



Appeal Decision

Site visit made on 9 June 2020

by P Mileham BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2020

Appeal Ref: APP/D5120/W/19/3223832

19-21 Blackfen Road, Sidcup, Kent DA15 8QD

- 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 Montreaux Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 18/01543/FUL, dated 13 June 2018, was refused by notice dated 22 February 2019.
 - The development proposed is an extension to a retail unit (ground floor); first and second floor extensions to create three dwelling (flats); and associated works to the site.
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Decision

1. The appeal is allowed and planning permission is granted for an extension to a retail unit (ground floor); first and second floor extensions to create three dwelling (flats); and associated works to the site at 19-21 Blackfen Road, Sidcup, Kent DA15 8QD in accordance with the terms of the application, Ref 18/01543/FUL, dated 13 June 2018, subject to the conditions in the attached schedule at Annex 1.

Procedural matters

2. The parties have both referred to the adopted London Plan (2016), and emerging 'intention to adopt' London Plan in their statements. Since this appeal was lodged, the emerging London Plan has completed its Examination and the Panel's Official report has been issued, along with the Mayor's 'intention to publish' version of the London Plan 2020 (the ITPLP). The 'intention to publish' version of the plan has been subject to a direction from the Secretary of State, and therefore whilst policies could change, the annex of the Secretary of State's letter indicates the changes sought. Where such changes may affect any policies referred to, these have been considered.
3. The Proposed Floor Plans have been revised and there is a difference of position between the parties as to which plan the Council considered at the point of determination. Notwithstanding this, the latest revised plan reference 6380(P)102 Rev J is not significantly different from its previous revision and both parties have been able to consider it and as such I have considered it as part of this appeal.

Main Issues

4. The main issues are the effects of the proposed development on:

- Highway safety having regard to the provision for service vehicles;
- Highway safety having regard to vehicle parking.

Reasons

Highway safety in relation to service vehicles

5. The appeal site is a two storey building which currently comprises a retail unit on the ground floor and two residential flats spread across the rear of the building and the first floor. The building forms the end part of a small parade of three shops, and to the east the site is bordered by residential dwellings. Blackfen Road itself forms part of the A210 which at the appeal site is a single carriageway road with a 30 miles per hour speed limit and is identified as a London Distributor Road.
6. At the time of my visit, Government restrictions on the opening of non-essential retail shops, schools and other businesses due to the coronavirus pandemic were in place. As such, traffic volumes at the time of my visit would be expected to be below the levels expected if all shops and businesses were open and operating normally. The appellant's evidence indicates that the road is heavily trafficked with approximately 16,958 average annual daily movements estimated in 2017. The road has some double yellow lines in the vicinity of the site at the junctions with Parish Gate Drive and the junction with Boundary Road, although these restrictions do not extend fully along the road in the vicinity of the site. As such, these double yellow lines in the vicinity of the site would avoid vehicles parking in close proximity to the junctions and affecting visibility for traffic pulling out into Blackfen Road. A Traffic Management Order (TMO) could be implemented to increase the length of yellow lines in the vicinity to avoid any inappropriate on-street parking in the vicinity of the site. However, the existing double-yellow lines provide adequate control in the vicinity of the junctions, and furthermore, such Orders would not be capable of being secured by a planning condition.
7. The visibility from the site when looking along Blackfen Road to the north east is slightly reduced due to the curvature of the road and obstructions caused by the boundary wall and fence of the neighbouring property. Looking towards the south west, visibility is also slightly reduced due to the sites' position at the apex of the curvature in the road at this point. The appellants statement includes evidence of recorded traffic speeds at the 85th centile of 33.4 miles per hour. This generates a stopping sight distance of approximately 51.7 metres, plus an additional 2.4 metres to allow for a car bonnet. The statement from the Highway Authority indicates at paragraph 2.9 a 65 metres forward visibility splay, and although visibility is slightly restricted to the north east of the site, I consider the overall visibility to the south west would be acceptable. As such, I consider there is adequate visibility available for vehicles entering and exiting the site.
8. The front area of the site proposes five parking spaces for customers, with an additional 1 space for staff. The appellant has provided a swept path analysis drawing to demonstrate how an 8 metre service vehicle could enter and exit the site in forward gear. However, if any of these spaces were occupied, this would restrict the available area for use by service vehicles and existing in forward gear would not be possible. As a result, service vehicles might have to reverse or manoeuvre in the road to access or egress the site. However, having

