

## 29 SEPTEMBER 2020 PLANNING COMMITTEE

6c PLAN/2019/0900

WARD: Canalside

LOCATION: 5A The Broadway, Woking, Surrey, GU21 5AP

PROPOSAL: Erection of a 4x storey building comprising 5no. self-contained flats (4no. one bedroom and 1no. two bedroom) and a ground floor commercial unit for flexible A1 (retail) and B1(a) (office) use with associated refuse bin and cycle storage.

APPLICANT: Mr Mohammad Zubair

OFFICER: James Kidger

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### **REASON FOR REFERRAL TO COMMITTEE**

The application is brought before the Committee at the request of Councillor Aziz.

### **PROPOSED DEVELOPMENT**

Planning permission is sought to erect a four storey building, with commercial space on the ground floor and five flats within the upper three floors, and associated refuse bin and cycle storage facilities. The application is a resubmission of that previously refused under PLAN/2018/1215.

The scheme has been amended during the course of the application in order to reduce the impact to 7-9 Chertsey Road at the rear. As part of this the proposed flats have been reduced in size to enable a stepped configuration at the rear, whereby each storey is progressively reduced in depth the higher the building becomes.

### **PLANNING STATUS**

- Secondary Shopping Frontage
- Thames Basin Heaths Special Protection Area (TBH SPA) Zone B (400m-5km)
- Woking Town Centre Conservation Area

### **RECOMMENDATION**

REFUSE planning permission.

### **SITE DESCRIPTION**

The site is currently vacant and is situated between 5 Chertsey Road to the south-west and 5 The Broadway to the north-east. It fronts The Broadway to the south-east, beyond which lies the main line railway and Woking Station. The site and the buildings to the side and rear are within the Woking Town Centre Conservation Area.

### **PLANNING HISTORY**

PLAN/2018/1215 – previous scheme – refused 31<sup>st</sup> January 2019.

PLAN/1999/1403 – three storey building – approved 29<sup>th</sup> February 2000.

PLAN/1998/1119 – four storey building – refused 2<sup>nd</sup> March 1999.

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### **CONSULTATIONS**

- Environmental Health – No objection subject to recommended conditions.
- Heritage Consultant – *“I consider the infilling of this site as now proposed will enhance the character of this part of the conservation area”*
- Highway Authority – No objection subject to recommended condition.

### **REPRESENTATIONS**

Three (3) representations were received objecting to the original (un-amended) scheme for the following reasons:

- Loss of daylight and sunlight to 7-9 Chertsey Road
- Loss of daylight and sunlight to the rear of 5 Chertsey Road
- Loss of daylight and sunlight to 5 and 5A The Broadway
- Interference with the electronic link between 5 Chertsey Road and 10 The Broadway
- Disregards the existing side access to 5 and 5A The Broadway
- Party Wall issues at 5 The Broadway
- Ground floor should be in commercial use
- Roof form should match 5 The Broadway

No further representations have been received regarding the amended scheme.

### **RELEVANT PLANNING POLICY**

#### National Planning Policy Framework (NPPF) (2019):

Section 2 – Achieving sustainable development

Section 5 – Delivering a sufficient supply of homes

Section 7 – Ensuring the vitality of town centres

Section 9 – Promoting sustainable transport

Section 11 – Making effective use of land

Section 12 – Achieving well-designed places

Section 16 – Conserving and enhancing the historic environment

#### Development Management Policies DPD (2016):

DM7 – Noise and Light Pollution

DM20 – Heritage Assets and their Settings

#### Woking Core Strategy (2012):

CS1 – A spatial strategy for Woking Borough

CS2 – Woking Town Centre

CS8 – Thames Basin Heaths Special Protection Areas

CS10 – Housing provision and distribution

CS11 – Housing mix

CS12 – Affordable housing

CS18 – Transport and accessibility

CS20 – Heritage and conservation

CS21 – Design

CS22 – Sustainable construction

CS24 – Woking’s landscape and townscape

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CS25 – Presumption in favour of sustainable development

### Supplementary Planning Documents (SPDs):

Parking Standards (2018)

Working Design (2015)

Climate Change (2013)

Outlook, Amenity, Privacy and Daylight (2008)

### **PLANNING ISSUES**

1. The main planning considerations material to this application are the principle of development on the site, the standard of accommodation to be provided, the impact on the character of the Conservation Area, the impact on the amenity of neighbouring properties, and the impact to transport.

