



Appeal Decisions

Site visit made on 20 May 2024

by H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2024

Appeal A Ref: APP/Z3825/W/23/3325135

Horsham Car Centre, Roffey Corner, Crawley Road, Horsham, RH12 4HG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Blackedge Properties Ltd against the decision of Horsham District Council.
 - The application Ref is DC/22/0785.
 - The development proposed is change of use of the vacant car showroom (sui generis) to retail unit (Class E(a)) with extensions to the ground floor and associated parking.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the vacant car showroom (sui generis) to retail unit (Class E(a)) with extensions to the ground floor and associated parking at Horsham Car Centre, Roffey Corner, Crawley Road, Horsham, RH12 4HG, in accordance with the terms of the application, Ref DC/22/0785, subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by the Appellant against the Council. This application is the subject of a separate decision.

Preliminary Matters

3. An alternative scheme for the same site to change the existing store to a Class E(a) store has been granted¹, albeit with a condition limiting the type of goods and with a named operator. The removal of that particular condition is the subject of a separate appeal². Whilst I have considered both appeals, I have issued separate decisions in the interests of clarity.

Main Issue

4. The main issues in the appeal are:
 - whether the scheme would provide an adequate level of off-street parking; and
 - whether the scheme would be acceptable in terms of amenity, character and appearance of the site and surroundings.

¹ Planning permission reference: DC/22/1812 dated 16 June 2023

² Appeal reference: APP/Z3825/W/23/3333492

Reasons

Parking provision

5. The proposed development seeks the change of use of a vacant car showroom within the built up area of Horsham to a Class E(a) retail store. Extensions are proposed to the rear and side of the building which would result in its floorspace measuring around 372 sqm. Elevational changes are also proposed, including the provision of an ATM cash machine on the front elevation, and the former forecourt would be laid out as 10 parking spaces with an associated manoeuvring area.
6. The appeal application was submitted with a Transport Statement³ which contains assessments including a Stage 1 Road Safety Audit, Designers Response, Traffic Impact Assessment, Design Audit of the highways works and a Parking Assessment. The appeal has been submitted with a further Transport Appeal Statement⁴.
7. In terms of the development plan policy context, Policy 41 of the Horsham District Planning Framework (2015) (HDPF) states that adequate parking and facilities must be provided within developments to meet the needs of anticipated users. The preamble explains that the aim of the policy is to ensure that development is appropriately located, provides adequate parking and does not conflict with other users.
8. The guidance to which the Council has also had regard is set out in the West Sussex County Council Guidance on Parking at New Developments (2020) (Parking Guidance). The Parking Guidance Calculator advises that shops and retail premises should provide 1 vehicular space per 14 sqm of floor space. The Parking Guidance does not differentiate between the different types of retail unit, i.e., large out-of-town supermarket or local convenience shop. The Parking Guidance also states that it should only be used as an initial guide for developers, who should undertake a site-specific assessment and seek to balance operational needs, space requirements, efficient use of land and cost attributed to providing parking.
9. As the total floorspace of the proposed building would be 372 sqm, the Parking Guidance indicates that this would equate to a need for 26.5 parking spaces and 6 cycle spaces. The proposal seeks to provide 10 customer-only car parking spaces, including 1 disabled bay and 6 cycle parking spaces.
10. There is an existing layby adjacent to the site that extends in both northerly and southerly directions forming part of the public highway under the control of the Highway Authority. Amendments would be required to the layby to allow for the provision of a safe access which would result in the loss of around three on-street spaces. However, in my view, these arrangements would be adequate and would not cause prejudicial effects on highway safety.
11. The submitted evidence indicates that the retail unit would sell convenience goods. By virtue of its relatively limited size and, by extension, limited product range, it would primarily be used by local residents and passers-by for top-up and basket shopping. Customers would not be likely to stay for prolonged periods of time to purchase a limited number of items and the store would not

³ ADL Traffic & Highways Engineering Ltd, dated April 2022

⁴ ADL Traffic & Highways Engineering Ltd, dated June 2023

likely attract customers for their weekly shop. In my view, the type of store proposed would logically be provided with fewer car parking spaces in such a location to encourage more local journeys to be made by foot or cycle, and to suppress dwell time at the spaces.