regard to the required stopping sight distance and the available visibility, there would be sufficient opportunity for any vehicles manoeuvring to be seen sufficiently in advance by vehicles using the carriageway to avoid danger albeit this could affect the flow of traffic. Paragraph 54 of the National Planning Policy Framework ('the Framework') considers whether unacceptable development could be made acceptable through the use of conditions. Therefore, in order to mitigate any residual effects of delivery traffic reversing onto the highway affecting traffic flow, a condition to restrict the timing of deliveries to outside peak hours when the store would not be open to customers would be capable of addressing any residual harm. Whilst concern has been raised regarding the effect such a condition might have on the living conditions of adjoining occupiers, deliveries to the site are currently unrestricted and as such, could take place at any time.

9. Blackfen Road has experienced a number of accidents and data supplied in the Council's evidence indicates several accidents in the immediate vicinity of the site; however, the evidence indicates the causes were recorded as aggressive and careless driving. As such, the Council's evidence does not show the cause of this or any of the accidents identified to be related to the geometry of the road, speed or visibility. Therefore, there is no evidence to suggest that the presence of the shops in this location have contributed to the accidents recorded in the vicinity.
10. The appellant has indicated that an intensification of the existing retail space be considered as a fallback. The site is not currently the subject of restriction to hours of operation or on the timing and frequency of deliveries. The appellant has indicated that if permission was granted, a Delivery and Servicing Plan would be secured to restrict delivery timings in order to mitigate the effects of delivery vehicles on highway safety. The proposed development would significantly increase the amount of retail floorspace above the existing unit. Although the fallback is not of comparable scale to the appeal proposal, the intensity of retail activity in the existing retail unit could be increased with a different end-user, such as a small convenience store. The intensification of the retail use is possible within the existing unit, and although it would be constrained by the floorspace currently available, it could nonetheless be increased to a point where a significant additional number of vehicle movements could be expected. As such, this fallback is capable of being implemented, and I have afforded it significant weight.
11. The Council has supplied examples of other appeal decisions to demonstrate the likely scale of vehicle movements expected from small convenience retail stores. The decision at 340 Lydgate Lane in Sheffield is close to a 4 armed junction. The Inspector in that case concluded that there was a lack of adequate off-street parking and was concerned about the motorists looking for parking spaces close to the junctions and is therefore not directly comparable to this appeal. Furthermore, the policy position in that case is different having regard to the policies contained within the London Plan and its accompanying standards. As I do not find the proposed development to be deficient in terms of parking spaces this does not alter my findings. The decision at 15 Market Parade Sidcup considers, amongst other things, the effects of larger service vehicles using the site. However, it is noted the Inspector in that case identified a range of other highway concerns that cumulatively resulted in a concentration of activity that was harmful to highway safety. The appeal decision at 492 Blackfen Road is for a residential development and identified

concerns around highway safety due to the proposed parking arrangements and vehicles queueing along Blackfen Road. However, in that instance, the fallback position for the Inspector to consider would not have been capable of generating the level of traffic that the existing using of this site could. Therefore, the circumstances are not directly comparable to those of this appeal and as such it is of very limited weight.

12. In light of the above, I consider that the proposal would not result in harm to highway safety having regard to the provision for service vehicles. As such, it would comply with saved policies SH02 and G18 of the Bexley Council Unitary Development Plan (2004) ('BCUDP'), and Policy CS15 of the Bexley Core Strategy Development Plan Document (2012) ('BCS') which seek to amongst other things, provide satisfactory access and egress, manage the Borough's network of roads and effectively maintain and manage the existing highway network to ensure the free flow of traffic. The proposal would also comply with Policy T7 of intend to publish London Plan which seeks to ensure adequate space for servicing, storage and deliveries off-street.
13. The proposed development would also accord with paragraph 109 of the National Planning Policy Framework ('the Framework') states that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.

