



Appeal Decision

Site visit made on 23 August 2023

by **S Brook BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2ND November 2023

Appeal Ref: APP/A1015/W/23/3317224

26A Circular Road, Staveley S43 3QX

- 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 Tajinder Singh against the decision of Chesterfield Borough Council.
 - The application Ref CHE/21/00381/FUL, dated 13 May 2021, was refused by notice dated 6 September 2022.
 - The development proposed is described as 'Two storey extension. Ground floor retail and storage. First Floor extension to flat'.
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Decision

1. The appeal is allowed and planning permission is granted for two storey side extension and single storey rear extension - Ground floor retail and storage and First Floor extension to flat, at 26A Circular Road, Staveley S43 3QX, in accordance with the terms of the application, Ref CHE/21/00381/FUL, dated 13 May 2021, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. I have used the description of the development as set out on the appeal form within my decision above, as this more accurately describes the development proposed.
3. Amended plans were provided to and considered by the Council during the course of the application, which included details of amenity space and amended parking provision. I have determined the appeal based on these revised plans.

Main Issue

4. The main issue is the effect of the proposal upon highway safety, with particular regard to parking provision.

Reasons

5. The appeal site comprises a convenience store with residential accommodation above. Fenced land to the immediate south of the convenience store provides storage for bins and private parking, with no customer parking on site. At the time of my visit, two vehicles were parked in this area. A dropped kerb extends along a large part of the site frontage, excluding a short section to the southern end. The surrounding area is largely residential in character, some with off street parking, others relying on on-street parking. There is a notable change in levels between the appeal site and dwellings located to the rear along St Johns Road.

6. The plans submitted indicate that the proposed development would provide an extended retail area and retail store at ground floor level and a larger lounge and dining room facilities at first floor to the existing three-bedroom flat. One parking space is proposed towards the southern boundary. No increase in staffing levels has been indicated, however, the larger premises would likely result in some intensification of the existing uses.
7. The Council confirms that it does not have any adopted parking standards at present. Policy CLP20 of the Chesterfield Borough Local Plan Adopted July 2020 (LP), requires that the design of new development incorporates adequate and safe vehicular access and parking. LP Policy CLP22 states that the level of vehicle and cycle parking provision appropriate to any individual proposal will take into account the circumstances of the particular scheme, including certain criteria. Of particular relevance to the proposal are (ii) The type, mix and use of the development, (iv) The availability of and capacity for safe on-street and public car parking in the area, and (vi) The likelihood that any existing on-street parking problems in terms of highway safety, congestion, pedestrian and cyclist accessibility and amenity will be made worse.
8. By its nature, the convenience store is likely to attract customers from the local area and from here, it would be accessible by foot or cycle. Inevitably however, some customers will arrive by car and deliveries/waste collection would be by road also. Given the existing level of off-street parking at the appeal site, the commercial premises and flat above are likely to rely in large part on parking provision on-street to meet present and future needs.
9. The Council's decision notice sets out that the proposal would not have an acceptable level of on-site parking, which could lead to highway safety problems. However, in its Officer Report, the Council accepts that there is some capacity for safe on-street parking and in its Statement of Case, the Council confirms that the appeal scheme was not generally considered to be dangerous in highway safety terms.
10. Instead, the Council references inconsiderate development resulting in the utilisation of the existing parking on site. The appellant has provided parking survey information, which includes snapshots of the appeal site and adjacent highway, across a number of days and at different times, including in the evening. This information suggests that generally, there is on-street parking available within the vicinity of the appeal site and that the area is not congested. Whilst I accept that this information has some limitations and it has not been independently verified, there is no contrary evidence before me, sufficient to demonstrate that there is any lack of available on-street parking within this area, sufficient to meet the needs of the proposal. On street parking is possible along much of Circular Road, except where houses have private driveways.
11. Whilst the Council highlight instances where a parked vehicle restricted pedestrian access, and another where a delivery vehicle temporarily blocked the road and struggled to manoeuvre, there is little evidence before me to suggest that these are persistent issues resulting in harm to highway safety, or that they would be exacerbated to any significant degree by the proposed development.
12. Taking account of local circumstances and the information before me, there is no compelling evidence to suggest that there is any existing problem with on-

street parking in terms of highway safety, congestion or accessibility, or that a reliance on on-street parking for the proposed development, would worsen any such issues.

13. As such, I conclude that the proposed development would not result in harm to highway safety with particular regard to parking provision. The proposal would comply with LP Policies CLP20 and CLP22. Further, the development would accord with paragraph 111 of the National Planning Policy Framework (NPPF) where it seeks to ensure that development is only prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

14. I have considered the concerns of an interested party relating to the potential of the proposal to block the view from their garden. This property benefits from a long rear garden and whilst the proposed development would change the view, particularly from the rearmost part of this garden, it would not be significantly overbearing or result in a significant loss of outlook. The Council has raised no concerns in this regard.
15. Litter is raised as a further issue by interested parties. However, there is very limited information available on this matter and again, the Council has not raised similar concerns. Based on the information before me, I have no reason to conclude that waste could not be appropriately managed.
16. The Council references the presence of street furniture and that this could impact on the parking bay proposed. Re-location of any street furniture would be a matter for the appellant to resolve with the appropriate authority.

