



Appeal Decisions

Site visit made on 3 November 2021

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2021.

Appeal A - Ref: APP/L3625/W/21/3269582

73 Canalside, Redhill, RH1 2NH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by ERE Collections Limited against the decision of Reigate and Banstead Borough Council.
 - The application Ref 20/01950/PAP20, dated 11 September 2020, was refused by notice dated 12 November 2020.
 - The development proposed is erection of a two storey roof extension to provide 4 x 1 bed 2 person flats, 2 x 2 bed 3 person flats and 2 x 2 bed 4 person flats.
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Appeal B - Ref: APP/L3625/W/21/3269578

73 Canalside, Redhill, RH1 2NH

- 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 ERE Collections Limited against the decision of Reigate and Banstead Borough Council.
 - The application Ref 20/00737/F, dated 3 April 2020, was refused by notice dated 6 October 2020.
 - The development proposed is erection of roof extension to create 4 x 1 bedroom flats and 4 x 2 bedroom flats.
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Decisions

Appeal A

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for erection of a two storey roof extension to provide 4 x 1 bed 2 person flats, 2 x 2 bed 3 person flats and 2 x 2 bed 4 person flats at 73 Canalside, Redhill, RH1 2NH in accordance with the terms of application Ref 20/01950/PAP20, dated 11 September 2020 and the plans submitted with it, subject to the condition in the attached schedule.

Appeal B

2. The appeal is allowed and planning permission is granted for erection of roof extension to create 4 x 1 bedroom flats and 4 x 2 bedroom flats, at 73 Canalside, Redhill, RH1 2NH in accordance with the terms of application, Ref 20/00737/F, dated 3 April 2020, subject to the conditions in the attached schedule.

Preliminary Matters

3. The appeal proposals are identical and involve 8 flats on two floors on top of an existing three and four story building. This has a retail unit on the ground floor (Tesco) with 19 flats above. Appeals have been made following the refusal of both planning permission and prior approval.
4. The prior approval appeal will be dealt with first. Class AA of Part 20 in Schedule 2 of the Order establishes that new dwellinghouses on detached buildings in commercial or mixed use are permitted development. This includes buildings used as both shops and dwellinghouses. However, these provisions are subject to several restrictions and conditions. One of these requires application to be made for prior approval as to the transport and highway impacts of the development.
5. In prior approval cases there is no requirement to have regard to the development plan as there would be for any development requiring planning permission. Nevertheless, the policies referred to in the Core Strategy and the Development Management Plan (DMP) are material considerations. In determining an application the local planning authority must take into account any representations made. It must also have regard to the National Planning Policy Framework so far as relevant to the prior approval matters and as if the application were a planning application. The same approach will be taken in deciding the appeal.

Main Issue - Appeal A

6. The effect of the transport and highways impacts of the proposed development with reference to on-street parking.

Reasons – Appeal A

Transport and highways impacts

7. The site is part of the Watercolour development which has been constructed over the past 20 years or so on a former sand quarry. According to one resident it contains 524 dwellings. The housing is quite tight knit with parking generally provided in central courts and on-street. In the vicinity of the appeal site are private car parks which serve nearby uses including the medical centre and the local supermarket.
8. Four of the flats would each be allocated a parking space in the large car park to the rear of 73 Canalside. Notwithstanding the markings that have been made, the appellant company maintains that they are the sole owner of those spaces. As such, they would be available to the occupiers of the proposed flats. This means that the four remaining flats (one 2-bedroom and three 1-bedroom) would not have any allocated parking spaces. Various considerations influence the consequences of this, starting with the likely increase in demand for on-street parking.
9. Although just outside the medium accessibility area, the site is within an area of low accessibility for the purpose of the Council's local parking standards. This is calculated with reference to walking distances to town and local centre boundaries and train stations. The parking standard for 2 bedroom flats in low accessibility areas is 2 spaces per unit. This implies that up to 5 vehicles would be owned by future occupiers and would require somewhere to be kept.