Highway safety in regard to vehicle parking

14. As set out above, in December 2019 the Mayor submitted his 'Intend to Publish' version of the emerging London Plan to the Secretary of State for consideration. In light of the Secretary of State's direction in respect of some of the Mayor's amendments, policies could change. However, these concerns did not include the table of parking standards accompanying Policy T6 (Car Parking) and Policy T6.3 (Retail Parking) as such due to its advanced stage I afford Policies T6 and T6.3 significant weight.
15. Five customer parking spaces are shown to support the proposed development. Policy T17 of the BCUDP sets out maximum local parking standards of 1 space per 40 square metres of general retail floorspace. The adopted London Plan (2016) shows maximum parking standards show a range of 1 space per every 35-50 square metres gross floorspace, equating to 6-8 spaces. However, Policy T6.3 of the emerging London Plan 'intention to publish' version indicates that the maximum parking provision for a retail development of this size should be 4 spaces plus appropriate disabled persons parking should be provided in accordance with emerging Policy T6. Due to the advanced stage of the London Plan, emerging Policy T6.3 is afforded significant weight. Whilst there is disagreement between the parties as to whether the number of spaces should be increased having regard to the fact the site is covered by two PTAL ratings (1b and 2), the proposed development's provision of 6 spaces would accord with the London Plan in this regard. Furthermore, as Policy T17 of the BCUDP sets out maximum standards rather than setting minimum requirements, the proposed number of spaces would also accord with the plan in this regard.
16. Users of the parking spaces are likely to occupy these for a short period of time whilst visiting the shop, and as such, a regular 'churn' in the use of the spaces would be expected. As such, there is little evidence that there will be any shortage of parking spaces, and therefore any significant degree of overspill parking likely. However, in order to ensure parking spaces do not become

unavailable due to extended periods of parking, the allocation of parking spaces and restriction on the duration of parking for the retail unit would be capable of being addressed via a planning condition in order to ensure there are no residual impacts on the local highway network.

17. At the time of my visit there did not appear to be parking stress in the neighbouring streets (Packmores Road and Boundary Road), and whilst parking was limited, there is no evidence to suggest that any potential overspill parking would be at a level to result in unacceptable harm to highway safety.
18. In conclusion, the proposed development would not result in harm to highway safety having regard to vehicle parking. As such, it would comply with saved policies ENV39 and T17 of the BCUDP, and Policy CS15 of the BCS which seek to ensure adequate parking is provided, that developments provide off street parking up to the maximum levels set out in the Council's parking standards and adopt a parking policy that addresses the need for appropriate controls to secure a sustainable environment. It would also comply with Policy 6.13 of the adopted London Plan (2016) by providing spaces in accordance with the parking addendum.
19. The proposed development would also comply with paragraph 106 of the Framework having regard to the setting of maximum parking standards.

Other matters

20. The proposal would create three dwellings, although there would only be a net get of one dwelling. However, a single dwelling does make a positive contribution to the supply of new homes in the Borough, although due to the minimal contribution this can only be afforded limited weight.
21. The appellant considers that the site is in a sustainable location in terms of providing an enhanced retail offer which can be accessed via sustainable modes of transport. The site is already in retail use on the ground floor and the proposal seeks to extend the floorspace. The benefit of an extended retail premises would provide an enhanced shop for convenience retailing which provides an economic benefit of the scheme.

Conditions

22. The Council has identified conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the Framework and the Planning Practice Guidance and have only imposed them where I consider them to meet the tests, amending them where necessary for the sake of clarity, precision and enforceability.
23. In addition to the standard time limit, in the interests of certainty, I have imposed conditions specifying the approved plans and a pre-commencement condition for the submission of details of the materials to be used. The pre-commencement condition is necessary as the development involves extending an existing building which could otherwise be partly occupied during works, and as such, a condition requiring such prior to occupation would not be effective.
24. In order to ensure that there is no harm to the living conditions of adjoining occupiers and highway safety due to construction and demolition, a pre-commencement condition is required for the submission and adherence to a demolition and construction management logistics plan. This is necessary to be

