

Planning Committee Supplemental Agenda

Date: Wednesday 17 April 2024

9. Addendum (Pages 3 - 14)

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HARROW COUNCIL

SUPPLEMENTAL ADDENDUM

PLANNING COMMITTEE

DATE: 17th APRIL 2024

1/01	395 Kenton Lane, Harrow HA3 8RZ - P/2024/22
Page 20	<p>3.0 RELEVANT PLANNING HISTORY</p> <p>ADD A FINAL PARAGRAPH TO PLANNING HISTORY SECTION</p> <p>3.4. Application P/1497/21 was refused for the following reasons:</p> <ol style="list-style-type: none"> 1. The proposal would introduce an inappropriate residential use on the ground floor of the subject premises, which would be incompatible and at odds with the functioning of the Belmont Local Centre, to the detriment of the viability and vitality of the Local Centre, contrary to the National Planning Policy Framework (2021), Policies GG1 and E7 of The London Plan (2021) and Policies DM 38, DM 39 and DM 40 of the Harrow Development Management Policies Local Plan (2013). 2. The proposal, as a result of being capable of providing more than ten residential units, fails to provide affordable housing to the Boroughs housing stock. The submitted viability report is not considered robust and does not accurately demonstrate that the proposal would be unviable to make such a provision, the proposal fails to address the key aims of Policies H4, H5 and H6 of The London Plan (2021), Policy CS1.J of the Harrow Core Strategy (2012), Policies DM 24 and DM 50 of the Harrow Development Management Policies Local Plan (2013) and adopted Supplementary Planning Document: Planning Obligations and Affordable Housing (2013). 3. The proposal, which includes 15 vehicle parking spaces to the rear of the site, exceeds the maximum parking standards for residential development in this location as set out in Table 10.3 of the London Plan. The proposal would therefore fail to comply with the aims of reducing car use and would not help support

	<p>the solution to the road congestion challenges faced in London as set-out in Policies T1, T5, and T6.1 of the London Plan (2021), Policy CS1 of the Harrow Core Strategy (2012), and Policy DM42 of the Harrow Development Management Policies (2012).</p>
<p>Page 34</p>	<p>Amend paragraph 6.5.11 to read:</p> <p>The proposals also include a communal amenity area however concerns have been raised around the success of this space given its location, size and accessibility from the units. It appears that the communal area will be accessed via the car park which is not considered an inviting route to the area. As such, Officer's will add a pre-commencement condition requiring the applicant to demonstrate how residents will access this communal area. This communal area is not considered successful and given that the flats already benefit from balconies, Officers consider that the communal area should be afforded to the ground floor flat. As such, a condition is recommended that requests plans to facilitate this change.</p>
<p>Page 38</p>	<p>Replace Paragraph 6.7.10 with the following:</p> <p>In line with London Plan 2021 requirements, no more than 11.25 car parking spaces for this development are permitted (at a rate of 0.75 space per dwelling). This must include 3% disabled parking spaces from the outset with 7% enlarged for future conversion. Additionally, 20% of spaces must have active electric vehicle charge points and the remaining 80% with passive provision. The proposal includes 11 car parking spaces including one disable bay. This is contrary to the London Plan requirement, as the maximum should be no more than 11 car parking spaces, 1 disabled bay, and 1 enlarged space. Notwithstanding this, the Highways Officer has confirmed the proposed car parking spaces are acceptable.</p> <p>In line with London Plan 2021 requirements, no more than 11.25 car parking spaces for this development are permitted (at a rate of 0.75 space per dwelling). This must include 3% disabled parking spaces from the outset with 7% enlarged for future conversion. Additionally, 20% of spaces must have active electric vehicle charge points and the remaining 80% with passive provision. The proposal includes 11 car parking spaces including two disabled bays. This differs marginally with the London Plan requirement, as the maximum should be no more than 11 car parking spaces, 1 disabled bay, and 1 enlarged space. This is a reduction in the quantum proposed in the 2021 application which sought 15 parking spaces including three disabled bays. The Highways Officer has reviewed the submitted documents and confirmed the proposed car parking spaces are now</p>

