



Appeal Decision

Site visit made on 3 September 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 24 September 2019

Appeal Ref: APP/G2245/W/19/3231676

Site Of 166 High Street Sevenoaks TN13 1XE

- 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 The High Street Partnership against the decision of Sevenoaks District Council.
 - The application Ref 18/03443/FUL, dated 5 November 2018, was refused by notice dated 4 April 2019.
 - The development proposed is temporary 3 year use as a day time car park.
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Decision

1. The appeal is allowed and planning permission is granted for the temporary 3 year use as a day time car park at Site Of 166 High Street Sevenoaks TN13 1XE in accordance with the terms of the application Ref 18/03443/FUL, dated 5 November 2018 and the plans submitted with it, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by The High Street Partnership against Sevenoaks District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issue is whether the site is a suitable location for a temporary long stay car park, having regard to sustainability, accessibility and highway safety

Reasons

4. The appeal site is located to the east side of Sevenoaks High Street. To the south of the street frontage is a signal controlled junction, whilst to the north the street forks to form a "Y"-shaped junction with Seal Hollow Road. The site has two existing vehicular accesses, both giving onto the high street. The boundary of the site to the street is formed by a hoarding and the other boundaries are a mixture of walls and fences. To the north and east of the site lie residential uses, and the ground levels to the east are significantly lower than those within the appeal site.
5. The site is currently vacant. The buildings associated with the former use have been demolished. Both of the main parties are agreed that the site is in need of comprehensive redevelopment and Policy EMP1 of the Sevenoaks District

Council Local Plan Allocations and Development Management Plan 2015 (the ADMP) supports business uses in the area.

6. The proposal would allow the use of the land as a car park for a period of three years. The National Planning Practice Guidance (NPPG) provides some support for such proposals as a 'meanwhile use' prior to any longer term regeneration plans coming forward or more generally to encourage empty property to be brought back into use.
7. There is dispute between the parties regarding need for additional car parking provision within the town and whether the proposal will encourage increased car use by commuters. Both the appellant and Council have carried out car parking reviews for Sevenoaks and these conclude that, notwithstanding the recent development of a new town centre car park, there is an ongoing demand for car parking in the town centre, particularly for long stay car parking. On the basis of this evidence I am satisfied that the proposal would provide additional parking to address this shortfall, and that the scale of the proposal would not result in significant over-provision.
8. A more recent survey of parking availability that has been provided by the Council for the recently opened Sevenoaks Town long-stay car park shows parking space availability within that site. However, this car park is located further from the railway station than the appeal site and the assessment only relates to a single car park. I am therefore not convinced that this survey provides a comprehensive overall picture of car parking use in the town.
9. Car parks do not, of themselves, generate trips, but provide for demand from vehicle trips generated by other uses. The development would not include any additional primary generators of traffic trips. Therefore I have no reason, on the basis of the evidence before me, to conclude other than that the vast majority of vehicles accessing the proposed car park would be vehicles that are already on the network.
10. However, the private motor vehicle is a less sustainable form of transport and the National Planning Policy Framework (the Framework) promotes sustainable transport, requiring that "appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location". Further, it requires that development should facilitate access to high quality public transport and provide appropriate facilities that encourage public transport use. Policy T1 requires that developments provide mitigation for any adverse travel impacts.
11. The site is within walking distance of Sevenoaks Railway Station, and the appellant's car parking assessment demonstrates that this operates at a high proportion of occupancy. It is likely that the appeal scheme will contribute towards addressing this demand, either by direct use by rail users, or transference of long-stay parking demand from other car parks within the town.
12. Whilst additional car parking provision could encourage an increase in modal share I have little substantive evidence before me that the additional parking capacity provided by the proposal would result in a significant level of modal transference. Any additional traffic flow resultant from the proposal would therefore be small and unlikely to cause significant additional congestion on the network. The residual cumulative impacts on the road network in terms of

