

Appeal Decision

Site visit made on 23 August 2016

by Daniel Hartley MTP MBA MRTPI

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

Decision date: 14 September 2016

Appeal Ref: APP/X2410/W/16/3150808

Garendon Social Club, Thorpe Hill, Loughborough, Leicestershire LE11 4SQ

- 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 T.T.G Inns Ltd against the decision of Charnwood Borough Council.
 - The application Ref P/15/0588/2, dated 18 March 2015, was refused by notice dated 18 December 2015.
 - The development proposed is the part demolition of social club and the refurbishment of remaining building with 4 flats over and the erection of a three storey building for 13 flats with associated car parking, access and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have used the description of development from the appellant's appeal form and Council's refusal notice as it accurately describes the proposal which was amended as part of the determination of the planning application.

Main Issues

3. The main issues are (i) whether or not there would be sufficient car parking spaces to serve both the residential and public house uses, and, if not, what effect this would have upon the living conditions of existing and future residents; (ii) the effect of the proposed beer garden upon the living conditions of the occupiers of the proposed flats in respect of noise and disturbance and (iii) the effect of the proposed bin collection and storage facilities upon the living conditions of existing surrounding residents and the occupiers of the proposed flats in respect of odour, noise, vermin and use and (iv) whether or not the signed and dated planning obligation would reasonably deliver the required affordable housing provision.

Reasons

Site and proposal

4. The appeal site includes a mainly single storey building used as a social club (including a bar) and with first floor residential accommodation towards the southern end of the site. There is a car park around the building, which
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includes two lime trees, and to the south of the building there is a grassed area which contains some outdoor seating. The area is mainly residential in character although there are schools, colleges and open land to the north.

5. It is proposed to demolish the single storey function room and to redevelop the car parking area with an apartment building (13 apartments). The front extension to the building would be demolished and a two storey extension erected to create an additional 4 apartments. One of the existing lime trees would be retained, existing fencing would be replaced by hooped railings and two new trees would be planted. The proposal would include a thirty one space car park (with an additional two spaces within the service yard to be used by bar staff).

Car parking

6. Saved Policy TR/18 of the Borough of Charnwood Local Plan 2004 (Local Plan) states that *"the quantity of parking allowed will reflect the proposed use and the location of development, the availability of public off-street parking; the current, or potential accessibility by non-car modes; the feasibility for commuted payments; the scope for practical measures to significantly reduce the use of private car trips to and from a site; and the need to reduce existing levels of private non-residential (PNR) car parking"*. The policy states that the adopted car parking standards (appendix 1) will be used as a starting point in assessing the level of provision and *"represent the maximum level"*.
7. I acknowledge that the development as a whole would not provide the maximum level of car parking provision. This is a point which was acknowledged by the Highway Authority. However, I afford some weight, taking into account the appellant's Highway Statement, to the fact that the site is close to a number of local facilities and services and that there is a choice of means of transport in the locality. Furthermore, I consider that it is very likely that a number of people would visit the public house on foot (given the close proximity of housing estates) rather than in a private motor vehicle. In addition, I note that the Highway Authority concluded that the existing use has *"a much greater deficiency in parking than the revised proposal would create and that the proposed continues to represent an improvement on the existing situation"*.
8. I note that a number of other interested parties have commented that there have been on-street car parking problems in the past. I have not been provided with any specific evidence of such problems occurring, but even if the proposal was to lead to some on-street car parking, I was able to see from my site visit (accepting that this was only a snap shot in time) that it would be possible (should it be necessary) to park some vehicles within the vicinity of the site without such parking significantly interfering with the ability of residents to park cars either on their driveways or immediately outside of their dwellings.
9. Notwithstanding the above, I accept that car parking provision is lower than the maximum requirement, and I note comments made by a number of interested parties about the potential for some customers of the public house (or other members of the public) to use a number of the proposed on-site car parking spaces that would be better used by occupiers of the proposed flats. However, I consider that these concerns could be addressed by means of the

imposition of a car parking management planning condition which would ensure that specific car parking spaces were assigned solely to each flat.

