



Appeal Decision

Site visit made on 16 January 2023

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2023

Appeal Ref: APP/C1950/W/22/3290436

1 Maynard Place, Cuffley, Potters Bar, EN6 4JA

- 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 JS & HBJ Conway 1994 Settlement against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2021/0773/FULL, dated 9 March 2021, was refused by notice dated 11 November 2021.
 - The development proposed is for the erection of a one storey roof extension to create 6 flats including 3 x 1 bed and 3 x 2 bed flats, associated parking and cycle and refuse provision.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a one storey roof extension to create 6 flats including 3 x 1 bed and 3 x 2 bed flats, associated parking and cycle and refuse provision at 1 Maynard Place, Cuffley, Potters Bar, EN6 4JA in accordance with the terms of the application, Ref 6/2021/0773/FULL, dated 9 March 2021 and is subject to those conditions set out in the attached schedule.

Preliminary Matter

2. Two reasons for refusal have been provided on the Council's decision notice, however the reasons are a duplicate of one another.

Main Issue

3. The main issue raised in respect of the appeal is whether the proposed development would have an adverse highway impact on nearby highways.

Reasons

4. Policy M14 of the Welwyn Hatfield District Plan 2005 (the District Plan) and the Parking Standards Supplementary Planning Guidance (SPG) set parking standards for new development. Paragraph 108 of the National Planning Policy Framework states that "*maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, ...*". The Interim Policy for car parking standards identifies that the current maximum car parking standards for the borough are authorised by Policy M14 of the District Plan but this relates to new developments. The zonal approach will apply as guidelines rather than maximums.
5. The Council indicates that parking provision will be assessed on a case-by-case basis. This means that a higher or lower car parking standard than those set

out in the SPG can be considered taking into account the relevant circumstances of the proposal, its site context and its wider surroundings, as well as the Framework.

6. Currently, there are 11 existing unallocated parking spaces and 10 garages for 14 residential flats, a total of 21 car parking spaces associated with the existing 14 flats. The proposed 6 new flats would require 8 parking spaces, to accord with the car parking standards SPG. Taking the existing and proposed development together, a total requirement of 29 spaces would be required at the site when applying the current SPG parking standards. The proposal seeks alternatively to provide 6 parking spaces at the location where the existing 11 unallocated spaces are currently provided.
7. The parking requirement of the proposed development together with the existing development on site would represent a shortfall of 23 car parking spaces. On this basis the Council contends there to be insufficient car parking.
8. It is highlighted by the Council and by those interested parties that have made representation that the existing garages at the site would fall below the garage spaces standards set out within the Interim standards and would be too small for their intended parking purpose. However, the Interim Policy indicates that the Council does not currently have any specific guidance on the appropriate size for domestic garages and relies on the Government's Manual for Streets guidance 2007.
9. The existing parking circumstances relating to the existing garages at the site may not replicate those of modern-day standards, however, the 10 garages are already there, and they are not proposed to be removed or repurposed. Whilst representation from interested parties suggest that some of the garages may have been sold, I have no substantive evidence before me that would substantiate this. Therefore, for the purposes of this appeal, I consider the existing 10 garages should be regarded as contributing to parking provision at the site. On this basis the shortfall would reduce to 13 car parking spaces.
10. Policy M14 of the District Plan and the Parking Standards SPG set parking standards for 'new development'. The Council's approach has been to retrospectively apply the parking standards to existing development. I accept there would be a shortfall in parking provision when taking the existing and proposed in combination, but when an allowance is made for the existing garages that are to remain, the combined shortfall would be less acute. Despite Policy M14 only requiring consideration to be given to new development, I have considered the combined shortfall but have included the existing 10 garages on the basis they are not proposed to be removed or repurposed.
11. The SPG sets out 4 different types of zones, each given a different level of car parking restraint. The SPG identifies Cuffley, amongst others, as a town or specified settlement and advises that these have been defined as urban areas that are subject to the zonal approach. The SPG explains that the zonal approach to car parking restraint can help to limit development in settlements that can be viewed as insensitive to the character of the settlements. The settlements, which includes Cuffley, are defined as zone 4 parking restraint in their entirety. The determination criteria consider accessibility and proximity to shopping; economic health of the town; footway and cycle links and access to passenger transport.

12. The Council considers the proposal would not meet the requirements for this zone. Notwithstanding this, the Council also indicates that the maximum parking standards, zonal approach and garage sizes are to be applied as guidance only. This reduces the weight that can be applied to this approach in respect of meeting maximum parking standards. However, it does not alter the requirement for parking provision to be considered in the context of new development.
13. I saw that the urban centre of Cuffley is a busy environment and an area where there is a high demand for parking. Both the Parish Council and the Council suggest that Cuffley is considered to have relatively poor transport connections to the rest of Welwyn Hatfield. Nonetheless, the site is at the centre of Cuffley where there are retail facilities, a library, council offices, a village surgery, school and where public transport could be accessed. The site is, therefore, located close to local facilities and the existing public transport network. Even if the bus service is limited, the location of the site at the centre of Cuffley will reduce the need for travel and reliance on private vehicle.
14. Hertfordshire Highway Authority, the competent authority advising the Council on highway issues, have commented on the proposal. In their representation to the planning application, it has been pointed out that the quantum of parking for the site has been discussed at a pre-application stage. The 8 parking bays proposed, 2 of which are for deliveries, has been agreed by the Highway Authority. Furthermore, it was considered that given the development's close walking proximity to shops, train station and other facilities the site would represent a sustainable location. The Highway Authority concludes that the level of development would be unlikely to generate any extra movements which would ultimately lead to demonstrable harm to the highway network in terms of free flow of traffic and highway capacity.
15. I accept there would be a shortfall in parking provision at the site to serve a combined total of 20 flats. Nonetheless, the location of the development would represent a sustainable one that would reduce the reliance on private vehicle. Furthermore, there are parking restrictions in the local area with other parking restrictions on residential streets. These restrictions would deter overspill parking generated by the proposed development from dispersing onto nearby highways.
16. Taking all matters together, I do not consider the extent of parking demand would result in residents dispersing onto nearby highways to such a degree that would create an adverse highway impact.
17. For these reasons, I conclude that the proposed development would not have a significant adverse highway impact on nearby highways. As such, the proposed development would not materially conflict with Policies D1 and M14 of the District Plan, the SPG Parking guidance and Interim Policy for Car Parking Standards that seek quality of design, amongst other matters.

Other Matters

18. Concern is raised to the proposed gate potentially restricting the width of the road into Maynard Place. This could cause a tailback of vehicles waiting on the busy Station Road to enter the site. A passing area would be provided behind the gates to the site that would allow vehicles entering and leaving the site at

the same time a place to pass. This arrangement is acceptable to the Highway Authority. Other concern is raised to the ability of a refuse lorry and emergency vehicles to access the site. However, the site already provides access for service vehicles. Furthermore, the Highway Authority indicate that manoeuvring within the site can take place, but it may require a number of forward and back manoeuvres to achieve this. I am satisfied that access and turning within the site could be achieved. In addition, on the available evidence I am not led to consider that there may be problems relating to costs relating to service maintenance of the gate.

19. Residents of Plough Hill are concerned about access to their garages and parking spaces. However, there is no clear indication that access would be restricted or that access arrangement would not be made for neighbouring residents. There have been incidents when vehicles have parked across the Parish Council's fire exit and blocked access preventing deliveries. However, this is a matter for the Parish Council and there is no substantive evidence that would lead me to conclude that occupiers would park and block the fire exit.
20. Overlooking, loss of privacy and sunlight to properties at Plough Hill have been raised as concerns by local residents. The proposed development would not result in closer back-to-back distances. Although new windows are proposed these would not result in new views being obtained of existing neighbour occupiers' amenity spaces. The proposal would not create overlooking that would be substantially harmful to neighbouring existing occupiers. When considering the orientation of the building to neighbouring properties, the movement of the sun and the incline in land towards Plough Hill, the increase in height may result in a minor loss of natural sunlight in the early hours but this would only occur for a limited period during the day. The development would not cause substantial harm to neighbouring occupiers in these respects.
21. The existing second floor properties have light and ventilation provided by skylights. The existing roof lights serve bathrooms. These are not rooms in which occupiers would spend a significant amount of their time. Their loss would not justify refusal of the proposed development. Whilst it has been suggested that the loss of the skylights may impact upon property prices, this is not planning consideration.
22. Concern is also raised to the development's impact on the skyline, its design would not be in keeping and that it might set a precedent for other similar developments in the area. The proposal is located at the centre of the settlement and would extend the existing building upward. The development would be of a mansard type roof design. When approaching the site from the east towards St Andrews Church the land slopes upwards in topography. Nonetheless, the appellant's design and access statement show that the resulting height of the building would not compete visually with St Andrews Church. In addition, there is a wide variety of roof forms in the area. The proposal would not be out of place in this context. Regarding precedent, each proposal must be considered on its own merits.
23. Health and safety concerns are raised to the 20 flats being accessed via only one way in and out. On the evidence available to me there is no substantive reason that would lead me to conclude that there would be health and safety concerns in respect of the access arrangements for the flats.

24. Concern has been raised to the previous accumulation of rubbish at and associated with the flats that has attracted vermin. This would be the responsibility of those managing the development to maintain.
25. Concern is also raised to potential inconvenience and disturbance during construction. The construction management plan and hours of operation conditions would assist in controlling this.
26. Other concern is highlighted as to whether the top flats would have adequate water pressure and the acceptability of the existing foundations to host another storey, noting there has been mention of subsidence in the area. However, on the evidence available to me I cannot conclude that there would be any issues in respect of these matters.

Conditions

27. I have considered the conditions put forward by the Council in light of paragraph 56 of the Framework and the advice in the Planning Practice Guidance, as well as those comments made by the appellant. I have amended the wording of some of the conditions to make them more precise, concise and/or enforceable. In addition to the standard time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
28. Construction management plan, laying out of parking area and access gates conditions are necessary to ensure highway safety. I have amended the parking area condition to refer to marking out the parking bays as the Council's suggested condition is overly onerous. In order to protect the appearance of the area a materials condition is necessary. To protect the living conditions of existing neighbouring occupiers, refuse and recycling, air quality and noise and construction conditions are required. Although the appellant has objected to the imposition of condition 14, I consider this necessary given the concerns raised by interested parties to potential noise and disturbance.
29. A condition relating to an EV charging facility and details relating to the promotion of green travel would encourage sustainable travel and is, therefore, necessary. To ensure that the development contributes towards sustainable development and energy efficiency an energy efficiency measures condition and sound insulation condition are required. To ensure that suitable housing is provided for households in need of accessible or wheelchair housing an accessible and adaptable homes condition is required. To protect the living conditions of future occupiers, a scheme to mitigate the noise from nearby commercial activities is necessary.
30. The applicant has confirmed that no plant is proposed, therefore, I do not consider a new plant and equipment condition to be necessary.
31. Condition 3 is necessary to be a pre-commencement condition as it relates to the construction phase of the development and needs to be agreed before development takes place. The views of the appellant have been sought and no objection has been raised.

Conclusion

32. For the reasons set out above, and subject to the conditions listed in the attached schedule, this appeal should be allowed.

Nicola Davies

INSPECTOR

SCCHEDULE OF CONDITIONS

1. The development hereby permitted shall be commenced before the expiration of three year from the date of this permission.
2. The development/works hereby permitted shall only be implemented in accordance with the following plans: -
 - 1254.01.PA2.001 - Location Plan
 - 1254.01.PA2.002 - Block Plan
 - 1254.01.PA2.100 - Proposed Ground Floor Plan
 - 1254.01.PA2.102 - Proposed Third Floor Plan
 - 1254.01.PA2.103 - Proposed Roof Plan
 - 1254.01.PA2.200 - Proposed East & West Elevations
 - 1254.01.PA2.201 - Proposed South & North Elevations
 - 1254.01.PA2.202 - Proposed Long South Elevation
3. No development shall commence until a Construction Management Plan (or Construction Method Statement) has been submitted to and approved in writing by the Local Planning Authority, including elements of the CLOCS standards as set out in the Highway Authority's Construction Management template. The Construction Management Plan shall be fully implemented in accordance with the approved details.

The Construction Management Plan / Statement shall include details of:

- a) Access arrangements to the site;
 - b) Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
 - c) Siting and details of wheel washing facilities;
 - d) Cleaning of site entrances, site tracks and the adjacent public highway;
 - e) Provision of sufficient on-site parking prior to commencement of construction activities; and
 - f) Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
4. No external cladding shall be put in place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be implemented in full accordance with the materials and subsequently the approved materials shall not be changed.
 5. Prior to the first occupation of the development hereby permitted details of the refuse and recycling storage shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented on site. Thereafter, the development must not be carried out other than in accordance with the approved refuse and recycling storage details. The refuse and recycling storage as approved shall be retained and made available for use for the lifetime of the development.
 6. Prior to the first occupation of the development herein permitted details of EV charging facilities shall be submitted to and approved in writing by the

Local Planning Authority and shall be implemented on site. Thereafter, the approved EV charging facilities shall be retained as approved for their operational/required lifetime.

7. Prior to the first occupation of the development hereby permitted details that meet the minimum requirement of energy efficiency measures as set out in the submitted energy and sustainability statement shall be submitted to and approved in writing by the Local Planning Authority. Further or suitable alternative measures to maximise energy conservation and/or opportunities for renewable energy and low carbon energy supply shall be submitted to and approved in writing by the Local Planning Authority.

Subsequently the approved energy efficiency measures must be fully installed in accordance with the approved details, made fully operational prior to the occupation of the development hereby approved and thereafter shall be retained as approved for their operational/required lifetime.

