



Appeal Decision

Site visit made on 11 April 2023

By Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 17 May 2023

Appeal Ref: APP/M1520/W/22/3301883

Cornerclub, 149 High Street, Canvey Island, SS8 7RQ

- 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 Lee Petch against the decision of Castle Point Borough Council.
 - The application Ref 21/1159/FUL, dated 31 March 2022, was refused by notice dated 8 June 2022.
 - The development proposed is upwards development to create 4 no. new-build residential flats with associated car parking and waste management on site.
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Decision

1. The appeal is allowed and planning permission is granted for upwards development to create 4 no. new-build residential flats with associated car parking and waste management on site at Cornerclub, 149 High Street, Canvey Island, SS8 7RQ in accordance with the terms of the application, Ref 21/1159/FUL, dated 31 March 2022, and the plans submitted with it, subject to the following conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mr Petch against Castle Point Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are: i) the effect on likely development of allocated land at the rear; ii) the adequacy of storage in proposed flats A and B; iii) the adequacy of off-street car parking; and iv) the effect of the proposed development on the surrounding street scene.

Reasons

4. The application relates to a single storey building containing a drinking establishment 'the Cornerclub'. The site is bordered by a mixture of uses including residential, shop premises, a timber yard, a café and a tyre shop.
5. Permission is sought for the erection of four new flats above the existing building, formed by adding 2 additional storeys to provide a two-bedroom flat and a three-bedroom flat on the first-floor, and a pitched roof with dormers to provide a two-bedroom flat and a one-bedroom flat. The first-floor flats would each have a terrace of around 17-20m² and the second-floor flats would have

balconies of 5-6m². Four parking spaces with dimensions of 2.5m by 4.8m are proposed, bordered by three 450mm deep x 450mm high x 1500mm long gabion walls.

The effect on likely development of allocated land at the rear

6. The council's case is that the appeal scheme utilises the whole of the rear of the site, without any isolation from the boundary. Although the land to the north is currently vacant, it is allocated for residential development and it is inappropriate for the proposal to rely on the existing situation in order to achieve an appropriate outlook and setting for the proposed development. The council also recalls that permission was granted in 2013 for three live/work units on this land (CPT/398/13/FUL). While this was not built, the council contends that it is reasonable to assume that further applications for residential development will be received in the future. As a result, the relationship of the current proposal with the boundary of the site would result in development of the land to the north being unreasonably prejudiced.
7. Whilst the council refers to the adjacent land as being allocated for residential development, in fact I understand that there is no 'designation', the land merely being within the built-up area and therefore development is, in principle acceptable on it. Since the planning permission for the 3 live/work units was given in 2013, and has not been implemented, there is no certainty that much needed residential development will occur on this land, whilst the appeal proposal might result in actual housing in the near future. Furthermore, there would be a net gain of 1 additional flat when compared with the 2013 proposal.
8. It is desirable to keep available any opportunity for further residential development, and I would not rule out the possibility of a future successful proposal on the land that concerns the council. Even if this were to be for a single dwelling, that would be an additional dwelling, bring the net gain to 2 dwellings over the earlier scheme. I am therefore not persuaded that the appeal proposal should be refused on the basis of the first issue.

The adequacy of storage in proposed flats A and B

9. The council accepts that the gross internal areas and room sizes follow the national space standard, but suggests that the dwellings would benefit from improvements to storage. Although the numerical requirement for storage space is met, for flats A and B, all the storage is in the bedrooms. Items such as mops, buckets and hoovers are not usually kept in bedrooms. The space standard sets out that built-in storage facilities in bedrooms in excess of 0.72m² (double) or 0.36 m² (single) can count towards the built-in storage requirement but it does not indicate that it is appropriate for all the storage to be in the bedrooms. The council therefore contends that in Flats A and B it would be difficult for occupiers to store day-to-day items.
10. Table 1 - Minimum gross internal floor areas and storage (m²) of the Technical housing standards – nationally described space standard, sets out a single figure for built-in storage, and does not specify where this storage space should be provided except, under the heading 'Technical requirements', at item h., it states: "*h. a built-in wardrobe counts towards the Gross Internal Area and bedroom floor area requirements, but should not reduce the effective width of the room below the minimum widths set out above. The built-in area in excess of 0.72m² in a double bedroom and 0.36m² in a single bedroom*

counts towards the built-in storage requirement". In addition, under the heading "**Notes (added 19 May 2016)*" it is stated: "4. Furnished layouts are not required to demonstrate compliance."