	<p>acceptable. It is under this context that the previous reason for refusal on parking has now been addressed.</p>
<p>Page 45</p>	<p>Add the following wording, 'Rev B' and 'Rev A' to Condition 2:</p> <p>2. <u>Approved Plans and Documents</u></p> <p>The development hereby permitted shall be carried out in accordance with the following documents and plans:</p> <p>Planning and Design and Access Statement (May 2022), Energy Statement (May 2022), Transport Statement (May 2022), Viability Review & Report (By JLL dated 4th July 2023), Flood Risk Assessment and Drainage Strategy (May 2022), Location Plan; 20/3499/15; 20/3499/12 Rev B; 20/3499/14 Rev A; 20/3499/13 Rev C; 20/3499/11 Rev C; 20/3499/10 Rev C</p> <p>REASON: For the avoidance of doubt and in the interests of proper planning.</p>
<p>Page 46</p>	<p>Add the following wording, (other than works of demolition), to Condition 4:</p> <p>4. <u>Levels</u></p> <p>No site works or development (other than works of demolition) shall commence until details of the levels of the building(s), road(s) and footpath(s) in relation to the adjoining land and highway(s), and any other changes proposed in the levels of the site, have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with the approved details and shall thereafter be retained.</p> <p>REASON: To ensure that the works are carried out at suitable levels in relation to the highway and adjoining properties in the interests of the amenity of neighbouring residents, the appearance of the development, drainage, gradient of access and future highway improvement, in accordance with policies DM1 of the Councils Development Management Policies Local Plan 2013. This is a PRE-COMMENCEMENT CONDITION to ensure adequate levels before the development commences on site.</p>
<p>Page 46</p>	<p>Add the following wording, (other than works of demolition), to Condition 5:</p> <p>5. <u>Disposal of Surface Water/Surface Water Attenuation</u></p>

	<p>The development hereby permitted shall not commence (other than works of demolition) until works for the disposal of surface water and surface water attenuation and storage works have been submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with these approved details and shall thereafter be retained.</p> <p>REASON: To ensure that adequate drainage facilities are provided and to reduce and mitigate the effects of flood risk in accordance with policy DM10 of the Councils Development Management Policies Local Plan 2013. This is a PRE-COMMENCEMENT CONDITION to ensure adequate drainage details are agreed before the development commences on site.</p>
<p>Page 47</p>	<p>Revise the wording of Condition 6 to read:</p> <p>6. Disposal of Sewage</p> <p>The development hereby permitted shall not commence beyond damp proof course level until works for the disposal of sewage have been provided on site in accordance with details to be submitted to, and approved in writing by, the local planning authority. The development shall be carried out in accordance with these approved details and shall thereafter be retained.</p> <p>REASON: To ensure that adequate drainage facilities are provided in accordance with policy DM10 of the Councils Development Management Policies Local Plan 2013.</p>
<p>Page 50</p>	<p>Remove 11 from Condition 15 and replace it with 13</p> <p>15. Landscaping Management Plan</p> <p>Notwithstanding the details requested above in condition 11 13, prior to the occupation of the development, a Landscape Management Plan and Landscape Maintenance plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas, including the communal hard and soft landscape areas shall be submitted and approved by the local planning authority. The long term Landscape Management Plan for the whole of the proposed development will ensure the future success of the development, including the long term aims and objectives for all the external areas. The management and maintenance plan shall be implemented in accordance with the details approved, in perpetuity. The development shall be carried out in accordance with the scheme so agreed and shall be retained as such thereafter.</p> <p>REASON: To ensure that the development makes provision for hard and soft landscaping which contributes to the creation of a high quality, accessible, safe and attractive public realm and to ensure a</p>

