



Appeal Decision

Site visit made on 20 May 2020

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th July 2020.

Appeal Ref: APP/T0355/W/19/3241596
68 High Street, Sunninghill, Ascot SL5 9NN

- 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 Sunninghill High Ltd against the decision of the Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/02311, dated 16 August 2019, was refused by notice dated 8 November 2019.
 - The development proposed was originally described as part single, part two storey extension facilitating extension to the existing A1 retail unit on the ground floor and creation of a 1 bedroom flat at first floor.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the existing first floor flat from residential to retail, new shop front, part single, part two storey rear extension with parapet wall, installation of a chiller unit, new boundary fence and alterations to fenestration to create new first floor flat with amenity space and external stairs at 68 High Street, Sunninghill, Ascot SL5 9NN, in accordance with the terms of the application, Ref 19/02311, dated 16th August 2019, and subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development in the banner heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has changed, and the new description matches that used by the Council in their refusal notice and upon which the application was consulted on. This more accurately and explicitly describes the proposed development and I have therefore used this revised description in allowing the appeal.
3. Notwithstanding the description of development, it is clear from the plans and accompanying details that the proposed part single, part two storey rear extension to the building encompasses an increase to the existing ground floor retail area. The Council dealt with the proposal on this basis and so shall I.

Main Issue

4. The main issue raised by this appeal is the effect the proposed development would have on highway safety with particular regard to parking conditions in the vicinity.

Reasons

5. The appeal site comprises an end of terrace two storey building located at the southern end of Sunninghill town centre. The ground floor of the appeal building was until recently in use as a retail convenience store, however, this is not currently operating. A narrow side access lane leads to a rear yard area that was previously used for storage and occasional staff parking.
6. The proposed development would involve increasing the gross retail floor space, encompassing sales, storage and staff welfare areas. It would be operated as a convenience food retail store with a maximum of 5 members of staff working at the premises at any one time. The provision of a first floor flat in the extended portion of the rear extension is also proposed. The existing rear yard would be reduced in area and would remove the scope for providing off street parking within the site. With no off-street parking proposed the parking demand associated with the proposal would have to be met by existing on-street parking or the public car parks in the vicinity of the site.
7. High Street is a busy commercial road containing a range of shops and services. Village centre parking opportunities comprise sections of short stay parking bays along the length of High Street, some unrestricted spaces and further short stay bays on surrounding residential streets, and car parks at Queen's Road and Upper Village Road. There is a bus stop located a short distance from the appeal site with regular services stopping at this location.
8. The Council indicates that the proposal would, according to its Parking Strategy¹ generate demand for 16 parking spaces, 15 of which would relate to the retail element of the proposal. However, I note that the strategy indicates that this is a maximum parking requirement. Notwithstanding the Council's position, the previous convenience store would also have generated a level of customer parking demand in the vicinity.
9. The appellant's Transport Statement (TS) provides a worst-case scenario assessment of the increase in traffic generation based on TRICS trip rates against the proposed uplift in retail floor area. This would result in a peak hour increase of 12 vehicle trips per hour when compared with the existing store and would result in an increase in the parking demand of 1-2 cars. The TS also includes a parking beat survey (PBS) undertaken over a single day between 7am and 6pm covering an area of approximately 150m from the appeal site. This concluded that there was occupancy of between 79 and 153 spaces out of the 189 spaces in the survey area.
10. The Council, however, has doubts over the validity of the PBS results as many of the available spaces are resident only parking bays or subject to single or double yellow lines. In applying its own analysis of the figures and factoring in spaces that would be restricted, the Council considered that a maximum of 9 unrestricted spaces were available over the survey period. Consequently, it considers that this number of spaces available would not meet the demand generated by the proposal. The effect of this would, in the Council's view, lead to further parking pressures in the area, customers indiscriminately parking on roads and adversely effecting highway and pedestrian safety.

