



Appeal Decision

Hearing held on 22 January 2013

Site visit made on 22 January 2013

by P E Dobsen MA (Oxon) DipTP MRTPI FRGS

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

Decision date: 6 February 2013

Appeal Ref: APP/G5180/A/12/2182301

76 High Street, Orpington BR6 0JQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Churchill Retirement Living Ltd. against the Council of the London Borough of Bromley.
 - The application (Ref:12/00304/FULL1), is dated 24 January 2012.
 - The development proposed is "redevelopment to form 50 sheltered apartments for the elderly (category II type), communal facilities, access, car parking and landscaping provisions".
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Decision

1. The appeal is allowed and planning permission is granted for redevelopment to form 50 sheltered apartments for the elderly (category II type), communal facilities, access, car parking and landscaping provisions, at 76 High Street, Orpington BR6 0JQ in accordance with the terms of the application, Ref: 12/00304/FULL1, dated 27 January 2012, subject to the conditions in the attached schedule.

Application for costs

2. At the Hearing an application for costs was made by Churchill Retirement Living Ltd. against the Council. This application is the subject of a separate Decision.

Preamble to main issue

3. Although the Council did not determine the application within the appointed time, its Plans sub-committee subsequently decided to contest the resulting non-determination appeal on the following 2 grounds: "1) The proposal would constitute an overdevelopment of the site, by reason of the inadequate off-street parking provided, contrary to policy T3 of the Unitary Development Plan; 2) In the absence of a completed S106 legal agreement, the proposal does not meet the requirements of policy IMP1 of the Council's Unitary Development Plan in respect of planning obligations for affordable housing and health provision and as such the proposed development is unacceptable".
4. A statement of common ground between the parties was issued before the hearing and revised at the hearing [SCG, Doc 4]. This confirmed that complete agreement had been reached regarding the contents of a planning obligation to secure financial contributions towards affordable housing and public health, and

that the second part of the grounds above would not, therefore, be pursued by the Council at the hearing.

5. A completed and signed planning obligation to that effect was duly tabled at the hearing, and I have taken it into account [Doc 5]. I am satisfied that its provisions for financial contributions are necessary, directly related to the development, fairly and reasonably related in scale and kind to the development, and otherwise in accordance with the guidance on planning obligations in the National Planning Policy Framework. They would meet the 3 statutory tests set out in regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended)

Main issue

6. With the preceding points in mind, I consider that there is only one outstanding town planning issue in the appeal. This is whether the on-site parking provision of 16 spaces for the proposed category II sheltered housing development would be adequate to serve its needs, and would not lead to undue additional demand for on-street parking elsewhere in the local area, thereby leading to undesirable parking congestion.

Reasons

7. The existing site¹ and its surroundings, the details and history of the current application, the application supporting documents, and the development plan² and national policy context are all fully described in the SCG and in the hearing statements. This material does not require repetition or summary here.
8. 50, 1 and 2 bedroom retirement apartments for the over-60s are proposed, falling within the definition of category II sheltered housing, of which the appellants are an experienced and well-known provider. The development would incorporate various communal facilities, but there would not be a resident warden or other resident staff. 16 on-site parking spaces - a ratio of about 1 for 3 apartments, typical of such urban Churchill Retirement Living schemes - would be provided, with a turning head, and access off Orpington High Street.
9. *Conclusions on the main issue:* In a nutshell, there is ample evidence to demonstrate that the 16 proposed spaces would be adequate to serve the needs of scheme residents, and that any need for parking visitors' cars can readily be met at all times by on-street parking and car parks in the near vicinity, without placing undue pressure on those available spaces.
10. The evidence to the hearing clearly shows that from the outset of the application adequate documentation was submitted to explain and justify the proposed quantum of 16 on-site parking spaces. This included a Transport Statement and Parking Study (October 2011) and a Parking Survey Report (May 2012) detailing parking arrangements and usage at other Churchill category II schemes. The various data sets and other supporting information are referred to in other application documents, and are further supplemented by the Mott MacDonald hearing statement and rebuttal statement [Doc 6] tabled at the hearing. I see no need here to rehearse all this detailed and thorough survey and other material.

¹ Currently occupied by a 4-6 storey office building, the former HQ of Allied Carpets

² This comprises The London Plan and the saved policies of the Bromley Unitary Development Plan

11. I note that the Council's officers were content with the proposed level of parking provision, and with all other aspects of the proposed development, which they advised members was fully in accordance with all the relevant development plan policies and those in the National Planning Policy Framework³. Therefore they recommended that it be approved, subject to a planning obligation and conditions.
12. The Council's members however felt that 16 spaces might not be sufficient to meet the needs of the development, and could therefore lead to additional and unacceptable parking pressure in the surrounding area. I was told that one member stated at committee that up to 30 spaces should be provided, but in my view neither that figure nor any other figure over the 16 proposed has been supported by any substantial evidence or argument, other than some rather general and inconclusive references at the hearing to LB Bromley's levels of car ownership.
13. There is nothing I need add on this matter beyond the observation that the appellants' evidence on local parking locations, facilities, arrangements and restrictions etc. was fully borne out by my own accompanied site visit.
14. Given all the submitted evidence, I am satisfied that the proposed 16 on-site parking spaces would be adequate to serve the needs of the development, and that there is generally other parking available locally for the use of visitors. Thus the development would not be likely to lead to undesirable or unacceptable parking congestion in the surrounding area. Since it is agreed that the proposed development would provide much needed additional sheltered housing on a previously developed site, would in all respects comply both with development plan and national (Framework) planning policies, and would represent sustainable development for which there is a presumption in favour, the appeal should succeed.
15. I have considered all the detailed matters raised at the hearing, and those mentioned by 3rd parties at the application stage, but there are none which alter or outweigh my conclusions on the main town planning issue. I therefore allow the appeal, and grant conditional planning permission.
16. *Planning conditions*: The 17 necessary conditions are very largely as agreed by the parties in the revised SCG, but with minor amendments, for the sake of clarity, to their numerical order and detailed wording.
17. Condition 1 is a conventional time implementation condition, and condition 2 specifies the approved application plans. Condition 3 refers to the type of residential accommodation applied for, which underlies the proposed parking provision, which is specified precisely in condition 11.
18. Conditions 4, 5 and 6 require details and implementation of both hard and soft landscaping, in order to provide an acceptable landscape setting for the building, and condition 7 requires details of protective barriers for some existing on-site vegetation which is agreed to be retained. Condition 8 refers separately to boundary treatments, both to secure the satisfactory appearance of the completed development and to prevent any loss of visibility splays to an adjoining access on Chislehurst Road. Condition 10 refers to the need to stop up an existing site access.

