
Appeal Decision

Site visit made on 24 March 2021

by Stephen Wilkinson BA (Hons) BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2021

Appeal Ref: APP/N1920//W/20/3259678

Churchill House, Stirling Way, Borehamwood, Hertfordshire, WD6 2HP

- 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. Marguiles against the decision of Hertsmere Borough Council.
 - The application Ref 20/0164/FUL, dated 5 May 2020, was refused by notice dated 14 September 2020.
 - The development proposed is the erection of a two storey roof extension with a stepped back third storey, providing 36 residential units and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. It is unclear whether the appellant intends to combine the appeal scheme, if I had been minded to allow this appeal with that of the Prior Approval for the conversion of the existing building for flats. However, the officer's report to Committee assumes that the existing office use would be retained and this forms the basis of the appellant's evidence base. Reference is made in the appellants statement to schemes for Prior Approval which are not before me.
3. The body of evidence submitted in the appellants transport statement indicates retention of the office use and it on this basis that I have determined this appeal in respect of the third main issue.

Main issues

4. The effect of the proposals regarding:
 - The living conditions of future occupiers of the proposed development,
 - The character and appearance of the area, and
 - Whether or not sufficient parking is included.

Reasons

Living conditions of future occupiers

5. The appeal site is surrounded by a mixture of residential and commercial uses. Residential uses lie to the rear and on the site's southern boundary with the conversion and extension of the rear building within the Hemini complex. Other uses include offices and north of the site a storage and tool hire business.

6. The site lies in a designated employment area which is covered by an Article 4 Direction, dating from 27 April 2020 which would prevent the loss of employment space to residential use.
7. At the heart of the Council's objection is a concern that the site's location in relation to surrounding commercial properties would result in the potential for odour, light and noise disturbance to future occupiers of the proposed flats.
8. The appellant states that as the buildings are well insulated and fitted with mechanical ventilation odours from surround uses are unlikely to interfere with living conditions of future occupiers. Furthermore, light spillage would be unlikely to affect the proposed dwellings given their proposed height above surrounding uses.
9. The Council has not offered up a body of evidence to substantiate its reason for refusal on these two aspects and I find that the appellants evidence is convincing in respect of odours and light spillage.
10. The appellant's noise survey, identifies that the principle source of noise is from the amount of traffic using the A1 Road which lies directly east of Stirling Way. Other sources would include vehicles with idling engines waiting to un/load goods to the site immediately to the north.
11. The scheme includes a series of control measures such as, mechanical ventilation to the flats would allow windows and doors to be closed, thereby reducing the transfer of noise to the interior of each flat.
12. Whilst the appellant identifies that these measures were sufficient for the Prior Approval Scheme, the proposed scheme is distinguishable as it includes balconies to each elevation with the provision of amenity space serving the top floor and above this a roof top garden. Each of the proposed balconies would be subject to noise levels well in excess of the BRE¹ standards.
13. The area of the proposed balconies exceeds the Council's minimum standards and would be an important area of private amenity space for each flat. They would not be, as the noise survey suggests, just small private amenity spaces with limited utility other than for drying washing or growing pot plants².
14. It is unclear from the appellants survey how suggested mitigation measures such as absorbant soffits could work in practice to reduce noise levels allowing enjoyment of the balconies as private amenity space. Whilst closing windows and mechanical ventilation would afford sufficient mitigation to prevent the transfer of noise to within the flats, it is unrealistic to expect users not to fully enjoy the amenities experienced by occupiers of normal residential accommodation who are able to open windows without undue disturbance.
15. I do not accept that the Prior Approval for this site has established the principle of residential use, as the determination of this appeal requires consideration of the application against the policies of the development plan. The proposed scheme includes areas of private amenity space which would be adversely impact from noise generated by neighbouring uses and the proximity of heavy volumes of traffic on the A1.

¹ Building Research Establishment

² Noise Impact Assessment para 5.5

16. Nor do I accept that the Prior Approval and permission on the Hemini complex are comparable to the proposals before me. The block within the Hemini complex is set to the rear of the site and its amenity areas are shielded from the noise of traffic by other buildings within this complex. On this point alone the appeal site can be distinguished from the Hemini complex.
17. Policies SP1 and SP2 of the Core Strategy require, amongst other matters, that development should ensure a safe, accessible and healthy living environment. This is supported by Policy SADM30 which requires that new development should have limited impact on the amenity of occupiers. I accept that the proposals would not result in adverse living conditions by reason of odours and lighting. However, my main concern in respect of this issue is the adverse impact of the proposals on the living conditions of future occupiers through noise disturbance, primarily to the private amenity space within the scheme. The space would not be useable in the commonly accepted use of the term as suggested by the Council's draft Guidance.
18. For these reasons, I conclude on this main issue that the proposals would adversely impact on the living conditions of future occupiers in conflict with Policies SP1, SP2 and CS22 of the Core Strategy 2013 and Policy SADM 30 of the Site Allocations and Development Management Policies Plan 2016 and the Development Management Guidance 2016.

