:-

**Condition 2**

*'Prior to the occupation of any part of the development or use hereby permitted, the scheme shall be carried out and completed in accordance with the proposals contained in the application and the following drawing number(s), unless the Local Planning Authority otherwise first agrees in writing, namely 12.05 P06 Rev A; 12.05 P10 Rev A; 12.05 P11 Rev A; 12.05.P-20; 12.05 P05; 12.05-P12; 12.05 P04 Rev A; 12.05 P03 Rev A; 12.05 P01 Rev A; 12.05.P-02; WDC1'.*

**Reason**

*'For the sake of clarity as to which drawings comprise the approved scheme and in order to avoid any detriment to amenity or the environment by reason of works remaining uncompleted'.*

**Condition 18**

*'None of the apartments hereby approved should be occupied before the development of the office building is complete'.*

**Reason**

*'To secure the satisfactory development of the site'.*

**Condition 20**

*'No development shall take place until 1:50 scale drawings of windows on the office building have been submitted to and approved in writing by the Local Planning Authority'.*

**Reason**

*'In the interests of securing the satisfactory design of the development'.*

**Condition 21**

*'No development shall commence on the 12 x 2 bed flats hereby approved until the 3 storey office building has been completed to shell and core unless alternative details of the phasing of the development have been submitted to and approved in writing by the Local Planning Authority. In the event of alternative phasing details being approved, the development shall then be carried out in accordance with those approved details'.*

**Reason**

*'In the interests of the character and appearance of Easton Street and the Conservation Area'.*

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## **Decision**

1. The appeal is allowed and the planning permission Reference 14/07141/FUL for redevelopment of existing BT car park with a 3-storey office building along Easton Street and erection of 12 x 2 bed flats in one block with associated bin/cycle storage along Abbey Place at the former BT car park, land adjacent to 23 Easton Street, High Wycombe, HP11 1NJ, granted on 1 December 2014 by Wycombe District Council, is varied by deleting Conditions 2, 18, 20 and 21 and substituting for them the following conditions:

### **Condition 2**

The development hereby permitted shall be carried out in accordance with the proposals contained in the application and the following drawing numbers:- 12.02 P-05; 12.05 P01 Rev A; 12.05. P-02; 12.05 P03 Rev A; 12.05 P04 Rev A; 12.05 P06 Rev A; 12.05 P07 Rev A; 12.05 P10 Rev A; 12.05 P11 Rev A; 12.05-P12; 12.05. P-20; and WDC1.

### **Condition 20**

No development of the office building shall take place until 1:50 scale drawings of windows on the office building have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as approved.

The permission is also varied by the addition of the following condition:

### **Condition 22**

The landscaping scheme for the site, as required by Condition 4 above, shall include details of the 'living wall' proprietary vertical planting and details of the temporary landscaped garden (including details of its boundary treatment) along the Easton Street frontage. The approved works shall be implemented in accordance with a timetable to be agreed in writing by the Local Planning Authority.

## **Preliminary matters**

2. The drawings listed in Condition 2 of the planning permission do not fully correspond with the drawings accompanying the appeal. Correspondence confirms that Drawing 12.05 P05 does not exist; but Drawing 12.02 P05 (comparison overlay) should be included. Similarly, amended north and south elevations (Drawing 12.05 P07 Rev A) form part of the proposal. WDC1 (skydoor details) has also been confirmed to be relevant.
3. The Council has indicated that as there is some duplication in the planning conditions imposed, Condition 18 can be removed as Conditions 2 and 21 would continue to ensure the comprehensive development of the site. On this basis I make no further reference to Condition 18.

## **Main Issue**

4. The main issue is whether the concurrent implementation of the office building and the flats is reasonable and necessary having particular regard to the provisions of the development plan; the location of the site within the High Wycombe Conservation Area; the adjoining Grade II Listed Buildings (19 – 23 Easton Street); and the 'fallback' of an extant planning permission.

