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## Appeal Decision

Site visit made on 5 January 2021

**by Darren Hendley BA(Hons) MA MRTPI**

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

**Decision date: 2<sup>nd</sup> February 2021**

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**Appeal Ref: APP/J4423/W/20/3260676**

**Locations Adjacent 59 Daniel Hill Mews, Opposite 75 Daniel Hill Mews, Adjacent 1 Daniel Hill Mews, Opposite 6 Daniel Hill Mews, Adjoining 83 Daniel Hill Mews, Sheffield S6 3JJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
  - The appeal is made by Mr Kevin Pullan, Kremer Properties against the decision of Sheffield City Council.
  - The application Ref: 19/00331/FUL, dated 28 January 2019, was approved on 17 September 2020 and planning permission was granted subject to conditions.
  - The development permitted is described as the retention of garage for use as cycle/motor cycle store (Garage 1), retention of triple garage (Garage 2), erection of a single garage and alterations to existing bin store (Garage 3), erection of single garage and provision of bin store and covered cycle store (Garage 4), and retention of a garden store (Store 1).
  - The condition in dispute is No 4 which states that: *The garage buildings, cycle and motorcycle stores hereby approved shall be used solely for the purposes of parking cars, cycles and motorcycles and for no other purpose.*
  - The reason given for the condition is: *To ensure sufficient parking is available to serve the development.*
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### Decision

1. The appeal is allowed and the planning permission Ref: 19/00331/FUL for a garage for use as a cycle/motor cycle store (Garage 1), a triple garage (Garage 2), erection of a single garage and alterations to an existing bin store (Garage 3), erection of a single garage and the provision of a bin store and a covered cycle store (Garage 4), and a garden store (Store 1) at locations adjacent 59 Daniel Hill Mews, opposite 75 Daniel Hill Mews, adjacent 1 Daniel Hill Mews, opposite 6 Daniel Hill Mews, adjoining 83 Daniel Hill Mews, Sheffield, S6 3JJ granted on 17 September 2020 by Sheffield City Council, is varied by deleting condition 4 and substituting it for the following conditions:
  - 1) The garage buildings and motorcycle stores hereby approved shall not be used other than for the parking of cars and motorcycles and for purposes incidental to the use of the dwellinghouses known as Daniel Hill Mews.
  - 2) The cycle stores hereby approved shall not be used other than for the parking of cycles associated with the use of the dwellinghouses known as Daniel Hill Mews.

## **Procedural Matters**

2. The company name on the appeal form is stated as Surebay Properties Ltd. As an appeal can only ordinarily proceed in the applicant details that are included on the planning application form, it is those details that are set out in the banner heading above. As the named individual, Mr Kevin Pullan, is the same, I am satisfied that the appellant has the authority in order for the appeal to proceed.
3. At the time of my site visit, parts of the development which the Council approved and is the subject of this appeal had been implemented and parts had not. This is also reflected in the description of development in the banner heading above. The Council made its decision on the basis of the entirety of the development and, accordingly, so have I. The description of development in the decision paragraph above does not include the term 'retention' as it does not in itself form part of the act of development.

## **Background and Main Issue**

4. Daniel Hill Mews is a residential development of apartments and houses. Over time, a number of planning permissions have been granted that have increased the number of residential units. According to the Council's Planning Officer Report, the planning permissions total 70 residential units and 80 car parking spaces.
5. The appellant applied to the Council in order to retain garages and a garden store, as well as to provide for new garages, a bin store and a cycle/motorcycle store, and alterations to a bin store. Some of the works involve structures that are already in place which either do not benefit from the grant of a planning permission or involve alterations to structures that do have permission. They are contained within, or adjacent to, the resident's car parking areas over a number of different locations within the Daniel Hill Mews development.
6. The Council approved the application, subject to conditions. The appellant, though, considers that condition 4 is too onerous because it does not permit the use of garages for domestic dwelling related usage, such as storage. The condition states that the garage buildings, cycle and motorcycle stores hereby approved shall be used solely for the purposes of parking cars, cycles and motorcycles and for no other purpose. The condition was imposed to ensure that sufficient parking is available to serve the development. It is this condition which is the subject of this appeal.
7. As a consequence, the main issue is the effect of the proposal on highway safety by way of the parking provision.

## **Reasons**

8. The residents car parking areas within the Daniel Hill Mews development comprise mainly shared parking areas that are set out in clusters, as well as a larger communal parking area. They are accessed via an internal access route off Daniel Hill Street and positioned in fairly close proximity to the dwellings within the development. The appellant has informed that the spaces are not allocated. There are also occasional garages, bin, cycle and garden storage structures positioned within the site, as well as footways and landscaping.

