
Appeal Decision

Site visit made on 3 April 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 July 2023

Appeal Ref: APP/G0908/W/22/3313340

Princess Hall, Princess Street, Workington CA14 2QG

- 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 Daniel Anders (Redacre Investments LLP) against the decision of Allerdale Borough Council.
 - The application Ref FUL/2021/0067, dated 24 February 2021, was refused by notice dated 15 August 2022.
 - The development proposed is 'This Full planning application seeks planning approval for the demolition of the existing two storey vacant Princess Hall and the construction of a two storey mixed-use building accommodating 2no. retail units at ground floor with 7no. apartments at first floor, alongside 4no. two storey townhouses (all affordable homes). The accommodation is wholly affordable and is supported by car parking for both residential and retail uses (including for accessible bays and electric vehicle charge points), secure cycle parking and high-quality landscaped external communal amenity spaces and private gardens'.
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Decision

1. The appeal is allowed. Planning permission is granted for Demolition of existing two storey building and the construction of a two-storey mixed use building accommodating two retail units at ground floor with 7 no. apartments at first floor alongside 3 no. townhouses at Princess Hall, Princess Street, Workington CA14 2QG in accordance with the terms of the application Ref FUL/2021/0067 dated 24 February 2021 subject to the conditions in the attached schedule.

Procedural Matter

2. The description of the proposal has altered from the banner heading to the formal decision above. This shortened description appears on the appeal form and the Council decision notice and has in part been arrived at through amendments to the plans which saw the omission of one of the previously proposed townhouses. I have considered the proposal on the basis of this amended description.

Application for costs

3. An application for costs was made by Mr Daniel Anders (Redacre Investments LLP) against Allerdale Borough Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is the effect of the proposal on highway safety with particular regard to presence of parking bays within the visibility splays on the Frazer Street access.

Reasons

5. It is the case that the visibility splays on the access with Frazer Street conflict with the marked parking bays, more so to the eastern side of the access given the additional spacing to the bays to the west by reason of the adjacent rear access road.
6. However, I observed that in the locality such an arrangement does not seem to be uncommon. Similar situations arise at the exit from the rear lane access next to No. 15 Princess Street on at the exits from the rear lane to the east of the appeal site and the rear of properties to the east on Albert Street.
7. Further, for visibility to be reduced there would have to be a vehicle parked within the relevant bays. That may not always be the case given that there appears to be some spare parking capacity on Frazer Street¹. Given that the development itself is well provisioned with its own parking, it may be that other residents would be more likely to park in front of their own houses, meaning that the bays adjacent to the development could at times be free.
8. The nature of Frazer Street is such that the majority of drivers would be likely to proceed with a degree of caution, given the residential nature of the street and prevalence of parked cars on both sides of the road. There is no evidence that vehicle speeds are excessive, and the highways environment is likely to result in lower speeds by many drivers. The access comes only a short distance after a driver enters the street from Albert Street to the east and in turn, it is also positioned such that eastbound drivers would likely be in the process of slowing for the Albert Street junction.
9. I therefore have no reason to consider that the guidance within part 10 of the MFS² - for streets where 85th percentile speeds are up to 60 kph (37mph) is not applicable. Part 10.7.1 acknowledges that parking within visibility splays in built-up areas is quite common yet does not appear to create significant problems. Although stating that ideally, defined parking bays should be provided outside the visibility splay, in some circumstances, where speeds are low, some encroachment may be acceptable.
10. Given the existing highways environment at this particular site, I do not consider that the proposal would conflict with the guidance within the MFS.
11. There would therefore be no significant adverse impacts on highway safety with regard to presence of parking bays within the visibility splays on the Frazer Street access.
12. Subsequently, I have identified no conflict with Policy S22 of the Allerdale Local Plan (2014) (ALP) which amongst other things requires that all new development in the plan area will ensure it can be accessed safely and not compromise the safety of any transport route. There would be no conflict with

¹ Vectos Transport Statement March 2022.

