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## Appeal Decision

Hearing Held on 20 November 2018 and 29 January 2019

Site visit made on 29 January 2019

**by Nicola Davies, BA, DipTP, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 19<sup>th</sup> March 2019**

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**Appeal Ref: APP/Q3820/W/18/3199581**

**Rear of The George Hotel (Ramada), 56-58 High Street, West Green, Crawley, RH10 1BS**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by The Gatwick George Hotel Ltd. against Crawley Borough Council.
- The application Ref: CR/2017/0879/FUL is dated 18 October 2017.
- The development proposed is residential development to the rear of The George Hotel: Demolition of 11 Ifield Road, the construction of 38 residential units, associated external works and amended vehicular and pedestrian access.

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### **Decision**

1. The appeal is dismissed, and planning permission is refused.

### **Preliminary Matters**

2. Due to the number of issues for consideration the hearing ran over two non-consecutive days.
3. I have taken the site address and the name of the appellant from the planning application form although I note the site address is expressed differently on other documents and Mr N Patel's name has been provided on the planning appeal form.
4. The National Planning Policy Framework ('the Framework') has been revised since the planning application was lodged with the Council. I have had regard to the revised Framework in reaching my decision.
5. A signed and dated unilateral undertaking was presented at the hearing. The undertaking seeks to secure affordable housing, a travel plan and contributions toward open space. However, the undertaking does not include a deed plan which is a normal inclusion of a unilateral undertaking. Notwithstanding this, I will deal with the matters contained within the undertaking within my decision.

### **Application for costs**

6. Applications for costs have been made by both Crawley Borough Council and The Gatwick George Hotel Ltd. against one another. Those applications are the subject of a separate Decision.

## Main Issues

7. This appeal has been lodged following the Council's failure to determine the planning application. The Council in their appeal statement has put forward reasons for refusal had they been able to determine the application. An agreed Statement of Common Ground has also been provided that lists those refusal reasons put forward by the Council to be those matters that are of dispute between parties. That Statement includes those policies of the Crawley Borough Local Plan 2015-2030, Supplementary Planning Documents, Statements and Guidance Notes that pertain to those matters of dispute.
8. I therefore consider the main issues raised in respect of this appeal are:
  - a) The effect of the proposed development upon the setting of 10 Ilford Road, a Grade II listed building, as well as upon the significance of other designated heritage assets in the area;
  - c) The effect of the proposed development upon the character and appearance of Ilford Road and the High Street Conservation Area (the CA);
  - d) The effect of the proposed development upon the living conditions of future occupiers with regard to light, outlook, amenity and defensible space, privacy and noise;
  - e) The effect of the proposed development upon the living conditions of adjoining occupiers with regard to outlook and light;
  - e) The effect of the proposed development upon meeting the Council's sustainability objectives; and
  - f) Whether the proposed development should and can provide -
    - an element of affordable housing taking into consideration viability;
    - tree planting infrastructure;
    - open space; and
    - the implementation of the measures contained within the travel plan.

## Reasons

### *Listed building setting of 10 Ilford Road & other designated heritage assets*

9. The Grade II listed building of 10 Ifield Road is a modestly sized detached two storey timber-framed building. It is constructed in local vernacular being brick at ground floor, tile hanging at first floor with a pitched roof incorporating a catslide at the rear. Its significance is drawn from its historic and architectural value, as well as its archaeological value given the buildings age.
10. 10 Ifield Road is positioned at the entrance of Ifield Road within its own walled garden. I saw that it is clearly visible in views from the Peglar Way environs. Whilst the context of the development in the wider area beyond the CA is one of substantially larger modern developments, the development within the CA is experienced in the context of the old town of Crawley. The existing development along Ifield Road leading to the High Street within the CA is significantly more modest in size and scale and generally consists of two storey

buildings. That includes 11 Ifield Road opposite 10 Ifield Road at the junction of Peglar Way.