12. The spaces proposed in this case would also be limited to customer use only. This would be a positive step to ensure that employees are required to find an alternative means of travelling to and from work. In the interests of sustainability, it is anticipated that this would involve either walking, cycling or public transport. But in any event, with the employee car parking demands removed from the equation, the 26.5 spaces recommended by the Guidance would be too many.
13. I have had regard to the parking assessments in the submitted evidence of two stores which I find to be sufficiently comparable to the appeal site in size and location. The findings indicate that the duration of customer stays was between around 6 to 9 minutes over the two consecutive survey days. Interestingly also, the smaller store with a floorspace more comparable to the appeal proposal kept customers for around 6 minutes on both days, indicating that there is a correlation between store size and duration of customer stay. Similar findings have been documented in a range of other submitted appeal decisions which appear to corroborate the findings of the *Local Shop Report* of 2014⁵ in which it is reported that the average length of stay for customers is just 5-minutes. For the purposes of this appeal, an average customer parking duration of 9 minutes has been adopted as a worst-case scenario, which I consider robust in the context of the evidence.
14. In terms of the distribution of customers over the course of the day, the findings indicate that there is typically a car parking demand of between 2 and 8 car parking spaces at any one time, with only short periods of time when the car parks operate at capacity. My view is also that the visibility of the car parking area from the street will also determine whether people are likely to stop in the car park at all. If there are no car parking spaces available either in the car park or in the layby, people will be unlikely to stop. The arrangement of the nearby junction with traffic light signals will discourage people from opting to park illegally as there is nowhere convenient out of the flow of traffic to attempt to do so. If customers are unable to park conveniently, then I consider that they will either route around again to find a vacant space or find an alternative way or place to purchase the necessary items.
15. I have noted that the evidence also details that delivery vehicles will be able to enter and exit the site without conflicting with users of the car park or necessitating the use of any areas of the public highway for prolonged periods. Therefore, there would be no reduction in the available spaces to meet the servicing requirements of the unit.
16. Whilst the parking demand for the proposal is intended to be catered for by the 10 spaces within the site, there is an existing layby along the frontage of the site. There are no parking restrictions within the layby save for the 'keep clear' areas to allow crossover to the respective driveways. I parked in the layby for the purposes of my site visit when there were plentiful available spaces. The evidence suggests that the layby is also regularly used as overspill parking for users of the commercial businesses and residents.

⁵ Commissioned by the Association of Convenience Stores (ACS)

17. A Parking Observations table in the submitted evidence indicates that this layby is typically underused, with 5 spaces regularly available. The layby extends to the frontage of the dwellings but as there is available on-plot parking, the use of the public highway specifically for resident parking is not guaranteed, even if the number of adult occupiers and cars exceeds the number of spaces available within their ownership. Provided that access to these properties and their parking areas is maintained unobstructed, my view is that the residents will have access to the areas of layby on a first-come first-serve basis as has always been the case and despite the reduction in available space, there would be no material harm to their living conditions or the enjoyment of their respective properties.
18. Taking into account all of the submitted evidence and representations on the same, including the absence of objection from the Local Highway Authority, my view is that the on-site parking would be adequate for the anticipated demand and nature of trips to the site, subject to conditions. The proposal therefore complies with, in particular, Policy 41 of the HDPF. It would also avoid conflict with the provisions of the National Planning Policy Framework which seeks to avoid any development that would result in a severe cumulative impact on the highway network.
19. Whilst the proposal would deviate from the specific parking requirement in the Parking Guidance, I have indicated the reasons why I consider this acceptable and would not result in a conflict with the aforementioned development plan policy.

Overdevelopment

20. The Council's statement indicates that when considered cumulatively with the parking requirements that cannot be adequately accommodated on site, the scheme would constitute overdevelopment, with resultant harm to the amenity, character and appearance of the area.
21. I am of the view that the extensions to the building would be of a form that would sit in general conformity with the vernacular of the existing building and would be subservient to it in scale and height. The extensions would also be more discreetly sited to the side and rear of the building, so as not to be particularly prominent in the streetscene. Consequently, the visual effects of the proposal from the extensions themselves would not amount to overdevelopment in my view. I also consider that subject to conditions, the nature of the use, combined with the scale and location of the extensions, would not harm the living conditions of neighbours in terms of nuisances, such as noise, lighting or other adverse effects.
22. As I have found under the first main issue that there would not be an under provision of parking relative to the amount of Class E floorspace proposed and its location, this cannot add as a contributory factor as to why the site would be overdeveloped with the proposed extensions in situ. Even with the extensions, the resultant building would appear similar in character and appearance to the existing building and its forecourt when it was in active use as a car showroom. The additional comings and goings of customers from its use as a Class E(a) unit would be acceptable in the context of a commercial unit within a built up area and would not give rise to effects which could be considered to constitute overdevelopment.

23. In conclusion, taking account of the context of the site and surroundings, the proposal would not harm the amenity, character or appearance of the area, and it therefore complies with Policy 33 of the HDPF. Amongst other things, this Policy seeks to conserve and enhance the natural and built environment.

