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## Appeal Decision

Site visit made on 20 March 2017

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

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

**Decision date: 3<sup>rd</sup> April 2017**

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**Appeal Ref: APP/X1925/W/16/3162259**

**Former Black Squirrel Public House, 10 Gernon Road,  
Letchworth Garden City, Hertfordshire SG6 3DU**

- 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 Bakestall Limited against the decision of North Hertfordshire District Council.
  - The application Ref 16/00410/1, dated 17 February 2106, was refused by notice dated 22 July 2016.
  - The development proposed is residential redevelopment of the site to provide 18 dwellings comprising 7 x 1 bedroom flats and 11 x 2 bedroom flats, landscaping and ancillary works following demolition of existing building (as amended by plans received on 22 June 2016).
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### Decision

1. The appeal is allowed and planning permission is granted for residential redevelopment of the site to provide 18 dwellings comprising 7 x 1 bedroom flats and 11 x 2 bedroom flats, landscaping and ancillary works following demolition of existing building (as amended by plans received on 22 June 2016) at former Black Squirrel Public House, 10 Gernon Road, Letchworth Garden City, Hertfordshire SG6 3DU in accordance with the terms of the application, Ref 16/00410/1, dated 17 February 2106, subject to the conditions set out in the Schedule attached to this decision.

### Procedural Matter

2. The description of the development is taken from the appeal form as the proposal had been amended from an original application for 21 dwellings.

### Main Issues

3. The main issues in this case are:
    - The effect of the development on car parking capacity in the surrounding area.
    - Whether the location would provide acceptable living conditions for future residents, with particular regard to noise and disturbance during night time hours.
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## Reasons

### *Site and surroundings*

4. The proposed three-floor block of flatted residential accommodation would occupy most of a 635m<sup>2</sup> site currently containing a vacant two-storey building, last used as a restaurant. The site fronts onto the north side of Gernon Road, between the substantial Broadway Cinema building to its west and the service entrance to the town centre retail development to its east. This leads to the service area at the rear of the appeal site with shopping development to the north. Gernon Road marks a clear divide between the denser, higher-level urban centre development to the north, which the appeal site forms a part of, and the more spacious, mainly lower-level suburban housing to the south. The appeal site falls within the Letchworth Conservation Area which embraces the town centre and wider parts of the Garden City.

### *Car parking capacity*

5. The proposal would provide nil on-site car parking. The Council's first reason for refusal is in relation to this, and the consequence that occupiers and visitors of the development would have a severely harmful impact upon the parking capacity of the local highway network and public car parks.
6. The current development plan comprises the saved policies of the North Hertfordshire District Local Plan No. 2<sup>1</sup> of 2007 (NHDLP). Policy 55 applies the Council's car parking standards. These are set out in the 2011 Parking Supplementary Planning Document<sup>2</sup> (PSPD). The PSPD requires a minimum of 1 car parking space per one bedroom flat and 2 for two-bedroom flats, establishing a requirement for 29 spaces. However, NHDLP Policy 55 does refer to a preference for payments in lieu of on-site provision for Parking Control Areas in town centres. In addition, the PSPD builds flexibility into its standards, where exceptions to minimum standards must be accompanied by strong evidence, with reference to car ownership and visitor parking demand.
7. The appellant's census evidence is that 53% of town centre households do not own a car, compared to a Letchworth average of 22%. The Council has not contradicted this evidence and therefore I consider it a reasonable assumption that only around half of the households in this development would have a car. My conclusion is supported by the fact that there is no unrestricted on-street parking within a convenient 2 minute walk of the site and future residents would also not be eligible for permit parking in this area. This would deter car ownership unless residents had access to alternative parking provision or were prepared to walk further to an unrestricted area.
8. In addition, this proposal is in a town centre location, with good access to bus services and a wide range of regularly required services and facilities, including the rail station, all within a short walking or cycling distance. Therefore, future residents would not be dependent upon car ownership to meet most of their daily required needs.

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<sup>1</sup> North Hertfordshire District Council District Local Plan No.2 with Alterations Originally adopted April 1996 – Saved policies under Planning and Compulsory Purchase Act 2004 September 2007

<sup>2</sup> North Hertfordshire District Council Local Development Framework Supplementary Planning Document on Vehicle Parking Provision at New Development September 2011

9. The previous restaurant use, which the appellant advises had no on-site car parking, would have created a demand for short term visitor parking and the appellant's evidence persuades me that the short or medium term parking demand generated by residents or visitors of this development would not exceed the capacity provided by either the time-restricted on-street parking or public car parks.
10. Interested parties have also raised wider concerns over the lack of on-site parking for this proposal. I agree with the Council officer's view that some future residents would still likely to be car owners. However, I am not persuaded that as a consequence this would result in material harm to the living conditions of neighbouring occupiers by exacerbating illegal and inconsiderate parking, including on pavements and verges, or in respect of increasing parking stress in areas with unrestricted on-street parking.
11. The proposal would not meet the Council's minimum car parking standards and so would conflict with NHDLP Policy 55. In addition, the criteria for permitting car-free development set out in paragraph 4.10 of the PSPD would not be clearly met by this proposal, as this refers to conversions, reversions, flats above shops, sites that might not otherwise come forward or where existing parking is shared.
12. However, paragraph 32 of the National Planning Policy Framework (the Framework) states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. The proposal would not cause traffic congestion and the local highway authority has raised no objections. Based on the evidence, a severely harmful impact upon the parking capacity of the local highway network and local public car parks would not result. Any residual harm due to the conflict with development plan policy is addressed in the overall balance of considerations.

*Living conditions for future residents*

13. It is a core planning principle of the Framework that decisions should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. This is part of the requirement for good design to contribute positively to making places better for people as set out in Part 7 of the Framework. Paragraph 123 also states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development.
14. Many residential developments are in urban environments where residents would become attenuated to more constant sounds, such as road traffic. The Council's main concern in this case is with the flats being immediately adjacent to the retail service yard and its entrance onto Gernon Road. The Council's view is that the activities here, and the heavy goods vehicles entering the site, would give rise to noise of a more sporadic and unpredictable nature at night and at unsociably early hours of the day, and this would be disturbing to residents and provide unacceptable living conditions.
15. In response to this concern, the appellant has produced further noise evidence, including that deliveries to the service yard commence at around 0530. As a result of this further information the Council's environmental health officer is satisfied the noise impacts from the service yard were less frequent and sporadic than at first envisaged and that the harm on the living conditions of

future occupiers could be mitigated. As the environmental health concerns relate principally to sleep disturbance this mitigation would be as set out in the appellant's noise reports.

16. In addition to the relevant acoustic glazing specification to habitable rooms, this mitigation would require the north and east elevation bedroom windows, facing the service yard and entrance, to be fixed shut alongside the operation of alternative acoustic ventilation measures which meet controls imposed through the Building Regulations and achieve the internal noise standards set by British Standard BS8233:2014. From the appellant's evidence, I am satisfied that this would be the appropriate noise mitigation practice for residential development in a relatively noisy urban situation such as this.
17. A condition requiring this mitigation would adequately address the Council's concerns over the unpredictable and sporadic nature of the noise emanating from the service yard and its entrance.
18. The Council's reason for refusal does not actually specify the service area to be the only adjacent noise issue. The environmental health officer's initial concerns related mainly to the night time activity at the service yard, but included the cumulative impact of other noise sources.
19. The proposed high, close-boarded fencing that would screen the rear outdoor amenity area would adequately protect this area from an unacceptable degree of noise emanating for the day time use of the service yard. However, the front amenity area facing Gernon Road would not be protected adequately from road traffic noise so would have deficiencies in providing good external living conditions in this respect. There is not the evidence that the level of noise from the extended cinema to the west of the proposal would potentially affect living conditions such that flat accommodation in this location would be unacceptable as a consequence. No ground-floor windows are proposed on the west elevation which took account of the cinema extension.
20. Taking into account the final memorandum of the environmental health officer, there would be insufficient evidence that the level and frequency of vibration caused by HGV deliveries into the service yard would cause such potential harm that the proposal could not provide adequate living conditions for its future occupiers.
21. The Council has not provided a further statement to support the second reason for refusal. On the evidence provided, and subject to conditions requiring the mitigation specified, this proposal would provide acceptable living conditions for future residents, taking into account the noise climate and level of disturbance in this location.

### **Other matters**

22. Regard has been given to the further concerns of interested parties, made at both the application and appeal stages. Regarding the scale and mass of the proposed building, and taking into account the extended cinema and the dense retail buildings to the rear, the proposal would not constitute over-development or appear cramped. It would reflect the general mass and grain of urban development along this side of the street and provide a graduation in scale between the buildings either side. A lower density development with more space for landscaping would not be justified in this location.

23. In respect of the further concerns from the Letchworth Garden City Heritage Foundation over detailing, including fenestration and materials, these would have been mainly addressed through the amendments secured following negotiations with the Council's officers. I am satisfied the design of this proposal would be adequate to preserve the character and appearance of the Conservation Area.
24. The proposed flats would be a sufficient distance from the facing dwellings on the opposite side of Gernon Road, not to cause a material degree of harm to the living conditions of these occupiers, due to having an overbearing effect on outlook, or resulting in loss of light or privacy, or causing undue disturbance.
25. There would be an adequate range of restaurants and other town centre facilities nearby not to warrant preserving this site for uses other than residential.
26. The scheme would make adequate provision for cycle storage, protected by natural surveillance for the road and adjacent flat windows, and for the storage and collection of recyclables and waste.
27. The surrounding lighting, including security lighting, would not render this site incapable of providing acceptable living. The lack of outside play space might make this accommodation unattractive for families with young children. However, any future young occupants would not be likely to use, or be allowed to use, the surrounding busy streets for play purposes.

### **Conditions**

28. The conditions suggested by the Council, and the appellant's response, have been considered in the light of the advice contained within the national Planning Practice Guidance and the Framework. I have applied most of these with alterations to improve brevity and clarity. In addition to the standard condition establishing the period for commencement it is necessary in the interests of certainty that a condition sets out the approved plans. In the interests of character and appearance the development shall be built in accordance with external materials agreed before construction proceeds above damp proof course level.
29. To ensure no flooding arises as a consequence, a condition is required that the development proceeds in accordance with an agreed surface water strategy. To secure the acceptable provision of these matters, the cycle storage, boundary treatments and landscaping shall be agreed and provided prior to occupation. A condition requiring biodiversity enhancements is not considered necessary in this location. In the interests of the general living and working conditions of surrounding occupiers it is necessary a condition requires agreement and adherence to a scheme to manage the noise and disturbance arising from the demolition and construction works.
30. In the interests of the living conditions of occupiers of the development it is necessary that mitigation measures based on those set out in the submitted noise assessments be implemented as agreed first with the local authority in writing. This would enable a decision to be made by the Council on whether alternative acoustic ventilation measures would also require fixed-shut windows where applied.

## **Balance and conclusion**

31. The Council calculates it can currently only demonstrate a 2.2- 3.8 year supply of available housing land. Relevant policies must therefore be considered as not up-to-date under paragraph 49 of the Framework. Therefore the presumption in favour of sustainable development set out in paragraph 14 of the Framework is invoked. Where relevant development plan policies are out-of-date this would mean granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
32. Paragraph 6 of the Framework establishes that the purpose of the planning system is to contribute to the achievement of sustainable development and paragraphs 18 to 219, taken as a whole, comprise the Government's view as to what this means in practice. Based on the three strands to sustainable development the planning system performs economic, social and environmental roles which the Framework requires to be sought jointly and simultaneously.
33. The proposal would provide significant social benefits through the provision of affordable housing, which would also benefit the overall supply of housing and contribute to reducing the Council's five year shortfall. This would provide further social and environment benefits by making efficient use of previously developed in a location accessible to a full range of services, reducing the need to travel, particularly by car. There would be significant local economic benefits from the construction and servicing of the development and the future consumer spending of occupiers.
34. The flats would have no immediate access to open space and be in quite noisy surroundings. However, the impact of noise can be adequately mitigated and the residential units would provide acceptable living conditions for occupiers content with this nature and location of accommodation.
35. The statement makes it clear why this scheme would be acceptable as a car-free development. Any degree of harm resulting from the lack of on-site car parking would not be substantial or significantly and demonstrably outweigh the benefits found. The proposal would therefore gain support through the presumption in favour of sustainable development as set out in the Framework. As a consequence, having taken into account all other matters raised, I conclude that the appeal should be allowed.

*Jonathan Price*

INSPECTOR

**Schedule of Conditions**  
**Appeal Ref: APP/X1925/W/16/3162259**  
**Former Black Squirrel Public House, 10 Gernon Road,**  
**Letchworth Garden City, Hertfordshire SG6 3DU**

- 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: 13029-S500C; -P100L; -P101K; -P102K; -P103K; -P104G; -P105J; -P106K & -P107G.
- 3) No construction above damp proof course level shall commence until details of the materials to be used for all external finishes of the buildings, including walls, roof, window and door details, rainwater goods and bracket details, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with these approved details.
- 4) No drainage works shall commence until a surface water management strategy has been submitted to and approved in writing by the Local Planning Authority. All hard-standing areas shall thereafter be constructed in accordance with the surface water strategy unless otherwise agreed in writing by the Local Planning Authority.
- 5) Details of the secure cycle storage facilities shall first be submitted to and approved in writing by the Local Planning Authority and thereafter provided as agreed prior to the first occupation of the development and shall thereafter be retained.
- 6) Details of the provision and future maintenance of landscaping, including boundary treatments and means of enclosure, shall be submitted to and approved in writing by the Local Planning Authority, and carried out as agreed prior to the first occupation of the development and shall thereafter be retained and maintained in accordance with the approved details.
- 7) Prior to the commencement of the development hereby permitted, a scheme designed to minimise the noise and disturbance caused by demolition and construction activities associated with this planning permission, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of construction and demolition waste storage and disposal. All demolition and construction shall thereafter be carried out in accordance with the approved details or particulars unless otherwise agreed in writing by the Local Planning Authority.
- 8) Prior to first occupation of the dwellings, noise mitigation measures based on those detailed in sections 4.5 to 4.12 of the Entran Limited report reference E1471 dated 17 February 2016 (Gernon Road, Letchworth proposed residential development- Noise Assessment) and in sections 4.4 to 4.8 and section 6 of the Entran Limited report reference E1844 dated 23 June 2016 (Gernon Road, Letchworth proposed residential development- Noise Addendum Report) relating to glazing, ventilation and fencing specifications, shall be submitted to and agreed in writing with the local planning authority. These measures shall thereafter be

implemented as agreed prior to occupation and thereafter retained and maintained as agreed.

---End of conditions---