11. The plans for Flats A and B each specify wardrobes that are 0.4 m² over the technical requirements of 2.0 m² and 2.5 m² respectively. Thus, as the council acknowledges, the storage space requirement is met. But this does not mean that there would be no other storage in rooms other than bedrooms. The living rooms of the 2 flats are both notated on the plans as being 'lounge/diner /kitchen', but they do not have any indication of, for instance, kitchen cupboards, cookers, sinks, etc. The council has not suggested that these normal elements of a kitchen cannot be fitted into the areas indicated, and therefore there is no reason to suppose that these essentials would not be provided. It is clear that additional storage would be provided in, for instance, kitchen cabinets. In this connection, point 4 of the 2016 Notes appears to me to mean that there is no requirement for applications plans to show layouts of built-in furniture to demonstrate that the requirements are met.
12. I therefore see no basis to conclude that proposed Flats A and B would not have adequate storage.

The adequacy of off-street car parking

13. The points that the council makes regarding the adequacy of car parking are that the council's minimum standard for off-street parking would not be met; and the spaces that would be provided on site are of inadequate size for modern cars and there would be insufficient space to allow for safe and convenient use.
14. The council's currently adopted standards are the 2009 County Parking Standards, according to which the proposed development should provide 7 off-street parking spaces for residents with one visitor space: it provides four spaces, half the minimum requirement. Furthermore, the spaces are of 2.5m by 4.8m in dimension and thus fail to meet even the minimum parking bay dimensions for use in exceptional circumstances. The view expressed in the planning officer's report was that the site is not in a sustainable location, not having frequent and extensive public transport, so as to deter car ownership; as a consequence, kerb-side parking in nearby streets would occur to the detriment of the amenity and convenience of surrounding residential occupiers.
15. However, the consultation response of the highway authority stated that it had applied a reduced car parking standard to the proposal. The adopted parking standards state that "for main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development." The immediate highway network is protected by parking restrictions and in transport terms the site is considered to be in a sustainable location with good access to frequent and extensive public transport, as well as Canvey Island's facilities and car parks. For that reason, the highway authority did not object, but requested conditions be put on any permission.
16. The appeal site is within the main urban area of Canvey Island, and there are a number of small shops and services with 400m, whilst the Knightswick Shopping Centre, which includes a post office, library, doctor's surgery and clinic, and a Sainsbury's supermarket, is 600m away. A large supermarket

within 600m is a considerable convenience for a housing development. A good number of day-to-day services could be reached on foot or by bicycle. In addition, I am told that the No.22 bus service connects Canvey Island with Basildon and also the mainline railway station at Benfleet, and the Nos.27 and 27a services connect the appeal site directly with Southend-on-Sea. Whilst the council criticises the frequency and hours of operation of these services, they all add to the sustainability of the location of the appeal site.

17. On the basis of the above factors, I am led to conclude that the appeal site is within a sustainable location with reasonable everyday shopping and other facilities at hand and that there are public transport services that offer practical means of travel locally and further afield. Thus, whilst the car parking spaces fall short of that required by policy, they amount to an acceptable minimum: this in circumstances where there are strict controls on kerb-side parking. Consequently, the proposal is not likely to give rise to additional parking in nearby streets, to the detriment of the amenity and convenience of surrounding residential occupiers.

The effect of the proposed development on the surrounding street scene

18. The proposed parking is in front of the building, but is set along one side of the frontage, parallel to the highway, served by a right of way that comes off High Street at right angles, and so is not frontage parking. It is to the side of and seen against the layout at the front of the Cornerclub with a partially enclosed seating area. Furthermore, the surrounding area exhibits frontage parking to many premises, compared to which the appeal proposal is comparatively unobtrusive. The appeal site, as proposed to be developed, cannot reasonably be described a 'car-dominated', as suggested in the fourth refusal reason.