² The Chartered Institution of Highways & Transportation 2010.

the requirements of the Framework³ which advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Other Matters

13. As part of the highway works a Traffic Regulation Order and the payment of an associated sum is required. This is associated with a unilateral undertaking which is before me and which the Council consider to be acceptable.
14. The evidence indicates that the submitted undertaking is therefore necessary to make the development acceptable in planning terms to enable the proposal to accord with Policy S22 of the ALP.
15. It is directly related to the development and fairly and reasonably related in scale and kind to the development. The planning obligation therefore meets the tests within Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 and at Paragraph 56 of the Framework.
16. I note that there is a significant level of concern regarding wider highways issues, but there is nothing compelling within the evidence to suggest that there would be any significant adverse impact in this regard including matters relating to access for emergency services, parking and works vehicles access.
17. There is nothing to indicate that the proposal including the provision of retail units would see encourage or create anti-social behaviour within the area.
18. Whilst it is accepted that demolition and construction will cause some disturbance, this would only be for the period of works which would be time limited and is an inevitable consequence of any development. I therefore afford this matter limited weight.

Conditions

19. Planning permission is granted subject to the standard three-year time limit. It is also necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. A Construction Traffic Management Plan and conditions relating to visibility splays and footway/loading bay works, surfacing and height of boundary treatment are necessary in the interests of highway safety.
20. Conditions relating to site investigations are necessary in the interests of the living conditions of future occupiers. Details of boundary treatment, final materials and landscaping are necessary in the interests of the character and appearance of the area.
21. A scheme relating to bat boxes is necessary in the interests of biodiversity. A drainage condition is necessary to ensure proper drainage of the site. A working hours condition is necessary in the interests of the living conditions of nearby occupiers along with a condition relating to plant at the site, and further conditions relating to the operation of the commercial units.

³ National Planning Policy Framework 2021.

Planning Balance and Conclusion

22. There is nothing, including the provisions of the Framework, to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be allowed.

T J Burnham

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 7000 Rev P2, 7001-REV P2, 7002 Rev P2, 7003 Rev P4, 7004 Rev P4, 7005 Rev P4, 7006 Rev P4, 7007 Rev P4, 7008 Rev P4, 7009 Rev P2, 7010 Rev P2, 7011 Rev P1, 7012 Rev P2, 7013 Rev P1, 7014 Rev P2, VN201753-D100 Rev B, VN201753-D101 Rev B, VN201753-D102 Rev B, VN201753-TR100 Rev B & VN201753-TR101 Rev B.
- 3) Development shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the local planning authority. The CTMP shall include details of:
 - pre-construction road condition established by a detailed survey for accommodation;
 - works within the highways boundary conducted with a Highway Authority representative;
 - with all post repairs carried out to the satisfaction of the Local Highway Authority at the applicants expense;
 - details of proposed crossings of the highway verge;
 - retained areas for vehicle parking, manoeuvring, loading and unloading for their specific purpose during the development;
 - cleaning of site entrances and the adjacent public highway;
 - details of proposed wheel washing facilities;
 - the sheeting of all HGVs taking spoil to/from the site to prevent spillage or deposit of any materials on the highway;
 - construction vehicle routing;
 - the management of junctions to and crossings of the public highway and other public rights of way/footway;
 - access points to the construction compound (vehicular / pedestrian) shall solely be from Princess Street;
 - surface water management details during the construction phase.
- 4) Full details of the surface water drainage system (incorporating SUDs features as far as practicable) and a maintenance schedule (identifying the responsible parties) shall be submitted to the Local Planning Authority for approval prior to development being commenced. Any approved works shall be implemented prior to the development being completed and shall be maintained thereafter in accordance with the schedule.

5) The development shall not commence until visibility splays (for each proposed access) providing clear visibility of 43 by 2.4 by 43 meters down the centre of the access road and the nearside channel line of the carriageway edge have been provided at the junction of the access road with the county highway in accordance with drawing VN201753-D102. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order) relating to permitted development, no structure or object of any kind shall be erected or placed and no trees, bushes or other plants shall be planted or be permitted to be grown within the visibility splay which obstruct the visibility splays. The visibility splays shall be constructed before general development of the site commences so that construction traffic is safeguarded.

6) The highway / footway and loading bay works as shown on drawing no WPS-KMA-XX-XX-DR-A-7003 Rev P4 shall be designed, constructed and drained to the satisfaction of the Local Planning Authority and in this respect further details, including longitudinal/cross sections, shall be submitted to the Local Planning Authority for approval before work commences on site. No work shall be commenced until a full specification has been approved. Any works so approved shall be constructed and completed prior to the site becoming operational.

