



Appeal Decision

Site visit made on 10 October 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th November 2017

Appeal Ref: APP/Z5630/W/17/3177055

**62-64 and 76-78 Leatherhead Road, Chessington, Kingston-upon-Thames
KT9 2HY**

- 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 Lidl UK GmbH against the decision of the Council of the Royal Borough of Kingston-upon-Thames.
 - The application Ref 16/10029/FUL, dated 25 January 2016, was refused by notice dated 5 December 2016.
 - The development proposed is the demolition of existing residential properties and the extension of a supermarket car park, with landscaping and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing residential properties and the extension of a supermarket car park, with landscaping and other associated works at 62-64 and 76-78 Leatherhead Road, Chessington, Kingston-upon-Thames KT9 2HY in accordance with the terms of the application, Ref 16/10029/FUL, dated 25 January 2016, subject to the following conditions on the attached schedule A.

Procedural Matter

2. During the determination of the planning application, several amendments were submitted. For the sake of clarity, this appeal has been considered on the basis of the latest site layout plan, drawing number 4285/1001 Rev 6.

Main Issues

3. The main issues are the effects of the proposal on (a) the supply of housing, having regard to family accommodation, and (b) highways, having regard to sustainable transport, congestion and the safety of highway users.

Reasons

Supply of family sized accommodation

4. Policy DM 14 of the Royal Borough of Kingston upon Thames Core Strategy (CS) 2012 states that the loss of existing accommodation of all types and in particular, dwellings which are suitable for family accommodation will be resisted. Policy 3.14 of the London Plan (LP) (Consolidated with Alterations) 2016 further states that the loss of housing should be resisted unless the housing is replaced at existing or higher densities with at least equivalent floorspace.

5. The car park extension for the supermarket would result in the demolition of 2 dwellings suitable for family accommodation which would not be replaced. The supermarket has 12 dwelling units above it, 2 of which are family sized, and resulted from the demolition of 6 family sized dwellings. If the supermarket and residential units had been developed at the same time as the current proposal, there would have been no net loss of residential units. However, the supermarket and residential units have been built with the permission being granted in 2009. Therefore, the car park extension is a separate proposal to be considered on its particular planning merits. Furthermore, even taking into account the existing development and proposal together, there would still be a net loss of family accommodation dwellings.
6. A recent Council Annual Monitoring Report and a Five Year Housing Supply Briefing Note would indicate an over-supply of housing until 2022/23. As a proportion of the Borough's residential stock, the loss of two family sized dwellings would also be negligible. Nevertheless, the wording of both CS and LP do not provide for exceptions to their requirements that the loss of housing, including family accommodation, should be resisted. In summary, the proposal would conflict with CS policy DM 14 and LP policy 3.14.

Highways

7. The supermarket and existing car park are located off the A243 (Leatherhead Road) within a predominately residential area. The supermarket has 52 vehicle parking spaces and the proposal would result in the addition of 24 car parking spaces.
8. LP Policy 6.13 states that an appropriate balance must be struck between promoting new development and preventing car parking provision that can undermine cycling, walking and public transport use. The policy also states that its maximum LP standards should be the basis for considering planning applications, informed by policy and guidance set out within the LP. Explanatory text states that the provision or regulation of on-street or off-street parking can have significant effects in influencing transport choices and addressing congestion. It also indicates that, in outer London, a more flexible approach for applications may be acceptable in some limited parts of areas with PTAL (Public Transport Accessibility Level) 2, in locations where the orientation or levels of public transport mean that a development is particularly dependent on car travel.
9. CS policy CS 7 states that to manage car use to ensure sustainability, road safety and to reduce congestion, the Council, will amongst other matters, manage on and off-street parking provision and implement traffic management measures to ensure highway safety, improve residential amenity and smooth traffic flow. It will also support the use of low emission vehicles using electrical vehicle charging points.
10. The existing car park is 11 spaces below the LP standard and the overall proposed parking would result in 13 spaces above the LP standard. Transport for London (TfL) recommend a reduction in car parking provision because the level of parking is not in accordance with the LP standard. However, the area has a low PTAL rating of 2 despite nearby bus stops and associated services. The supermarket is also located within a 'Shopping Deficiency Area', as identified in the CS and the Council has also confirmed the shortage of food stores in the locality. Such considerations would indicate the supermarket to

- be a popular destination for shoppers due to the lack of alternative retail facilities and for those shoppers to have a strong dependency on their cars due to poor public transport. Consequently, further parking spaces above standard would be justified and would be unlikely to encourage extra traffic generation because it is addressing existing deficiencies in parking provision.
11. Third parties have identified other retail stores and future store proposals. However, they are not located in the immediate area surrounding the appeal supermarket and there is no certainty that the proposals will progress to be built and opened. The Appellant has acknowledged that the Staff Travel Plan target for sustainable modes of transport could be improved upon. Nevertheless, the overwhelming majority of trips undertaken to the supermarket would be by customers who use cars for the reasons indicated.
 12. In terms of congestion, the Appellant's Gateway TSP's Technical Note (TN) (January 2016) and TN (April 2017) show the results of CCTV footage in July 2015 and December 2015, and observations of the operation of the supermarket access, especially at peak times on Fridays and Saturdays. The TNs highlight queuing into the supermarket resulting in congestion on both sides of Leatherhead Road. Residents further confirm this. The footage also shows a vehicle crossing over the central part of the road to pass left-turning vehicles queuing into the supermarket. Additionally, it shows a vehicle coming out of the supermarket access turning right with left and right-turn queuing vehicles on both sides of the road, and a vehicle overtaking left-turn queuing vehicles at the same time. Other incidences giving rise to highway conflicts are also indicated. There have been no recorded accidents but all the evidence indicates the safety of highway users could be at risk.
 13. As part of the proposal, there would be a pedestrian crossing point with a central island refuge across Leatherhead Road. Such a proposal would improve pedestrian safety especially at times of busy pedestrian road crossings on Saturdays as identified by the April TN. The Council's Highways Officer (CHO) has expressed concerns about carriageway widths either side of the refuge island. However, the Transport for London (TfL) have raised no objection in principle and having assessed the latest plans, I see no reason why the finer detail of such a facility cannot be dealt with by way of a condition.
 14. The existing highway issues are further supported by both TfL and the CHO. In this regard, the CHO states that parking space provision in excess of the parking standard would be beneficial to road safety, traffic flows, bus movement and the amenity of the residents. Although not a Council consultee on this type of application, such views are of some weight given the involvement of the CHO, with TfL, in meetings with the Appellant, and the detailing of their comments in the officer's committee report. Furthermore, the final comments of the TfL indicate that the layout and proposed mitigation measures go some way to improving the current congestion problem in the Leatherhead Road.
 15. The Council's Sustainable Transport Supplementary Planning Document 2013 advises parking provision above standards may be considered where it can be demonstrated parking in accordance with the standards would result in an increase in on-street parking adversely affecting road safety, emergency access, traffic flows, bus movement, the amenity of local residents or the street

scene in the surrounding area. In this respect, the TN's, TfL and CHO comments, provide robust and credible evidence to demonstrate this.

16. For these reasons, the proposal would comply with CS policy CS 7 and LP policy 6.13.

Other matters

17. My consideration of third party objections relating to noise and disturbance is restricted to that arising from the proposal. In this regard, one resident at Siena Close has objected to noise and disturbance who has to sleep during the day due to work shift patterns. Another suffers from ill-health. The Appellant's Car Park Assessment compares the noise from existing road traffic with that arising from the use of the extended car park. It shows an increased noise level that would be imperceptible for the occupants of the nearest resident property on Leatherhead Road and just perceptible for the occupants of the flats above the supermarket. The assessment follows relevant noise assessment practice and standards, which is confirmed by the Council's Environmental Health Officer.
18. The demolition of dwellings would expose some dwellings more to noise from the main road. However, they would be sited a significant distance back from the road and there would be a 1.8m acoustic fence along the common boundary with immediate neighbours on Leatherhead Road and Siena Close. On this basis, the increased noise arising from the car park extension would not result in an adverse impact on the health or quality of life of these residents in the nearest Leatherhead Road property or flats, or those located further away, including in Siena Close.
19. Furthermore, the use of horns and revving of engines by car park customers would be likely to be reduced with greater availability of spaces and drivers being less frustrated in trying to find a parking space. The erection of a fence would also significantly reduce unneighbourly glare from vehicle lights and any loss of privacy for residents resulting from people using the extended part of the car park. The windows of the nearest property in Siena Close would be a significant distance, approximately 16m, away from the extended car park. There have been incidences of late night anti-social behaviour but there would be entrance gates intended to be closed at night to prevent this. By providing additional parking spaces, there would be likely to significantly reduced amount of stationary queuing traffic both within and outside the supermarket car park. This, along with the provision of electric charging points, would help address concerns about increased emissions and pollution.
20. Representations were made to the effect that the rights of neighbours, under the Human Rights Act 1998, Article 8 in relation to privacy, would be violated if the appeal were allowed. However, I have found that the proposed development would not cause unacceptable harm to the living conditions of neighbours, one of which sleeps during the day. The degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 8.

Planning balance

21. There would be the loss of two family sized dwellings in conflict with CS policy DM 14 and LP policy 3.14. The proposal would comply with CS policy CS 7 and

LP 6.13 in that the additional car park above the standard would address congestion and highway safety concerns arising from the operation of the existing supermarket.

22. The Council has a strong housing supply position and therefore the loss of two dwellings would not be significant. There is no information on family sized accommodation needs but the harm would be small given that only two units would be lost. The TNs, the CHO and TfL responses, identify considerable congestion and highway safety concerns. In this instance, the opportunity of shoppers to use public transport is poor. For all of the reasons given, the loss of the housing would be outweighed by the highway benefits and the proposal would comply with the development plan as a whole.

Conditions

23. Suggested conditions have been considered in light of the advice contained in Planning Practice Guidance. For clarity and to ensure compliance with the Guidance, I have amended some of the Council's suggested wording.
24. A condition requiring that the development is carried out in accordance with the approved plans is necessary in the interests of providing certainty. In the interests of the living conditions of neighbours, a condition requiring the implementation of an acoustic barrier/fence is necessary. Given the proximity of neighbouring properties, it is important that this should be erected before the use of the new spaces is commenced. A condition requiring lighting details is required in the interests of the neighbours' living conditions, the prevention of light pollution and the minimisation of energy use. In order to ensure precision, the suggested condition has been simplified to avoid repetition.
25. A condition requiring the provision of electrical charging points and spaces is necessary in the interests of sustainable travel. To protect the appearance of the area and safeguard residents' living conditions, a condition is necessary to implement satisfactory entrance gates and hours of closure. Conditions are necessary to secure a construction method statement and hours of construction in the interests of residents' living conditions and highway safety. To ensure satisfactory appearance to the development, a condition requiring the implementation of landscaping is required. In the interests of highway safety for pedestrians, a condition has been imposed to secure a pedestrianised crossing point in accordance with the terms of the proposal. In order to ensure completion of this facility before use of the extended car park, a requirement for details to be submitted before development is necessary.

Conclusion

26. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR

Schedule A

- 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: OS Map, 010011, 10774_01A, 4285, 4285/1001 Rev 6.
- 3) Prior to the commencement of development, details of an acoustic fence or barrier shall be submitted to the local planning authority for approval. The acoustic fence or barrier shall be erected in accordance with the approved details before the first use of the car park extension and thereafter permanently retained.
- 4) Prior to the implementation of the permitted car park, an external lighting scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include:
 - (a) a statement setting out and justifying the lighting;
 - (b) a report, prepared by a lighting engineer, setting out the technical details of the luminaries and columns to be used, including their location, type, shape, dimensions and expected luminance output and justification for the design attributes chosen to minimise light pollution;
 - (c) a plan illustrating the horizontal and vertical illuminance levels across the development site and at the boundary of the site;
 - (d) a plan illustrating horizontal and vertical illuminance levels beyond the boundary of the site, together with the downwards light output ratio of the lights;
 - (e) a statement demonstrating how the lighting scheme will be viewed against the wider landscape and, where appropriate, the potential role of landscaping in minimising the day and night time visual impact of the installation;
 - (f) an operational statement, the purpose of which is to ensure that the developer and the lighting designer have considered operational regimes that provide energy savings; and
 - (g) the details of the proposed hours of operation.The lighting scheme shall be operated in accordance with the approved details.
- 5) Prior to the first use of the car park extension, the electric charging spaces and points shown on drawing number 4285/1001 Rev 6 shall be marked out and completed. Thereafter, the electric charging spaces and points shall be retained in perpetuity.
- 6) Prior to the first use of the car park extension, elevational and finish details of the store entrance gates and closure times shall be submitted to and approved in writing by the local planning authority. The gates shall then be erected in accordance with the approved details prior to the first use of the car park extension and retained in perpetuity. The gates shall be closed in accordance with the approved closure time details.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved

in writing by the local planning authority. The Statement shall provide for:

- i) the parking of vehicles of site operatives and visitors;
- ii) the loading and unloading of plant and materials;
- iii) the storage of plant and materials used in constructing the development;
- iv) the signing system for works access;
- v) the measures to control the emission of dust, suppression of noise and abatement of other nuisance from development works;
- vi) the location of all ancillary construction site buildings;
- vii) the measures to protect any tree, shrubbery and other landscape features to be retained on the site during the course of development;
- viii) the means of enclosure of the site;
- ix) the wheel washing equipment.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 8) Demolition or construction works shall take place only between hours of 08:00 and 18:00 Mondays to Fridays and between 08:00 and 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) The approved landscaping scheme, drawing number 10774_01A, shall be implemented within the first planting season following the completion of the development. 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 others of similar size and species.
- 10) No development shall commence until the local planning authority has approved in writing a full scheme of works for a non-signalised pedestrian crossing on the Leatherhead Road. The first use of the car park extension shall not commence until those works have been completed in accordance with the local planning authority's approval and has been certified in writing as complete by the local planning authority.