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## Appeal Decision

Site visit made on 17 March 2014

by **Isobel McCretton BA(Hons) MRTPI**

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

Decision date: 28 April 2014

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**Appeal Ref: APP/J1535/A/13/2206643**

**The Green Man Public House, Broomstick Hall Road, Waltham Abbey  
EN9 1NH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Churchill Retirement Living Ltd against the decision of Epping Forest District Council.
  - The application Ref. EPF/1521/13, dated 19 July 2013, was refused by notice dated 25 September 2013.
  - The application sought planning permission for redevelopment to form 28 sheltered apartments for the elderly including communal facilities (Category II type accommodation), access, car parking and landscaping without complying with a condition attached to planning permission Ref. EPF/0339/13 dated 12 July 2013.
  - The condition in dispute is No.16 which states that: Notwithstanding the parking layout shown on the approved plan, prior to commencement of the development, the developer shall submit a revised parking layout to demonstrate how 15 spaces could be accommodated within the site, the full details of which shall be agreed in writing by the local planning authority. The approved parking details shall be provided prior to the first occupation of the development and shall be retained free of obstruction for the parking of residents (staff) and visitors vehicles.
  - The reason given for the condition is: In the interests of highway safety.
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### Decision

1. The appeal is allowed and planning permission is granted for redevelopment to form 28 sheltered apartments for the elderly including communal facilities (Category II type accommodation), access, car parking and landscaping at The Green Man Public House, Broomstick Hall Road, Waltham Abbey EN9 1NH in accordance with the application, Ref. EPF/1521/13, dated 19 July 2013, without compliance with condition number 16 previously imposed on planning permission Ref. EPF/0339/13 dated 12 July 2013, but subject to the other conditions imposed therein, so far as the same are still subsisting and capable of taking effect, and subject to the following new condition:
  - 1) The 12 parking spaces shown on drawing no.4013WA-Park01 shall be provided prior to the first occupation of the development and shall thereafter be retained free of obstruction for the parking of residents', staff and visitors' vehicles.

### **Procedural Matters**

2. The application was made prior to the publication of the Planning Practice Guidance (planning guidance) by the Government on 6 March 2014. However, having regard to the submissions, I am satisfied that no party's interests would be prejudiced by my determination of the appeal in the light of the advice therein.

### **Application for Costs**

3. An application for costs was made by Churchill Retirement Living Ltd against Epping Forest District Council. This application is the subject of a separate Decision.

### **Main Issue**

4. The main issue is the effect of the proposed level of parking on highway safety.

### **Reasons**

5. The appeal site lies at the junction of Broomstick Hall Road, Farm Hill Road, Honey Lane and The Gladway, with frontages onto Broomstick Hall Road and The Gladway. It was formerly occupied by a public house, but the site has been cleared and, at the time of my visit, was surrounded by a temporary site hoarding.
6. The scheme originally proposed showed 10 parking spaces. The scheme was recommended for approval by Officers, but Members expressed concern at the level of parking provision. Rather than refuse permission, it was agreed with the developer that a condition would be imposed requiring an amended layout to provide 15 spaces.
7. Following the Committee meeting, the appellants commissioned an independent parking review to specifically identify areas within the site where additional parking could be provided. As a result of this study, the appellants maintain that the provision of 15 spaces is not practicable. There are significant level changes within the compact site, landscape constraints and additional parking is not considered feasible where the amenity of residents would be affected due to the impact of noise and headlights. The conclusion of the study is that the maximum number of spaces which could be satisfactorily accommodated, taking visual and safety considerations into account, is 12. While the Council states that not all options were explored, there is no explanation as to how this study was deficient.
8. Under the adopted parking standards<sup>1</sup> the Council states that 35 on-site spaces would normally be required (of which 3 should be disabled parking bay sizes), 3 cycle parking spaces, 28 powered two wheeler spaces and 14 mobility scooter spaces. However the guidance states that '*.....parking should be provided for each unit unless there is the evidence base to support a reduction in the standard*'. The Council agreed to accept a reduced level of parking on the site in view of the nature of the development and because it is within an urban area with adequate sustainable transport links to local services and facilities.

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<sup>1</sup> Essex County Council Parking Standards: Design and Good Practice (2009)

9. The proposed development is a scheme of sheltered retirement flats and, as specialists in the provision of this type of accommodation, the appellants argue that their experience, based on a survey of 9 of their schemes, shows that the level of parking sought by the Council is not necessary. This information was provided in the Transport Statement which accompanied the original planning application and the Council has not sought to challenge the findings.
10. The practice guidance (as with the previous advice in Circular 11/95 in force at the time of the Council's decision) sets out six tests for planning conditions, and states that any proposed condition that fails to meet any of these tests should not be used. This applies even if the applicant suggests it or agrees on its terms or it is suggested by the members of a planning committee or a third party. I consider that the condition, when it was not known whether it was feasible to provide the additional 5 parking spaces, was not reasonable.
11. It is stated that Members relied on local knowledge about the site, local roads and public transport and concluded that the development, with the level of parking proposed, would be likely to result in increased on-street parking to the detriment of the amenity of the area and highway safety. Nonetheless, there is no systematic analysis of the overall parking situation in the area. No substantiated evidence has been adduced to demonstrate that on-street parking in the surrounding roads is so problematic that the impact of parking up to 3 additional cars (i.e. the difference between the number sought through the condition and the number the appellants are able to provide) would result in conditions prejudicial to highway safety (the reason given for the imposition of the condition). There is also no justification given for 15 spaces being required in the context that the Council accepts that a reduced level of parking is appropriate.
12. Waltham Abbey Town Council argues that the area is an accident black spot, but no accident statistics are provided to support this assertion. Photographs taken one Saturday morning and one Sunday afternoon in November 2013 show that much of the available on-street parking space was taken up, but there is no evidence showing that this situation pertains for much of the time. At the time of my site visit for instance, there were spaces available in Broomstick Hall Road, The Gladeway and Honey Lane. I have no reason to doubt that, at some times of the day/week, on-street parking may be heavier, but while there are parking restrictions around the junctions, there is no general controlled parking zone in place and, again, there is no substantiated evidence to show that up to 3 additional cars would compromise highway safety to an unacceptable degree.
13. I conclude that, although the level of parking proposed would not accord with policy ST6 of the Local Plan and Alterations (1998), it would not conflict with policy ST4 in terms of highway safety.

### **Other Matters**

14. In the 'final comments' submitted by the appellants reference is made to the fact that the Council has failed to provide any evidence to support the claims made in respect of affordable housing on the site. It is assumed that this is an error as the provision of affordable housing is not an issue raised in the Council's reasons for refusal.

### **Conditions**

15. I have considered the need for conditions in the light of the advice in the practice guidance. Given that the appellants have demonstrated that 12 parking spaces could be achieved on the site I consider that it is reasonable that these are provided before the first occupation of the development and are retained for use by residents, staff and visitors.

**Conclusion**

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

*Isobel McCretton*

INSPECTOR