	<p>high standard of design, layout and amenity in accordance with policy D3 of The London Plan (2021), policy CS.1B of the Harrow Core Strategy (2012) and policy DM22 of The Development Management Policies Local Plan 2013.</p>
<p>Page 52</p>	<p>Delete Condition 19 and replace it with:</p> <p>19. Permeable Paving</p> <p>Before the hard surfacing hereby permitted is brought into use the surfacing shall EITHER be constructed from porous materials, for example, gravel, permeable block paving or porous asphalt, OR provision shall be made to direct run-off water from the hard surfacing to a permeable or porous area or surface within the curtilage of the site.</p> <p>REASON: To ensure that adequate and sustainable drainage facilities are provided, and to prevent any increased risk of flooding. In accordance with policy DM10 of the Councils Development Management Policies Local Plan 2013.</p> <p>Removal of Communal Garden:</p> <p>Notwithstanding the approved plans, the development shall not be occupied until a revised block plan and ground floor plan showing the removal of the communal garden area, and the re-purposes of the communal garden as a private garden for the sole use of the ground floor flat only. The scheme shall also facilitate direct accessible access and egress to that garden area from the ground floor flat and include details of a 1.8m high close boarded fence to enclose this garden area for privacy reasons. The details shall be submitted to and approved in writing by the Local Planning Authority.</p> <p>The development shall be completed in accordance with the approved details prior to the occupation of the development and shall thereafter be retained.</p> <p>REASON: To enhance the amenities for residents of the ground floor flat in accordance with Policy DM1 of the Harrow Development Management Local Plan DPD 2013.</p>
<p>Page 52</p>	<p>Revise the wording of Condition 20 to read:</p> <p>20. <u>Restricted Use</u></p> <p>The ground floor commercial premises shall be used only as flexible E(c)(i, ii and iii) and/or E9(d) and/or E(e) and/or or E(g))(i, ii and iii) uses and for no other purposes, unless an alternative use is agreed in writing by the Local Planning Authority.</p>

	<p>REASON: To safeguard the character and functioning of the Belmont Local Centre and to accord with Policy DM31 of the Harrow Development Management Policies Plan (2013), Policies CS1.N CS1.O, CS1.P and CS.10 of the Harrow Core Strategy (2012).</p>
<p>Page 52 and 53</p>	<p>Delete Condition 22 and replace it with:</p> <p>22. <u>Permitted Development Restrictions 1</u></p> <p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification), no change of use falling under Classes M, MA, N, O or P in Part 3 of Schedule 2 of that Order shall take place within the ground floor commercial units and it shall only operate under as flexible E(c)(i, ii and iii) and/or E9(d) and/or E(e) and/or or E(g))(i, ii and iii) uses and for no other purposes unless an alternative use is agreed in writing by the Local Planning Authority.</p> <p>REASON: To ensure a suitable use operates within the space given over to the commercial unit and that space shall not be converted to a poor-quality residential unit.</p> <p><u>Car Parking Design and Management Plan</u></p> <p>Notwithstanding the approved plans, the residential premises hereby approved shall not be occupied until a Car Parking Design and Management Plan has been submitted to, and approved in writing by, the Local Planning Authority. The plan shall set out the following:</p> <ol style="list-style-type: none"> a. Details of Disabled persons parking spaces in accordance with the levels set out in Table 10.6 of the London Plan 2021. The plan should outline the mechanism for converting standard spaces to disabled parking should demand increase. b. Details of the allocation and management of the car parking spaces including the accessible car parking spaces to the individual flats. c. Details of how the car parking spaces could be removed in the future should they become surplus to requirements and potentially be re-provided as cycle storage or landscaping. d. Details of monitoring, management and enforcement procedures for parking within the site. e. Details of how commercial vehicles will enter and egress the car parking area without causing detriment to parked vehicles.

	<p>The development shall be completed and operated in accordance with the approved details and shall thereafter be retained.</p> <p>REASON: To ensure that the car parking is managed in a satisfactory manner and that the development contributes to more sustainable travel in accordance with Local Plan DM42 and Policy T6 and Policy T6.5 of the London Plan (2021).</p>
Page 53	<p>Remove (silver and (sic) gold) from Condition 25</p> <p>25. Secure by Design</p> <p>Evidence of certification of Secure by Design Accreditation for the development (silver of gold) shall be submitted to and approved in writing by the Local Planning Authority before any part of the development is occupied or used.</p> <p>REASON: In the interests of creating safer and more sustainable communities and to safeguard amenity by reducing the risk of crime and the fear of crime.</p>
Page 56	<p>ADD APPENDIX 2: APPEAL DECISION</p> <p>As attached</p>

