

## PLANNING COMMITTEE – 20 June 2024

### **24/0620/FUL – Removal of Condition 2 (PD Rights - Development to be used solely for purposes included in Class B1) of planning permission 14/1294/FUL at DRAKE HOUSE, HOMESTEAD ROAD, RICKMANSWORTH, HERTFORDSHIRE, WD3 1FW**

Parish: Batchworth Community Council  
Expiry of Statutory Period: 17.07.2024

Ward: Rickmansworth Town  
Case Officer: Tom Norris

Recommendation: That Condition 2 is removed and that Planning Permission be granted.

Reason for consideration by the Committee: Called in by three members of the planning committee unless officers are minded to refuse, due to concerns regarding the loss of office space.

To view all documents forming part of this application please go to the following website:  
<https://www3.threerivers.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=SC2NBSQFJI000>

## **1 Relevant Planning History**

- 1.1 15/0938/PDR - Prior Notification: Change of use from Office (Class B1) to 66 Residential units (Class C3) - 02.07.2015 – Permitted
- 1.2 14/1294/FUL - Variation of Condition 2 (development to be used solely for B1 (Office) purposes) of planning permission 8/123/88 (Office development with ancillary car parking and replacement of public car park) to remove restriction in relation to Swan House - 02.10.2014 - Permitted
- 1.3 11/1075/FUL - Renewal of Planning Permission 08/1351/FUL - Four storey front infill extension to create additional office space - 07.07.2011 - Permitted
- 1.4 08/1351/FUL - Four storey front infill extension to create additional office space - 26.08.2008 - Permitted
- 1.5 08/0455/FUL - Four storey front infill extension to create additional office space - Withdrawn
- 1.6 8/123/88 - Office block, car parking, replacement public car park - 07.04.1988 - Permitted

## **2 Description of Application Site**

- 2.1 The application site contains Drake House, Swan House, and a multi storey car park situated on an island site bounded to the north by Park Road, to the east and south by Homestead Road and to the west by Rectory Road. To the west of the application site is Rickmansworth Station and approximately 150 metres to the south of the application site is Rickmansworth High Street.
- 2.2 Drake House comprises a four-storey office building and is currently vacant. The building extends to c. 3,600sqm and provides 140 car parking space within the basement across two floors.
- 2.3 Swan House is a former office building that was converted to residential apartments in 2015/2016 under application 15/0938/PDR. The multi-storey car park, in separate ownership, is currently operated by CitiPark.
- 2.4 The application site is not within a Conservation Area however the Rickmansworth Town Centre Conservation Area is in close proximity to the south. The Conservation Area boundary starts south of the railway line, approximately 20m from the application site.

### **3 Description of Proposed Development**

- 3.1 This application seeks to remove Condition 2 of planning permission 14/1294/FUL which states:

*The development hereby permitted, excluding Swan House, shall be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose whatsoever without the prior permission in writing of the Local Planning Authority.*

*Reason: To ensure adequate planning control over further development having regard to the limitations of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (adopted October 2011).*

### **4 Consultation**

#### **4.1 Statutory Consultation**

- 4.1.1 Batchworth Community Council: [No objection]

*Batchworth Community Council has no objections to this application providing a condition is placed in the approval that requires the developer to adhere to the Technical Housing Standards ' 160519 Nationally Described Space Standards published March 2015 and updated with notes 9th May 2016 or a more stringent policy if the above has been superseded.*

- 4.1.2 Three Rivers District Council - Local Plans Section: [Made the following comments]

*The application site is located in Rickmansworth, identified as the Principal Town in the Core Strategy (adopted 2011). The application proposes the removal of Condition 2 (PD Rights - Development to be used solely for purposes included in Class B1) of planning permission 14/1294/FUL.*

*The Three Rivers Site Allocations LDD (SALDD) (2014) allocates sites for housing, employment, retail, open space, education and community uses. The application site is not allocated in the SALDD.*

*The reason for Condition 2 of planning permission 14/1294/FUL (as seen below) references Core Strategy policies CP1 and CP12.*

*"The development hereby permitting, excluding Swan House, shall be used solely for purposes included in Class B1 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other purpose whatsoever without the prior permission in writing the Local Planning Authority.*

*Reason: To ensure adequate planning control over further development having regard to the limitation of the site and neighbouring properties and in the interests of the visual amenities of the site and the area in general, in accordance with Policies CP1 and CP12 of the Core Strategy (Adopted October 2011).*

*In terms of national policy, Paragraph 127 of the NPPF sets out that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:*