11. Ifield Road is an historic route leading to the High Street. Indeed, the adjacent pedestrian crossing at Peglar Way leads people into the centre along Ifield Road and to the historic centre of Crawley. 10 Ifield Road is visually experienced as forming part of the gateway of Ifield Road and assimilates with the modestly sized buildings along Ifield Road. The openness provided by the dual carriageway of Peglar Way allows for No. 10 to be viewed as part of this gateway in wider public views. Its significance, therefore, comes from its positioning at the gateway to the historic centre, as well as its inherent historic and architectural value and its conformity with the size of buildings along Ifield Road.
12. The proposal would replace the two-storey building of 11 Ifield Road with a much larger development that would wrap around the corner of Peglar Way and Ifield Road. At the junction it would be four storeys in height with its frontage situated along the edge of the pedestrian highway. Its height, overall size and its close relationship to No. 10 would result in No. 10 being dwarfed by the proposed development. The proposal would visually overwhelm No. 10 and visually compete with it when viewed both in the immediate environment of No. 10 and in wider views from Peglar Way and Ifield Road. For this reason, the proposed development would be harmful to this designated heritage asset and how it is experienced at this historic Ifield Road entrance to the old town.
13. I accept the appellant's point that change to the setting of a designated heritage assets does not automatically equate to harm to its significance. Nonetheless, 10 Ifield Road has been listed and the listing description identifies features that makes No. 10 of interest both externally and internally. I also accept that the closer one is to No. 10 the better one can appreciate the building. Notwithstanding this, taking in to account the size and proximity of the development to No. 10, the proposal would substantially change the setting of this heritage asset and how it is visually experienced in both close views and in those wider public views. Whilst the building itself and the alignment of Ifield Road would not be compromised, the change to the setting of 10 Ifield Road would be detrimental to this heritage asset and, as a result, would have a negative impact upon its significance.
14. Within the vicinity of the appeal site are several listed and locally listed buildings. The High Street and Ifield Road are integral to the historic settlement of Crawley. These other heritage buildings have an historic association to one another and contribute to one another's settings and views along High Street and Ifield Road from both within the old town and toward the old town from beyond the CA. As noted above, the existing development along Ifield Road leading to the High Street is of modest size and the buildings are generally of two storey scale.
15. I have already concluded that the height and size of the proposed development would have a harmful impact upon the setting of 10 Ifield Road. The appellant advised at the hearing that it was considered that the development would not affect listed buildings 49-51 High Street, 44-48 High Street and 1 & 2 Ifield Road. With regard to these other existing heritage buildings close by, I consider the proposal, given its height and overall size, and the proposed developments close proximity to these designated assets, would visually

overwhelm these modestly sized heritage buildings when viewed within the Ifield Road street scene. This would also contribute to the visual harm of the proposed development.

16. Council policies have identified the Grade II\* St Johns Church to be an important key view of the Crawley townscape where the church tower is visible above the old towns roofscape. The church has significance in terms of its architectural interest as well as being an historical community feature of the townscape. Whist the church tower may not be as prominent a landmark as it might have been in the past due to later developments that have taken place, it is listed and its significance can be appreciated in both localised views from its churchyard and in wider public views over the rooftops of the old town and from vistas beyond the CA.
17. The appellant notes that the church tower is not particularly tall, nonetheless, I saw that it can be seen over rooftop in various views from Peglar Way. The appellant's statement comments that where views are obtainable such views are regarded to be important. I acknowledge that the development would not obscure the church tower in most of the views from Peglar Way. However, the proposed development would be a tall development of substantial size. When looking toward the town centre from Peglar Way the development would be an extremely visually dominant development and would distract from Peglar Way views of the church tower. This would be detrimental to those pleasing public views toward the town centre from Peglar Way and this would detract from the significance of this heritage. The appellant's 'view from Asda turning' perspective drawing serves to reinforce my concern in respect of this issue.
18. The appellant suggests that the role of the church in the wider community is best appreciated in other ways and provides the example of it being referred to on the information board at the High Street. Whilst this may be so, this does not overcome the harm that I have identified above or justify the harm to the view of the church tower from Peglar Way.
19. The proposed development would remove existing glimpsed views of the historic core of the Grade II\* George Hotel in public views from Peglar Way. The Council is concerned that this would impede upon the historic context and legibility of the earlier settlement and connection with Ifield Road. However, I observed that those rear historic parts of the George Hotel that are of historic value are set well away from Peglar Way and the main building has been largely obscured by later additions and developments at the rear of the hotel. To my mind the significance of the George Hotel is experienced more from its situation on the High Street. I consider the proposed development would have a neutral impact upon those glimpsed views of the historic core of the George Hotel in public views from Peglar Way.
20. For the reasons given above, I conclude that the proposed development would be harmful to the designated asset of 10 Ifield Road as well as those other designated assets close by. I consider there would be less than substantial harm to these designated heritage assets and I give this considerable importance and weight. In accordance with paragraph 196 of the Framework I must weigh the harm against the public benefit of the proposal. Although the development may make optimal use of the site and provide housing that would contribute to the Borough Council's supply of housing and create a tidier aspect onto Peglar Way than the existing hotel service yard, the benefit to the public,

