



Appeal Decision

Site visit made on 14 May 2019

by Steven Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2019

Appeal Ref: APP/N1920/W/18/3217871

Car Park rear of 91-125 Shenley Road, Borehamwood, Hertfordshire WD6 1AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Leathbond Limited against the decision of Hertsmere Borough Council.
 - The application Ref 17/2495/FUL, dated 21 December 2017, was refused by notice dated 18 June 2018.
 - The development proposed is the redevelopment and reconfiguration of car park comprising the erection of a 2/3 storey building (adjoining the flank wall of 91-125 Shenley Road on the North-East elevation) creating 4 flats (1x1 bed and 3x2 bed) to include parking/storage/refuse/recycling and cycle storage on the ground floor and outdoor amenity space on the second floor; installation of new entrance to existing second floor flats and sectional metal gate to Clarendon House Car park, accessed via Clarendon Road.
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Decision

1. The appeal is allowed and planning permission is granted for the redevelopment and reconfiguration of car park comprising the erection of a 2/3 storey building (adjoining the flank wall of 91-125 Shenley Road on the NE elevation) creating 4 flats (1x1 bed and 3x2 bed) to include parking/storage/refuse/recycling and cycle storage on the ground floor and outdoor amenity space on the second floor; installation of new entrance to existing second floor flats and sectional metal gate to Clarendon House Car park, accessed via Clarendon Road, at Car Park rear of 91-125 Shenley Road, Borehamwood, Hertfordshire WD6 1AG, in accordance with the terms of the application, Ref 17/2495/FUL, dated 21 December 2017, subject to the conditions set out in the attached Schedule 1.

Procedural Matter

2. The description of development was amended by the Council to a fuller description. The appellant has forwarded details of this and used this amended description on their Appeal Form. I have therefore used this as the description of development.

Application for costs

3. An application for costs was made by the Appellant against Hertsmere Borough Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:

- The effect of the development on vehicular access to the car park and the associated effects on the commercial and residential units it serves for purposes such as deliveries, refuse collection and for emergency vehicles.
- The effect of the development on the character and appearance of the area.

Reasons

Vehicular Access Issues

5. The site of the proposed development is an existing car park, used in association with the commercial retail units at 91-125 Shenley Road and also the residential flats in the upper floors of this building. The proposed development would not result in the loss of all the car park area, but the proposed residential block would be positioned towards its northern corner.
6. The proposed building would run along the northern boundary of the site with the adjacent municipal car park, but it would also return across the frontage of the car park with Clarendon Road. To access the car park there would be recessed gates through an undercroft of approximately 4m height.
7. This height would be restrictive for larger vehicles which may require more height for this access to be usable. However, I have no substantive evidence before me that this access is regularly used by vehicles that would need more than a 4m clearance to be able to access the car park area. I recognise that there will be commercial vehicles for refuse collection and deliveries, for example, which would frequently enter the car park, but the proposed access would likely be sufficient for the vans and trucks that are under 4m in height. For instance, the appellant states that the refuse vehicle has a height of 3.5m. The width of access also is wide enough for most vehicles to use.
8. It may be that there is a requirement to adapt future commercial or refuse visits to the site to ensure that this is not done using particularly tall vehicles, but there is no substantive evidence that this is needed currently or that this could not be achieved.
9. With regards emergency vehicles, there is particular issue with possible need for access of a fire truck. In this case the Hertfordshire Fire and Rescue Service have been consulted and were unable to state whether there is vehicle access for a pumping appliance within 45m of all points within each dwelling, but they do not state that a 4m clearance is not sufficient. However, they state that any potential access issue could be addressed by installation of dry risers or domestic sprinklers. The appellant has stated their intention to use dry risers to address this matter.
10. In terms of access of emergency vehicles to existing commercial or residential units, particularly those at 91-125 Shenley Road, there is no detailed evidence before me that the access as proposed would be restrictive to an extent that emergency services would not be able to appropriately respond or that evacuations would be hindered. In this regard, I note that the Hertfordshire

Fire and Rescue Service made no comment as to issues with accessing existing units, but that the appellant has stated that they will work with the Fire Service on this matter.