Conclusions

19. In respect of the first issue, the land at the rear of the appeal site is not 'designated', and does not carry any special protection for that reason. Whilst there was a planning permission in the past, that lapsed some years ago. That land may yet see further interest for development, but the current proposal is for more dwelling units, and for the reason that I set out in paragraphs 7 and 8 above, I am not persuaded by the first refusal reason. On the second issue, I have found that there is no basis to conclude that proposed Flats A and B would not have adequate storage. As to the adequacy of off-street parking, whilst the proposal does not meet the provision required by parking standards, those standards state that "for main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development." I have explained in paragraphs 16 and 17 why I consider that this is the case here, bearing in mind that the site's location is within a sustainable area. Finally, in paragraph 18 above, I concluded that the proposed development would not have a harmful effect on the surrounding street scene.
20. In addition to the issues dealt with above, the officer's report confirmed that the council cannot demonstrate a five-year supply of deliverable housing sites, and therefore, under paragraph 11dii of the National Planning Policy Framework (the Framework), the policies most important for determining the application are out-of-date and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a

whole. Whilst the contribution that the appeal proposal would make to the supply position is small, it should not be discounted entirely. This is especially so when I am told that a new local plan, to replace the adopted plan of 1998, was found sound with main modifications by the examining Inspector, but the council has resolved not to adopt it.

21. I have taken account of all other matters raised, including concerns about noise from the Cornerclub, overlooking from the proposed development, a restrictive covenant (which is not planning matter), but none of these causes me to reach different conclusions. For the reasons given above, I will allow the appeal.

Conditions

22. The statutory condition that provides a time limit on the start of development must be imposed. In addition, the council has suggested a number of conditions in the event that the appeal is upheld. I have considered these in the light of Planning Practice Guidance (PPG). I consider that the conditions should be imposed for the following reasons: condition 2 is required to ensure privacy of nearby residential occupiers; conditions 3 and 4 are to ensure that the living conditions of the future occupiers of the development permitted will not unreasonably be affected by noise from either the ground floor use or external noise sources; condition 5 is in the interest of highway safety and convenience; condition 6 is to ensure that there are adequate refuse and recycling facilities and in the interest of highway safety and convenience; and condition 7 is to ensure appropriate cycle parking is provided in the interest of highway safety and amenity and to promote sustainable travel.
23. The conditions suggested by the highway authority are either effectively met in the council's conditions or are not justified by the scale of the development permitted. I do not consider that a condition is required for the submission of details of the car parking, since it is already in place.
24. Condition 3 is a pre-commencement condition, which is necessary as commencement of development before the approval of a scheme of noise insulation measures could prejudice installation of a successful scheme. As required by Section 100ZA(5) of the Town and Country Planning Act 1990, the appellant's agent has clearly stated on the appellant's behalf that this condition is acceptable.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) Prior to first use of the first-floor rear terraces, screening to a height of 1.8m from the floor surface of the terraces shall be provided to the terrace sides, such screening to be obscure glazed to at least level 3 on the Pilkington scale (or such equivalent as may be agreed in writing with the local planning authority). Following provision of this screening it shall be retained at all times.
- 3) Prior to commencement of the development, details shall be submitted to and approved in writing by the local planning authority, of the sound insulation of the floor/ceiling/walls separating the commercial part(s) of the premises from noise sensitive premises. Details shall demonstrate that the sound insulation value $D_{nT,w}$ and $L'_{nT,w}$ is enhanced by at least 20dB above the Building Regulations value and, where necessary, additional mitigation measures are implemented to contain commercial noise within the commercial premises and to achieve the criteria of BS8233:2014 within the dwellings/noise sensitive premises. The approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.
- 4) The design and structure of the development shall be of such a standard that it will protect residents within it from existing external noise so that they are not exposed to levels indoors of more than 35dB LAeq 16 hrs daytime and of more than 30dB LAeq 8hrs in bedrooms at night.
- 5) The approved parking area shall be kept available for the parking of vehicles at all times.
- 6) Prior to occupation of any flat, the bin store shown on the submitted plans shall be provided and made available for use. It shall thereafter be retained for its approved purpose.
- 7) Prior to first occupation of the development, the cycle parking shall be provided in accordance with the EPOA Parking Standards. The approved facility shall be secure, convenient, covered and retained at all times.

End of Schedule