in my view, would be modest, and insufficient to outweigh the harm identified. I conclude therefore that the proposed development would fail to accord with national policy that requires special regard to be given to the desirability of preserving the setting of a listed building (Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990).

21. For these reasons, I conclude that the proposed development would be harmful to the setting of the Grade II listed building of 10 Ifield Road and the significance of those other designated heritage assets in the area. The size and scale of the development would significantly detract from the setting of these designated assets even though the ability to appreciate or understand the heritage interest in the buildings within the context of this CA could still be achieved. The proposal would, therefore, conflict with Policies CH12, CH13 and CH15 of the Crawley Borough Local Plan 2015 – 2010 (the Local Plan) and the provisions of Section 16 of the revised Framework. These policies seek, amongst other matters, to protect listed buildings and their setting from inappropriate development.

#### *Ifield Road and the High Street CA*

22. The scale of properties along Ifield Road, as already discussed above, is generally two-storey, although I saw that a few have a third storey within the roofscape. The proposed development would be a four-storey building dropping to three-storey along Ifield Road. The scale of the development would not reflect that of the buildings along Ifield Road. In addition, the solid mass of the proposed development would not reflect the differently articulated, gaps between buildings, varying design styles and modest size of the existing properties in Ifield Road, notwithstanding the design of the existing bank building at the corner of Ifield Road and High Street. It would appear as a large mass of consolidated development and this would be out of keeping with the pattern of development and the varied smaller scaled buildings within the CA. In this regard the proposed development does not reflect the local distinctiveness of Ifield Road and this CA.
23. In addition, the large three storey easterly flank elevation, along with any roof paraphernalia visible about the façade parapets, would also contribute to the visually large size of the development. The flank elevation would be an excessively large and dominant feature within Ifield Road. It would be particularly noticeable in views along Ifield Road from the High Street, as well as when travelling along Ifield Road from the High Street.
24. Furthermore, the upper storeys and the roofscape of the proposed development would be out of keeping with those pitched roofs predominantly found within this CA. This, along with any roof paraphernalia visible above the development's façade parapets, would also contribute to the visual harm of the proposed development.
25. I acknowledge that in views along Ifield Road from High Street the development would be seen against the backdrop of the modern developments at Peglar Way. I accept that the proposal would reflect the size and scale of the adjoining development at Shaw House. It must, however, be noted that those developments do not form part of the designated CA. Furthermore, those modern developments that appear in the Ifield Road backdrop are

separated by the wide dual carriageway of Peglar Way and that highway visually separates those developments from the appeal site and the CA. Unlike those other developments the appeal site is an integral part of the CA designation. I therefore consider the appeal site relates more closely to the historic street pattern of the old town, and particularly that of Ifield Road, than to the modern developments beyond the CA.