- congestion would, therefore, not be severe, whilst the development would, to a degree provide supporting infrastructure for public transport users.
13. Concerns have been raised by the Council and others in regard to right turning vehicles obstructing traffic flow close to the signal controlled junction and the impact that this would have on congestion.
 14. The proposed development includes works within the public highway, including the provision of "Keep Clear" markings at the car park entrance and exit. There is dispute between the parties regarding the effectiveness of such markings. However, such markings are widely used in such circumstances, with positive effect. I have little substantive evidence before me to demonstrate that the provision of the marking to safeguard the right turn would not be effective in this case, or result in significant additional delay to queueing southbound traffic. On the basis of the evidence before me, the proposed mitigation works are appropriate to the scale and impact of the development.
 15. I therefore find that the residual cumulative impacts on the road network in terms of congestion, including air pollution, would not be severe, whilst the development would, to a degree, provide supporting infrastructure for public transport users.
 16. In regard to the safety of users of the public highway, concerns have been raised in relation to the use of the access, both for drivers and pedestrians. The layout of the junction to the north is unusual, being a "Y" shaped priority junction, rather than the more usual "T". However, during my site visit, albeit that this provides only a snapshot in time, I did not notice any drivers experiencing difficulty in using the junction in its current form. Further, I have little evidence before me that the junction layout, in its current form has an exceptional accident history.
 17. Vehicles would access the site at the existing northern access point across a lane of traffic from an existing right turn lane. Egress from the car park would be from the existing southern access. During periods of congestion, overall vehicle speeds in the vicinity would be expected to be low. Although right turning vehicles accessing and egressing the car park would be doing so at locations where traffic is diverging into two separate lanes, the provision of "Keep Clear" markings would help to clarify this layout for drivers and provide gaps for vehicles accessing and egressing the car park to make their manoeuvre during periods of congestion. On the basis of the evidence before me I consider that, subject to inclusion of a condition governing the operation of the car park to ensure use in accordance with the proposed access arrangements, including internal traffic management, these access arrangements would be acceptable.
 18. There is specific concern that the footway fronting the site is used by many pedestrians, including school children and other vulnerable users. However, the accesses are existing and are of a form and layout that are common in urban areas and similar to other accesses that pedestrians would encounter on a day-to-day basis. There is limited evidence to suggest, that the use of the two accesses as proposed would result in an unacceptable risk to pedestrians.
 19. There is concern from the Ward Councillor and others that no mitigation works have been required to the signal controlled junction of Pembroke Road/Suffolk Way/ High Street, in a similar way to the Council's long stay car park.

However, I have little substantive evidence before me that identifies a significant impact resultant from the proposal upon that junction that would require any mitigation.

20. It has been questioned whether the proposed car park should be within the variable message signage system within Sevenoaks that indicates car parking availability for specific car parks. I have no substantive evidence before me that such measures are necessary in planning terms for the proposal to proceed.
21. For the reasons set out above, I conclude that the site is a suitable location for a temporary long stay car park, having regard to sustainability, accessibility and highway safety. The development would therefore accord with policy SP2 of the Sevenoaks District Council Local Development Framework Core Strategy 2011, and Policies EN1, SC1 and T1 of the ADMP and the aims of Chapter 9 of the Framework, which, amongst other things, seek to support sustainable development and provide improvements to enhance the convenience of public and community transport, provide appropriate mitigation for adverse travel impacts of development and achieve safe and suitable access to the site for all users.

Other Matters

22. The appellant has brought to my attention that the issues of congestion and highway safety were not specifically mentioned in the case of a previous application for a similar development, Council Ref 18/00704/FUL, and therefore considers that the Council have been inconsistent in their treatment of the two applications. I have little evidence regarding the decision making process on the previous application and have considered the appeal before me on its own merits.
23. The site lies on the edge of the Vine Conservation Area (the VCA) and is close to the High Street Conservation Area (the HSCA). As such I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Areas. In addition, Paragraph 193 of the revised Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
24. The character and appearance of the adjacent part of the VCA is of buildings of varying scales and design, built using traditional materials. The character of the nearby part of the HSCA is of a vibrant shopping street fronted by mainly two storey buildings of period design with more modern shop facades at street level. The appeal site fronts the High Street and has been vacant for some time. Its presence on the High Street is characterised by a builder's hoarding. The removal of this hoarding and low-key landscaping of the site would have no detrimental impact on the setting of the conservation areas, as the site is visually enclosed. I therefore conclude that the proposed development would preserve the special character and appearance of the conservation areas.
25. Many representations have been received both supporting and opposing the proposal. Concerns have been raised regarding the effect upon the living conditions of neighbours from loss of outlook, lighting within the site and from car headlights, overlooking and disturbance, antisocial behaviour and noise from users of the site and manoeuvring vehicles.

26. The appellant has produced a technical assessment of the lighting proposed within the site and I am satisfied the proposed lighting scheme will not lead to significant light spillage. Due to the differences in levels across the site car headlights may shine onto an obscure glazed window at first floor level. However, the site is located within an urban area and it would be anticipated for there to be a degree of disturbance from activities in the area. I therefore consider that the degree of disturbance from headlights of vehicles within the site would result in limited harm to the living conditions of neighbours.
27. In regard to outlook, windows currently with views across the site look out upon an overgrown development site left by demolition of the former building. The proposal would replace this with views across the proposed car park, which would have limited landscaping. Whilst the existing view is of a somewhat overgrown green space, this is, by its nature, a transient situation and the site is not a formal amenity space. I do not consider that the view that would replace it would amount to significant detriment in terms of the amenity for occupiers of the neighbouring properties.
28. In relation to noise disturbance and antisocial behaviour, a noise report was provided by the appellant and assessed by the Council's Environmental Health Officer, who concluded that there was a low risk of adverse effect from the proposal. I have little substantive evidence before me to disagree with this opinion and note the proposal by the applicant to provide a noise barrier, restrict the hours of operation of the car park and provide Closed Circuit Television cameras to monitor the site. These measures could be secured by planning condition.
29. In regard to overlooking, whilst on site I observed that, standing close to the eastern boundary, it is possible to look down over a low wall into the private amenity space of properties. These views could be restricted by additional boundary treatment in the location, which would coincide with the proposed acoustic boundary treatment and could be secured by planning condition.
30. Concerns have been expressed that the car park use could become permanent or delay the comprehensive redevelopment of the site. However, I am mindful of the advice given in the NPPG that "It will rarely be justifiable to grant a second temporary permission" and that "There is no presumption that a temporary grant of planning permission will then be granted permanently." This is a matter for the Council to consider at a later date, should a proposal come forward.
31. Concerns have been raised by local residents regarding the efficiency of the proposed drainage system. However, a drainage report has been prepared assessing the drainage proposal and the Lead Flood Authority has raised no objections. In the absence of any substantive evidence to demonstrate that the proposals are unsatisfactory I consider that this matter can be adequately addressed by the addition of an appropriate planning condition.
32. There have also been objections to the proposal that the site would be operated by a private company, may impact on the integrity of retaining structures and result in pressure to remove existing planting within private property. These matters, however, lie beyond the remit of this appeal. There have also been concerns raised regarding the need for vehicle crash barriers around the site, citing the existing length of crash barrier as demonstrating necessity. However, I have little substantive evidence before me that there is a

general need for such a measure within the low-speed environment of the car park.

33. Several representation say that they would support an alternative use of the land. However that is beyond the scope of this appeal.
34. I note that several parties have expressed dissatisfaction with the way in which the Highway Authority dealt with the application. However, the way in which the Highway Authority handled the application is not a matter for me to consider in the context of this appeal, which I have determined on its own individual merits.

Conditions

35. In addition to the standard condition which limits the lifespan of the planning permission I have included the approved plans and I have added a condition limiting the use of the land as a car park to a period of three years from the start of that use and requiring the restoration of the land thereafter. I have placed a condition upon the development limiting the scale of the permission to 78 spaces, and a condition requiring the development to be built in accordance with the approved plans. These are necessary in the interest of certainty.
36. A condition on the development requiring the submission and approval of details of the highway works is necessary to ensure the safety of users of the public highway.
37. The area has been colonised by scrub growth and it is likely that this provides habitats for fauna, potentially including protected species. I have therefore included a condition requiring an ecological survey to be undertaken and any necessary mitigation identified and implemented. This is necessary to protect nesting wildlife.
38. A condition requiring the provision of a Construction Method Statement (CMS) is considered necessary to safeguard the living conditions of local residents and the safety of users of the public highway during the construction phase.
39. I have included conditions on the development requiring the submission and approval of details of the boundary treatments, both acoustic and otherwise, and conditions controlling the hours of operation of the car park, the installation of external lighting and CCTV. These are necessary to safeguard the living conditions of local residents and protect them from noise, overlooking and other nuisance and protect the public.
40. I have placed a condition on the development requiring the submission of car park management details. This is necessary to provide certainty and protect the safety of the public.
41. A condition requiring construction in accordance with the drainage strategy is necessary to prevent flooding by ensuring the satisfactory storage/disposal of surface water from the site.
42. Conditions requiring the provision of electric vehicle charging units, disabled and motorcycle parking provision are necessary to comply with Policies EN1 and T3 of the ADMP.
43. These conditions correspond to conditions requested by the Local Planning Authority. I have amended some of the requested wording of the Local

Authorities' conditions for clarity. Some of the planning conditions require the developer to take action prior to commencement of the development and the appellant has agreed to these conditions.