¹ Royal Borough of Windsor and Maidenhead, Parking Strategy, May 2004

11. Irrespective of the Council's concerns, there would still be a number of spaces available, albeit limited, in the vicinity of the appeal site during the day. Furthermore, whilst only a snapshot in time, I observed that there were a small number of unoccupied parking spaces available at the Queen's Road car park and along Truss Hill Road and High Street during my early afternoon site visit. This largely reflects the Council's interpretation and findings on the PBS, that parking availability is relatively low throughout the day.
12. Although the proposal would result in an increase in the number of peak hour vehicle trips, the appeal site would operate as a convenience store where customers would likely be carrying out smaller, top-up grocery shops. These visits, according to the TS, would likely take place throughout the day and during times either side of the peak hour. The submitted evidence indicates that on average customer visits to convenience stores are short in duration and amount to less than 10 minutes per visit. Consequently, they would be likely to result in a short dwell-time that would allow a faster turnover of occupancy of the available parking spaces in the vicinity of the appeal site. Even though the Council's evidence suggests there would be a small number of parking spaces available in the vicinity during the day, the proposed parking demand would be low, whilst the anticipated parking behaviour of future customers would mean that any shortfall in the availability of spaces would be limited in duration.
13. The Council's position that the proposed development would result in the demand for 16 parking spaces, is based, in their view, on a maximum standard in an area of poor accessibility. Also, the Neighbourhood Plan refers to the traffic congestion and parking problems in the village. However, the appeal site is in a village centre location close to a bus stop and within walking distance of a large number of residential dwellings. Consequently, there is a likelihood that some customers and staff would travel to the site by means other than the private motor car, and therefore, would not, require a nearby parking space. Moreover, the Council's Parking Strategy states that 'commercial developments in town centres well served by public transport can sustain new development with lower levels of parking' [Paragraph 9.8.1]. Whilst the policy refers to town centre locations, I consider it would still be relevant to the appeal site's village centre context. Therefore, I consider that the appeal site's proximity to nearby residential areas and public transport connections are factors that could reduce the proposal's parking demand.
14. Nevertheless, even in the 'worst case scenario' of the proposed development generating a requirement for 16 spaces and the increase in peak hour visitor trips to the appeal site, the balance of evidence indicates that these could be provided by existing on-street parking. The proposal would not, therefore, adversely affect existing parking conditions to the extent that it would render parking opportunities unattainable for visitors to the village centre and local residents.
15. The Council's reason for refusal sets out that the effects of increased parking pressure in the vicinity would result in further traffic congestion and highway safety issues. I can appreciate that should future users of the proposed development choose to park in those areas where there is already high parking stress this could compound competition for on-street and car park spaces and could cause inconvenience and frustration.

16. However, such inconvenience cannot necessarily be equated to material harm to highway safety of a magnitude that would warrant withholding permission. Also, I have not been presented with any evidence as to how the moderate increase in future customers and staff relating to the appeal proposal, choosing to park on surrounding streets would lead to any harm to highway safety or any unacceptable levels of congestion. I have been given no reason to indicate that the limited availability of on-street parking would necessarily lead to those staff and future customers arriving by car and the residents of the flat, to choose or be forced to park illegally or dangerously, particularly in light of the evidence of availability of on-street parking in the vicinity. Therefore, there is no substantive evidence to suggest that the proposal would result in any material harm to highway safety.
17. In concluding on the main issue, the proposed development would not adversely affect parking conditions and consequently highway safety in the vicinity of the site. Therefore, the proposal would not conflict with Policies P4 and T5 of the Local Plan² and Policies NP/T1 and NP/SV1 of the Neighbourhood Plan³. These require, amongst other considerations, for proposals to manage the impact on traffic congestion, parking capacity and highway safety, and to comply with the Council's maximum parking standards. The proposal would also accord with the National Planning Policy Framework (the Framework) as it would not result in unacceptable impacts on highway safety or lead to severe residual cumulative impacts on the road network.
18. For the same reasons there would not be conflict with emerging development plan Policy IF2's requirement that car and cycle parking are provided in accordance with the Parking Strategy, albeit that given its current stage of preparation and situation regarding changes this only carries limited weight.