10. The railway station at Redhill and the town centre are about 2km away outside of the commonly accepted reasonable walking distance. However, both could be accessed by the twice hourly bus service or by bicycle. Convenience shopping would also be very close at hand for future residents. A variety of other uses and facilities are within easy reach but those within the industrial estate on the other side of the railway line are not likely to meet day-to-day needs. Having regard to these factors this is not a location that obviously lends itself to car free or car lite development as suggested by the appellant.
11. Nevertheless, evidence indicates that the trend is for levels of car ownership to fall for those below 29 years of age. However, the end date of the study is 2014 and there is no guarantee that those in that age bracket would occupy the proposed flats. Census data for the local area shows that 20% of flats have no car but 16% of flats have two cars. The information is, in any case, from 2011. Therefore none of this undermines the expectations for car ownership implied by the parking standards.
12. It is more likely that the absence of a designated space would be a deterrent to car ownership. Put another way, the lack of personal parking provision increases the prospect that 4 of the flats would be occupied by people who choose not to have a car. Whilst this cannot be insisted upon through the planning process it seems likely that, in practice, less than 5 vehicles would regularly be seeking parking spaces within the estate. Visitors may well arrive by car but this would not be likely to lead to such a frequent need for parking.
13. To assess the impact of additional parking on the surrounding area, the appellant has undertaken daytime and night-time parking surveys on 4 separate days. It is reasonable to consider both given that not everyone would leave home for work each day and so may need to find somewhere to keep a car in one place for an entire 24 hours. The Council considers that these surveys are insufficient especially as they do not include weekends. However, no alternative empirical evidence has been provided to indicate that conditions on Saturdays or Sundays are materially different or that the surveys do not reasonably portray the position.
14. The immediately surrounding car parks are for other users and therefore, even if there are spaces at certain times, they do not provide places where a vehicle might be left in the long-term. The spaces at the front of No 73 are used by those visiting Tesco's but are shown to be available overnight and so there may be some scope there. Otherwise the 62 unrestricted on-street parking spaces in the vicinity are shown to have at least 47% availability.
15. Since the surveys were undertaken double yellow lines have been introduced in Thortonside which is now one-way. It is unclear how many of the previously available on-street spaces have been lost as a result. But given the spare capacity identified, the surveys indicate that, if necessary, there would still be opportunities for future residents to park their vehicles fairly near to the proposed flats.
16. Existing residents have given first-hand accounts of issues that occur in connection with parking. They claim that there is not enough room at present and that the proposal would exacerbate matters. There is also reference to anti-social behaviour and conflict as well as illegal parking with cars blocking forward vision and obstructing bus access. However, a parking enforcement company is in place to deal with any problems that arise. The Carrington Place

development of over 80 units is under construction and will be accessed from Thortonside. There is no indication from the Council that this would contribute to a worsening of the parking situation in and around Canalside. It is also reasonable to assume that adequate parking provision has been made within that site to serve that development in accordance with the standards.

17. At the time of my visit in the middle of the day the picture was mixed. On-street parking was possible although limited in amount and there were also vehicles parked on the footway and along double yellow lines. This was obviously just a 'snapshot' but it suggests that there is parking pressure in the vicinity of the site and across the Watercolour development as a whole.
18. Paragraph 111 of the Framework establishes that development should only be prevented if there would be an unacceptable impact on highway safety or if the residual cumulative impacts on the road network would be severe. At the end of the day, the proposal would lead to no more than 5 additional vehicles requiring on-street parking in this part of the Watercolour development on a regular basis. In reality it is likely to be less than this and, even combined with any visitors, the impact cannot be described as "severe". The formal evidence is that the likely demand for parking could be accommodated. Whilst anecdotal evidence suggests that there are existing difficulties, there is no clear indication that highway safety would be prejudiced as a result of the proposal.
19. Therefore the transport and highways impacts of the proposed development would be acceptable.

Other conditions

20. There are several other conditions attached to Class AA which are not disputed by the Council. Some objections raised by third parties cannot be considered through the prior approval process. Of those that are relevant, the proposed design and architecture would complement the modern external appearance of the building. Having regard to the relationship with nearby properties, the Daylight and Sunlight Assessment and the BRE guidance, the impact on the amenity of the existing building and neighbouring premises would not be harmful. The site is in a low risk area and so the flooding risks in relation to the building would be negligible.