7) Prior to the commencement of works a detailed Phase 2 intrusive investigation report shall be submitted to and approved by the local planning authority to establish the degree and nature of the contamination and its potential to pollute the environment or cause harm to human health. The scope of works for the site investigations should be agreed with the Local Planning Authority prior to their commencement. Following site investigations, should land affected by contamination be identified which poses unacceptable risks to human health, controlled waters or the wider environment, no development shall take place until a detailed remediation scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme must include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan.

8) No part of the development hereby permitted shall be constructed above ground floor level until details of all external walling and roofing materials have been submitted to and approved by the Local Planning Authority. Only the materials so approved shall be used in the development as approved.

9) Details of the siting, height and type of all means of enclosure/screen walls/fences/other means of enclosure shall be submitted to and approved by the Local Planning Authority prior to the occupation of any dwelling(s). Any such walls/fences etc. shall be constructed prior to the approved building being brought into use/occupied. All means of enclosure so constructed shall be retained and no part thereof shall be removed without the prior consent of the Local Planning Authority.

10) Any existing highway fence/wall boundary shall be reduced to a height not exceeding 1.0m above the carriageway level of the adjacent highway in accordance with details submitted to the Local Planning Authority and which have subsequently been approved before the development is brought into use and shall not be raised to a height exceeding 1.0m thereafter.

- 11) Prior to the commencement of development above ground floor level a scheme providing for the provision of bat boxes on the approved buildings, shall be submitted to and approved by the Local Planning Authority. The approved scheme shall be fully implemented prior to the development being brought into use and shall be retained thereafter.
- 12) Prior to occupation, the vehicular crossing over the footway, including the lowering of kerbs, shall be carried out to the specification of the Local Planning Authority in consultation with the Highway Authority.
- 13) The access drives shall be surfaced in bituminous or cement bound materials, or otherwise bound and shall be constructed and completed before the development is occupied/ brought into use.
- 14) Prior to occupation 2.4 metre x 2.4 metre pedestrian visibility sight splay as measured from the highway boundary (or footpath boundary), shall be provided on both sides of the vehicular access. There shall be no obstruction above a height of 600mm as measured from the finished surface of the access within the area of the visibility sight splays thereafter.
- 15) The (building/dwelling) shall not be occupied until a means of vehicular access has been constructed in accordance with plans to be approved by the local planning authority.
- 16) Foul and surface water shall be drained on separate systems.
- 17) No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, or internal painting or fitting out, shall take place before the hours of 0800 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public holidays, unless otherwise agreed in writing by the Local Planning Authority.
- 18) Should a remediation scheme be required under condition (7), the approved strategy shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority, prior to the development (or relevant phase of development) being brought into use.
- 19) In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority. Development on the part of the site affected must be halted and a risk assessment carried out and submitted to and approved in writing by the Local Planning Authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the Local Planning Authority. These shall be implemented prior to the development (or relevant phase of development) being brought into use. All works shall be undertaken in accordance with current UK guidance, particularly CLR11.
- 20) No part of the development hereby permitted shall be built above plinth level until there has been submitted to and approved by the Local Planning Authority a scheme of hard and soft landscaping which shall include indications of all existing trees and shrubs on the site, and details of any to be retained. All planting, seeding or turfing comprised within the scheme shall be carried out in the first planting season following completion of the development, and any trees or plants which within a period of 5 years from the completion of the

development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

21) The retail units hereby approved shall be used under Class E (A) and for no other purpose (including any other purpose in Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification)).

22) A full specification for all the fixed refrigeration and ventilation plant for the retail units including octave band data, its location and any necessary mitigation shall be submitted to and approved by the Local Planning Authority prior to any construction works above plinth level. The development shall be implemented solely in accordance with the approved details prior to the commencement of the use and retained at all times thereafter.

23) The deliveries to and from unit 1 hereby approved shall solely be undertaken and completed within the hours of 08:00 to 21:00 Monday to Saturday and 10:00 to 16:00 Sunday. The deliveries to and from unit 2 hereby approved shall solely be undertaken and completed within the hours of 08:00 to 19:00 Monday to Saturday and 10:00 to 16:00 Sunday.

24) The opening hours to the public of retail Unit 1 shall be solely between the hours of 08:00 to 22:00 Monday to Saturday and 10:00 to 16:00 Sunday. The opening hours to the public of retail Unit 2 shall be solely between the hours of 08:00 to 19:00 Monday to Saturday and 10:00 to 16:00 Sunday.

25) The cumulative retail sales area of retail units 1 and 2 hereby approved shall not exceed 345sqm.