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Appeal Decision

Site visit made on 18 August 2015

by **Claire Victory BA (Hons) BPI MRTPI**

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

Decision date: **23/09/2015**

Appeal Ref: APP/M5450/W/15/3027406

395 Belmont Service Station, Kenton Lane, Harrow, Middlesex HA3 8RZ

- 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 W E Black Ltd against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/3598/14, dated 17 September 2014, was refused by notice dated 3 February 2015.
 - The development proposed is the erection of a building to provide 2 x 1 bed self-contained flats and 13 x 2 bed self-contained flats with front and rear balconies and terraces and associated parking, amenity areas and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by W E Black Ltd against Harrow Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in the appeal are:
 - the effect of the development on the vitality and viability of Belmont Local Centre;
 - whether the development should make provision for affordable housing; and
 - whether the development would provide satisfactory living accommodation, with particular regard to privacy and noise and disturbance.

Reasons

Vitality and Viability

4. The appeal site previously comprised a single storey building and forecourt area providing an MOT testing station, but the building has been demolished and the site is now cleared. It lies within the Belmont Local Centre, but outside of the primary shopping frontage. Belmont Community Hall and a nursery are located to the south of the appeal site, and there is a parade of shops opposite,

also within the local centre. Residential properties are located opposite and to the south of the community hall and nursery.

5. The appellant contends that the proposal would not result in the loss of ground floor retail frontage. However, there is an extant planning permission for a mixed use scheme with retail at ground floor level and 8 residential units on upper floors¹. The appeal site has been cleared and the main parties agree that this planning permission has been implemented. I have therefore assessed the appeal on this basis.
6. Belmont Local Centre has a low level of vacant units. At the time of the site visit appeared to be operating successfully, and no compelling evidence is before me to demonstrate the contrary. Although the retail floorspace permitted by Ref.P/2652/2 is relatively modest at 370 sqm, the proposed residential use at ground floor level would interrupt the continuous commercial and civic ground floor frontage within the Local Centre. Consequently it would undermine the coherence of the centre, harming its role and function.
7. The appellant contends that a larger retail unit would have a detrimental effect on the local centre, but the National Planning Policy Framework (the Framework) confirms that planning has a role in promoting the competitiveness of town centres, which provide customer choice and a diverse retail offer, and thus the availability of retail units in a variety of different sizes within the centre is not considered to be sufficient reason to justify the loss of retail floorspace in this location.
8. Moreover, the Council, at the time of granting planning permission in 2012 considered that the retail floorspace at ground floor level would have a positive impact on the vitality and viability of the centre. No evidence has been presented that would justify a departure from the Council's development plan, which seeks to protect the role and function of designated town and local centres, in line with the Framework, or that the health of the local centre has altered significantly since the planning permission was granted.
9. For these reasons I conclude that the development would harm the vitality and viability of the Belmont Local Centre. It would conflict with DMP Policies DM39, DM38 and DM40 of the *Development Management Policies Local Plan (DMP) (2013)*. DMP Policy 39 states that residential use of ground floor premises within town centres will not be permitted under any circumstances. DM 38 indicates that residential is not an appropriate use of ground floor premises in neighbourhood parades and non-designated frontages of town centres and such uses will be resisted. DM40 supports mixed use development within town centres, having regard to the role and function of the centre, amongst other things. These policies are consistent with the Framework, insofar as it seeks to recognise town centres as the heart of their community and pursue policies to support their vitality and viability.

Affordable Housing

10. Policy CS1.J of the Core Strategy (CS) (2012) requires 40% affordable housing on sites of 10 units or more, and states that the Council will seek the maximum reasonable amount of affordable housing on all development sites, having regard to a number of factors including development viability and the site

¹ Ref.P/2652/2

circumstances and other scheme requirements. The appellant submitted a financial viability assessment with the application which concluded that the site could not support any level of affordable housing. The Council's disputes this conclusion, based on the findings of its consultant.

11. There are only minor differences between the parties in terms of the assumptions made on certain inputs, including ground rent yield, professional fees, and purchaser's costs, but key areas of dispute remain, relating to demolition, site and groundwork costs, and the benchmark land value of the site. Although demolition costs have been included within the appellant's financial viability appraisal, the site has already been cleared, and it is unclear from the appraisal whether this has been factored into the purchase cost of the land. Furthermore, although the *Desk Top Study and Site Investigation* sets out the need for site investigations and remediation, it confirms that the fuel tanks have already been removed.
12. Further to the above, the Existing Use Value (EUV) provided in the appellant's financial viability appraisal is based on the former use as a garage, but the Planning Practice Guidance states that viability assessment in decision-taking should be based on current costs and values, and that planning applications should be considered in today's circumstances. The appellant has confirmed that planning permission ref. P/2652/12 has been implemented by way of the demolition of the garage. It is therefore reasonable to consider the EUV on the basis of the current situation, rather than an historic use, and the cost of demolition and remediation that may have already been carried out should not be factored into the current land value if it has already been accounted for. Insufficient evidence has been provided to confirm if this is the case. In addition, no details have been provided to support the estimates given in relation to demolition, site investigations and remediation costs.
13. I conclude that there is insufficient information provided in the appellant's *Financial Viability Assessment* to demonstrate that the proposal cannot support any affordable housing. The development would therefore be contrary to CS Policy CS1.J. It would also fail to accord with DMP Policy DM24, which seeks to provide an appropriate mix of housing on site and DMP Policy DM50, which states that planning obligations will be sought on a scheme by scheme basis to secure the provision of affordable housing in relation to residential development schemes.

Living conditions

14. The Council's third reason for refusal concerns the perceived lack of a defensible buffer between windows to habitable rooms in the front elevation, and what was described as a communal pathway to the front of the proposed building. The submitted plans show that the pathway referred to by the Council is in fact a proposed terrace at third floor level serving Flats 12 and 15. The main entrance would be positioned centrally within the front elevation, with landscaped areas on either side of a path providing pedestrian access from Kenton Lane. A set back of approximately 5m from the back edge of the footpath to the front elevation, and proposed boundary treatment of railings would provide an appropriate buffer to avoid undue overlooking.
15. I therefore conclude that the development, by reason of its design and layout, would provide satisfactory living accommodation, and would comply with the

design and amenity objectives of DMP Policy DM1, and the *Residential Design Guide (2010)*.

Other Matters

16. The appellant contends that the appeal scheme would be more visually compatible with existing properties within Belmont Circle than the approved scheme. I do not have the full details of that scheme, but in any case, an absence of harm in relation to the scheme's design would not overcome the harm that I have found in relation to the effect on Belmont Local Centre and the lack of robust evidence as to the need for affordable housing contributions.
17. Since the application was determined, *Further Alterations to the London Plan (FALP) (2015)* have been adopted. I note the acknowledged demand for housing in London and that the provision of additional residential units would make a contribution to supply in the Borough. However, whilst the Core Strategy highlights limited opportunities to accommodate new homes in the Kenton and Belmont sub-area, the appellant has not provided any evidence to demonstrate that Harrow cannot meet its housing requirement. Moreover, it is probable that this site, with planning permission for 8 residential units, has been accounted for, at least in part, in the Council's 5 year housing land supply data. In this instance I consider that the harm that would be caused in respect of the first two main issues would outweigh the modest benefit of the additional housing that would be provided.
18. I have also had regard to the appellant's contention that the greater flexibilities introduced by the Government's Prior Approval process, to allow the conversion of certain uses to residential use should be considered as a fallback position, but the appeal proposal does not fall within the specified criteria set out in Class M and Class N of the *Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO 2015)*, relating to use class, floorspace and location. In particular the GPDO 2015 contains a number of safeguards that allow determination by the local planning authority of the impact of proposed changes of use, particularly within 'key shopping areas'. I consider that a designated Local Centre falls within this definition. Accordingly I do not consider this is a genuine fallback position.

Conclusion

19. Although I have found that the development would provide a satisfactory standard of accommodation, it would have an adverse effect on the vitality and viability of Belmont Local Centre, and there is insufficient evidence to demonstrate that a contribution to affordable housing could not be made in relation to the appeal proposal.
20. For the above reasons I conclude that the appeal should be dismissed.

Claire Victory

INSPECTOR