



Appeal Decision

Site visit made on 28 February 2023

by E Worley BA (Hons) Dip EP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th April 2023

Appeal Ref: APP/N1920/W/22/3302108

Churchill House, Stirling Way, Borehamwood 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 Margulies of BMR Churchill Ltd against the decision of Hertsmere Borough Council.
 - The application Ref 21/2451/FUL, dated 21 December 2021, was refused by notice dated 23 June 2022.
 - The development proposed is the erection of a two storey roof extension, providing 23 residential units, along with associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two storey roof extension, providing 23 residential units, along with associated works at Churchill House, Borehamwood WD6 2HP in accordance with the terms of the application, Ref 21/2451/FUL, dated 21 December 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Applications for costs

2. An application for an award of costs was made by Mr Margulies against Hertsmere Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposed development on highway and pedestrian safety, having regard to parking provision.

Reasons

4. The appeal site comprises a two-storey building, which was previously in office use but is currently vacant. It benefits from prior approval (Ref. 20/0276/PD56) for the conversion of the building to 56 residential units. The surrounding area includes commercial and office buildings of a range of architectural styles, with residential development beyond. As well as dedicated car parking areas opposite the units, a number of the properties benefit from off-road car parking areas to the side of the existing buildings or small forecourts to the front. Whilst there are parking restrictions on some sections of Stirling Way there are a number of on-street parking spaces within marked bays.
5. The appeal proposal seeks an additional 23 residential units in a two-storey extension above the existing building, to include 11 one bedroom and 12 two-bedroom units. In accordance with the Council's Parking Standards

Supplementary Planning Document 2014 (SPD), the development triggers a requirement for 1.5 spaces per each one bedroom unit and 2 spaces for each 2 bedroom unit, which equates to a total of 40.5 parking spaces. An amended site plan was submitted prior to the determination of the planning application (drawing E20-030-SIT002 Rev A) showing a total of 22 off-street parking spaces to serve the proposed development. This provision would fail to accord with the parking standards set out in the SPD, with a shortfall of 18.5 spaces.

6. Policy CS25 of the Hertsmere Local Plan Core Strategy 2013 (HLPCS) allows a degree of flexibility, setting out that the quantity of off-street parking to be provided at new developments will be determined based on an assessment of a number of criteria, including site location; local car ownership; car parking standards; housing tenure; potential for shared parking; local on-street parking conditions and controls, including those likely to be available within the new development; highway and pedestrian safety considerations; and incentives to reduce dependency on the car and the provisions of any Travel Plan submitted. The supporting text to Policy CS25 indicates that there will be a presumption for the required car parking standard to be applied unless it can be clearly demonstrated, having regard to Policy CS25, that a discounted level of parking could be appropriate.
7. There is no dispute between the parties that there would be a shortfall in off-road parking provision to serve the development, when assessed against the requirements set out in the SPD.
8. The appellant considers that the proposed parking provision, which represents a ratio of 0.95 spaces per dwelling, would be appropriate in this instance due to a range of factors. Foremost, the appeal submissions indicate that this provision would exceed the most recent local Census data (2011) which identifies an average car ownership of 0.74 cars per dwelling. In addition, a parking beat survey undertaken in November 2018 to assess the level of demand for parking at night, when most occupiers would be at home, identified an under capacity with 45 vacant spaces.
9. The appeal site is well served by public transport and there are a range of local services and amenities nearby including shops, schools and a public house. The proposal also includes cycle parking provision which could be secured by a planning condition. Similarly, the implementation of a Travel Plan could also be secured in the same way. In that regard I concur with the previous Inspector in the determination of an earlier appeal at the site¹ that this could make alternative transport modes a realistic proposition for future occupiers of the development.
10. Whilst there are parking restrictions on Stirling Way in the form of double yellow lines, there is on-street parking provision in the form of parking bays. I note the Council's comment that these spaces are generally fully occupied during the day, however whilst I appreciate it is only a snapshot in time, a number of on-street parking spaces were available at the time of my site visit. Moreover, I have not been presented with any substantial evidence to suggest that there is a high degree of parking pressure in the area which would be exacerbated by the appeal proposal.

¹ Appeal Ref: APP/N1920/W/20/3259678

11. Whilst I note comments made by an interested party regarding parking conflict experienced at a nearby commercial premises, given that the spaces are not in the public highway, that would be a private matter between the parties.
12. In light of the above considerations, I conclude that the shortfall in parking provision at the appeal site would be unlikely to cause a degree of parking congestion on the public highway that would harm highway or pedestrian safety. Whilst there would be a degree of conflict with the SPD, the proposal would comply with Policy CS25 of the HLPCS which sets out criteria against which levels of parking will be assessed and Policy SADM40 of the SADMPP in so far as it requires that parking is provided in accordance with Policy CS25. The proposal would also accord with the National Planning Policy Framework which sets out at paragraph 107 that local parking standards should take account of factors including the accessibility of the development; the type, mix and use of development; the availability of and opportunities for public transport; and local car ownership levels.
13. The refusal reason refers to the Council's draft Planning and Design Guide SPD: Part D Guidelines for development (2016), however I find no conflict with this guidance.

Planning Obligation

14. A completed and signed S106 unilateral undertaking is submitted as part of the appeal. The terms set out in the agreement secure a financial contribution towards the provision of off-site affordable housing and a late stage viability review mechanism. I am satisfied that the obligation is necessary to make the development acceptable, is directly related to the development and is fairly and reasonably related in scale and kind to the development. Therefore, it would accord with the three tests set out in paragraph 57 of the Framework and Regulation 122(2) of the Community Infrastructure Regulations 2010. I have taken it into account.