Conditions – Appeal A

21. Under Class AA development is permitted subject to a condition that it must be completed within 3 years starting from the date of this decision. Furthermore, under paragraph AA.2(4), before beginning the development the developer must provide the local planning authority with a report for the management of the construction of the development, which sets out the proposed hours of operation and how any adverse impact of noise, dust, vibration and traffic on occupiers of the building and adjoining owners or occupiers will be mitigated.
22. Paragraph B of Part 20 confirms that development must be carried out in accordance with the approved details and the plans specify the materials to be used. Further conditions must be reasonably related to the subject matter of the prior approval. The only condition required in relation to highway and transport impacts is to ensure that 4 parking spaces are allocated to the flats and retained as such to avoid potential additional demand for street parking.

Conclusion – Appeal A

23. Having regard to the reasons given above, prior approval should be granted and Appeal A allowed.

Reasons – Appeal B

24. Policy TAP1 of the DMP expects car parking for residential development to be in accordance with local standards. That is unless satisfactory evidence is provided that non-compliance would not result in unacceptable harm. This is a different and broader policy test to that in the Framework. In any event, the fact that prior approval is to be given for an identical development is a major material consideration. Even if conflict with Policy TAP1 were found then this would be outweighed by the fact that the proposed 8 flats could proceed anyway. This 'fall-back' position is an overriding consideration in deciding the planning appeal.
25. In other respects relevant development plan policies would be complied with, including those concerned with design and neighbour amenity as explained earlier. There are no other objections to the scheme including matters raised by third parties relating to amenity space, refuse provision, drainage and noise. Concerns about disturbance during the construction period are understandable and this could be covered by condition.
26. Other conditions are required including confirming the approved plans in the interests of certainty. To encourage cycling, storage provision should be made. In order to support the transition to a low carbon future and to accord with DMP Policy CCF1 an energy and efficiency statement should be provided. High speed broadband should be enabled in line with DMP Policy INF3. Future occupiers should be provided with a copy of the travel statement to enable informed choices to be made about sustainable travel. The information within it is adequate and reference to the minor revisions sought by the highway authority is not necessary.

Conclusion – Appeal B

27. As Appeal A is to be allowed there is no objection to Appeal B and any conflict with the development plan is outweighed by the fact that the same development could proceed under the prior approval process.

Final Conclusion

28. Both appeals should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

Appeal A

The 4 parking spaces shown on drawing no 944-200 to be allocated to the flats hereby approved shall be allocated to them prior to their first occupation and shall thereafter remain available to the occupiers of those flats for that purpose.

Appeal B

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawings nos 994-200, 201, 202A, 203A, 204A, 205A, 206, 206A, 211A, 212A, 213A, 214 and 401.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials shown on drawing nos 944- 211A, 212A, 213A and 214.
- 4) The 4 parking spaces shown on drawing no 944-200 to be allocated to the flats hereby permitted shall be allocated to them prior to their first occupation and shall thereafter remain available to the occupiers of those flats for that purpose.
- 5) The development hereby permitted shall not be occupied until details of storage for a minimum of 11 bicycles have been submitted to and approved in writing by the local planning authority. The approved storage shall be provided before any of the flats are occupied and shall be retained thereafter.
- 6) No development shall take place until a Construction Transport Management Plan has been submitted to and approved in writing by the local planning authority. This shall include details of:
 - (a) parking for vehicles of site personnel, operatives and visitors;
 - (b) loading and unloading of plant and materials;
 - (c) storage of plant and materials; and
 - (d) measures to prevent the deposit of materials on the highway.

The approved Construction Transport Management Plan shall be adhered to throughout the construction period of the development.

- 7) The development hereby permitted shall not be occupied until an Energy and Water Efficiency Statement has been submitted to and approved in writing by the local planning authority. The Statement shall include details of how the development will:
 - (a) ensure that the potential water consumption by occupants of each flat does not exceed 110 litres per person per day; and
 - (b) achieve not less than a 19% improvement in the Dwelling Emission Rate over the Target Emission Rate as defined in Part L1A of the 2013 Building Regulations.

The development shall be carried out in accordance with the details in the approved Statement before any of the flats are occupied.

- 8) Before they are occupied, all flats within the development hereby permitted shall be provided with the necessary infrastructure to facilitate connection to a high speed broadband. This shall include as a minimum a broadband connection accessed directly from the nearest exchange or cabinet and cabling and associated installations which enable easy access for future repair, replacement or upgrading.
- 9) All occupiers of the flats within the development hereby permitted shall be provided with the Travel Statement dated August 2020 by Development Planning Limited (2019182 002 Issue A) before their occupation commences.