³ Including para. 39 on local parking standards, in the section *Promoting sustainable transport*

19. Condition 9 requires details/samples of the external materials to be used, in the interests of securing the acceptable appearance of the building. Further details and their approval and implementation are required by conditions 12 (on surface and foul water drainage); 13 (on any land contamination not yet identified); and 16 (on crime prevention). Condition 14 concerns both the provision of renewable energy sources and the attainment of level 4 of the code for Sustainable Homes, in the interests of energy conservation and the minimisation of carbon emissions.
20. Condition 15 requires further archaeological investigations, as requested by English Heritage. Finally, condition 17 requires the submission and implementation of a construction method statement, in order to minimise any disruption in the local area owing to demolition and construction works.

Paul Dobsen

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 the following approved plans: 200370P – PO1, PO2A, PO3A, PO4A, PO5A, PO6A and PO7A.
- 3) The residential accommodation hereby approved shall at all times be occupied as category II sheltered accommodation by an individual or household where the individual or one member of the household is aged 60 years or over at the date of occupation.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (refuse or other storage units, signs and external lighting).
- 5) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants and implementation programme.
- 6) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 7) Prior to the commencement of the development hereby permitted, all existing trees, hedges and large shrubs, except for those agreed for removal, shall be protected by barriers whose type and siting shall be

- submitted to the local planning authority for approval in writing. The barriers shall be retained during the construction period. The protected/enclosed areas shall be kept free of all building materials, equipment and activity, and their ground levels shall neither be raised nor lowered.
- 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The details shall ensure that the visibility splay to the adjoining access on Chislehurst Road remains un-obscured. The boundary treatment shall be completed before the building is occupied. Development shall be carried out in accordance with the approved details.
 - 9) No development shall take place until details and/or samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - 10) The existing access shall be stopped up at the back edge of the highway before any part of the development hereby permitted is first occupied, in accordance with details of an enclosure that has been submitted to and approved in writing by the local planning authority. The approved enclosure shall be retained in perpetuity.
 - 11) No apartment shall be occupied until space has been laid out within the site for 16 cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The parking/turning area shall be used and retained exclusively for its designated purpose.
 - 12) None of the dwellings shall be occupied until works for the drainage of surface and foul water have been provided on the site to serve the development hereby permitted, in accordance with details included in the approved flood risk assessment by Mott MacDonald (revision A, October 2011).
 - 13) If, during the implementation of the development, contamination not previously identified is found to be present on the site, no further development (unless otherwise agreed in writing by the local planning authority) shall be carried out until the developer has submitted and had approved in writing by the local planning authority details of a remediation strategy. The remediation strategy shall be implemented as approved.
 - 14) No apartment shall be occupied until the air source heat pumps, or other renewable energy sources as may be agreed in writing, have been installed and shall thereafter be retained for the lifetime of the development. The development shall be constructed to level 4 of the Code for Sustainable Homes or equivalent standards with confirmation of attainment provided in writing by the local planning authority.
 - 15) No development shall take place until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.

- 16) The development hereby permitted shall incorporate measures to minimise the risk of crime. No development shall take place until details of such measures, according to the principles and physical security requirements of part II of "Secured by Design" have been submitted to and approved in writing by the local planning authority. The approved measures shall be implemented before the development is occupied and thereafter retained.
- 17) No development shall take place, including works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the demolition and construction period. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors
 - ii) loading and unloading of plant and materials
 - iii) storage of plant and materials used in constructing the development
 - iv) wheel washing facilities
 - v) hours of operation

APPEARANCES

FOR THE APPELLANT:

Mr. A. Burgess BA MRTPI	Director, Churchill Retirement Living and Managing Director, Planning Issues
Ms. E. Smith BSc MSc MRTPI	Planning Issues
Mr. G. Maclean	Mott MacDonald BA MSc CMILT

FOR THE LOCAL PLANNING AUTHORITY:

Mr. T. Bloomfield BA MSc	Development Control Manager, LB Bromley
Mr. M. Hammond MSc CMILT	Highways Engineer, LB Bromley

DOCUMENTS

- 1 List of persons present at the hearing
- 2 The Council's letter of notification of the hearing
- 3 2 written responses to Doc 2
- 4 Revised Statement of Common Ground, including agreed suggested planning conditions, tabled at hearing
- 5 Signed and executed S106 planning agreement, tabled at hearing
- 6 Supplementary/rebuttal highways statement, tabled by Mr. Maclean

PLANS

- A The application plans (as specified in appeal decision condition 2)