Conditions

15. The Council suggest a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans, which includes a schedule of external materials, which is necessary in the interest of certainty. A condition is required to secure details of hard surfacing and boundary treatment, including a refuse storage area, in order to ensure the development is sympathetic to the character and appearance of the area.
16. In the interest of promoting alternative modes of transport details of a Travel Plan, electric vehicle charging points and cycle parking are necessary prior to the first occupation of the development. For similar reasons, and to ensure that adequate off-street parking is provided in the interest of highway safety, a Car and Cycle Parking Management Plan is also necessary. A Construction Traffic Management Plan is necessary in the interest of highway safety and to ensure the free flow of traffic.
17. I have imposed a condition to secure appropriate sound insulation of the development, including pre-occupation testing. This is necessary to protect the living conditions of the future occupiers of the development having specific

regard to noise. Whilst the Council has suggested a condition to require a contaminated land assessment, I note the Council's Environmental Health Officer/Scientific Officer's comment that this is not necessary given the planning history on the site and the fact the proposal does not relate to the ground floor of the building.

18. In order to reduce the risk of flooding a condition is necessary to secure an appropriate drainage scheme. The suggested drainage condition includes a detailed list of information requirements. I have omitted this so that the parties can agree the precise requirements based upon relevant guidance and site circumstances at the time that the details are agreed, as well as future maintenance. A condition to agree details of the proposed solar panels is also necessary, in accordance with Policy CS25 of the HLPCS and Policy SADM40 of the SADMPP.
19. The Council has suggested a condition to secure a Servicing and Delivery Plan, in the interests of highway efficiency and safety. However, given the scale and residential nature of the proposal, this is not deemed necessary.

Conclusion

20. For the reasons given above I conclude that the appeal should be allowed.

E Worley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 6033 -101; E20-030-SIT002 Rev A; E20-030-ELE101 Rev C; E20-030-ELE102 Rev C; E20-030-GAP001; E20-030-GAP000; E20-030-GAP002 Rev D; E20-030-GAP003 Rev D; E20-030-GAP004; and E20-030-VIS001.
- 3) Prior to their installation details of all walls, fences, gates and hard surfaced areas within the site including roads, driveways and car parking and waste storage areas, shall be submitted to and approved in writing by the local planning authority. Prior to the first occupation of the development hereby permitted, development shall be carried out in accordance with the approved details and shall thereafter be retained as such in perpetuity.
- 4) Prior to the first occupation of the development hereby permitted a Travel Plan Statement for the proposed development shall be submitted and approved in writing by the local planning authority. The approved Travel Plan Statement shall be implemented upon the first occupation of the development and at all times thereafter.
- 5) Prior to the first occupation of the development hereby permitted, each residential car parking space shall incorporate an Electric Vehicle ready (active) domestic charging point which shall thereafter be provided and permanently retained.
- 6) Prior to the first occupation of the development hereby permitted, a scheme for the parking of cycles including details of the design, level and siting of the proposed parking shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented before the development is first occupied and thereafter retained for this purpose.
- 7) Prior to the first occupation of the development hereby approved a Car and Cycle Parking Management Plan shall be submitted to and approved in writing by the local planning authority. It shall include the following:
 - a. Details of car parking allocation and distribution;
 - b. Details of the car club regarding the operation, management, and implementation scheme, if applicable;
 - c. Methods to minimise on-street car parking; and,
 - e. Monitoring required of the Car and Cycle Parking Management Plan to be submitted to and approved in writing in accordance with a timeframe to be agreed by the local planning authority.

The approved Car and Cycle Parking Management Plan shall be fully implemented before the development is first occupied and shall be adhered to thereafter.

- 8) Prior to the commencement of the development hereby approved a Construction Traffic Management Plan shall be submitted to and approved in writing by the local planning authority. Thereafter the construction of the development shall be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:
- a. Construction vehicle numbers, type, routing;
 - b. Access arrangements to the site;
 - c. Traffic management requirements;
 - d. Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
 - e. Siting and details of wheel washing facilities;
 - f. Cleaning of site entrances, site tracks and the adjacent public highway;
 - g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
 - h. Provision of sufficient on-site parking prior to commencement of construction activities;
 - i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway; and
 - j. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.
- 9) Prior to the commencement of the development hereby approved details of a scheme to protect the proposed development from noise due to the neighbouring commercial units shall be submitted to and approved in writing by the local planning authority. Following the implementation of the approved noise attenuation scheme, and prior to the first occupation of the development, a report to demonstrate the performance of that scheme (from additional acoustic testing) shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented prior to the first occupation of the development.
- 10) Prior to the commencement of the development hereby approved details of a surface water drainage scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall be based on the submitted Flood Risk Assessment carried out by Evans Rivers and Coastal Ltd, dated December 2021 (2632/RE/01-21/01 REVISION A) and the surface water drainage strategy (ref: EX2005604 - JMS) and shall include a management and maintenance plan for the SuDS features and drainage network. The approved drainage scheme shall be fully implemented prior to the first occupation of the development and shall be retained thereafter in perpetuity.
- 11) Prior to the first occupation of the development hereby approved details of the proposed group of 8 no. photovoltaic (PV) panels, to be located on the rear rooftop amenity area, shall be submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented prior to the first occupation of the development hereby approved and shall remain operational thereafter for the lifetime of the development.

*****end of conditions*****