11. If there is a broken-down vehicle it could block an emergency vehicle, but I have no evidence that such a situation could not be resolved, or that the vehicle could not be moved for example. This is a potential issue in many scenarios and I do not regard this as an issue that should result in the dismissal of a development.
12. The re-arrangement of the car park would include a two-way section adjacent to the access, which would be narrow for two vehicles to pass each other, especially if the car parking spaces were full either side. There is a loop section, however, further into the proposed car park area which would allow for vehicles to circulate and pass each other. From the access there would be a clear view into the car park, which would allow drivers to see other vehicles approaching and therefore minimise conflict of vans or trucks struggling to pass each other on the narrow section. The turning space adjacent to the 'service loading bay' appears sufficient for some larger vehicles also and similar to the existing situation.
13. Furthermore, whilst there may be obstructions from larger vehicles parked within the internal roads of the proposed car park arrangement, this is also likely to occur with the existing car park arrangement where passing would be difficult to achieve in such circumstances. The current arrangement could see the exit being used for access where there is an obstruction, but this could also result in conflict between vehicles within the car park entering from different directions.
14. Overall, the proposal would not result in a materially detrimental effect to the flow of traffic within the car park from that of the existing situation. I also have no detailed evidence that any change to the flow of vehicles would result in increased pollution or an increased hazard to pedestrians as a result.
15. Comments have been made that trucks associated with a nearby grocery store uses the carpark to turn, but the car park is private land and therefore it is not a requirement for the development to provide assistance for vehicles seeking to access other properties elsewhere.
16. Amended plans have been received which show the gates appropriately set back from the highway edge to allow vehicles to exit the highway whilst waiting to enter the car park, thereby avoiding frequent obstructions on the highway as a result. I have no substantive evidence that the gates would significantly slow the entry or exit of vehicles in or out of the car park so do not regard it likely this would lead to frequent highway obstructions. There has been no objection from the Highways Authority to the vision for exiting vehicles at the proposed access and have no substantive evidence to the contrary.
17. Pedestrian walkways have also been included with the proposed layout near the proposed dwellings. There are no proposed demarked pedestrian walkways elsewhere in the car park, but this is also the case with the current car park arrangement. I have no detailed information of pedestrian incidents within the car park previously or evidence that leads me to conclude that the current arrangement would result in danger to pedestrians in the proposed car park layout.

18. Overall, whilst I recognise that the access is more restrictive than the current arrangement, I conclude that the proposed development and reorganised car park would not have any significant effect on the existing servicing, delivering and refuse arrangements for those existing units along the Shenley Road that are served by this car park, or have an adverse effect to highway safety. The proposal would therefore not significantly impinge on the functioning of the commercial units associated with this car park and so would not adversely affect Borehamwood town centre and its economic or retail function. Therefore, I would not anticipate that this development would lead to change of use applications to non-retail or commercial uses as a result.
19. Furthermore, there is no substantive evidence to show that the proposal would hinder the access of emergency vehicles to respond to incidents at either the proposed development or existing surrounding buildings.
20. The proposal therefore accords with policies SADM42 and SADM46 of the Site and Allocations Development Management Policies Plan 2016 (2016), policies SP1, SP2, CS22 and CS25 of the Core Strategy 2013. These policies seek to, amongst other things, ensure a safe and accessible sustainable development with sufficient car parking provision, whilst not having a significant detrimental effect to commercial uses in this central area.
21. The proposal is also in accordance with the National Planning Policy Framework (the Framework) on these matters.

Character and Appearance

22. The site is to the rear of the main High Street of Borehamwood, in the town centre. This is an area where there is a mix of commercial (particularly retail) and residential building. Within the vicinity of the site there is a modern block of flats opposite of more traditional older housing. Materials vary with use of brick and render evident in the vicinity.
23. In this varied and mixed setting, the proposed modern residential block would not appear incongruous. It would also be of a height similar to the adjacent Shenley Road buildings and the Neptune House flats. Within this high-density town centre location, the proposal would not constitute overdevelopment and would be appropriately scaled. In this context the building would not be an imposing structure. Furthermore, it is of a modern design, which in this location where there is a mix of modern building types it is regarded as an acceptable approach, with the materials proposed also reflecting some of the materials used in the vicinity.
24. The building would fill an existing gap between commercial/retail units and dwellings, but this is typical of a town centre mix and would not have an adverse effect on the character of the area.
25. The proposed development is therefore of a suitable design and scale which would not overdevelop this site, with no adverse impact to the character and appearance of the area. Therefore, the proposal is in accordance with Policies SP1, SP2 and CS22 of Hertsme's Core Strategy 2013, SADM3 and SADM30 of the Site Allocations and Development Management Policies Plan 2016, which seek to require development to make a positive contribution to the built environment and be of a high-quality design. The proposal is also in general

accordance with the Hertsmere's Planning and Design Guide Part D 2016 and the National Planning Policy Guidance in this regard.