26. The proposed development, given its size and scale, would erode the character and appearance of the CA, both in views from within the CA and in views into the CA from Peglar Way at the western approach to the CA. Whilst existing development that surrounds the CA may not positively contribute to the CA's character, I do not consider this would justify a transitional development within the CA that would be visually harmful. Furthermore, I do not consider those unsympathetic later additions and developments at the rear of the George Hotel to justify the proposed development or that the use of brick within the development would overcome my concerns.
27. For the reasons given above, I conclude that the proposed development would neither preserve or enhance the CA and I attach considerable importance and weight to the desirability to preserving the character or appearance of the CA.
28. Given the size and scale of the proposal within the CA as a whole, I consider there would be less than substantial harm to the character and appearance of the CA. In accordance with paragraph 196 of the Framework, I must weigh the harm against the public benefit of the proposal. Although the development may make optimal use of the site and provide housing that would contribute to the Borough Council's supply of housing and create a tidier aspect onto Peglar Way than the existing hotel service yard, these benefits to the public, in my view, would be modest, and insufficient to outweigh the harm identified. I conclude therefore that the proposed development would fail to accord with national policy that require special attention to be given to the desirability of preserving or enhancing the character or appearance of a CA (Section 72 of the Planning (Listed Building and Conservation Areas) Act 1999).
29. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of Ilford Road and the approach to the High Street CA. Therefore, the proposed development would not preserve or enhance the character and appearance of the High Street CA. The proposal would, therefore, conflict with Policies CH2, CH3, CH12 and CH13 of the Local Plan, the Urban Design SPD, The High Street Conservation Area Statement and Section 16 of the revised Framework. These policies and SPDs seek, amongst other matters, development to preserve or enhance the character and appearance of the CA.

#### *Living conditions of future occupiers*

30. The proposed studio flats, annotated on the plans as units numbered 12, 24 and 35, are designed to have their main window outlook toward one end of the studios. These main windows would be recessed into balconies. These windows would provide outlook toward an existing block of hotel accommodation. These studio flats would have a close relationship with the hotel block.

31. This design arrangement does not provide the studio flats a conventional outlook from the main internal living space. As such the future occupiers would experience the impression of being contained within their habitable living environment. In addition, the living environment for the occupiers would extremely likely to be rather gloomy as the main window would be positioned at one end of the studios.
32. In addition, several hotel bedroom windows with balconies directly opposite would be within close proximity of the main windows and balconies relating to the studio flats. I consider the future occupiers would experience either being overlooked or, at the least, have the impression of being observed within their private living space and when using the limited outdoor space provided by the balconies. This would significantly detract from the enjoyment of their homes. This would be so even if the observation would be by transient hotel guests rather than permanent residential occupiers. The appellant suggests that window curtains within the hotel guest accommodation could provide a suitable screen, however, these would not prevent overlooking during daylight hours when it would be reasonable for hotel guest to want daylight within their guest accommodation.
33. I note that Shaw House has approval for residential occupation and has planning permission to add additional residential upper floors. I also note that the relationship of the residential accommodation at Shaw House to the existing hotel guest block would be similar to that of the proposed development to the hotel guest block. However, I saw on site that, unlike those window openings further north within the westerly elevation of the hotel guest block, the hotel bedroom windows opposite the studios are large and incorporate external balconies. This would intensify the impression of being observed.
34. The Council also expresses concern as to the quality of the living environment for one of the ground floor flats as its bedroom would be overshadowed by the overhang of the upper storeys and the outlook for that room would be directed toward the carpark. I do not consider this would provide an acceptable quality of living environment. The daylight analysis provided by the appellant does not alleviate these overshadowing concerns. Whilst the appellant advised at the hearing that this could be overcome by changing the unit to a studio flat that is not what is before me for consideration.
35. A large proportion of the flats are single aspect by design. Those that are north facing with observation toward the courtyard would not benefit from direct sunlight and outlook from these flats would be dominated by the service yard. The ground floor flats adjacent Ifield Road and Peglar Way would be positioned very close to the back edge of the pavement and close to the busy pedestrian crossing. Passers-by would be able to observe the internal living space of these units, along with their outdoor balconies. The outdoor spaces would be exposed to passers-by in extremely close proximity, therefore, these outdoor balconies would not be private or secure. In addition, the upper storey projecting balconies would be open to observation and would not be private spaces. These aspects of the proposed development do not provide future occupiers with a high quality of habitable living environment.
36. Vehicles and pedestrians using the busy dual carriageway of Peglar Way, the pedestrian crossing and the pedestrian footpath that run alongside the appeal site would generate noise. The appellant's Noise Impact Assessment has