- addressed prior to the commencement of development in order to ensure that no harm is caused as a result of any initial demolition and logistics that would be beyond the scope of the permission.
25. Conditions requiring the parking arrangements for the residential and business uses to be in place prior to the occupation of development, visibility splays for pedestrians and vehicles are provided and maintained free of obstruction and ensuring that the retail parking area is retained for customers, staff and servicing are necessary in the interests of highway safety.
 26. The Council has sought a condition requiring the details of the residential cycle parking to be submitted and agreed. However, these details are specified on the plans, and as such, the condition has been amended requiring these to be provided before the extended unit is brought into use.
 27. The Council has suggested a condition requiring the details of the long stay cycle parking arrangements for the retail unit are provided and visitor spaces for the residential units. These details are included on the plans, however a condition is necessary to ensure that these are retained for use by customers and staff in the interests of highway safety and I have amended it to this effect.
 28. The Council requested a condition for the submission of details for the storage of refuse and recycling. However, although these details are included on the plans, a condition is required to ensure these are retained for the lifetime of the development.
 29. Two conditions are required for the submission of details of hard and soft landscaping works, and for the boundary treatments to be implemented prior to the first occupation of the retail premises which are necessary in order to ensure that there is no harm to the living conditions of adjoining occupiers.
 30. The Council proposed a condition seeking to restrict Permitted Development rights and refers to the Town & Country Planning (General Permitted Development) (England) Order 2015, which allows the enlargement, improvement or other alteration of a dwellinghouse under Class A. However, this Class of Permitted Development is not relevant to the proposed development as it relates to a 'dwellinghouse' which does not include a building containing one or more flats, or a flat contained within such a building which are specifically excluded. As such, this condition cannot be imposed.
 31. A condition is suggested that the parking spaces shall only be used for the parking of motorised vehicles and is available as such at all times. This has been amended for precision and is necessary in order to ensure the parking spaces remain available in order to ensure that there is no harm to highway safety. A further condition is also necessary for the allocation and reallocation of parking in the interests of highway safety.
 32. In order to minimise the impact of the development on the environment, conditions relating to the submission of a Travel Plan and a pre-commencement condition to provide details electric charging points are needed. The electric charging point condition needs to be pre-commencement due to the development extending an existing building, and as such, the details of the infrastructure need to be agreed and suitably designed into the scheme at the earliest opportunity.

33. A condition requiring the submission and approval of a Delivery and Servicing plan is required in the interests of highway safety and the living conditions of adjoining occupiers.
34. A condition is required for the submission of details of the lighting of the access drive and parking areas in order to ensure the safety of occupiers and visitors. The Council's suggested condition sought these details prior to commencement of development along with a self-certification process. As the access already serves the existing flats, I do not consider this needs to be provided prior to commencement and the details can be submitted prior to the first occupation of the development. Further, the condition has been amended to require the Council's control over lighting details as the self-certification element is not necessary.

Conclusion

35. For the reasons given above I conclude that the appeal should be allowed.

P Mileham

INSPECTOR

Annex 1

Schedule of 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:
 - Location Plan – 6380(P)001 A
 - Block Plan - 6380(P)002
 - Existing Floor Plans - 6380(P)101 A
 - Existing Elevations - 6380(P)201
 - Proposed Floor Plans - 6380(P)102 J
 - Proposed Elevations - 6380(P)202 H
 - Existing and Proposed Sections - 6380(P)301 C
 - Proposed Schedule of Accommodation - 6380(P)401 C
- 3) Notwithstanding the details submitted within the application documents, construction shall not commence until a schedule of materials and finishes and, where so required by the Local Planning Authority, samples of such materials and finishes to be used for the external walls and roofs of the proposed building, have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of development, a Demolition and Construction Management and Logistics Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:
 - a. The location of notice boards on the site to include details of the site manager, including contact details (phone, facsimile, email, postal address) and 'out of hours' contact details;
 - b. A strategy for the parking of vehicles of site operatives and visitors;
 - c. A strategy for the loading and unloading of plant and materials;
 - d. A strategy for the storage of plant and materials used in constructing the development;
 - e. Details of days/hours of work and deliveries of construction materials;
 - f. Measures to be adopted to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage and unloading of building materials and similar construction activities;
 - g. Measures to be adopted to ensure that pedestrian access past the site on the public footpaths is safe and not (unduly) obstructed during construction works;
 - h. Construction site lighting;
 - i. Reasonable measures to be adopted, such as a restriction on the size of construction vehicles and machinery accessing the site, to minimise any

potential damage occurring to adjacent streets throughout the construction period;

j. Location of vehicle and construction machinery access during the period of site works including identification of any works necessary to the public highway necessary to provide a means of access during the construction and/or operation of the development;