Conclusion

44. For the reasons set out above, and having taken into account all other matters raised, I conclude that the appeal should be allowed, subject to the planning conditions attached.

I Dyer

INSPECTOR

Schedule of Conditions

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission
- 2 Prior to the first use of the car park hereby permitted written notice shall be submitted to the local planning authority. The use of the land as a car park shall cease at the expiry of three years from the date of the written notice and within three months of the cessation of the car park use, a scheme of restoration of the land, including a programme for the works, shall be submitted to and approved by the local planning authority. All restoration works shall accord with the approved details.
- 3 The maximum number of vehicles that may park on the site at any one time shall be limited to 74.
- 4 Notwithstanding any details hereby approved, prior to commencement of development details of off site highway works as shown on plan P048-102 Rev. PL-C shall be submitted to and approved in writing by the local planning authority. The approved works shall be implemented prior to first use of the development hereby permitted and shall be retained in perpetuity.
- 5 No development shall take place until an ecological mitigation strategy is submitted to and approved in writing by the local planning authority. The strategy must include the following:- Walk over site survey- Over view of mitigation required- Methodology to implement the mitigation- Timings of the proposed works- Maps show details of retained habitat/off site mitigation area (if required). The strategy must be implemented as approved prior to the first use of the development hereby permitted.
- 6 All boundary treatments (including acoustic boundary treatments) shall be installed prior to the first use of the car park in accordance with details that shall have first been submitted to and approved in writing by the local planning authority. These shall thereafter be retained for the duration of the planning permission
- 7 Before the use begins a scheme shall be agreed in writing with the local planning authority regarding the management and operation of the car park. Such a scheme shall include details of maximum and minimum parking periods, type and location of automatic tickets, measures to ensure that the entry and exit points are retained for this purpose, direction signage for approaching traffic (both from within the site and from the public highway), the construction and operation of the proposed barrier at the entrance. The measures agreed in the management and operational plan shall be implemented before the use begins and shall remain in force for the duration of the planning permission.
- 8 The installation of external lighting shall only be carried out in accordance with the approved outdoor lighting report ref: MMA14495 and implemented in full prior to the first use of the car park hereby permitted and shall thereafter be retained for the duration of the planning permission. The car park shall not be illuminated between the hours of 22:00 and 07:00 on any day.

- 9 The surface water drainage measures and their maintenance as detailed in Surface Water Strategy - ref: 369518 (vkhp Consulting January 2019) shall be implemented in full prior to first use of the car park hereby permitted and thereafter maintained as approved for the duration of the planning permission.
- 10 The car park hereby permitted shall only operate between the hours of 0700 and 2200 hours.
- 11 The installation of CCTV shall only be carried out in accordance with the approved CCTV statement and implemented in full prior to the first use of the car park hereby permitted. The CCTV installation shall thereafter be maintained as approved for the duration of the planning permission.
- 12 Details and location of electric vehicle charging units provided within the site shall be submitted to and approved in writing by the local planning authority and implemented in full prior to the first use of the car park hereby permitted and shall thereafter be retained for the duration of the planning permission. The electric vehicle charging units shall thereafter be maintained as approved for the duration of the planning permission.
- 13 No development including any works of demolition or preparation works prior to building operations shall take place on site until a Construction Transport Management Plan has been submitted to and approved in writing by the local planning authority. The approved statement shall be adhered to throughout the construction period and shall include:
 - (a) parking for vehicles of site personnel, operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials used in constructing the development;
 - (d) measures for the management and direction of construction traffic for the development;
 - (e) wheel washing facilities;
 - (f) a scheme for the recycling/disposing of waste resulting from demolition and construction works;
- 14 The development hereby permitted shall be carried out in accordance with the following approved plans and details: P048-001 Rev. PL-A, P048-701 Rev. PL-A, P048- 102 Rev. PL-C.

End of Conditions