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## Appeal Decision

Site visit made on 7 December 2020

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> December 2020**

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**Appeal Ref: APP/C1950/W/20/3259097**

**4 Ground Lane, Hatfield AL10 0HH**

- 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 Mr Neal Tuson, on behalf of Simmons Bakers, against the decision of Welwyn Hatfield Borough Council.
  - The application Ref 6/2020/1401/FULL, dated 16 June 2020, was refused by notice dated 14 August 2020.
  - The development proposed was originally described as "Full Application for the Change of Use at 4 Ground Lane. The rear garden is being changed from a standard household rear garden to an extended driveway/parking area. The works include a new fence to the sides and rear boundary lines and permeable shingle stone to form the driveway".
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### Decision

1. The appeal is allowed, and planning permission granted for the use of land for car parking at 4 Ground Lane, Hatfield AL10 0HH in accordance with the terms of application 6/2020/1401/FULL dated 16 June 2020, and the plans submitted with it being: 200515.03 location and site plan and 200515.2 existing and proposed detailed site plans and subject to the attached schedule of conditions.

### Procedural matters

2. The Council has identified that policies SADM12 and SADM9 within the Emerging Welwyn Hatfield Local Plan 2016 (ELP) are relevant. However, the Council has not explained the current status of the Plan or whether these policies have been objected to or are subject to modification. Accordingly, I have only applied limited weight to these policies.
3. The description of development was changed by the Council to refer to the change of use of the site from residential to business use. However, the appellant disputes that this was proposed and states that proposal is to change the use of the rear garden from residential to business use. The appellant explains that the existing dwelling would be maintained for this purpose. The Council has not provided a Statement of Case to assist with this. However, it is clear to me that the proposal would not result in the loss of a residential use, only its rear garden. Accordingly, I do not find that the proposal would be in conflict with saved policy H3 of the Welwyn Hatfield District Plan 2005 (DP) as this policy seeks to prevent the loss of residential accommodation. Furthermore, for the same reason I do not find that the proposal would be subject to policy SADM9 of the ELP.
4. I have therefore used the description of development advanced by the appellant on the appeal form at section E. This is opposed to the description set

out on the application form, which I find to be vague and unclear. I have also adjusted this to remove reference to "retention" and "in association with the adjoining bakery" as these do not form a description of development.

5. Furthermore, the car parking area to the rear has already been constructed and is in use. I shall consider this appeal on that basis.

### **Main Issues**

6. The main issues are:

- the effect of the proposal on the living conditions of existing occupiers of 4 Ground Lane (No 4) and neighbouring occupiers, with particular regard to noise and disturbance; and
- the effect of the proposal on highway safety, with respect to increased traffic movements and the impact on other road users.

### **Reasons**

#### *Living conditions*

7. The site the subject of this appeal consists of a detached dwelling. A driveway runs to the side of the dwelling to the rear car park. This consists of compacted gravel and is enclosed to its rear and sides with close boarded fencing. A small courtyard area is also enclosed to the immediate rear, providing an outdoor space for occupiers of the dwelling. The appellant has stated that the property is occupied by two people, one of which is an employee of the adjacent bakery. The proposal assigns two spaces in the rear car park to these occupiers with the remaining five spaces for the use of staff of the adjoining bakery.
8. The site is adjacent to a commercial bakery that is itself adjacent to a parade of shops. The site is also adjacent to No 6 which is used as consulting rooms. Buildings that are opposite the site are largely in residential use. Beyond the rear boundary are residential properties that are served by Cecil Crescent. The site is therefore within a mixed-use area of commercial and residential activity.
9. The nearest residential properties to the proposal are therefore 8 Ground Lane and within Cecil Crescent. These dwellings are some distance from the proposed car park and separated by intervening boundaries and landscaping. The use of the car park would generate noise from cars entering and leaving the site, users closing car doors and associated pedestrian activity. However, the distance and intervening features would substantially reduce noise levels.
10. Although only offering a snapshot in time the highway appeared to carry a sizeable level of traffic. This would be likely to maintain high noise levels into the evenings. As a result, the noise levels caused by the proposed use would be unlikely to be substantially greater than existing background noise levels, taking the busy nature of Ground Lane into account. Therefore, by providing parking for only 5 staff, the use of the car park would create a negligible level of disturbance resulting in only limited harm to the nearby residents. This limited harm could be adequately addressed through the use of planning conditions. Accordingly, taking the above matters together, the noise effect of the proposal would not substantially harm the living conditions of neighbouring occupiers or occupiers of No 4.