*a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and*

b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

*Policy CP1 of the Core Strategy (Adopted October 2011) is the overarching policy on sustainable development and sets out that all development in Three Rivers will contribute to the sustainability of the District. Paragraph D sets out that “this means taking into account the need to make efficient use of land by guiding development onto previously developed, brownfield land....”.*

*Policy CP12 of the Core Strategy (Adopted October 2011) relates to design of development.*

*Policy CP6 of the Core Strategy (Adopted October 2011) relates to employment and economic development and sets out that the sustainable growth of Three Rivers economy will be supported by releasing office space from employment use where this is expected to be surplus to employment needs across the plan period as indicated by an up to date Employment Land Study. The most up to date employment land study is the South West Herts Economic Study Update, prepared by Hatch Regeneris (2019). The study identifies an oversupply of office space in Three Rivers.*

*An Article 4 Direction has been made by the Secretary of State to remove permitted development rights regarding the change of use from class E use (Commercial, Business and Service uses) to C3 use (dwellinghouses) and came into effect on 29th March 2024. The Direction applies to the sites shown on the Schedule of Maps in the non-immediate Article 4 Direction. It must be noted that the application site falls outside of the Article 4 Direction boundaries.*

*The Article 4 Direction which came into force on 29th March 2024 relates to certain employment areas and town centres across the District. The test for the use of Article 4 Directions has been amended by the revised National Planning Policy Framework (NPPF) published in December 2023. Previously it was stated that the use of Article 4 directions should be limited to situations where it ‘is necessary to protect local amenity or the wellbeing of the area’. The revised NPPF has imposed a much more stringent test where the development relates to a change from non-residential to residential (as set out in paragraph 53). The NPPF sets out that the use of Article 4 Directions to remove national permitted development rights “should be limited to situations where it is necessary to avoid wholly unacceptable adverse impacts’ and, in all cases, should be “based on robust evidence and apply to the smallest geographical area possible”. During the Article 4 process, it was considered that the core centre of Rickmansworth is based around the historic High Street and parts of Church Street and it was considered that the application site falls outside of the core centre of the Rickmansworth Town Centre. Given the physical separation of the application site from the “town centre”, including Homestead Road and the railway lines, it was not considered that the inclusion of the application site within the Rickmansworth Town Centre (and therefore within the Article 4 boundary) would comply with Paragraph 53 of the NPPF. It must also be noted that the Article 4 Direction was reviewed and issued by the Secretary of State, who saw no reason to include the application site within the Article 4 Direction boundary for Rickmansworth Town Centre.*

4.1.3 National Grid: [No response received]

## **4.2 Public/Neighbour Consultation**

4.2.1 Neighbours consulted: 4

4.2.2 Responses received: 1 (Objection)

4.2.3 Site notice posted 23.04.2024, expired 15.05.2024.

4.2.4 Press notice published 26.04.2024, expired 18.05.2024

4.2.5 Summary of responses:

- The removal of condition will allow conversion of building to residential without planning permission.
- Apartments within Swan House do not meet national space standards.
- The removal of condition will prevent TRDC from seeking affordable housing on residential development.

## **5 Reason for Delay**

5.1 None.

## **6 Relevant Planning Policy, Guidance and Legislation**

### **6.1 Legislation**

6.1.1 Planning applications are required to be determined in accordance with the statutory development plan unless material considerations indicate otherwise as set out within S38(6) Planning and Compulsory Purchase Act 2004 and S70 of Town and Country Planning Act 1990).

6.1.2 The Localism Act received Royal Assent on 15 November 2011. The Growth and Infrastructure Act achieved Royal Assent on 25 April 2013.

6.1.3 The Wildlife and Countryside Act 1981 (as amended), the Conservation of Habitats and Species Regulations 2010, the Natural Environment and Rural Communities Act 2006 and the Habitat Regulations 1994 may also be relevant.

6.1.4 The Environment Act 2021.

### **6.2 Policy & Guidance**

#### *National Planning Policy Framework and National Planning Practice Guidance*

6.2.1 In December 2023 the revised NPPF was published, to be read alongside the online National Planning Practice Guidance. The NPPF is clear that “existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework”.

6.2.2 The NPPF retains a presumption in favour of sustainable development. This applies unless any adverse impacts of a development would 'significantly and demonstrably' outweigh the benefits unless there is a clear reason for refusing the development (harm to a protected area).

#### *The Three Rivers Local Development Plan*

6.2.3 The application has been considered against the policies of the Local Plan, including the Core Strategy (adopted October 2011), the Development Management Policies Local Development Document (adopted July 2013) and the Site Allocations Local Development Document (adopted November 2014) as well as government guidance. The policies of Three Rivers District Council reflect the content of the NPPF.

6.2.4 The Core Strategy was adopted on 17 October 2011 having been through a full public participation process and Examination in Public. Relevant policies include Policies PSP1, CP1, CP6, CP8, CP10 and CP12.

6.2.5 The Development Management Policies Local Development Document (DMLDD) was adopted on 26 July 2013 after the Inspector concluded that it was sound following Examination in Public which took place in March 2013. Relevant policies include Policy DM13 and Appendix 5.

### 6.3 Other

6.3.1 The Community Infrastructure Levy (CIL) Charging Schedule (adopted February 2015).

## **7 Planning Analysis**

### 7.1 Principle of Development

7.1.1 Paragraph 56 of the National Planning Policy Framework (NPPF) (2023) makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following tests: 1. necessary; 2. relevant to planning; 3. relevant to the development to be permitted; 4. enforceable; 5. precise; and 6. reasonable in all other respects. These are generally referred to as the '6 tests' and each must be satisfied for a condition to be applied.

7.1.2 Paragraph 127 of the NPPF sets out that local planning authorities should take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:

a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and

b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

7.1.3 Policy CP1 of the Core Strategy (adopted October 2011) is the overarching policy on sustainable development and sets out that all development in Three Rivers will contribute to the sustainability of the district. Paragraph d) sets out that "this means considering the need to make efficient use of land by guiding development onto previously developed brownfield land".

7.1.4 Policy CP6 of the Core Strategy (adopted October 2011) states that the sustainable growth of the Three Rivers economy will be supported by continuing to focus employment use within the key employment areas within the district. The application site is in Rickmansworth Town Centre, a key employment area. Policy CP6 of the Core Strategy (adopted October 2011) states that the Council will support sustainable development that releases office space from employment use where it is expected to be surplus to employment needs across the plan period as indicated by an up-to-date Employment Land Study.

7.1.5 Policy PSP1 of the Core Strategy (adopted October 2011) states that development in Rickmansworth will maintain the overall amount of existing employment floorspace in the town, including the general supply of office accommodation in the town centre.

7.1.6 The Site Allocations Local Development Document (Main Modifications version January 2014) allocates sites for housing, employment, retail, open space, education and community uses. The application site is not identified in the SALDD and therefore Drake House is not specifically safeguarded by policy for a particular use.

7.1.7 An Article 4 Direction has been made by the Secretary of State to remove permitted development rights regarding the change of use from class E use (Commercial, Business and Service uses) to C3 use (dwellinghouses). This came into effect on 29th March 2024. The Direction applies to the sites shown on the Schedule of Maps in the non-immediate

Article 4 Direction. It must be noted that the application site falls outside of the Article 4 Direction boundaries. The reasons for not including the application site within the Article 4 Direction boundary are set out in the comments of the Council's Local Plans Section at paragraph 4.1.2 of this report. In summary, the locational circumstances of the site, relative to the core of Rickmansworth Town Centre, meant that it did not meet the test for inclusion.

- 7.1.8 Planning permission 8/123/88 was granted subject to a condition (C2) restricting the use of the development solely to office use (Class B1). This condition was subsequently varied under application 14/1294/FUL, which omitted reference to Swan House however remained applicable to Drake House.
- 7.1.9 The LPA note the applicant's contention that the SALDD policy position demonstrates that the Drake House is not viewed as an important strategic location for office use and, as such, the use should not be restricted via planning condition. It is acknowledged that Drake House is not allocated in the SALDD and therefore is not protected for office use.
- 7.1.10 The LPA also note the applicant's contention that the exclusion of Drake House from the Article 4 Direction demonstrates that it is not strategically important to retain the site as offices. It is acknowledged that Drake House was not included within the recently imposed Article 4 Direction which covers the core of Rickmansworth Town Centre. It is considered that the assumption of the applicant is reasonable, and the building in its current use is not critical to the vitality of the town centre. While this is noted, it must also be made clear that it was not a wholly strategic decision to exclude the site but rather it did not meet the geographical test for inclusion in the Article 4 Direction.
- 7.1.11 It is noted that the Town and Country Planning (Use Classes) Order 1987 (as amended) was reformed in April 2021. The reform saw the deletion of Class B1 with office uses now falling within a newly formed Class E (commercial, business and service). It is acknowledged that the applicant contends that the wording of Condition 2 is now out-of-date given that "Class B1" no longer exists.
- 7.1.12 Applying Policy CP6, the most up-to-date employment land study is the South West Herts Economic Study Update, prepared by Hatch Regeneris (2019). The study identifies an oversupply of office space in Three Rivers. The economic study forms part of the evidence base for the emerging Local Plan and is therefore a material consideration. The economic study identifies an oversupply of office space in Three Rivers. The LPA note the applicant draws attention to the fact that this study was conducted prior to the covid-19 pandemic and therefore, in the current work from home era, demand has likely reduced further. Irrespective of this, the evidence identifies an oversupply in any instance.
- 7.1.13 The LPA note the marketing information submitted with the application and acknowledge that the application site has been marketed since February 2023. This marketing included the erection of advertising boards on site; listings on multiple websites online; distribution of letting brochures; and direct correspondence with agents and occupiers. It is noted that the marketing information states that potential occupiers for office accommodation have sought or agreed alternative sites following enquiries. Furthermore, it is acknowledged that the information states that Watford and Croxley Green have attracted most of the recent office demand of this scale. The minimum scale of the marketed available space (7,430sq. ft) also significantly exceeds the largest local letting recently (5,200 sq. ft) at Trinity Court in November 2019. The LPA acknowledge that the evidence states that a comprehensive marketing campaign has been undertaken for over 12 months with little to no prospect of occupation for office use. The LPA have no reason to dispute the marketing information supplied with the application and note, following an online search, that there is an active listing.
- 7.1.14 It is acknowledged that, when permission was granted for 14/1294/FUL and the restriction to B1 Office use was removed in relation to Swan House, it was stated in the report that "the variation of Condition 2 would not significantly undermine the local economy, so as to

justify refusal of the application in recognition of the submitted marketing information and status of the site which is not formally designated as employment land.” It must be noted that the application site shares similar circumstances to Swan House and the Development Plan has not changed since the approval of 14/1294/FUL.

- 7.1.15 In summary, it is acknowledged that that the site is not safeguarded for employment use in the adopted or emerging Local Plan, and the Council’s own evidence (South West Herts Economic Study Update 2019) demonstrates that there is an oversupply of office space in the District. Furthermore, the applicant’s evidence demonstrates that the site is vacant with no short- or medium-term prospect of being brought back into office use. It is acknowledged that restricting the use of the site to office fails to make effective use of a brownfield town centre site and is contrary to the aims of Core Strategy Policies CP1 and CP12 and the NPPF. It is also acknowledged that the wording of Condition 2 refers to the now obsolete Class B1. Therefore, taking adopted local and national planning policies, evidence base, and recently imposed Article 4 Direction all into consideration, while also giving weight to the evidence submitted by the applicant, including site specific marketing information, it is considered that there is no sound planning justification for the retention of Condition 2 of planning permission 14/1294/FUL.
- 7.1.16 It is considered that it would not meet the six tests of the NPPF set out at Paragraph 56 of the NPPF. While the condition may still meet some of the tests, such as being precisely worded, enforceable, and relevant to the planning and the development. It is no longer considered necessary or reasonable to restrict the building to B1 Office use in light of the above considerations.
- 7.1.17 Overall, it is considered that the proposed deletion of condition 2 is acceptable (as since its previous variation, it only remains relevant to Drake House), in accordance with Policy CP6 of the Core Strategy (adopted October 2011) and the NPPF (2023).

## 7.2 Other Considerations

- 7.2.1 The proposed removal of condition would not result in any harm to residential amenity or visual amenity within the street scene. Any impacts of any future application of permitted development rights could be appropriately considered and controlled through the Prior Approval process.

## 8 Recommendation

- 8.1 That **Condition 2 is removed and that PLANNING PERMISSION BE GRANTED** subject to the following conditions:

C1 The development hereby permitted shall be maintained in accordance with the following approved plans: TRDC001 (Location Plan), TRDC002 (Swan House Plan), Plan B1 (Lower Level Car Parking), Plan B2 (Upper Level Car Parking), 4196/1F (Car Park Level -1), 4196/2F (Car Park Level -2), 4195/3/E (Site Plan), 4196/4I (Floor Plans Level 0, 1 and 2), 4196/5I (Floor Plans Level 4 and Roof), 4196/6G (Elevations), 4196/7E (Elevations and Sections), 4196/8/C (Public Car Park Plans and Sections), 4196/103J (Car Park Level -2), 4196/104/J (Car Park Level -1), 4196/108C (Elevations), 4196/23 (Public Car Park Elevations), RM100 (Proposed Ground Floor Alterations), 8818/2.03G (Public Car Park Floor Plan), 8818/2.07, 8818/2.08, 8818/2.09, 8818/2.10P (Public Care Park Elevations), 4196/SK.13 (Additional Floor Area Level 3 Block B), 4196/SK.19 (External Arrangement of Handrails, Chillers and Flues at Roof Level), 4196:26 (Landscaping Scheme), 4196:27 (Soft Landscape Courtyard Details), 4196:28 (Landscape Scheme Elevations), 4196 A3/1 (Roof Plant Ridge), 029428910/SK1 (Part Elevation Existing), 029428910/SK2 (Existing Elevations), 029428910/SK3 (Proposed Front Elevations), 029428810/SK4 (Proposed Elevations).