k. Numbers and timing of truck movements throughout the day and the proposed routes broken down by size of trucks;

l. Vehicle holding areas;

m. Construction traffic routes;

n. Means of minimising noise and vibration (including any piling), and compliance with BS 5228;

o. Procedures including wheel washing for controlling sediment runoff, dust and the removal of soil, debris and demolition and construction materials from public roads or places;

p. A Dust Management Plan, including details of mitigation measures for dust and emissions during demolition and construction along with a monitoring regime for the same in accordance with Air Quality: Best Practice Guidance - The Control of Dust and Emissions During Construction and Demolition Supplementary Planning Guidance (published by the Greater London Authority, July 2014); and,

q. A Demolition and Construction Site Waste Management Plan which includes details of managing demolition and construction waste having regard to the site waste hierarchy (prevention, reuse, recycling, recovery, safe disposal).

r. Location of workers' conveniences (e.g. toilets, showers); and,

s. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

The development hereby permitted shall only be carried out in accordance with the approved details.

- 5) Prior to first use the vehicle access shall be provided with those parts of 2.4m x 2.4m pedestrian visibility splays that can be accommodated within the site in both directions and (with the exception of existing trees) shall thereafter be maintained free of all obstructions to visibility between heights of 0.6m and 2m above the level of the adjoining highway.
- 6) Before the development hereby permitted is first used by vehicles, that part of a vehicular sight line of 43m x 2.4 m which can be accommodated within the site shall be provided in both directions and (with the exception of trees selected by, or on behalf of, the Local Planning Authority) shall thereafter be maintained free of all obstructions to visibility over a height of 1m above the level of the adjoining highway.
- 7) Before the extended development hereby permitted is first brought into use, the cycle store hereby permitted shall be provided and permanently maintained and available for use for the storage of cycles thereafter.

- 8) Before any part of the development is first occupied details of short-stay cycle parking facilities for the A1 retail unit shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be completed before the development is first occupied and shall be permanently maintained thereafter.
- 9) Before the extended development hereby permitted is first brought into use, the refuse and recycling spaces hereby permitted shall be provided and permanently maintained and available for use thereafter.
- 10) Prior to the first occupation of the dwellings hereby permitted full details of both hard and soft landscape works, boundary treatments and biodiversity enhancement measures shall be submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved.
- 11) The boundary treatments hereby permitted shall be provided prior to the first use of the enlarged retail premises and thereafter so retained.
- 12) The parking spaces hereby permitted shall be retained in perpetuity for the parking of motorised vehicles.
- 13) Prior to the first occupation of the retail unit, details of a Travel Plan incorporating measures to reduce private car traffic by encouraging travel to and from the site by other means of transport shall be submitted to, and approved in writing by, the Local Planning Authority. The plan shall include a methodology for its implementation and monitoring. The development shall not be operated other than in complete accordance with the agreed Travel Plan.
- 14) Prior to the commencement of development (excluding site clearance/demolition/investigative works), details of the electric vehicle charging point (EVCP) provided in accordance with the London Plan requirements shall be submitted to and approved in writing by the Local Planning Authority. The agreed EVCP shall be implemented prior to occupation of the development and shall be permanently maintained and available for use thereafter.
- 15) The development shall not be occupied until a Delivery and Servicing Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall demonstrate the expected number and time of delivery and servicing trips to the site, with the aim of reducing the impact of servicing activity on residents' amenity and maintaining highway safety. The plan shall include the requirement that the largest size of service vehicle which shall deliver to the site shall be less than or equal to 8m in length and all service vehicles shall only deliver or collect from the site during the following hours:- 08:00 to 18:00. The approved Delivery and Servicing Plan shall be implemented from the first occupation of the development and shall be adhered to thereafter.
- 16) Details of a scheme to light the access drive and car parking areas hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before the development hereby permitted is first occupied. The approved scheme shall be provided before the development is first occupied and the lighting shall be permanently maintained thereafter.

- 17) Prior to occupation of the development details of a scheme for the allocation and, where appropriate, re-allocation of the car parking spaces shall be submitted to and approved in writing by the Local Planning Authority. The car parking shall operate in accordance with the approved scheme.
- 18) The car parking area to the front of the site shall be used only by customers and employees of the premises at the application site and for servicing of the said premises hereby permitted.