#### Principle of development

2. The site is identified on the Proposals Map as part of the Secondary Shopping Frontage, within the Primary Shopping Area of Woking Town Centre. Policy CS2 of the Woking Core Strategy sets out the Council's approach to development in the town centre, and states "The Town Centre is the preferred location for town centre uses and high density residential development. New development proposals should deliver high quality, well designed public spaces and buildings, which make efficient use of land, contribute to the functionality of the centre and add to its attractiveness and competitiveness." It goes on to state that one of the ways new development in the town centre will be delivered is through the "mixed-use high density redevelopment of existing sites".
3. The proposed scheme comprises the redevelopment of the site to provide commercial space at ground floor level and residential above. It thus accords with the 'mixed-use high density' element of policy CS2.
4. Policy CS10 of the Core Strategy sets out an indicative density range in excess of 200 dwellings per hectare (dph) for development within Woking Town Centre, and goes on to state "Higher densities than these guidelines will be permitted in principle where they can be justified in terms of the sustainability of the location and where the character of an area would not be compromised."
5. The site area is just over 150 square metres, and the proposed development of five flats would thus result in a density of approximately 333dph. This, subject to sustainability and character issues discussed below, is considered consistent with the aims of policy CS10.

#### Standard of accommodation

6. The first and second floors of the proposed building would each accommodate two 1 bed flats, and the third floor would comprise a single two bed flat. All would accord with the relevant floor areas recommended within the Government's Nationally Described Space Standards.
7. Habitable room windows would primarily face south or would look north-east along the service lane to the rear. The windows are considered to achieve an acceptable quality of outlook given the town centre location of the site.

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8. Due to the constraints of the site and the nature of development proposed, it would not be possible to provide any private outdoor amenity space. However, this is not unusual for flatted developments, particularly in a high density town centre environment.
9. The Outlook, Amenity, Privacy and Daylight SPD suggests that, in dense urban locations where no suitable outdoor amenity space can be provided, the developer makes a contribution to off-site amenity provision to compensate. This contribution has since been incorporated within the Community Infrastructure Levy (CIL) which the development is liable for, if approved.
10. As such, the lack of private outdoor amenity space for the proposed flats is not considered significantly harmful to the amenity of future occupiers, whilst some mitigation would be obtained via CIL were the application to be approved.
11. The previous scheme was refused in part due to the potential impact of noise from the nearby railway line on the proposed flats. The applicant subsequently commissioned the noise assessment which accompanies the current application. This assessment confirms that the noise impact could be adequately mitigated with the use of conventional double glazing and acoustically attenuated ventilation. These details would be secured by condition if approval were to be recommended.

### Character of the area

12. The site is within the Woking Town Centre Conservation Area. The Conservation Area is characterised by the original Victorian commercial development around Woking Train Station and features Victorian and Edwardian commercial buildings typically two to four storeys in height, with red or orange brickwork and ornate architectural features and stonework.
13. To the north-east of the site is a long shopping parade of three storey Victorian/Edwardian buildings. To the south-west is a four storey office building dating from the 1980s (which pre-dates the designation of the Conservation Area in 1991) and beyond this is a Locally Listed four storey Edwardian building which forms a prominent corner position fronting The Broadway and Chertsey Road. This building, along with the shopping parade to the north-east, exhibit the building forms, materials, and detailing which typify the Conservation Area and contribute towards its special character.
14. The site is in a prominent position opposite the railway line and close to the entrance to Woking Train Station. It is therefore highly visible in the local area, including from the mainline railway. The previous scheme was refused in part because its design was considered uncharacteristic of the Conservation Area. The current scheme has been considered by the Council's heritage consultant, and his comments are worth quoting extensively:

*“My main concern with the 2018 application was the increasing degree of façade set-back on each floor leading, at third floor, to a significant section of the flank of No. 5 being exposed at high level. This design feature of tiered setback of each floor is an alien feature in this part of the conservation area. I commented on this previously. This current scheme replicates this feature. When infilling a terrace gap where differing brick bonding and brick types are present, it is usually beneficial to introduce a slight break-back to conceal and facilitate the neat use of differing colour, texture and bond of new brickwork. However such set-backs need only be the depth of a half brick or about 100 mm. In this scheme there is a slight set-back at first floor level which is satisfactory but the upper two floors should be amended to match this. This would only be slight*