11. I have already found, as a matter of fact, that the proposal would not result in the loss of residential accommodation. The retained courtyard area would provide a limited but adequate area for residents to enjoy some private outside space. Moreover, the use of the car park would not result in a degree of disturbance to the existing occupiers of No 4 that would render the dwelling inappropriate for continued residential use.
12. Accordingly, the proposal would satisfy saved policies D2, R19 and EMP8 of the DP. These seek amongst other things, for development to relate to local context, to resist development that would create unacceptable noise and for employment use to not adversely affect adjacent residential properties. These policies are in general accordance with the National Planning Policy Framework (The Framework) that seeks development to achieve a high standard of amenity for existing and future users.

#### *Highway safety*

13. Ground Lane is subject to traffic regulation orders. These largely consists of double yellow markings and occasional visitor parking bays with a one-hour parking restriction. On my visit I also observed that residential roads, that were served by Ground Lane, were subject to resident parking permits. I understand from the appellant that these measures were put in place relatively recently and it has had an impact on the availability of on-street parking for staff.
14. The scheme proposes the provision of 5 staff parking spaces to the rear of No 4. This would supplement existing parking used within the short roadside forecourts of No 4 and Simmons Bakery. The adjacent bakery employs around 100 staff. As such the level of parking being proposed would be an extremely limited proportion in comparison to the number of staff employed by the bakery. This would therefore be a small-scale car park with limited vehicular movements within the site and onto the highway.
15. The rear car park is accessed via a single width access to the side of the dwelling. The access onto Ground Lane provides clear visibility in both directions, unimpeded by on-street parking partly due to the restrictions. This would enable safe vehicular access and egress. Although, the use of the car park could cause some conflict on site with vehicles travelling in opposite directions. However, this seems unlikely due to the scale of the car park and as it would generally serve a tidal flow of traffic.
16. The proposal would therefore accord with policy M14 of the DP which seeks development to limit parking provision in urban locations for development which is accessible by non-car modes. Although having applied limited weight, the proposal would also satisfy policy SAD12 of the ELP. This seeks the layout of car parking to be designed to ensure that an attractive and coherent street scene is maintained. These policies accord with the Framework which seeks development to only be prevented or refused if it would have an unacceptable impact on highway safety.

## **Other matters**

17. Correspondence from an interested party refers to a dismissed appeal decision in 1996 for the demolition of the dwelling and replacement with a commercial car park serving the bakery. However, due to the time elapsed and being of a substantially different nature, this is only of limited weight in respect to this proposal.

## **Conclusion**

18. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (The Guidance). The Council has not suggested any conditions that it would seek should the appeal be allowed. Nevertheless, a number are necessary to ensure that the proposal is acceptable in planning terms and can operate without detriment to the living conditions of adjacent residents.
19. I have shared a list of suggested conditions with main parties that I deemed necessary, if I was minded to allow the appeal. The appellant would prefer to be able to use the rear car park from 06:00 hours. Whereas, without prejudice, the Council has indicated that the use should only take place from 08:00 and cease at 18:00. I find that using this area from 06:00 would be likely to result in a significant adverse effect to nearby residential occupiers. The lack of substantive objection does not illustrate that the use operates without causing disturbance and in any event the current hours of use have not been disclosed. Furthermore, I anticipate that local background noise levels would be sufficiently high to prevent the proposal having a significant adverse effect on nearby living conditions between 07:00 and 20:00 (Monday to Saturday).
20. Therefore, I have attached conditions to limit the hours of use of the car park and to ensure it is only used by staff in connection with the adjacent bakery. These conditions would ensure that the effect of the proposal on the living conditions of nearby residential occupiers would adequately mitigate any significant adverse noise effect.

## **Conclusion**

21. For the above reasons the appeal is allowed, and planning permission is granted subject to the attached conditions.

*Ben Plenty*

INSPECTOR

### **Schedule of conditions**

- 1) The proposed rear car park shall not be used by staff of the adjacent bakery before 07:00 hours or after 20:00 hours Monday to Saturday and not before 10:00 hours or after 18:00 hours on Sundays.
- 2) The proposed rear car park shall only be used by residential occupiers of No 4 Ground Lane and by staff employed by the adjacent bakery. The use shall cease if the bakery should close. This car park shall not be used for any other purpose whatsoever including the parking of commercial vehicles associated with the bakery.

### **End of conditions**