Other Matters

26. The proposed development would result in some loss of parking spaces within the car park. However, this is a central location within the town with a good level of public transport options. From the evidence before me, whilst the public car parks may be regularly full, the resultant parking provision would be sufficient and should not result in a significant rise in on-street parking pressure in the area. I also note that both the Highway and Planning Authority have not objected to the proposal on the basis of the provision or type of parking provision.
27. It is the intention of the development to not have any parking provision for the dwellings. In this town centre location, which is particularly accessible, this is an acceptable approach and I therefore do not regard it likely that the proposed dwellings would result in any significant adverse effects to parking provision in the area. I recognise that there are parking restrictions with permit schemes in the area and that future occupants may not be able to obtain a permit for on-street parking. As stated above, this is an accessible location and I have no substantive evidence that the four dwellings would result in increased on-street parking pressures.
28. There would be some traffic generated by the proposed new dwellings, but as there would only be four dwellings this would not likely be to a level where it would significantly add to or create congestion issues in the area. I have no substantive evidence submitted to the contrary. Furthermore, the accessible site would allow for alternatives to private vehicle usage which would further mitigate the effect on traffic in the area.
29. The proposed dwellings would be near to other existing dwellings, but the separation distance is such that it would not result in significant overlooking or overshadowing effects, with the obscure glazing and privacy screens also features of the proposed building. Conditions can be attached to require privacy screens and obscure glazing as proposed, which would mitigate the potential living condition effects of the development to an acceptable level.
30. There may be some level of disturbance caused through the construction process, but if managed appropriately this should not be to a significant degree and would only be for a relatively short space of time. As such, this matter should not have a significant adverse effect on the highways adjacent to the site or the living conditions of neighbours.
31. The proposal might result in some changes required to existing CCTV and the rear access areas, but these are not matters which I regard as insurmountable or of significant detriment to the adjacent existing premises. There has also been comment that the bins area shown on the proposed layout plan is not suitable, but there are other areas of the site where the bins or other waste skips could be stored which would be appropriate for businesses/residents and waste collection.
32. There have been comments received relating to there being no requirement for the dwellings proposed. However, I have no detailed evidence of this, whereas

the Council has accepted the principle of the development and its contribution towards housing land supply.

Conditions

33. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG.
34. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance. I have amended this condition, so the details of materials are required prior to their use in the development.
35. I have attached a condition for a construction method statement, given the scale of the development adjacent to public areas and existing dwellings. However, this would not relate to demolition as there is no significant demolition required. I am satisfied that there is exceptional justification for imposing a pre-commencement condition, as the information would be required prior to any work commencing, including excavation for example.
36. I have not included a condition for levels details as this information has sufficiently been provided with the submitted plans, which include cross-section details and levels of the different storeys of the building and how this relates to adjoining buildings.
37. I have attached conditions requiring details of privacy screens and also for the first floor windows in the south-eastern elevations to be obscure glazed, to protect the amenities of the occupiers of the flats opposite those within close proximity of the site. The details of the screens and their installation would only be required prior to occupation of the proposed dwellings and not prior to commencement as recommended. For the obscure glazed windows the condition attached requires details to be submitted rather than being based on a 'Pilkington level', as these levels may change with no control over this by the Planning Authority.
38. I have attached a condition that the parking spaces under the proposed building would be kept free for parking provision only. I have not restricted the parking spaces to use by current users, as circumstances may change in the future. Furthermore, it does not have much benefit to the parking provision in the area who uses the spaces, as long as they remain available for parking.

Conclusions

39. For the reasons given above, the appeal is allowed subject to the following conditions.

Steven Rennie

INSPECTOR

Schedule 1

Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - SR-200 • SR-212 • SR-100 • SR-230 • SR-130 • SR-213 • SR-210 revision A • SR-110 • SR-113 • SR-220 revision A • SR-211 • SR-120 • SR-001 • SR-221
- 3) Prior to their use in the development hereby approved, samples of the materials to be used in the construction of the external surfaces of the development shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in compliance with the approved details.
- 4) No development shall take place before a method statement for the construction of the development hereby approved has been submitted to, and approved in writing by, the Local Planning Authority. The construction works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall provide information for excavation, site preparation and construction stages of the development. The method statement shall also include details of the means of recycling materials and the provision of a means of storage and/or delivery for all plant, site huts, site facilities and materials.
- 5) Prior to the occupation of any of the dwellings hereby approved details of the privacy screening/fences to all of the proposed balconies and external amenity spaces have been submitted to, and approved in writing by, the Local Planning Authority. Prior to first occupation of any of the dwellings hereby approved the privacy screens shall be erected as approved and shall thereafter be retained and maintained in perpetuity.
- 6) The building hereby permitted shall not be occupied until the windows at the first floor south-east elevation (shown on plan reference SR-211 to serve bathrooms and en-suite rooms) have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 7) The parking spaces that would lie underneath the undercroft to the building hereby permitted, as shown on drawing number SR-201 revision A, shall be maintained at all times for the parking of vehicles and shall at no other time be used for any other purpose.