## Reasons

### The development plan

5. By way of background, planning permission was granted in July 2010 to redevelop the appeal site with a 3-storey office building along Easton Street and 6 x 3 storey houses along Abbey Place to the rear. None of the conditions imposed precluded the erection of one building without the other. In February 2014 planning permission was granted, subject to the same conditions, to extend the period in which the development was to be commenced. This permission remains extant.
6. At the time of the original permission, relevant policies were contained in the Core Strategy DPD (Adopted July 2008) and in the Adopted Wycombe District Local Plan to 2011 (as saved, extended and partially replaced). The same development plan documents were cited in the consideration of the second proposal, notwithstanding the publication of the Adopted Delivery and Site Allocations Plan (July 2013).
7. This document identifies a number of town centre character areas; and indicates that where redevelopment opportunities arise within them, site specific policies set out land use mix and infrastructure provision.
8. The appeal site lies within the 'Civic Quarter' on the eastern side of the town centre where offices and civic uses predominate. It falls within Policy HWTC7: Easton Street where:- *'1) ..... any redevelopment proposals should be primarily for B1 office uses; 2) proposals for other main town centre uses and limited residential development are acceptable .....; and 3) redevelopment proposals in this area should ..... secure an active ground floor frontage onto Easton Street.'*
9. The approved scheme, with offices fronting on to Easton Street and residential units to the rear, facing Abbey Place, would accord with the aims of the policy.
10. The real area of contention is the applicability or otherwise of Policy DM6: Mixed-Use Development which indicates that proposals for mixed-use developments will be required to:- *'1) ..... (a) meet the development principles and requirements identified in site specific policies .....; (b) deliver a comprehensive development which covers the whole of the allocated site; and 2) developments which include an element of business uses (i.e. B use class) will be required to ensure a legal agreement or other appropriate mechanism is in place to secure the delivery of the business element'.*
11. In this regard, the appellant contends that the policy does not apply to the appeal site in that it must be read with its supporting text as a legitimate aid to its construction. In short it is said that Policy DM6 applies to sites which are allocated for mixed-use within the Delivery and Sites Allocation Plan; such sites are identified in Policies HWCT9 – 19; whereas HWTC7 (and HWTC8) relates to an area as opposed to a site.
12. Reading the document as a whole, it is clear that there is some imprecision in terminology. By way of example, paragraph 3.27 states:- *'the following town centre sites ..... HWTC7..... HWTC8 ..... HWTC9/10/11/12/13 and HWTC16 .....'*. In turn Policy HWTC4 refers to *'..... the following locations HWTC8/10/16/17 and HWTC19 ..... development on these sites .....'*. Further, at Policy HWTC8:- *'This area is allocated .....'*; but the supporting text, in both paragraphs 3.66 and 3.67 refers to *'this site'*.

13. On this basis, it would appear that Policy DM6 is relevant and that it is legitimate for the Council to require comprehensive development and a secure mechanism to provide the business component of such a scheme. Conditions 2 and 21 are therefore consistent with the development plan.

**Conservation Area and Listed Buildings**

14. Starting again with the development plan, Policies HE3 and HE6 of the Wycombe District Local Plan reflect the statutory duties in relation to Conservation Areas and the setting of Listed Buildings; and Policy G3 relates to design in general. Policies CS17 and CS19 of the Wycombe Development Framework Core Strategy provide for the preservation and enhancement of historic environments and raising the quality of place-shaping and design respectively.
15. The appeal scheme has been conceived with a 'period' (Georgian) building facing on to Easton Street and turning the corner into Abbey Place with proportions and detailing to reflect the adjacent frontage Listed Buildings which are important elements within the Conservation Area. The residential building would be of contemporary style and contrasting materials which the Council consider to be appropriate in this area of mixed character and I see no reason to disagree.
16. However, the point at issue is whether the construction of the residential building before the office building would be harmful to urban form and the character and appearance of the Conservation Area. In this regard, on the basis that the approved building is acceptable in its own right, the point can be narrowed, in essence, to the effect of the blank south elevation, which would otherwise be masked by the office building, on the locality and Easton Street in particular.
17. The proposed residential block would be set well back from the Easton Street frontage and views from the south would be limited to the immediate locality of the triangular road junction. The building would clearly be perceived as distinct from the frontage Listed Buildings and viewed in surroundings which contain unremarkable buildings of the second half of the 20<sup>th</sup> century. The south wall would also be enhanced by a 'living wall' of proprietary vertical planting which would add relief, texture and colour. Overall, the setting of the Listed Buildings and the character and appearance of the Conservation Area would be preserved.
18. Moreover, the opportunity exists to create a temporary landscaped garden, from the start of the development, along the Easton Street frontage, with high quality landscape design and boundary treatment, including a renovated wall and railings, pending the construction of the office building. With the subsequent backdrop of the 'living wall', the overall effect would be to significantly improve the appearance of a long-standing gap site and its distinct air of neglect. To my mind such works would enhance the setting of the adjacent Listed Building and bring positive benefit to the appearance of the Conservation Area, in accordance with the statutory duties and relevant development plan policies.<sup>1</sup>

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<sup>1</sup> In particular:- Policies HE3 and HE6 of the Wycombe District Local Plan; and Policies CS17 and CS19 of the Adopted Core Strategy. Policies HWTC1 and HWTC2 of the Adopted Delivery and Site Allocations Plan contain related townscape objectives.

