
Appeal Decision

Site visit made on 28 September 2016

by Andrew Owen BA(Hons) MA MRTPI

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

Decision date: 20 October 2016

Appeal Ref: APP/K1128/W/16/3151849

Lower Allerton Farmhouse, Dartington, Totnes, Devon TQ9 6DY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Dr Frank Benatt against the decision of South Hams District Council.
 - The application Ref 14/1424/15/VAR, dated 5 May 2015, was approved on 24 March 2016 and planning permission was granted subject to conditions.
 - The development permitted is variation of condition 5 (parking restriction) of planning consent 14/2278/14/F.
 - The condition in dispute is No 5 which states that: *"With the exception of loading, no parking shall be permitted on the site except in the designated parking area shown on the Site Layout Plan approved under application 14/2278/14/F, or wholly within the identified pink areas shown on the Parking Layout Plan received by the Local Planning Authority on 22 June 2015."*
 - The reason given for the condition is: *"In order to avoid obstruction of the entrance to the Roundhouse and to enable turning to take place in this area."*
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Decision

1. The appeal is allowed and the planning permission Ref 14/1424/15/VAR for variation of condition 5 (parking restriction) of planning consent 14/2278/14/F at Lower Allerton Farmhouse, Dartington, Totnes, Devon TQ9 6DY granted on 24 March 2016 by South Hams District Council, is varied by:
 - (1) deleting condition 5 and substituting for it the following condition:

With the exception of loading, no parking shall be permitted within the courtyard bounded by Barn A, Lower Allerton Farmhouse, The Link, Pottery Barn and The Roundhouse as shown on the Parking Layout Plan received by the Local Planning Authority on 22 June 2015, except wholly within the areas identified pink on that plan.
 - (2) amending the description of the development to 'Retrospective conversion of existing annexe to single new dwelling without compliance with condition 5 previously imposed on planning permission Ref 14/2278/14/F, dated 21 January 2015'.

Procedural matter

2. The Council's decision appears to have been a determination made under s73 or s73a of the Act. Both sections provide for a new planning permission to be created, separate from the pre-existing planning permission. However, the description of the development on the decision notice does not properly describe a form of development. From the information before me it appears that permission was sought for the retrospective conversion of an existing
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annexe to a single new dwelling without compliance with condition 5 previously imposed on planning permission Ref 14/2278/14/F, dated 21 January 2015. I will therefore vary the planning permission accordingly. There can be no injustice to either party in making this change since the ability to carry out the development without compliance with Condition 5 as originally drafted is the essence of what is sought and is unchanged.

Background and Main Issue

3. Planning permission Ref 14/2278/14/F granted consent for the retrospective conversion of the existing annexe to Lower Allerton Farmhouse to a new single dwelling. This unit, identified as The Link on the drawings, forms the middle part of a building which at one end is the main dwelling at Lower Allerton Farmhouse and at the other end is Pottery Barn which has planning permission to be used as a holiday let.
4. Condition 5 of 14/2278/14/F stated that "*With the exception of loading, no parking shall be permitted on the site except in the designated parking area shown on the Site Layout Plan.*" This designated parking area is located around 15 metres east of Lower Allerton Farmhouse, where the public highway terminates, and comprises a gravel surfaced area with room for approximately seven cars to park.
5. The application subject of this appeal sought to amend this condition so that parking could be provided within the courtyard area immediately outside the building, in areas shaded pink on the Parking Layout Plan, and also elsewhere outside the courtyard. The appellant proposed an alternative to condition 5 to read "*Parking between the buildings shall only be permitted in the areas shaded pink on the attached site location plan*". The application was granted but with a revised condition limiting parking to just the pink areas on the Parking Layout Plan or in the designated parking area in the Site Layout Plan approved by the previous planning permission. This condition effectively prevented parking anywhere else other than in these specified areas and it is this restriction which is the crux of this appeal. The appellant has again suggested that the condition be varied to read "*parking between the buildings shall only be permitted in the areas shaded pink on the attached site location plan*".
6. The appeal 'site' is outlined in red on the plans and comprises just the part of the building comprising The Link. Clearly it is not possible to park within this area at all, and it is not clear from either party's case which external areas would be affected by the condition. However, there appears to be agreement that some form of parking control on land within the appellant's ownership is necessary and the appellant's suggested condition gives a clear indication of a condition which he would consider acceptable. I have determined the appeal with this mind.
7. The main issue is the effect that the amended condition would have on the living conditions of the occupiers of The Roundhouse in respect of affecting access to their property.

Reasons

8. The building comprising Lower Allerton Farmhouse, The Link and the Pottery Barn is a Grade II listed building and is 'L' shaped. With The Roundhouse and

a barn (identified as Barn A on the drawings) they surround a courtyard area. The buildings are located at the end of a single track road, with occasional passing points, which extends for a considerable distance from the main road. Access to The Roundhouse is achieved through the courtyard, as is access to a field to the south, which is utilised regularly by the owner of the field.

9. It is not disputed by the parties that there are private rights of way across the courtyard to The Roundhouse and the field and the appellant recognises the need to maintain these. Furthermore, delivery vehicles and waste collection vehicles need to be able to service the dwellings and it is therefore necessary that there is room near the dwellings for such vehicles to be able to undertake their duties and then turn around before leaving.
10. Opportunities for parking locally are limited. Nonetheless, providing the private rights of way from the edge of the public highway to the entrance gates of The Roundhouse and to the field to the south are maintained, and provision for turning is provided, I do not consider there is any need to restrict parking elsewhere on land in the appellant's ownership.
11. From the evidence before me there is clearly dispute between the appellant and the neighbours regarding the ability for vehicles to park in the pink areas without obstructing access to The Roundhouse and for vehicles to turn if cars are already parked in the pink areas. However though the pink areas on the Parking Layout Plan are not of a standard shape or dimensions, from my site visit, I am satisfied that it would be possible for a reasonably sized car to park in each of the pink areas without obstructing access to The Roundhouse.
12. Furthermore, the Council's approval of the Parking Layout Plan indicates that they are satisfied that vehicles, including their own waste collection vehicles, can turn within the courtyard and I have no persuasive evidence before me to suggest otherwise. Notwithstanding this, condition 3 of planning permission 14/1424/15/VAR requires the removal of a short section of hedge in order to provide turning space in the designated parking area just east of the houses, and the Council have confirmed that this has been done to their satisfaction.
13. As such condition 5 is reasonable and necessary in the interests of maintaining satisfactory access to The Roundhouse, and the alterations to it proposed by the appellant would also have the effect of maintaining acceptable access to The Roundhouse.
14. The proposed wording of the suggested condition by the appellant is imprecise. However I have formulated a condition which is precise, meets all the other tests as required by paragraph 206 of the National Planning Policy Framework and would ensure the living conditions of the occupiers of The Roundhouse are protected. With this condition in place the proposal would accord with Policy DP3 of the Development Policies Development Plan Document which seeks to ensure development does not adversely affect the living conditions of neighbouring occupiers in terms of, among other things, disturbance.

Other matters

15. The courtyard is an important part of the setting of the listed building. However I consider the proposal would preserve the setting of the listed building as the effect of varying the condition would not alter the car parking layout within the courtyard.

16. Allegations of breaches of existing conditions and any potential breach in future against the conditions I have imposed are matters to be dealt with by the Council.

Conclusion

17. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed.

Andrew Owen

INSPECTOR