recorded levels of daytime and night time noise at the site and indicates this to be a noisy location. The daytime noise levels exceed those maximum thresholds set by Policy ENV11 of the Local Plan and thereby would result in an 'unacceptable adverse effect' detrimental to the health and welfare of future residents. The Council's adviser highlighted at the hearing that there can be hidden impacts resulting from noise upon health, such as, increased adrenaline that has of more recent times been linked with sleep loss and dementia.

37. The Assessment identifies the most noise affected flats to be those facing onto Peglar Way. By design the proposed development would create a significant number of single aspect flats with living spaces and bedrooms facing onto Peglar Way and Ifield Road sited upon the edge of these highways. This would create habitable rooms that would be exposed to unacceptable noise levels and this would be extremely likely to negatively impact upon the health and welfare of occupiers.
38. The Assessment recommends two glazing type options both providing trickle ventilation while windows are closed by way of acoustic mitigation. The appellant advocates that this is a standard approach for dwelling construction in order to provide ventilation when windows are closed and that this approach conforms to technical standards. It is further contended that if this mitigation works then other design options that might seek to address this noisy environment would not need to be explored. The Council argues that this design may not prevent overheating of the flats and would not provide natural air flows. It also contends that notwithstanding any integral mechanical window ventilation that could be put in place the windows could be opened by occupiers.
39. It appears to me that it is likely occupiers would seek natural ventilation during clement months. I do not consider this to be an unreasonable aspiration for future residents of the proposed development during warm weather. If occupiers open windows this would negate the noise mitigation benefits of the glazing systems. I accept the appellant's view that the glazing options could mitigate noise impacts. Nonetheless, I do not consider that this would provide a comfortable living environment for those future residents over the lifetime of the development, either by keeping windows closed during clement weather or as a result of noise impacts if they chose to open windows. Furthermore, I do not consider a planning condition could control this as occupiers will have discretion to open their windows.
40. I note that the outdoor balcony living spaces would have no protection from noise. The appellant's Noise Impact Assessment directs me the British Standard 8233. That guidance indicates that 'noise limits should not be necessary' for small balconies in urban areas. However, this is a particularly noisy location. I am not persuaded that the proposed development would provide future occupiers with a high quality of outdoor living space due to the noisy nature of the adjoining highway environment.
41. I accept that other recent developments that have taken place in the vicinity of the appeal site would be subject to similar noise impacts, but I understand there to be agreed noise mitigation schemes in place as part of those developments. I note that the residential development at Shaw House has come forward through the planning prior approval process, but this does not

justify the harm arising to the occupiers of the proposed development that is before me.

42. I accept that the redevelopment of previously developed land at urban town centres sites can be constrained by existing environmental circumstances. Nonetheless, Policy ENV11 requires noise sensitive uses proposed in areas that are exposed to significant noise from transport, amongst other matters, to demonstrate appropriate mitigation, through careful planning, layout and design, to ensure that the noise impact of future users will be made acceptable.
43. For these reasons, I conclude that the proposed development would be harmful to the living conditions of future occupiers with regard to light, outlook, amenity and defensible space, privacy and noise. The proposal would, therefore, conflict with Policies CH3, CH5 and ENV11 of the Local Plan, the Urban Design SPD and Sections 8, 12 and 15 of the revised Framework. These policies and the SPD seek, amongst other matters, development to provide or retain a good standard of amenity for all existing and future occupants of land and buildings. They also require people's quality of life to be protected from unacceptable noise impact by managing the relationship between noise sensitive development and noise sources.