Reason: For the avoidance of doubt and in the proper interests of planning in accordance with Policies PSP1, CP1, CP6, CP8, CP10 and CP12 of the Core Strategy (adopted October 2011) and Policy DM13 and Appendix 5 of the Development Management Policies LDD (adopted July 2013).

- C2 The parking and turning spaces shown on the approved plans shall be kept permanently available for the use of employees and visitors to Drake House (if Drake House is to be used for office use).

Reason: In the interests of highway safety and convenience in accordance with Policies CP1 and CP10 of the Core Strategy (adopted October 2011).

### **Informatives**

- 11 With regard to implementing this permission, the applicant is advised as follows:

All relevant planning conditions must be discharged prior to the commencement of work. Requests to discharge conditions must be made by formal application. Fees are £145 per request (or £43 where the related permission is for extending or altering a dwellinghouse or other development in the curtilage of a dwellinghouse). Please note that requests made without the appropriate fee will be returned unanswered.

There may be a requirement for the approved development to comply with the Building Regulations. Please contact Hertfordshire Building Control (HBC) on 01438 879990 or at [buildingcontrol@hertfordshirebc.co.uk](mailto:buildingcontrol@hertfordshirebc.co.uk) who will be happy to advise you on building control matters and will protect your interests throughout your build project by leading the compliance process. Further information is available at [www.hertfordshirebc.co.uk](http://www.hertfordshirebc.co.uk).

Community Infrastructure Levy (CIL) - Your development may be liable for CIL payments and you are advised to contact the CIL Officer for clarification with regard to this. If your development is CIL liable, even if you have been granted exemption from the levy, please be advised that before commencement of any works it is a requirement under Regulation 67 of The Community Infrastructure Levy Regulations 2010 (As Amended) that CIL form 6 (Commencement Notice) must be completed, returned and acknowledged by Three Rivers District Council before building works start. Failure to do so will mean you lose the right to payment by instalments (where applicable), and a surcharge will be imposed. However, please note that a Commencement Notice is not required for residential extensions IF relief has been granted.

Following the grant of planning permission by the Local Planning Authority it is accepted that new issues may arise post determination, which require modification of the approved plans. Please note that regardless of the reason for these changes, where these modifications are fundamental or substantial, a new planning application will need to be submitted. Where less substantial changes are proposed, the following options are available to applicants:

- (a) Making a Non-Material Amendment
- (b) Amending the conditions attached to the planning permission, including seeking to make minor material amendments (otherwise known as a section 73 application).

It is important that any modifications to a planning permission are formalised before works commence otherwise your planning permission may be unlawful and therefore could be subject to enforcement action. In addition, please be aware that changes to a development previously granted by the LPA may affect any previous Community Infrastructure Levy (CIL) owed or exemption granted by the Council. If you are in any doubt whether the new/amended development is now liable for CIL you are advised to contact the Community Infrastructure Levy Officer (01923 776611) for clarification.



Information regarding CIL can be found on the Three Rivers website (<https://www.threerivers.gov.uk/services/planning/community-infrastructure-levy>).

Care should be taken during the building works hereby approved to ensure no damage occurs to the verge or footpaths during construction. Vehicles delivering materials to this development shall not override or cause damage to the public footway. Any damage will require to be made good to the satisfaction of the Council and at the applicant's expense.

Where possible, energy saving and water harvesting measures should be incorporated. Any external changes to the building which may be subsequently required should be discussed with the Council's Development Management Section prior to the commencement of work. Further information on how to incorporate changes to reduce your energy and water use is available at: <https://www.threerivers.gov.uk/services/environment-climate-emergency/home-energy-efficiency-sustainable-living#Greening%20your%20home>.

- 12 The Local Planning Authority has been positive and proactive in its consideration of this planning application, in line with the requirements of the National Planning Policy Framework and in accordance with the Town and Country Planning (Development Management Procedure) (England) Order 2015. The development maintains/improves the economic, social and environmental conditions of the district.