Conditions

17. I have considered the conditions put forward by the Council with reference to the NPPF and Planning Practice Guidance. The appellant has had the opportunity to comment.
18. I have imposed a condition which concerns the statutory time limit. In the interests of certainty, I have also imposed a condition concerning the approved plans.
19. A condition is imposed requiring the submission of a Construction Management Plan (CMP), which is necessary to effectively manage the construction phase, given the limited external space on site and proximity to neighbouring residents. As it is for the construction phase, it would be required prior to development commencing, to which the appellant has agreed. In order to protect the living conditions of occupiers of neighbouring properties, a further condition is imposed to control construction working hours.
20. The Council's Environmental Health Officer advises that mitigation measures are required to reduce noise emissions from fixed plant in accordance with the recommendations of the Noise Impact Assessment (NIA). These mitigation measures are not before me and so a condition is imposed to secure them. It has been confirmed that these measures will not be integral to the construction of the proposal itself, and so the details are required prior to installation, not commencement. As the findings of the NIA are based on specific make/models, the condition also specifies the retention of the approved units.

21. A condition is imposed to secure matching external materials, in the interests of the character and appearance of the area. A further condition is imposed to secure the delivery of the proposed parking space and its retention, in order to provide certainty that the development will be completed as approved.
22. LP Policy CLP14 requires that all development has an acceptable impact on the amenity of adjoining occupiers. The imposition of a condition for obscured and fixed glazing to 3 habitable room windows on the east elevation at first floor level is necessary to maintain the privacy of occupiers of properties on St Johns Road.
23. In order to improve environmental quality in relation to travel, LP Policy CLP22 seeks the provision of electric vehicle charging points where appropriate. Additionally, LP Policy CLP16 requires new development to deliver a net gain in biodiversity. The Council considers that in this case, the addition of two bird boxes would deliver the necessary net gain and from the information available, I have no reason to disagree. Conditions are imposed to secure these measures.
24. I have not been provided with any justification to prohibit any gates or barriers and no access/driveway is proposed, only the parking space. The area of the proposed parking space is relatively flat and so a condition to ensure the gradient as proposed by the Highways Authority is not necessary. A drainage condition is also unnecessary given that this relates to an extension to an existing building that has established drainage methods.

Conclusion

25. For the reasons set out above, having had regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be allowed.

S Brook

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 in accordance with the following approved plans: Site Location Plan, Existing Ground Floor Plan, Existing First Floor Plan and Elevations including air conditioning units, Proposed First Floor Layout, Proposed Ground Floor, Proposed Elevations including air conditioning units (revision date 09/07/21), Proposed Site Plan TQRQM21133103943001 (revision date 06/08/21), Commercial Condensing Unit R134a JEHS-0200-B2-M-1 and Air Conditioning Unit Mitsubishi Heavy FDC100VNA-W.
- 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 plan shall be adhered to throughout the construction period. The plan shall provide for:
 - i. Parking of vehicles for site operatives and visitors
 - ii. Storage of plant and materials and site accommodation
 - iii. Details/method of construction/demolition of buildings on site

- iv. Method of prevention of mud/debris being carried onto the public highway
 - v. Arrangements for loading/unloading and turning vehicles within the site
 - vi. Any temporary roadside fencing/hoarding
- 4) No construction or demolition works, movement of construction traffic, or the delivery or collection of construction materials/waste, shall occur other than between 0800 and 1800 hours weekdays, 0800 and 1300 hours on Saturdays, and at no time on Sundays or Public Holidays.
 - 5) Prior to the first installation of the air conditioning and refrigeration units hereby approved, mitigation measures to reduce the impact of noise emissions from these units shall be submitted to and approved in writing by the Local Planning Authority. The mitigation measures provided shall include confirmation of the achievable reduction in noise emissions. The approved mitigation measures shall be implemented before these units are brought into use and shall be retained thereafter. The make, model and location of the approved units shall not be altered.
 - 6) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 7) The extension shall not be brought into use until the parking space has been laid out within the site in accordance with Proposed Site Plan TQRQM21133103943001 (revision date 06/08/21) for one car to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
 - 8) The extension hereby permitted shall not be occupied until the 3 lounge windows within the east facing elevation at first floor level have been 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. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the approved obscured glazing shall be retained thereafter.
 - 9) The extension shall not be brought into use until an electric vehicle charging point has been provided to the parking space shown on drawing Proposed Site Plan TQRQM21133103943001 (revision date 06/08/21) in accordance with the following criteria: A Residential charging point shall be provided with an IP65 rated domestic 13amp socket, directly wired to the consumer unit with 32 amp cable to an appropriate RCD. This socket should be located where it can later be changed to a 32amp EVCP. A non-residential charging point shall be supplied by an independent 32 amp radial circuit and equipped with a type 2, mode 3, 7-pin socket conforming to IEC62196-2. Any alternative provision to this specification must first be approved in writing, by the local planning authority. The electric vehicle charging point shall be retained thereafter.
 - 10) Within 2 months of the completion of the extension hereby approved, the proposed biodiversity measures for the installation of 2 bird boxes shall be implemented on site, in accordance with details that have first been submitted to and approved in writing by the Local Planning Authority. The approved biodiversity measures shall be retained thereafter.