8. Prior to the first occupation of the development hereby permitted a scheme setting out the arrangements for the delivery of accessible housing within that phase shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development must not be carried out other than in accordance with the approved details and the arrangements shall be retained for the lifetime of the development.

The scheme must include the following:

- a) A schedule of units, together with appropriate plans and drawings, shall be submitted to and be approved by the Local Planning Authority setting out details of the number, layout and location of all units that will comply with Part M4(2) of the Building Regulations 2010;
- b) At least 20% of all new dwellings will meet Building Regulations Part M4(2) standards for 'accessible and adaptable dwellings' the delivery of which should be distributed across market and affordable tenures;
- c) All units specified as M4(2) and in the agreed schedule and plans shall be implemented in accordance with that approval and in compliance with the corresponding part of the Building Regulations in that regard;
- d) The person carrying out the building work must inform the Building Control body which requirements apply; and
- e) Written verification of the completion of all dwellings in accordance with b) and c) above will be supplied to the local planning authority within 30 days of the completion [of the block it forms part of].

9. Prior to the first occupation of the development hereby permitted the parking bays shall be marked out in accordance with the block plan (drawing number 1254.01.PA2.002 (block Plan)/1254.01.PA2.100 (proposed ground floor plan) and thereafter the parking bays shall be made available for that specific purpose for the lifetime of the development.
10. Prior to the first occupation of the development hereby permitted any access gate(s), bollard, chain or other means of obstruction shall be hung to open inwards, set back, and thereafter retained at a minimum distance of 5.5 metres from the edge of the highway. The arrangements shall be implemented in full prior to the occupation of the development hereby permitted and thereafter be retained for the lifetime of the development.

11. Prior to first occupation of the development hereby permitted a scheme setting out the arrangements for the protection of the proposed development from noise from transport sources shall be submitted to and approved in writing by the Local Planning Authority. The noise protection scheme shall be implemented in full prior to the occupation of the development hereby permitted and the arrangements as approved shall be retained for the lifetime of the development.

The scheme shall ensure the indoor ambient noise levels in living rooms and bedrooms meet the standards within BS 8233:2014. Internal L_{Amax} levels should not exceed 45dB more than ten times a night in bedrooms. Relaxed noise levels will be considered if it can be shown that good acoustic design has been implemented and all steps have been taken to achieve the non-relaxed noise levels in BS8233:2014.

Where opening windows raises the internal noise levels above those within BS8233, other methods of ventilation/attenuation will have to be implemented.

Passive systems and rates will be considered, however, evidence that overheating will not occur will need to be provided in the form of a SAP assessment (other overheating assessments can be provided but will need to be agreed in writing by the local planning authority such as a TM59 assessment) conducted with windows closed, curtains/blinds not being used, showing the required ventilation rates to ensure that overheating will not occur. Details must be provided of the ventilation system to be installed and to demonstrate that it will provide the ventilation rates shown in the assessment.

Mechanical ventilation can be installed, with ventilation rates required to provide 4 air changes per hour to habitable rooms. However, mechanical ventilation should only be used as a last resort, once all other noise mitigation measures have been implemented (good acoustic design, orientation of sensitive rooms, bunds, noise barriers, passive systems or acoustic louvres).

12. Prior to first occupation of the development hereby permitted a scheme to mitigate the noise from nearby commercial activities, deliveries, plant and equipment to ensure that there will be no adverse impact to future residents, shall be submitted to and approved in writing by the Local Planning Authority. The assessment for noise from commercial operations must be in accordance with BS4142:2014. The noise protection scheme shall be implemented in full prior to the occupation of the development hereby permitted and the arrangements as approved shall be retained for the lifetime of the development.

Indoor ambient noise levels in living rooms and bedrooms from commercial noise sources must be 10dB below the standards within BS 8233:2014 and L_{Amax} levels must not to exceed 40dB internally with windows closed.

The noise report must consider what additional operations will take place under normal working activities and the effects this will have on noise levels.

Consideration must be given to potential commercial operating hours and likelihood of commercial expansion.

13. Prior to first occupation of the development hereby permitted details relating to the promotion of green travel shall be submitted to and approved in writing by the Local Planning Authority. This shall include the provision of cycle storage. Thereafter, the development shall be carried out in accordance with the approved details and retained for the lifetime of the development.

14. Construction deliveries, demolition and construction works, which shall include use of any plant or machinery, cleaning and maintenance of plant or machinery, deliveries to the site and movement of vehicles within the curtilage of the site, must not take place other than between 0800 hours and 1800 hours Mondays to Fridays and 08:00 hours and 1300 hours on Saturdays, nor at any time on Sundays or Bank Holidays.

End of schedule