



Appeal Decision

Site visit made on 29 October 2018

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 November 2018

Appeal Ref: APP/N1350/W/18/3207165

St Clare's Abbey, Carmel Road North, Darlington DL3 8RH

- 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 Mr Allan Mitchell of Specialist Coatings Ltd against the decision of Darlington Borough Council.
 - The application Ref 18/00241/FUL, dated 21 March 2018, was refused by notice dated 1 June 2018.
 - The application sought planning permission for Conversion of Nunnery and Chapel into 10 No. dwellings and retention of existing gatehouse as private dwelling with associated internal and external alterations. Demolition of ground floor lean to building, widen existing driveway to create new vehicular access off Carmel Road North, erection of timber stables, creation of parking areas, horse arena, 3G football pitch (for private use) and associated landscaping works (amended description)(amended plans and additional information received 14 September 2017) without complying with a condition attached to planning permission Ref 17/00582/FUL, dated 23 October 2017.
 - The condition in dispute is No 11 which states that: Notwithstanding the details on the approved plans, the gated access on the northern boundary of the site onto Cardinal Gardens shall not be used for vehicular or pedestrian access to and from the site unless otherwise agreed in writing by the Local Planning Authority.
 - The reason given for the condition is: In the interests of residential amenity.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development provided on the planning application form has been replaced by an amended version on the decision notice and in subsequent appeal documents. I consider that subsequent description to be usefully more representative of the proposal in that it reflects that the application and subsequent appeal relate to a planning condition. I have proceeded to determine this appeal on that basis.
3. A revised version of the National Planning Policy Framework (the Framework) has been published since the appeal was lodged. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.

Main Issue

4. The main issue is whether the condition is reasonable or necessary in the interests of the living conditions of residents of Cardinal Gardens with particular reference to noise, disturbance and security.

Reasons

5. This appeal relates to a scheme involving the conversion of a nunnery and chapel into a number of dwellings. More specifically, the appeal proposal would enable a vehicular access for one of the dwellings within the scheme to be created from the adjacent highway of Cardinal Gardens.
6. I saw that the highway of Cardinal Gardens leads through a predominantly residential area, and includes a cul-de-sac which terminates adjacent to the proposed access. The head of this cul-de-sac has a quiet suburban character, with a number of dwellings which look onto the highway in close proximity to the proposed access.
7. The traffic movements associated with a typical dwelling would be unlikely to significantly affect the living conditions of residents of the cul-de-sac. However, this appeal relates to a development which is of a substantially greater scale than a typical dwelling. The host dwelling includes a significant number of bedrooms as well as stables, a horse arena and a 3G football pitch. The access would not only be used by residents of the dwelling, but would also include visitors as well as servicing and delivery vehicles. The extent and form of traffic and pedestrian movements associated with the proposal would therefore be commensurately greater than a typical dwelling.
8. In this respect, I consider that the sources of noise and disturbance identified by the Council are well-founded; including the engines of vehicles paused at the gates, the gates opening/closing, and noise from people waiting at the access. The comings and goings associated with a dwelling of this scale of use would therefore lead to undue noise and disturbance from vehicles and pedestrians using the access, with resultant harm to the living conditions of residents of the properties at the head of the cul-de-sac.
9. The appellant contends that there would be no dwell time for vehicles as the gates at the entrance would be operated remotely. However, visitors or service vehicles accessing the premises would most likely not have access to the remote operation of the gates, leading to vehicles and pedestrians waiting at the entrance.
10. I am also mindful that the proposed access would be used in association with a residential dwelling. Movements to and from the site are therefore likely to be highest in the evenings and at weekends, when residents of the cul-de-sac should be able to expect a reasonable level of peace and quiet.
11. In respect of the wider extent of Cardinal Gardens, I saw that this provided access to a significant number and variety of properties and was relatively well trafficked. Within that context, the traffic movements associated with the proposal would be unlikely to lead to undue harm to the wider area. However, this does not lead me to a different conclusion in respect to the harm that would arise to the living conditions of residents at the head of the cul-de-sac.

12. I note the comments of the Council's Highways Engineer that the proposal would only be likely to lead to an additional 3 cars at peak hours. However, based on the evidence before me I consider that this does not fully reflect the nature of the comings and goings from the site and the resulting disturbance to residents in this sensitive location.
13. Concern has been expressed in respect of the effect on security in the area as a result of varying the condition. In this regard, the Framework states that crime and disorder, and the fear of crime, should not undermine the quality of life or community cohesion and resilience. However, the proposed entrance would be gated and the evidence provided by the appellant suggests that access would be controlled so that there would be no unsupervised public access to the site. Moreover, no substantive evidence has been provided to me as to why the entrance from Cardinal Gardens would be any less secure than the approved entrance within the application site. On the basis of what I have seen and read, the matter of security does not weigh against this proposal.
14. Notwithstanding my comments in relation to security, I conclude that removing or varying the disputed condition to allow vehicular and pedestrian access from Cardinal Gardens would lead to unacceptable harm to the living conditions of nearby residents as a result of noise and disturbance. The condition therefore complies with saved Policy CS16 of the Darlington Core Strategy 2011 which seeks to ensure that new development does not lead to a detrimental impact on the general amenity of the community. The Condition also complies with the Framework in respect of the use of planning conditions as well as creating places with a high standard of amenity for existing and future users of land and buildings.
15. I am mindful of the wish of the appellant to provide a secure and private access. However, I note that access for the dwelling is proposed as part of the wider development of the site. The benefits identified by the appellant in respect of the access from Cardinal Gardens would not outweigh the harm that would arise to existing residents.
16. For the reasons given above, and taking account of all material planning considerations, I conclude that the disputed condition is reasonable and necessary and that the appeal should be dismissed.

David Cross

INSPECTOR