Other Matters

19. I note the concerns of neighbours in respect of the potential disturbance from the proposed plant at the rear of the appeal building. However, this can be controlled by condition to ensure that noise levels remain within acceptable limits. Moreover, I do not anticipate that the proposal would give rise to any significant increase in activity that would amount to material harm to other aspects of neighbouring living conditions, than would be the case with the existing retail premises, if it were operational.
20. The rear elevation of the proposed extension would face a fire escape door and some air conditioning units on the flank wall of the neighbouring building. Although there would be a limited separation distance maintained, the proposed extension would not block access from the fire door, nor would it limit the space to the extent that the air conditioning units could not be accessed.
21. Deliveries would continue to take place on the street in front of the appeal building and likely to amount to 1-2 deliveries a day in addition to goods delivered direct from suppliers. It is anticipated that these are likely to be short in duration and take place either early or late in the day when there would likely be more unoccupied parking spaces, and therefore avoiding peak periods on the road network and any significant disruption.

² The Royal Borough of Windsor and Maidenhead Local Plan (Incorporating Alterations Adopted in June 2003)

³ Ascot, Sunninghill and Sunningdale Neighbourhood Plan 2011-2026

22. There is concern that the opening hours proposed would lead to a loss of amenity to local residents. However, the hours proposed would be reasonable for a convenience store in a predominately commercial area, while comings and goings would likely be lower in number at the start and towards the end of the day, such that they would unlikely give rise to a level of disturbance that would adversely harm the living conditions of neighbouring residential occupiers.

Conditions

23. I have had regard to the Council's suggested conditions, amending them where necessary for clarity and to ensure compliance with the tests set out in paragraph 55 of the Framework. I also sought agreement from the Appellant to the pre-commencement condition.
24. I have imposed a condition specifying the approved plans as this provides certainty. A materials condition is necessary in the interests of the character and appearance of the area.
25. Due to the close proximity of the proposed retail use and associated plant and machinery to neighbouring occupiers, it is necessary to ensure that background noise levels are not exceeded at neighbouring noise sensitive properties to protect the living conditions of occupiers. Similarly, in order to protect the living conditions of future residents of the approved first floor flat from harmful noise from the approved retail use, I have imposed a pre-commencement condition requiring sound insulation details. The agreement of these details is needed prior to the commencement of development as they will be part of the proposed works.
26. In order to ensure that refuse facilities are adequate and appropriately sited it is necessary that details are approved and implemented, and this should go some way to address local concerns in this regard. I have no detailed information relating to the siting and layout of cycle storage and parking and I consider it necessary these details are provided before the use commences. This will ensure that alternative modes of transport such as bicycles can be effectively stored at the site.
27. Although not suggested by the Council, it is necessary in the interests of neighbouring living conditions that a condition controlling the opening hours of the retail premises is required at this location. The hours of opening are those suggested by the appellant.

Conclusion

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

R. E. Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be commenced within three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved Drawing Numbers: (PL)001 Rev E; (PL)002 Rev F; (PL)003 Rev E; (PL)004 Rev C; (PL)005 Rev C; and (PL)006 Rev C.
3. The external surfaces of the development hereby permitted shall be constructed in the materials shown on the approved plans.
4. No development shall take place until a scheme for sound attenuation measures have been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the acoustic insulation of the residential flat hereby permitted against environmental and operational noise associated with the approved retail use of the building, together with details of the methods of providing acoustic ventilation to habitable rooms. The residential flat shall not be occupied until the sound attenuation measures have been implemented in accordance with the approved scheme and retained thereafter.
5. The rating level of the noise emitted from the approved fixed plant and stationary equipment shall not exceed the existing background level (to be measured over the period of operation of the approved plant and equipment and over a minimum reference time interval of 1 hour in the daytime and 15 minutes at night). The noise levels shall be determined 1m from the nearest neighbouring noise-sensitive premises. The measurement and assessment shall be made in accordance with BS 4142: 2014+A1:2019 (or an equivalent British Standard if revised or replaced).
6. No part of the development shall be occupied until details showing the provision at the site of secure parking facilities for bicycles have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the bicycle parking facilities have been implemented in accordance with the approved scheme. These facilities shall thereafter be kept available for the parking of bicycles in association with the development at all times.
7. No part of the development shall be occupied until details of a bin storage area and recycling facilities within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the bin storage area and recycling facilities have been implemented in accordance with the approved scheme. These facilities shall be kept available for use in association with the development at all times.
8. The retail unit shall only be open for customers between the hours of 0600 and 2300.

End of Schedule