Other Matters

24. It is alleged by local residents that the strength of the opposition of the Planning Committee has not been properly encapsulated in the Council's case and that the Highways Authority has failed to properly analyse the submitted evidence. I have understood the Council's case and the views of the local residents. I have also viewed footage showing the busy nature of the local road network and used it myself as part of an unannounced site visit. I have noted the assumptions of the objectors based on trading accounts of a specific retailer. However, I find no reason to discredit the presented evidence or disregard the views of the Highway Authority's professional officer which are that the scheme would not give rise to a severe effect on the local highway network in the context of the level of use it is designed to accommodate. My view is that the scheme would be acceptable in highway terms based on the evidence and on its own merits. I have also had regard to the alternative fallback position for the use of the unit (unextended) as a restricted goods retail unit⁶.
25. I note that a previous proposal on an adjoining site was the subject of a quashed permission, and now withdrawn application. Given that the application is no longer under consideration and the former use of that adjoining site as a car showroom has been reinstated, I do not consider it relevant to the proposal before me.
26. There are numerous matters not in dispute between the main parties, including the principle of development having regard to the retail sequential test, the flood risk susceptibility of the site and the climate change considerations relating to the proposal. I have found no reasons to reach alternative conclusions concerning any of these undisputed matters.

Arun Valley Special Area of Conservation, Special Protection Area and Ramsar sites (the Arun Valley Protected Sites)

27. Water supply to Horsham District is largely provided by Southern Water from its Sussex North Water Resource Zone (WRZ) which is an area of serious water stress. The appeal site has been and would continue to be supplied with water from the WRZ, in particular, from Hardham.
28. The River Arun and its floodplain contain habitats and species of international importance. They support a series of wetland meadows, alluvial grazing marsh and former raised peat bog, dissected by a network of ditches. Variation in soils and water supply lead to a wide range of ecological conditions and hence a rich and diverse flora and fauna. The relevant qualifying features of the Arun Valley Protected Sites formally comprise: wildfowl and waterbird assemblages, including Bewick's swan, shoveler, teal and wigeon; wetland invertebrates, as well as a range of rare flora, including duckweed, water-cress, milfoils, dropworts and pondweeds.

⁶ Under planning permission reference: DC/22/1812

29. The conservation objectives for Arun Valley Protected Sites are to ensure their integrity by maintaining or restoring the extent, distribution, structure and function of the qualifying habitats and species, the processes on which they rely and the population and distribution of those species within the sites. The hydrology of the Arun River is the major factor affecting the quantity, depth and flow of water within the Arun Valley Protected Sites, which in turn contribute to achieving the favourable conservation status of their qualifying features.
30. Water abstraction within the WRZ is adversely affecting the integrity of the Arun Valley Protected Sites through the reduction in water levels and flow within their wetland habitats. Accordingly, further developments within the WRZ must not add to existing impacts, and one way of achieving this is to demonstrate water neutrality, i.e., no additional abstraction from the WRZ.
31. The submitted collated evidence of the appellant for the proposal confirms that the historic lawful use of the site as a car showroom generated a demand of around 300m³ of water per annum. The robust evidence corroborates that this should be taken as the baseline. This is not affected by the use being currently inactive as the lawful use has not been abandoned.
32. A planning permission has already been granted for a change of use of the proposed premises to a Class E(a) retail unit for which the intended occupier provided projections for water demands. These were lower than the baseline figure of 300m³ and thus, the Council screened out the proposal and issued planning permission with a condition to restrict the Use Class E(a) to the intended occupier and to the sales of alcoholic goods and related sundry items. This gives a fallback option of the premises being changed to a Class E(a) unit.
33. This proposal is for the change of use of the car showroom to a Use Class E(a) retail store with extensions (totalling around c.80sqm additional floorspace). Whilst the operator that intends to take occupation of the unit is named and has provided evidence of comparable stores in terms of size, type of location and operation generating a water demand around 50% lower than the car showroom, it can be assumed that this would be the most intensive form of retail use of the site and that the upper limit for water demand would be in the region of 167m³ per annum.
34. Therefore, the water demand would be reduced by around 50% of that relative to the current lawful use of the premises as a car showroom with associated regular washing activities and would therefore be at least water neutral. Given the 50% water demand savings envisaged from changing the use of the premises to a car showroom, even with extensions and without naming the specific retailer, there would be sufficient headroom to allow for a buffer to be added as a precautionary measure.
35. On the basis of the above, conditions would not be needed to secure specific mitigation other than to prohibit any changes of use between uses within Use Class E in case there would be a difference in water demands between an intensive retail use and other permitted uses within Class E.
36. Natural England has been consulted as the Statutory Nature Conservation Body and has confirmed its agreement that this proposal would be water neutral and would not have a likely significant effect on the Arun Valley Protected Sites. Consequently, the proposal would not conflict with Policy 31 of the HDPF which,

amongst other things, seeks to protect species and habitats of particular importance.