*Living conditions of adjoining occupiers*

44. The proposed development would be very near to Shaw House. The new building would be between approximately 2.6 and 5.6 metres from the south facing elevation of Shaw House. It has been advised that Shaw House is in the process of being converted to residential flats and that development would host windows and balconies at its southern end. The Council has provided me with floor plans that indicate the flats at first and second floors at Shaw House would have large feature widows providing outlook from the main habitable living space toward the appeal site. These windows would be located where the splayed relationship between developments would be at its widest. Nonetheless, the proposed development would be extremely close in the outlook from the southern windows of the first and second floor flats at Shaw House.
45. The appellant argues that the main habitable living space relating to the first and second floors at Shaw House would have dual outlook as there would also be other windows that have outlook toward Peglar Way. The floor plans relating to the first-floor flat show that this unit would be a small studio flat. A large part of the habitable internal living space would be adjacent to the proposed development where there would be a large feature window that extends almost the full length of this living space. Whilst I accept that there is a second large window relating to this flat facing Peglar Way a large part of the future occupiers outlook would be orientated south.
46. The living room relating to the second floor flat would have windows and a balcony adjacent to the proposed development. Although this flat would have other windows and a balcony facing onto Peglar Way, a large part of the outlook from the living room would be orientated south and toward the proposed development.
47. The proposed development would create a building of substantial height in extremely close proximity to the habitable living spaces within the first and second floor flats at Shaw House. It would be clearly visible and dominant in

the outlook from the main habitable living areas of both these flats. These are living spaces where the occupiers would spend a significant amount of their time. I consider the proposed development would be extremely oppressive in the outlook of the occupiers. Furthermore, given the proposed development's substantial size and relationship to Shaw House it would also be likely to make the living environment for the occupiers gloomier. Taking these matters together I find that the proposed development would be harmful to the living environment of the adjoining occupiers at Shaw House. This would be so despite these flats being dual aspect as the units have been designed to benefit from a south facing aspect.

48. For these reasons, I conclude that the proposed development would be harmful to the living conditions of adjoining occupiers with regard to outlook and light. The proposal would, therefore, conflict with Policy CH3 of the Local Plan and the Urban Design SPD. These seek, amongst other matters, development to provide or retain a good standard of amenity for all existing and future occupants of land and buildings.

#### *Sustainability objectives*

49. Policy ENV6 of the Local Plan requires homes to meet the strengthened on-site performance standards of Building Regulations in order to maximise carbon efficiency. A Code for Sustainable Homes Pre-Assessment has been put forward by the appellant that sets out a proposed energy strategy for the new development. The development seeks to reduce the expected carbon dioxide emission through a combination of passive measures, building fabric design improvements, along with an array of photovoltaic panels mounted on the roof of the building. Fixtures and fitting would also aim to reduce potable water consumption.
50. The Council's Forward Planning Consultation response questions some of the figures relied upon within the Pre-Assessment and comments that these are significantly higher than those for other recent residential development proposals that have been assessed against the same policy and SPD criteria. Based upon the information submitted I cannot be certain that the level of energy performance being described within the Pre-Assessment can be relied upon. Consequently, I cannot be certain that the performance standards of the proposed development would provide maximum carbon efficiency.
51. Energy is normally supplied by the National Grid and the Council has identified this to be an inefficient and carbon intensive process. District Energy Networks are designed to distribute energy, such as heating, cooling and electricity across a local area. Both Policies ENV6 and ENV7 of the Local Plan and the adopted Planning and Climate Change SPD encourage connection to a District Energy Network within identified heat priority areas. I accept that there is not yet a network in place to which connection could be made. Notwithstanding this, where an existing network is not present these policies also require proposals to develop their own energy supply system for the planned buildings that could connect to wider network facilities in the future. This sets out the Council's combined heat and power objective for this identified heat priority areas, unless technical or financial viability demonstrates this cannot be achieved.
52. The appellant's Energy and Sustainability Statement does not consider the potential for the development to connect to a wider future network. I was

directed to a suggested planning condition at the hearing put forward by the Council that would require details of a "network ready" connection to a District Energy Network on construction or at some point after construction to be submitted for the local planning authority's approval. I consider that a suitably worded planning condition could secure this.