9. The site is located in an area which is largely residential in nature. There is a mix of on-street and off-street car parking along Daniel Hill Street, reflecting that some properties rely on on-street car parking and some do not. There are also restrictions by way of double yellow lines in places. In relation to public transport options, bus and tram stops are found a fairly close distance from the site. There are also local services close by.
10. The Planning Officer Report states that the proposal would result in a loss of 11 surface car parking spaces. This would be a worse-case scenario as regards the car parking overall if the proposed garage car parking spaces would be used for other incidental domestic purposes. There would still be a not insignificant amount of car parking available to residents within the Daniel Hill Mews development.
11. Concerns have been expressed that the use of the proposed garages for purposes other than car parking would displace the parking of the residents' cars onto the surrounding roads. I am not persuaded this would occur to an untoward degree because of the spaces that would remain. It also would be less convenient for the residents and they would be distant from their own vehicles. Hence, the amount of resultant on-street car parking would be likely limited and not unduly effect the free flow of traffic along Daniel Hill Street or other roads in the vicinity of the site, including buses. Nor would it impede pedestrian safety.
12. In addition, that a garage space would be used for domestic storage or similar does not necessarily mean that it would not be available for car parking. Domestic type garages are often utilised for both these incidental functions by householders. Matters in relation to deliveries would also not be impacted by whether or not the garage buildings would be used for car parking, with the amount of such parking that would remain. The same applies as regards access for emergency vehicles.
13. In relation to motorcycle parking, this would seem to raise similar issues to that which I have already set out as regards the use of the garage buildings for car parking. The effect on its provision would not be unacceptable if the motorcycle stores would also be used for incidental purposes.
14. The site is in a highly accessible location to public transport options and local services. It readily offers options as regards modes of transport other than the car. The proposal includes the provision of cycle storage that would assist in encouraging non-car use and so has the potential to lessen the need for car parking. As a result, it is reasonable and necessary for the cycle stores to be used only for the purposes of the parking of cycles through the imposition of a planning condition.
15. Photographic evidence has been submitted that shows that parking takes place outside of the designated spaces. Whilst I am not unsympathetic in this regard, as I have set out above, the proposed use of the garages would not preclude their use for car parking and the location of the site offers favourable transport options other than the car. This would also further limit the likelihood of parking on the footways and impacting on parking for disabled persons.
16. In relation to what the garage buildings and motorcycle stores would be used for, if not parking, this is also a matter which can be dealt with by way of a

planning condition. This would ensure that they are used for incidental purposes. This would allow a use that has a normal functional relationship with the primary dwellinghouse use, such as storage. It would not preclude the use of the garage buildings and motorcycle stores for associated vehicular parking. Such a condition would ensure that the use of the garage buildings and motorcycle stores would not be unacceptable as regards the living conditions of the occupiers of the nearest residential properties.

17. I conclude that the proposal would not have an unacceptable effect on highway safety by way of the parking provision. As such, it would accord with Saved Policy H14 (d) of the Sheffield Unitary Development Plan (1998) which concerns safe access to the highway network and appropriate off-street parking and not endangering pedestrians.
18. Hence, condition 4 is not reasonable and necessary, and its removal would comply with the tests for planning conditions that are set out in the National Planning Policy Framework and the related advice in the Planning Practice Guidance concerning the application of these tests, subject to the imposition of the conditions that relate to the incidental use and cycle parking provision.

### **Other Matters**

19. The submitted plans are sufficient so as to enable me to make a proper consideration of the proposal. The Council has already granted planning permission and the Planning Officer Report sets out why it would not be unacceptable in other respects, including the effect on trees and the character and appearance of the area. I see no reasons to disagree. Concerning refuse storage, the proposal includes bin store provision and the necessary planning condition would also not prevent the garages being used for bin storage.
20. The Covid-19 pandemic has a limited bearing on my decision because it is not clear what the long term effects would be, including with regard to the effect on car parking demand, notwithstanding the parking that would remain and the accessible location. The lease for the Daniel Hill Mews properties is not for my consideration and a planning decision does not in itself alter the contents of a lease.

### **Conditions**

21. I have imposed conditions concerning the incidental use of the garage buildings and the motorcycle stores in the interests of protecting the living conditions of the occupiers of the nearest residential properties, as well as the use of the cycle stores solely for cycle parking in the interests of promoting modes of transport other than the car. These conditions replace condition 4 on the planning permission that is the subject of this appeal. Dwellinghouses within the context of these conditions means both houses and flats. The other conditions on the permission remain unaltered and should be read alongside my decision.

### **Conclusion**

22. The proposal would not have an unacceptable effect on highway safety by way of the parking provision. I have considered all matters that have been raised but none would demonstrate that condition 4 is reasonable and necessary. Accordingly, I conclude that the appeal should be allowed and condition 4 should be removed, subject to the imposition of the conditions that relate to

the incidental use of the garage buildings and the motorcycle stores, and the cycle parking provision.

*Darren Hendley*

INSPECTOR