### **Fallback and Planning Balance**

19. In terms of the planning permission for the offices/flats development, the subject of this appeal, the office building broadly corresponds to that approved in the 2014 permission for offices/houses. The flats would occupy more-or-less the same footprint as the houses and they would be no greater in height. Although they would be arranged in four blocks instead of three; and the pattern of fenestration would differ, the totality of the changes would not be of material significance in terms of the underpinning design concept and the effect of the development on the locality.
20. It is said that, in the event of the disputed conditions remaining, the appellant would implement the approved scheme for offices/houses which would allow the residential units to be built before the office element. The reasonable prospects of that occurring are not disputed and the Council acknowledges this to be a material consideration.
21. The local planning authority admits to an error in failing to impose conditions requiring comprehensive development, in a similar vein to those the subject of this appeal, on the permission to extend the period in which the office/dwellings were to be commenced. At the time of that decision, against the background of a recently adopted Delivery and Site Allocations Plan, the option would have been available to the authority. In effect, the approval given ran counter to its own policy. In this regard, the removal of the disputed conditions, in this appeal, would be contrary to Policies HWTC7 and DM6; but the conflict with policy would be no different to that which would occur as a result of the implementation of the offices/dwellings.
22. A more substantial distinction can be drawn in relation to the consideration of heritage assets. Whilst the implementation of the earlier permission, with the houses preceding the offices, could not be construed as implicitly harmful, a similar phased implementation of the appeal proposal would offer positive advantage in landscape and townscape terms by enhancing both the setting of adjoining Listed Buildings and the appearance of the Conservation Area. This provides a sufficient balance of advantage to allow the appeal.
23. In terms of the Council's specific concerns about the partial development of the site for residential use, the erection of the residential accommodation as a precursor to the offices would not, by itself, frustrate the wider objectives of securing mixed-use development; filling the gap in the historic Easton Street frontage; and securing an active street frontage.
24. Moreover, in acknowledging that a decision must be taken in accordance with the provisions of the development plan unless there are material considerations that indicate otherwise, the identified conflict with Policies HWTC7 and DM6 is outweighed by the realistic prospect of an earlier planning permission being implemented which would fall short of the heritage benefits associated with the project before me. As such the concurrent implementation of the office building and the flats is neither reasonable nor necessary in the particular circumstances of this case.

### **Conditions**

25. Given my conclusion on the main issue, the planning permission will be varied by deleting Condition 21. Condition 18 will also be deleted for the reason given in paragraph 3 above.
26. However, it remains necessary to list the approved plans, in Condition 2, to which the permission relates for clarity and in the interests of proper planning and to rectify the errors in the original list of approved drawings. In particular, Drawing 12.05 P07 Rev A illustrates the 'living wall' as referred to in paragraphs 17 and 18 above. The condition is worded to reflect the advice in Planning Practice Guidance: 'Conditions requiring the development to be carried out in its entirety'.
27. In terms of Condition 20, there is no reason why the provision of detailed drawings of the office building windows should be provided before works start on the residential units and the condition will be varied accordingly. However, the condition is incomplete in that it does not include a requirement for the building to be erected in accordance with the approved details; and this will be added.
28. Condition 4 of the planning permission requires a fully detailed landscaping scheme for the site to be submitted and approved in writing by the Local Planning Authority before any development takes place; and Condition 6 secures such works in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner. Given my conclusions in paragraphs 17 and 18 above, it is necessary to supplement this condition by the addition of a further condition (Condition 22) to secure those details in an appropriate manner.

### **Other matters**

29. A more recent planning permission, in April 2015, provides scope for a further form of development on the appeal site with the Easton Street building comprising a mix of office space and residential units. That permission requires development to be carried out in a comprehensive manner. However, there is no indication as to whether that project would be viable and the likelihood of it being carried out in preference to other approved schemes. It is not a sufficient basis to undermine my conclusions set out above.
30. Having considered these and all other matters raised there is nothing of sufficient materiality to lead me to change my decision to allow the appeal and to vary the planning permission.

*David MH Rose*

Inspector

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