Conditions

37. In the interests of certainty, planning conditions are necessary to limit the commencement of development to a 3 year period and to specify the approved plans.
38. In the interests of highway safety, conditions are required to secure the provision of the access and parking provision, including cycle spaces and an EV charging space. For similar reasons, conditions are needed to secure the submission and adherence to a delivery, collection and service management plan.
39. Having regard to the main issues above and the living conditions of neighbouring occupiers, a condition is required to limit permitted changes of use under the General Permitted Development Order 2015, as amended. This will provide certainty that any changes of use within Use Class E(a) are considered acceptable prior to any such change occurring. Additionally, conditions are needed to control the opening hours of the business, the timeframe when the ATM shall be available and the hours within which deliveries may take place. For similar reasons, conditions are required prohibiting the use of external lighting, the external storage of materials and waste and limiting the hours during which construction activities can occur.
40. In the interests of the character and appearance of the area, conditions are needed to ensure that the materials of construction assimilate with the existing building.

Planning Balance and Conclusions

41. The proposal complies with the development plan when taken as a whole. As there are no considerations of such materiality to indicate that permission should be withheld other than in accordance therewith, the appeal is allowed.

H Nicholls

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 strictly in accordance with the following plans and details:
 - Off-Site Highway Works General Arrangement, Ref 5154-101
 - Location Plan, Ref 6844(P)100
 - Block Plan, Ref 6844(P)100-1
 - Proposed Site Plan, Ref 6844(P)102 Rev D
 - Proposed Ground Floor Plan, Ref 6844(P)104 Rev D
 - Proposed Roof Plan, Ref 6844(P)106 Rev B
 - Existing West Elevation & Proposed West Elevation, Ref 6844(P)200 Rev B
 - Existing East Elevation & Proposed East Elevation, Ref 6844(P)201 Rev C
 - Existing & Proposed North, Existing & Proposed South Elevations, Ref 6844(P)202 Rev C
 - Proposed Section AA & Proposed Section BB, Ref 6844(P)300 Rev B
 - Energy Statement, dated August 2021, v1.0
 - Operational Noise Impact Assessment, dated 09.12.2021, Ref 90204 02
- 3) No part of the development shall be first occupied until such time as the remaining existing redundant vehicular crossover onto Crawley Road has been physically closed in accordance with plans and details submitted to and approved in writing by the Local Planning Authority.
- 4) No part of the development shall be first occupied until such time as the vehicular access and highways works serving the development has been constructed in accordance with Proposed Site Plan reference 6844[P]102 rev D and Off Site Highways Works General Arrangement reference 5154-101 which may be subject to minor modification as part of the Section 278 Technical Approvals process. The approved details shall thereafter be retained as such.
- 5) No part of the development shall be first occupied until the car parking has been constructed in accordance with the plan reference 6844[P]102 rev D. These spaces shall thereafter be retained at all times for their designated purpose as customer-only spaces.
- 6) No part of the development hereby permitted shall be occupied until means for the charging of electric vehicles by way of 1no. rapid charging point has been installed in accordance with details that have been submitted to and been approved in writing by the Local Planning Authority. The details shall have regard to the Council's latest Air Quality & Emissions Reduction Guidance document and include a plan of the charging point, it's specification, means of allocation, and means for its long term maintenance. The means for charging electric vehicles shall be retained as such thereafter.
- 7) No part of the development hereby permitted shall be occupied until a Delivery, Collection & Service Management Plan, which includes details of the types of vehicles, how deliveries and collections will take place and

- the frequency of deliveries has been submitted to and approved in writing by the Local Planning Authority. All deliveries and collections shall thereafter be carried out in accordance with the approved plan.
- 8) No part of the development hereby permitted shall be occupied until the cycle parking facilities serving it have been provided within the site boundaries. The facilities shall thereafter be retained for use at all times. The cycle parking facilities shall thereafter be retained as such for their designated use.
 - 9) The materials and finishes of all new external walls, windows and roofs of the development hereby permitted shall match in type, colour and texture those of the existing building.
 - 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order amending or revoking and/or re-enacting that Order), the premises hereby permitted shall be used for Class E(a) and for no other purposes whatsoever, (including those falling within Class E(b), (c), (d), (e), (f), (g) as defined in the Town and Country Planning (Use Classes) Order 1987 (as amended by The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020), or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification) without express planning consent from the Local Planning Authority first being obtained.
 - 11) The premises shall not be open for trade or business except between the hours of 07:00 and 22:00 Monday to Sunday.
 - 12) The Automated Teller Machine (ATM) and associated lighting shall be switched off between the hours of 22:00 hours and 07:00 hours.
 - 13) No deliveries to or from the site in connection with the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Saturdays and 10:00 hours to 16:00 hours on Sundays, Bank or Public Holidays.
 - 14) No external storage of any materials or waste shall take place at any time.
 - 15) No external lighting or floodlighting shall be installed within the site.
 - 16) No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays.