



Appeal Decision

Site visit made on 23 May 2025

by **B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 June 2025

Appeal Ref: APP/D0121/W/24/3355032

Churchill Road Business Centre, Churchill Road, Weston-Super-Mare, North Somerset BS23 3HD

- 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 Mr Nathan Moffatt against the decision of North Somerset Council.
 - The application Ref is 24/P/0472/FUL.
 - The development proposed is change of use of a proportion of first floor from Class E (gym) use to 1 No. 3-bed C3 residential unit and the conversion of roof space to form second floor with 2no 1-bed C3 residential units. Dormer introduced to the north roof slope. Existing Class E use to be retained to ground floor.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of a proportion of first floor from Class E (gym) use to 1 No. 3-bed C3 residential unit and the conversion of roof space to form second floor with 2no 1-bed C3 residential units. Dormer introduced to the north roof slope. Existing Class E use to be retained to ground floor, at Churchill Road Business Centre, Weston-Super-Mare, North Somerset BS23 3HD in accordance with the terms of the application, Ref 24/P/0472/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Refusal reason 4 refers to specific paragraphs of the National Planning Policy Framework (Framework). Since the determination of the application, a new version of the Framework has been adopted. The requirements of these paragraphs are mirrored in the new Framework, and as such, the Council is satisfied that its case is unaffected in this regard.
3. A Velux Perceived Overlooking Section (sheet 2343_200) has been submitted with the appeal. This does not alter the proposal in any way, and all parties have had opportunity to comment on its contents. As such, natural justice is not prejudiced by my consideration of this document.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the existing building and surrounding area;
 - the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with respect to privacy;

- whether the proposal provides adequate living conditions for future occupiers, with respect to privacy, noise and disturbance; and
- whether the proposal would comply with national planning policy which seeks to steer new development away from areas at the highest risk of flooding.

Reasons

Character and appearance

5. The appeal site consists of part of a mixed use building making up part of a business centre, surrounded by residential properties within a relatively dense urban area of Weston Super Mare.
6. The existing building is a substantial two storey pitched roof building, with flat roofed projections. It is neighboured by another large pitched roofed commercial building, with a different pitch to the roof and one gable end. To the east are large industrial/commercial buildings, and whilst the surrounding residential properties are mostly two storey terraces, there is an ornate converted school building, with numerous roof pitches and Dutch gable elements. The residential terraced dwellings are a mix of gable and pitched roofs, with several front and side dormers visible from the highway, of differing scale and design. As such, there is little consistency in the roof form of the surrounding area.
7. The supplementary planning document 'Residential Design Guide' (2013) (the 'SPD') sets out that the original roof form should remain the dominant feature in the appearance of the building.
8. The dormer would run along the width of the roof and its mono pitch sloping roof would not align with the pitch of the existing roof form. Nevertheless, it would sit in from both ends and would be set down significantly from the ridge. This would ensure that the dormer would sit comfortably within the existing substantial original roof form, and not appear over dominant or excessive in scale nor bulk. The original simple form of the building would remain legible and dominant, and the dormer would not harm its existing character.
9. Given the surrounding mixed roof form and context, the dormer and the proposed hip to gable extension would also not look out of keeping with the wider area.
10. As such, whilst it would be visible to the occupiers of numerous adjacent residential properties, in addition to glimpses from the surrounding highways through gaps between buildings, there would be no harm to the character and appearance of the existing building nor surrounding area.
11. There is therefore no conflict with Policies DM32 and DM39 of the North Somerset Sites and Policies Plan (Part 1) (SPP) and Policy CS12 of the North Somerset Council Core Strategy (2017) (CS), which require development to be high-quality in terms of design and respect the surrounding area

Living Conditions for neighbouring units

12. Given the siting of the business centre there is residential properties neighbouring the site on all sides.

13. The separation distance from the nearest proposed habitable window to the rear boundary with the Langford Road dwellings is set out within the submitted design and access statement as 37m.
14. The document also makes it clear that separation distance between the proposed dormer windows on the northern elevation towards the residential properties along Locking Road are all over 21m. The Council does not dispute these distances.
15. The SPD suggests that the privacy of neighbouring properties will normally be reserved by maintaining a distance of a least 21m between a proposed upper floor window and existing habitable room windows. Given these distances therefore, the living conditions of the occupiers of these properties would not be harmed through the loss of privacy.
16. The first floor windows on the western elevation facing the rear of dwellings along Churchill Road are existing and will retain the Class E use. As such they would not lead to any increased overlooking. Two additional second floor windows are also proposed, however. These serve a kitchen/living/dining room, which is also served by a dormer window on the northern elevation. As such these two windows could be obscure glazed.
17. While the presence of these windows may give rise to perceived overlooking, the obscure glazing would prevent any clear views into the rear elevation windows and gardens of these Churchill Road properties. There would therefore not be any unacceptable loss of privacy to the occupiers of these properties. This is in accordance with advice relating to obscure glazing in para 4.1 of the SPD.
18. The two additional windows on the second floor of the eastern elevation would also be obscure glazed. The additional window sited between the two existing windows on the first floor, would serve a kitchen/living/dining room, and would offer oblique overlooking of the rear gardens and windows of nearest properties to the south along Churchill Lane.
19. These gardens and windows are currently mutually overlooked by their attached neighbour. I also observed that the existing first floor window nearest to the southern boundary, serving the gym, and the external stair access, provide opportunity for clear overlooking towards these properties. As such, these gardens and windows have limited privacy at present.
20. The external stairs will be removed and the nearest window obscure glazed. The limited oblique overlooking from the central first floor window would therefore not represent an increase in any overlooking to these areas. Therefore, these windows would not result in an unacceptable harmful effect on the living conditions of the occupiers of these Churchill Road properties.
21. Given the siting of the existing building, the roof lights proposed on the southern side elevation of the roof would be positioned in close proximity to the rear boundaries of the neighbouring dwellings in this direction.
22. Para 3.2 of the SPD suggest that a distance of 7m should normally be maintained between a proposed upper floor window and the rear boundary of the property. However, this does not specifically relate to rooflights, as shown in the accompanying illustration (illustration E).

23. Para 4.2 of the SPD advises that roof lights will overcome privacy issues if they are positioned high enough (1.7m above floor level) in the roof slope to prevent overlooking. The Council does not dispute the appellant's assertion that the roof lights will be positioned above this height, as shown on the submitted Velux Perceived Overlooking Section drawings. The existing small parapet on this elevation will further limit any possible overlooking.
24. As such, again, while the presence of roof lights may give rise to perceived overlooking, there would not be any harm to the living conditions of the residents of these properties by reason of loss of privacy.
25. I conclude that the proposal would not harm the living conditions of the occupiers of neighbouring dwellings with respect to privacy. There is therefore no conflict with the general protection of amenity goals of SPP Policies DM32 and DM39.

Living Conditions for occupiers

26. As set out above the proposal would not result in any unacceptable loss of privacy to the residents of neighbouring properties. Given the position of windows and separation distances, future occupiers would be provided with acceptable levels of privacy.
27. The submitted noise assessment¹ sets out that, subject to a suitable glazing system, trickle vents and upgrade to the floor construction, there would not be any unacceptable noise nuisance from the existing gym use, or surrounding businesses. As set out in section 6.3 of the assessment, these measures do not include mechanical ventilation, and consequently, the living condition of future residents would not be affected in this regard. There is no substantive evidence before me to contradict these findings.
28. The nearby pizza takeaway business is located on the corner of Churchill Road and Locking Road. There is no evidence before me that the business causes any noise or disturbance to the occupiers of the residential units directly above it or adjacent. There are numerous buildings separating this business and the appeal site. Any noise from this business would form part of the surrounding background noise and included within the measured wider existing day and night noise levels.
29. The proposed mitigation measures would therefore ensure that there is no harm to the living conditions of future occupiers, by way of noise, from this takeaway business.
30. I conclude that the proposal would provide adequate living conditions for future occupiers, with respect to privacy, noise and disturbance. There is no conflict with the high-quality design and general protection of amenity goals of CS Policies CS3 and CS12 and SPP Policies DM32 and DM39.

Flood risk

31. The site is located within Environmental Agency (EA) flood zone 3 and is therefore at a high risk of flooding. A dwelling is categorised in the "more vulnerable" category in the Planning Practice Guidance (PPG). The appellant has demonstrated that there are no sequentially preferable sites, and as such, the proposal is subject to the exception test.

¹ by Aran Acoustics June 2024

32. In accordance with the Framework, for the exception test to be passed it should be demonstrated that the proposal would provide wider sustainability benefits to the community that outweigh the flood risk (part a) and the development will be safe for its lifetime, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall (part b). Both parts of the exception test must be satisfied for development to be permitted.
33. The submitted Flood Risk Assessment² (FRA) identifies that the wider sustainability benefits of the site include being a previously developed site within a location with excellent access to services and facilities, which can provide energy efficient measures. The Council accept that this outweighs the flood risk associated with the proposed living accommodation being above ground floor, and above any Environment Agency modelled flood level. The Council accept that part a) of the exception test is met therefore, and based on the evidence before me, I have no reason to disagree.
34. The FRA sets out that the lack of an increase in the building footprint will mean that there is no increased runoff and the site parking area is largely loose gravel which offers good drainage. An outbuilding sited at the rear would also be demolished to offer a larger permeable area to aid drainage and reduce the risk to the surrounding dwellings.
35. Mitigation measures suggested in the FRA include hydrophobic wall coatings, flood resistant doors and windows on the ground floor, waterproof flooring, non-return valves on water systems, waterproofed electrical services, valves and drain points to purge gas systems, and insulation for pipework.
36. These mitigation measures would ensure that the development would be safe for its lifetime and would not exacerbate flood risk elsewhere. Part B of the exceptions test is therefore met.
37. The development would be appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment. The measures set out in the FRA would ensure that the requirements of Framework para 181 are met.
38. I conclude that the appeal site is in a suitable location for the proposed development having regard to the risk of flooding. There is therefore no conflict with CS Policy CS3 and SPP Policy DM1, which require that development in Flood Zones 2 and 3 is only permitted where it is demonstrated that it complies with the tests set out in the Framework.

Other Matters

39. Any disruption or nuisance to nearby residents through any construction process would be temporary and limited by a condition requiring details of a suitable construction management plan.
40. A condition would secure appropriate waste storage and given the limited scale of the site and proximity to the surrounding highway network, the accessibility of the site to emergency services, including in terms of fire, is acceptable. It is noteworthy that the Council 's Highways Authority have not raised any issue in this respect.

² By Gibson Architecture

41. Similarly, the proposal will provide an appropriate level of car and bicycle parking on site, where there is existing parking, secured through condition. As such, it would not lead to any unacceptable additional impact on highway safety, congestion or the availability of parking spaces nearby.
42. I observed cars using the existing access, and there is no substantive evidence before me that it is unacceptably substandard, nor that any limited additional car traffic as a result of the proposal would lead to an unacceptable increase in pollution. It is noteworthy that the council's environmental officer raised no issue in this regard.
43. The appellant has certified in the application form that they are the sole owner of all the land to which the application/appeal relates, and there is no substantive evidence before me to contradict this.
44. Given the limited scale of development, with no increase to the existing ridge or eaves height of the building, the hip to gable roof extension would not lead to an unacceptable loss of light to any neighbouring property. The viability of the proposal is not a matter required to be considered under the policies before me.

Conditions

45. A list of suggested conditions has been provided that the Council and/or the appellants consider to be appropriate. I have considered these in light of the PPG and the tests set out in the Framework. For clarity and to ensure compliance with the tests, I have amended some of the suggested wording.
46. In addition to the standard time limit, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty.
47. Given the restricted urban location of the site, a construction management plan is necessary in order to preserve highway safety during any construction period and protect the living conditions of neighbouring residents. This is a pre-commencement condition as it relates to and affects the early part of the development.
48. A condition ensuring the development is finished in accordance with the materials detailed on the submitted plans is necessary to ensure the finished scheme is in keeping with the existing building and surroundings. A condition ensuring that the development is completed in accordance with the mitigation measures suggested in the FRA is necessary in order to reduce the risk of flooding.
49. On wider sustainability requirements, a condition securing the solar panels details on the submitted energy statement and plans is necessary. Conditions securing appropriate noise insulation are necessary in order to ensure adequate living conditions for future occupiers of the residential units. Conditions securing the submission of appropriate cycle, bin storage and car parking details are necessary in order for future residents to have access to these facilities.
50. Finally, as set out above, conditions ensuring that certain windows are obscure glazed are necessary in order to protect the privacy of neighbouring occupiers and future residents.

Conclusion

51. For the reasons above, the appeal is allowed.

B Phillips

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing nos: 001-A3: Site Location Plan, 003-A2: Block Plan, as proposed, 007-A2: Plans, as proposed, 008-A2: Plans, as proposed, 009-A2: Elevations, as proposed, 010-A2: Elevations, as proposed, 011-A2: Section, as proposed.
3. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The approved Construction Management Plan shall be adhered to throughout the construction period for the development.
4. The external surfaces of the development hereby permitted shall be constructed in the materials shown on plans no 009-A2, 010-A2.
5. The development hereby permitted shall only take place in complete accordance with Section 5 of the submitted Flood Risk Assessment, by Gibson Architecture.
6. Prior to the occupation of any residential unit hereby approved, the solar PVs shown on drawing number 009-A2 and described in the Energy Statement and Energy Strategy Calculations dated 28 March 2024 shall be installed in accordance with the details hereby approved and be fully operational. Thereafter, the solar PVs shall be permanently retained in accordance with the approved details.
7. Prior to the occupation of any residential unit hereby approved, a full-week scheme for achieving the internal noise levels outlined in BS8233:2014 and World Health Organisation Guidelines and referencing the Acoustics Ventilation and Overheating Residential Design Guide shall be submitted and approved by the local planning authority. The approved scheme shall be fully implemented before the first occupation of any residential unit. Thereafter it shall be maintained in the approved state at all times.
8. Prior to the occupation of any residential unit hereby approved, noise insulation of party construction between the residential units and the non-residential use and between each residential unit shall be fully implemented in accordance with a noise insulation scheme that has first been submitted to and approved by the local planning authority. Thereafter it shall be maintained in the approved state at all times.
9. Prior to the occupation of any residential unit hereby approved, a waste collection point shall be provided for it in accordance with plans and specifications that have first been submitted to and approved by the local planning authority. The waste collection point shall thereafter shall be made permanently available for the storage and collection of waste and recycling materials only for the occupiers of the residential and Class E use units.
10. Prior to the occupation of any residential unit hereby approved, a parking area for 13 vehicles shall be provided in accordance with a car parking management plan and specifications of give way signage or marking in the parking area that have first been submitted to and approved by the local planning authority. The approved parking area shall be properly consolidated and surfaced, and the

parking spaces marked out before the residential use commences and thereafter it shall only be used for the parking of vehicles in connection with the development hereby permitted.

11. Prior to the occupation of any residential unit hereby approved, secure parking facilities for five residential bicycles and 10 non-residential bicycles (including a non-standard cycle) shall be provided in accordance with plans and specifications that have first been submitted to and approved by the local planning authority. The approved facilities shall thereafter be permanently retained and kept available for the parking of bicycles at all times.
12. Prior to the occupation of any residential unit hereby approved, the windows identified as being obscure glazed on drawings 007-A2 and 008-A2 shall be fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. The obscure glazing used shall provide a degree of obscuration no less obscure than that which is provided by privacy level 3 of the Pilkington Group Limited textured glass range as defined in publication ""Pilkington Decorative Glass Range" (published November 2017). Once installed the obscured glazing shall be retained thereafter.

End of Schedule