53. The appellant's Energy and Sustainability Statement that supports the proposal indicates that a communal heating site distribution system should be discounted as a viable solution. Potential energy losses and space limitation are also said to be a constraint. The appellant's representative also advised at the hearing that small scale sites, such as this, are generally unviable. However, I have not been presented with any substantive site specific or technical evidence that would clearly indicate that a communal heating system could not be a technical or viable solution. The appellant advises that flues relating to a gas heating system could have aesthetic implications for both the building and the visual appearance of the CA. Again, however, I have not been presented with substantive information relating to such a system that might clearly indicate that this would be the case.
54. For these reasons, I conclude that the proposed development would be harmful to the Council's sustainability objectives. The proposal would, therefore, conflict with Policy ENV6 of the Local Plan and the Planning and Climate Change SPD that seek, amongst other matters, development to maximise carbon efficiency.

#### *Affordable housing*

55. Policy H4 of the Local Plan requires 40% affordable housing from all residential developments unless evidence can be provided to show that the site cannot support these requirements from a viability perspective and that the development clearly meets a demonstrable need. I also note that the appellant has sought to secure affordable housing within the unilateral undertaking provided.
56. The appellant has provided a Financial Viability Assessment to support the proposal. To inform the appeal process the Council has had this reviewed by an appropriate independent body. That review has confirmed that the proposed development would not be viable if it incorporated the affordable housing requirement. The Council confirmed at the hearing that based on the review it would not wish to pursue securing affordable housing. On this basis and taking on board the review outcome I see no reason to take a different view on this matter.

#### *Tree infrastructure*

57. Policy CH6 of the Local Plan seeks to provide trees with the Green Infrastructure SPD providing further clarification of the requirements detailed within this policy. One tree per each of the 37 new dwellings is required to be provided on site or alternatively a payment in lieu of this provision can be made, as well as compensation for any existing trees removed as a result of the development. There is some uncertainty to the size of the existing trees at the site and whether all the trees should be replaced on a one for one basis. The Council indicate that a formula for calculating the appropriate payment would need to be included in a legal agreement to set the basis for the commuted sum for payment in lieu and compensation for lost trees.

58. Provision of trees, whether provided in lieu or compensating for those lost, has not been included within the submitted unilateral undertaking. The appellant contested at the hearing that this is because the Council has not shown directly how this requirement relates to the development. The supporting text to Policy CH6 explains that trees make an important contribution to the character and appearance of the Borough and beneficially support biodiversity. I consider that additional and replacement tree planting is required to mitigate the visual impact of the intensification of built development at the appeal site. This would be in line with the Framework that seeks to create well-designed places that are visually attractive with appropriate and effective landscaping and those aims to improve biodiversity. I therefore consider the Council is justified in seeking the mitigation requirements sought.
59. For these reasons, I conclude that the proposed development would be harmful to the Council's tree planting and replacement standards. The proposal would, therefore, conflict with Policy CH6 of the Local Plan, the Green Infrastructure SPD and the Developer Contributions Guidance Note that seek, amongst other matters, proposals for residential development to provide landscaping to contribute to the character and appearance of the town and to mitigate for the visual impact resulting from the loss of tree canopies.

#### *Open space infrastructure*

60. The submitted unilateral undertaking aims to secure a financial contribution toward meeting the need for off-site open space infrastructure arising from the development. The appellant's agent confirmed at the hearing that the appellant is satisfied as to how the Council would spend the open space contribution. It was also accepted that the open space would be used by future occupiers as the proposal would not provide open space within the development for future residents and the off-site provision would be within walkable distance for future occupiers. As such, it is clear to me that the proposed development would create an increased demand for the provision of open space facilities.
61. The Council's Green Infrastructure SPD advises that for high density schemes on sites of small plot size (such as town centre apartment developments), a contribution toward off-site provision may be considered appropriate in lieu of some on-site space facilities. I consider the contribution sought is justified and would accord with Policy IN1 of the Local Plan, the Green Infrastructure SPD and the Developer Contributions Guidance Note to ensure that future residents enjoy a high quality of life.
62. Further to the above, I consider that the provisions in the unilateral undertaking are necessary, directly related to the development and fairly related in scale and kind. As such they would accord with the provision of Regulation 122 of the CIL Regulations 2010 and the tests for planning obligations set out in the Framework. The proposed development therefore should make this provision.

#### *Travel plan*

63. The proposal, by providing 10 parking spaces, would not provide full parking provision to support the proposed 38 residential units. The travel plan submitted in support of the proposal contains a series of measures to mitigate the impact of potential on-street parking that could arise as a result of the

limited parking provision proposed and would encourage transport choice. The travel plan sets out its costs, monitoring and assessment. I acknowledge that the appeal site is in an urban location. Whilst this may be so the appellant, at the hearing advocated the sustainable methods of travel promoted by the travel plan and the message this would promote to future occupiers to make use of alternative methods of travel to that of the private vehicle.

64. I consider that the travel plan provisions to be included with the unilateral undertaking are necessary, directly related to the development and fairly related in scale and kind. As such they would accord with the tests for planning obligations set out in the Framework, Policy IN1 of the Local Plan and the Development Contributions Guidance Note. That said, I am not convinced the wording contained within the submitted unilateral undertaking would fully secure a workable travel plan. However, given my findings in respect of the other main issues relating to this appeal I do not consider it necessary to evaluate this matter further.

### **Other Matters**

65. The appellant raises concerns regarding the Council's consideration of setting and significance of heritage assets and whether the Council has carried out a proper assessment in respect of these issues. In considering the points raised by the appellant I have had regard to Section 16 of the Framework, as well as Historic England guidance referred to me by both parties and in particularly Planning Note 3. Both the Framework and the Note advise that conservation decisions are to be based on a proportionate assessment of an asset's importance and no more than is sufficient to understand the potential impact of the proposals on their significance. I am satisfied that the Council Planning Appeal Statement provides a proportional assessment in respect of this matter.
66. It is appreciated that pre-application advice was sought prior to the submission of the planning application to the Council. On the available evidence that pre-application advice appears to have related to a seven-storey development at the site. The proposal before me is different, notably in terms of it being a maximum of four storey height. The proposal can and should therefore be considered on its own merit.

### **Conclusion**

67. Having regard to the above findings, the appeal should be dismissed.

*Nicola Davies*

INSPECTOR

## APPEARANCES

DAY ONE: 20<sup>th</sup> November 2018

### FOR THE APPELLANT:

Steve Clarke	ASP
Mark Turner	Wessex Archaeology Ltd.
Lynda Wyer	RDJW Architects Ltd.
Tim Fox	Cole Jarman Ltd.

### FOR THE LOCAL PLANNING AUTHORITY:

Jean McPherson	Crawley Borough Council
Brian Cox	Crawley Borough Council
Deborah Gardner	DGC Historic Buildings Consultants

### INTERESTED PARTIES:

Sharron Fenlon	AS Planning
Nilesh Patel	Ramada Crawley
Anthony Masson	Crawley Borough Council
Dimitra Angelopoulou	Crawley Borough Council

## DOCUMENTS SUBMITTED AT THE HEARING

1. Statement of Common Ground.
2. Supplementary Heritage Statement.
3. Additional architects' drawings.
4. Sunlight drawings.
5. Section 106 Unilateral Undertaking.

DAY TWO: 29<sup>th</sup> January 2019

Steve Clarke	ASP
Edward Simons	Wessex Archaeology Ltd.
Lynda Wyer	RDJW Architects Ltd.

FOR THE LOCAL PLANNING AUTHORITY:

Jean McPherson	Crawley Borough Council
Kevin Dillon	Crawley Borough Council
Tessy Mehia	Crawley Borough Council
Deborah Gardner	DGC Historic Buildings Consultants

INTERESTED PARTIES:

Sharron Fenlon	AS Planning
Nilesh Patel	Ramada Crawley
Delphine Knight	Local Resident