10. For the above reasons, I consider that the number of car parking spaces proposed for both the residential and public house uses is acceptable. Consequently, I do not consider that the development would give rise to the need to regularly park on-street or that it would lead to material on-street car parking problems for local residents. I conclude that the proposal would provide adequate off-street car parking and hence would accord with the car parking and amenity aims of Policy CS2 of the adopted Charnwood Local Plan 2011 to 2028 Core Strategy (CS) and saved Policy TR/18 of the Local Plan.

Beer garden

11. I acknowledge that some apartment windows would face onto the proposed beer garden area. However, there is already a seating area in a similar location and the windows serving the "manager's flat" face onto this land. I note that there is some inconsistency between third party comments who refer to use of this land to provide "meals for children" and the appellant who refers to its historic use as a "beer garden". Despite the lack of clarity, it is evident that the land has been used for some form of activity in the past. Furthermore, it could currently be used as a beer garden without a material change of use occurring. These are matters to which I attach considerable weight.
12. I have no reason to doubt the appellant's comment that there have been no historic complaints about use of the above land for sitting out purposes, despite the close proximity of existing residential development (particularly No 51 Schofield Road). Whilst the proposed windows would be close to the beer garden, I afford some weight to the fact that the Council's Environment Health service raised no objection to the proposal in respect of the proximity of the beer garden to the proposed apartments and existing surround development (noting that people may smoke in this area and drink). In addition, and, in any event, very few existing and proposed windows overlook this area. Any future occupiers of the proposed development would no doubt take into account the position of the beer garden when considering whether or not to purchase an apartment.
13. I accept that there is always the potential for some anti-social behaviour associated with use of a beer garden for drinking purposes. However, the land has been used for some form of activity in the past, and whilst the Council and interested parties have suggested that there may have been problems in the past, I have not seen any specific evidence of complaints. In any event, I can see no reason why the beer garden could not be properly managed so that it could be used in a manner where it did not cause material harm to the amenities of the occupiers of existing and proposed surrounding residential properties. Furthermore, as the beer garden would occupy a relatively small area of land, it would not be capable of accommodating significant numbers of people. Therefore, I do not envisage that there would be significant levels of activity in this area.
14. Taking into account the size, position and previous use of the land, coupled with the fact that it is proposed that all windows would be double glazed, I do not consider that the beer garden would result in material levels of noise and disturbance for the occupiers of the proposed apartments (or indeed the

occupiers of existing surrounding residential properties). Therefore, I conclude that the proposal would accord with the amenity aims of Policy CS2 of the CS.

Bin storage and collection

15. The Council acknowledge that the proposed bin storage and collection facilities meet "*the Council's waste collection arrangements and the building regulations*". I have no reason to disagree with this view. The primary area of concern relates to the proximity of the bin storage area to No 51 Schofield Road and whether or not such a proposal would be noisy (particularly if residents fail to return the bins back to the second storage area once emptied), attract vermin and lead to odour issues.
16. I have considered the relationship of the proposed bin storage/collection areas with existing and proposed residential properties (including No 51 Schofield Road). As they would be positioned within enclosed areas, I am satisfied that use of these areas would not create unacceptable levels of noise for surrounding residents. The bin collection/storage building adjacent to No 51 Schofield Road would be separated by a public footpath and the boundary treatment to this residential property comprises a timber fence and hedge. This degree of separation and additional screening would provide further mitigation from a noise and other impact point of view.
17. I have no reason to doubt that the bin storage and collection areas would be managed effectively and hence there need not be any problems relating to the attraction of vermin or significant odour issues. I note that the Council's Environmental Health service raised no concerns about these matters at planning application determination stage. Therefore, I conclude that the proposal would accord with the amenity aims of Policy CS2 of the CS.

Planning Obligation

18. The appellant has provided a signed and dated (13 September 2016) planning obligation (unilateral undertaking) which requires (i) that a payment of £30,124 is made to Council to be used to improve youth and adult facilities at Shortcliffe Park, Stapleford Park and Garendon Green, and (ii) that five of the proposed residential units are first offered any person registered with the Council's housing waiting list or Leicestershire Choice Betting System.
19. I have obtained clarification from the Council in respect of the £30,124 financial contribution and am satisfied that this would be acceptable in respect of the number of pooled Section 106 agreement contributions since 2010. The Council has confirmed that the money would be spent on one or more of the following projects: a skateboard "street" course at Shortcliffe Park and youth and adult seating and access paths at Stapleford Park and Garendon Green. I am satisfied that the financial contribution fairly and reasonably relates to the development proposal, and hence satisfies the planning obligations tests as laid out in paragraph 204 of the National Planning Policy Framework (the Framework). The Council has confirmed that five or more obligations been not been used for the above said projects since 6 April 2010.
20. Policy CS3 of the CS sets out affordable housing requirements and for developments in Loveborough, and sites of ten or more dwellings, there is a requirement for 30% of the residential units to be affordable. I am satisfied that the planning obligation would give the Local Planning Authority sufficient