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*amendment to the submitted scheme, by increasing the floor spaces of the upper two floors.*

*Turning to the fenestration and scale of the Broadway elevation, this scheme has to juggle a number of factors. The appalling red brick rear of 5 Chertsey Road, (W. Davies Solicitors) has to somehow be linked to the terrace of four buildings on the other side of the site. These four buildings have two stories above a ground floor level of shops, but further to the north east is another locally listed terrace of eight units, again with two stories above a ground floor of shops but these are of a greater scale with higher ridges, contrasting fenestration and the use of front facing gables. The junction between these two blocks of buildings is abrupt and discordant, and floor levels do not line up.*

*It is accepted that the current vacant site is probably the worst negative element in the whole conservation area, and a competent infill here could be of great benefit to the area. The current scheme seeks to balance the four storey flat roofed solicitors office with the terrace on the other side but also to respect the scale and design qualities of the locally listed terrace further along the road. The current scheme is approximately two meters lower than the solicitor's office and in turn about two meters higher than the terrace of No. 5. The end chimney of No. 5 assists with this transition. The architectural features of the two adjacent terraces include brick arches over certain windows and these have been loosely replicated in the new façade, together with the use of upper level gable features. Which are present on the locally listed terrace. Floor to ceiling levels in the buildings either side differ, as do window heights so it is not possible to reconcile these in the new block.*

*Subject to the reduction in the facade set-back in the upper two floors to match that of the first floor, as described previously, I consider the proposed scheme produces an acceptable design solution to a very challenging site. I consider that this scheme would actually improve the character of this part of the conservation area, and would not harm the settings of any nearby heritage assets."*

15. Subsequent to these comments the scheme was revised in order to remove the tiered setback element of the façade. The proposed development is therefore considered to enhance the character and appearance of the Conservation Area in accordance with both local and national policy.

### Impact on neighbouring amenity

16. The NPPF states that planning decisions should ensure that a 'high standard of amenity' is achieved for existing and future residents, while policy CS21 of the Core Strategy requires development proposals to 'Achieve a satisfactory relationship to adjoining properties avoiding significant harmful impact in terms of loss of privacy, daylight or sunlight, or an overbearing effect due to bulk, proximity or outlook'.
17. In terms of potential impact on daylight and sunlight, the Building Research Establishment (BRE) have set out guidelines for assessing such impacts ('Site Layout Planning for Daylight & Sunlight. A Guide to Good Practice' 2011). The BRE guidance states that "If, for any part of the new development, the angle from the centre of the lowest affected window to the head of the new development is more than 25 degrees, then a more detailed check is needed to find the loss of skylight to the existing buildings".
18. The proposal site is positioned close to the junction with Chertsey Road which is orientated at an approximate 45 degree angle relative to The Broadway. There is

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therefore a limited distance between the rear elevations of buildings on Chertsey Road and those on The Broadway. As a result, the proposal site has a particularly close relationship with 7-9 Chertsey Road to the north. This is a six storey building with residential units at first floor level and above (permitted under Prior Approval application ref: PLAN/2014/0546 and extended under application ref: PLAN/2014/1201). The rear elevation of this building has numerous windows serving habitable rooms which directly face the proposal site. These include windows serving single aspect living rooms and bedrooms.

19. The previous scheme was refused in part because of the impact to these windows in terms of loss of outlook, daylight, sunlight, and the overbearing nature of the proposed building. The current scheme has been amended since submission, with the upper storeys now progressively set back at the rear so that the building achieves a notional 45 degree angle (less the translucent stairwell glazing) with the lower of the affected windows.
20. The relevant test in these circumstances is however of 25 degrees, as set out above (and also within the Outlook, Amenity, Privacy and Daylight SPD). The proposed building would fail this test in respect of windows on the lower two floors of 7-9 Chertsey Road.
21. No further daylight assessment has been submitted, with the applicant choosing to rely on the 'mirror image' methodology set out at Appendix F of the BRE guide. As with the previous scheme, officers are not persuaded by this, as it does not measure the practical effect of the proposed building.
22. Notwithstanding the changes to the scheme since the previous refusal, there would remain significant losses of daylight and sunlight to windows on the lower two floors of 7-9 Chertsey Road facing the application site (windows 3-8 and 22-27; identified as such within the Daylight & Sunlight Study previously submitted). These windows serve single aspect, primary living spaces and bedrooms. There would also be significant overbearing impact, particularly to windows 3-5 and 22-24 on the lower floor.
23. Though some detriment to neighbours may be considered acceptable, particularly in the context of the acceptability of the remainder of the scheme, the proposed development would result in a four storey building in excess of 12m high, positioned, in the case of the first floor and stairwell enclosure, only some 3m directly opposite windows serving single aspect habitable rooms. Moreover, the windows in question serve residential units whose sole source of outlook is derived from them.
24. The proposed building would entirely dominate views from the rear-facing windows of 7-9 Chertsey Road, and would have an oppressive and significantly overbearing appearance when viewed from them, particularly on lower floors. The inclusion of windows and a large area of glazing, albeit obscure, on the rear elevation of the proposed building, positioned in such close proximity to existing windows is considered to compound this overbearing effect.
25. The amendments to the scheme are acknowledged, and unquestionably result in an improvement on the previously refused scheme. However, substantial harm to the amenity of neighbouring properties would remain.

### Transport

26. The recommended minimum parking standard for the proposed development, as set out in the Parking Standards SPD, amounts to three off-road parking spaces (1 per

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two bedroom flat and 0.5 per one bedroom flat). However, the SPD states that parking provision below these standards can be considered acceptable in Woking Town Centre. There is no opportunity for any off-road parking spaces at the site, but this is considered acceptable in this instance due to its sustainable location just a few minutes' walk from Woking railway station.

27. The previous scheme was refused in part because the proposed bin store at the rear was on a different level to the Joint Waste Solutions collection point on The Broadway, which would have made collections difficult to achieve in practice. The current scheme raises the bin store to the same level, which is considered to overcome the previous reason for refusal.

### Thames Basin Heaths Special Protection Area (TBH SPA)

28. The site is within 5km of the TBH SPA and the proposed development would result in additional residential units. Natural England have demonstrated that additional residential development within such proximity can have a significant effect upon the rare bird population of the SPA.
29. Policy CS8 of the Woking Core Strategy requires an appropriate contribution toward Suitable Alternative Natural Greenspace (SANG) and the Strategic Access Management and Monitoring (SAMM) in order to mitigate these effects. The SANG element is incorporated within the Community Infrastructure Levy (CIL), which the development would be liable for if approved. The SAMM element however has to be secured outside of CIL. An appropriately worded legal agreement under Section 106 of the Town and County Planning Act 1990 securing this contribution would therefore be required in order to satisfactorily mitigate the impact of the proposed development.
30. These matters are ordinarily dealt with after a resolution to grant permission has been reached. As such, no legal agreement has been submitted alongside the application. In the absence of this, it is not possible to conclude that the impact to the TBH SPA would be satisfactorily mitigated. The proposed development would therefore result in harm to the SPA, contrary to policy CS8.

### Affordable housing

31. Policy CS12 of the Woking Core Strategy states that new residential development on brownfield land, where the number of new units is between five and nine, will be expected to provide either 20% affordable housing on site or an equivalent financial contribution toward the provision of affordable housing off-site.
32. However, paragraph 63 of the National Planning Policy Framework (NPPF) (2019) states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. The site is not within a designated rural area and does not constitute major development (development where 10 or more dwellings will be provided or, if the number of dwellings is not known, the site has an area of 0.5 hectares or more).
33. Whilst weight should still be afforded to policy CS12 it is considered that greater weight should be afforded to the policies within the NPPF. As such, given that the proposed development would not be major development no affordable housing or financial contribution is sought.

### Sustainability

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34. Following a Ministerial Written Statement to Parliament on 25 March 2015, the Code for Sustainable Homes (aside from the management of legacy cases) has now been withdrawn. For the specific issue of energy performance, Local Planning Authorities will continue to be able to set and apply policies in their Local Plans that require compliance with energy performance standards that exceed the energy requirements of Building Regulations until commencement of amendments to the Planning and Energy Act 2008 in the Deregulation Bill 2015. This was expected to happen alongside the introduction of Zero Carbon Homes policy in late 2016. The government has stated that the energy performance requirements in Building Regulations will be set at a level equivalent to the outgoing Code for Sustainable Homes Level 4.
35. Until the amendment is commenced, Local Planning Authorities are expected to take this statement of the Government's intention into account in applying existing policies and setting planning conditions. The Council has therefore amended its approach and an alternative condition will now be applied to all new residential permissions which seeks the equivalent water and energy improvements of the former Code Level 4. Were approval to be recommended such conditions would be added, which would make the proposal acceptable in terms of sustainability.

### Other matters

36. The previous application was refused in part because it proposed the option for an A3 – restaurants and cafes – use on the ground floor, and such a use would have required the installation of plant equipment which may have been detrimental to the amenity of neighbouring properties. The current scheme no longer proposes use as a restaurant or café, and as such the previous reason for refusal is considered overcome.
37. It is noted that the Use Classes Order was amended with effect from 1<sup>st</sup> September 2020, and the former classes A1 (retail), A3 (restaurants and cafes) and B1 (office and light industrial) are now part of the same class. There would therefore be nothing to prevent the future use of the ground floor unit for any purpose within this class, including as a restaurant. However, as a restaurant use is no longer explicitly envisaged, and as extraction equipment would require planning permission in its own right, it is considered unreasonable to repeat the previous reason for refusal.

### Local Finance Considerations

38. The proposed development would result in new residential units and would thus be liable, if approved, for a financial contribution under the Community Infrastructure Levy (CIL). CIL would be payable on the gross new build floor space of the development.

### Planning Balance

39. The proposed development would provide five additional units of accommodation in the Borough, all of which would provide a reasonable standard of accommodation for future occupiers. The existing unsightly gap in the street frontage would be filled, and overall there would be substantial benefit to the character of the Conservation Area. All of these points are acknowledged.
40. However, the proposed building would have a significantly harmful impact upon the residential amenity of the flats within 7-9 Chertsey Road to the rear. This impact is more than is usually countenanced, even where a scheme provides other public benefits as is the case here. The opinion of officers is that the harm caused outweighs the other benefits as set out above, and the scheme warrants refusal on this basis.

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### **BACKGROUND PAPERS**

Site Photographs dated 27<sup>th</sup> September 2019.

### **RECOMMENDATION**

It is recommended that planning permission be REFUSED for the following reasons:

1. The proposed development, by reason of its height, bulk and massing and the close proximity to habitable room windows of surrounding neighbours, would result in a significant and unacceptable loss of light and overbearing impact to surrounding neighbours, specifically those at 7-9 Chertsey Road, to the serious detriment of their residential amenity. The proposal is therefore contrary to Woking Core Strategy (2012) policy CS21 'Design', Supplementary Planning Documents 'Outlook, Amenity, Privacy and Daylight' (2008) and 'Woking Design' (2015) and the NPPF (2019).
2. In the absence of a Legal Agreement or other appropriate mechanism to secure contributions towards avoidance measures, it cannot be determined that the proposed additional dwellings would not have a significant impact on the Thames Basin Heaths Special Protection Area, contrary to Core Strategy (2012) policy CS8 'Thames Basin Heaths Special Protection Areas', the Thames Basin Heaths Avoidance Strategy (2010 - 2015), saved policy NRM6 of the South East Plan (2009), and The Conservation of Habitats and Species Regulations 2017.

### **Informatives:**

1. The Council confirms that in assessing this planning application it has worked with the applicant in a positive and proactive way, in line with the requirements of the National Planning Policy Framework 2019.
2. The plans relating to the development hereby refused are:
  - 16012 OS04 Rev D – Proposed Block Plan – received 6th February 2020
  - 16012 PL01 Rev D – Proposed Ground Floor Plan – received 6th February 2020
  - 16012 PL02 Rev D – Proposed First Floor Plan – received 6th February 2020
  - 16012 PL03 Rev D – Proposed Second Floor Plan – received 6th February 2020
  - 16012 PL04 Rev D – Proposed Third Floor Plan – received 6th February 2020
  - 16012 PL05 Rev D – Proposed Front Elevation – received 6th February 2020
  - 16012 PL06 Rev D – Proposed Rear Elevation – received 6th February 2020
  - 16012 PL07 Rev D – Proposed Roof Plan and Section – received 6th February 2020
  - 16012 PL09 Rev D – Proposed East Elevation – received 6th February 2020
  - 16012 PL10 Rev D – Proposed West Elevation – received 6th February 2020