Character and appearance

19. Stirling Way does not have a clearly defined streetscene along its western edge. The range of buildings reflect their utilitarian character which include repair workshops, storage, offices and around 350m from the site, a retail store. Storey heights vary from the 5 storey tower Pinnacle Cardif office block on the north side of the junction of Stirling Way with Ripon Way to single and 2 storey portal framed retail/warehouses.
20. The property on the appeal site's southern boundary, which forms part of the Hemini complex, Spitalfields House, includes 3 storeys with a recessed roof floor is an exception for this part of the frontage. In contrast on the appeal site's northern boundary is a yard and 2 storey building. Immediately to the west of the site is a residential estate comprising in the main 2 storey semi detached and terraced properties.
21. The appeal site comprises a 2 storey office building with a pitch glazed roof recessed from the roof edge and to its rear is a tall portal framed 2 storey extension. The building is set, particularly on its northern side, tightly within its boundaries.
22. The proposed extension would extend above the entire building excluding the rear extension. It would be completed with brickwork to the third and fourth floors of the building with cladding to the recessed fifth floor. The upper floors will have perforated metal balconies on both flanks and to the rear. A total of 46 self contained flats are included in the appeal scheme.
23. Although there is an absence of 'character' to this part of Stirling Way, defined by a set of dedicated architectural principles, there would be harm arising from the proposals determined by the scale of the proposal, in particular when viewed from the north. The proposal would be a floor higher than the Hemini complex on its southern flank and would be of a considerable height when

compared to the site to the north. The contrast in massing and scale is demonstrated by the submitted elevational drawings.

24. Although the site lies adjacent to the A1 road and a building of the proposed height could be appropriate in this context, the tightness of the proposal in relation to its boundaries means that it would be an incongruous addition to this part of the streetscene. Whilst Spitalfields House could be regarded as a precedent, the proposed building would be several metres higher and the recess of the upper floors is insufficient to mitigate for the adverse impact on the streetscene. I regard the Cardif Pinnacle building as a singular landmark building which does not set a benchmark for building height along this frontage.
25. The intent of adopted local policy included in the Site allocations DPD and Core Strategy and Design Guidance require that new development must respect, enhance and improve visual amenity through its scale, mass height and urban form. The Council's draft Design Guidance includes a series of principles against which new development should adhere. The adopted policy adheres closely to Paragraph 127 of the National Planning Policy Framework.
26. The proposal would be incongruous by reason of its height, massing and urban form. For these reasons, the proposals would conflict with Policies SP1, SP2 CS22 of the Core Strategy 2013, Policy SADM30 of the Site Allocations and Development Management Policies Plan 2016 and Part D of the Planning and Design Guide (draft 2016) and the provisions of the Framework which requires all new development to be of good design.

Parking

27. The appeal site includes parking areas on the east side of Stirling Way from Churchill House. These include a total of 43 parking spaces. A further 22 spaces would be provided directly around Churchill House. In total there would be a shortfall of 65 spaces (50%) from the Council's adopted parking standards.
28. The appellant acknowledges the shortfall but regards the application of the Council's standards as inappropriate for the appeal scheme for several reasons. These include the site's location in an area with a low parking demand of 0.74 spaces per dwelling compared to the Borough's average of 0.81 spaces per dwelling. Furthermore, the Council has accepted a parking ratio of 0.38 for the conversion of the Hemini complex when compared to the ratio of 0.75 for the appeal scheme.
29. I acknowledge that the site is well located in relation to services such as schools, shopping areas and public transport nodes which provide regular services to surrounding centres and London and that the site lies around 2km from Elstree and Borehamwood train station. This could make the alternative transport modes a realistic proposition. The inclusion of cycle parking spaces within the scheme could support this.
30. Surveys indicate that parking demand for the existing office and proposed residential uses, 27 and 36 spaces respectively, could be accommodated on the site with a marginal surplus. This would rely on dual use of spaces. Whilst overnight parking would enable residents to have the pick of spaces within the scheme, it is assumed that employees may need to find space elsewhere. A

series of 'beat' surveys of surrounding streets indicate sufficient on street parking space in the adjacent streets or alternatively employees should travel by sustainable modes to the site.

31. These are factors which Policy CS25 acknowledge could allow an exception to the adopted parking standards. However, 50% under provision of parking spaces compared to adopted standards is high.
32. The appellants assessment of parking demand relies on too many assumptions regarding how dual use parking could operate and the behaviours of employees as they seek alternative spaces away from the appeal site and doesn't allow for visitor parking. My principle concern is that overspill parking would lead to parking on the residential streets in the locality and compromise highway safety.
33. Although the Council has accepted a lower parking ratio for the residential development in the Hemini complex this was a scheme for studio flats compared to the mix of accommodation proposed in this appeal scheme, which is likely to result in more demand for parking spaces. In this instance a closer adherence to adopted standards would be appropriate.
34. It is unclear the reasons why the Council has included reference to Policies SADM 3 and SADM30 in its third reason for refusal as they do not address this main issue regarding the appeal scheme. However, I conclude on this main issue that notwithstanding the location of the appeal site in relation to services, the under provision of parking from adopted standards by around 50% conflicts with Policy CS25 of the Core Strategy 2013 and Policy SADM 40 of the Site Allocations and Development Management Policies 2016 regarding the importance of highway safety and the Council's adopted Parking Standards 2014.

Conclusions

35. For the above reasons the appeal is dismissed and planning permission is refused.

Stephen Wilkinson

INSPECTOR