control in terms of ensuring that five of the dwellings are affordable: the Council would first be able to nominate persons from the Council's housing waiting list, or from the Leicestershire Choice Betting System, before any of these units could be offered to the open market.

21. I am aware that the 13 September 2016 planning obligation has taken into account most of the Council's requested amendments. Whilst the Council would have preferred 8 weeks to find an eligible affordable housing tenant, I agree with the appellant that if there is a significant waiting list it should be possible to do this within 4 weeks. Furthermore, I have not been made of any specific policy (or local need evidence) which would require a mix of the apartments (ie based on bedroom numbers) to be provided for affordable housing. In this case, I consider that it is reasonable to merely offer five of the residential units for affordable housing purposes.
22. However, paragraph 3 of Schedule 1 of the 13 September 2016 planning obligation states that *"the owner covenants with the Council that they shall notify the Council that the nominated Dwelling is ready for occupation PROVIDED THAT if two or more Eligible Persons have not entered into an assured shorthold tenancy agreements or license agreement for the nominated Dwelling within 4 weeks of this notification then the Owner and the Developer shall be free to let the nominated Dwelling on the open market"*. The reference to "two or more eligible persons" for a nominated dwelling is in my view an unreasonable affordable housing restriction. It excludes an eligible single person from occupying an affordable home within the prescribed 4 weeks period. Furthermore, the planning obligation does not include the potential for an offsite affordable housing financial contribution to be made in the event that some or all of the affordable housing cannot be provided at the application site.
23. For the above reasons, I therefore conclude that the planning obligation would not adequately meet the affordable housing requirements of Policy C3 of the CS.

Other Matters

24. I have taken into account the representations made by interested parties including the petitions against the proposal and the petition in support of the proposal.
25. I note that the existing lime trees were once part of a row of four, but that two were removed prior to the making of a Tree Preservation Order. The removal of the other lime trees has diminished the value of the lime trees as a group. Whilst, the removal of one lime tree is unfortunate, I am satisfied that its replacement with two other lime trees on the site would strike the right balance between re-developing the site (and therefore improving the appearance of the site more generally), and ensuring that the site continues to include good landscaping.
26. Some interested parties have raised concerns about potential noise and anti-social behaviour from the public house. The site is already used as a social club and it includes a bar: I have not been made aware of any specific evidence of problems associated with the current use. I can see no good reason why, subject to good management, the public house cannot operate well in conjunction with the proposed apartments and existing surrounding residential development, and without harm being caused to the living conditions of

residents. In this regard, I have no reason to depart from the conclusions reached by the Council's Environmental Health service that raised no objection to the proposal subject to the imposition of planning conditions.

27. I note that the proposal would result in the loss of the existing function room space. However, the proposal would include the retention of a public house, and consequently a community facility would be retained. I have no reason to doubt the appellant's comment about existing viability, and hence that the proposal would give the site a more certain future from a commercial viability point of view.
28. Whilst the collection of bins by the Council's refuse service may coincide with school drop off times, I have not been provided with any specific evidence that this would cause harm to matters of highway safety. Furthermore, and in any event, the Council have some control in terms of when refuse bins are emptied.
29. I am aware of the evolution of the proposals and the changes to the scale and design of the scheme: I am satisfied that the proposal would be acceptable in respect of design and landscaping.
30. None of the other matters raised outweigh my overall conclusions on the main issues.

Conclusion

31. For the reasons outlined in this decision, I am satisfied that the proposal would be acceptable in respect of car parking provision and the living conditions of occupiers of the proposed flats and surrounding residential development. However, the signed and dated planning obligation would not meet the affordable housing requirements of Policy C3 of the CS. This is an overriding concern and therefore I conclude that the appeal should be dismissed.

Daniel Hartley

INSPECTOR