
Appeal Decision

Site visit made on 17 October 2016

by Sarah Housden BA (Hons) BPI MRTPI

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

Decision date: 19 December 2016

Appeal Ref: APP/P2935/W/16/3151673

**Former Ravensmount Care Home, Alnmouth Road, Alnwick,
Northumberland, NE66 2QG**

- 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 Anton Lang against the decision of Northumberland County Council.
- The application Ref 16/00451/FUL, dated 12 February 2016, was approved on 13 May 2016 and planning permission was granted subject to conditions.
- The development permitted is 'change of use of existing care home to hotel'.
- The conditions in dispute are Nos 2, 3, 4 and 5 which state that:

2. "Except where modified by the conditions attached to this planning permission, the development shall be carried out in accordance with the details shown on plan number"

3. "Prior to the occupation of the hotel hereby approved, details of any fixed plant (including extraction vents and stacks) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include scale elevation drawings, details of odour abatement from the kitchen extraction / ventilation system to provide a High Level of odour control and a cleaning and maintenance schedule for the kitchen extraction / ventilation system (including interval and methods employed to clean and maintain all relevant parts of the kitchen extraction / ventilation system). The details shall also demonstrate that the specific noise level from the operation of the fixed plant, as measured in accordance with BS4142:2014, shall be 5dB (decibels) below the measured background level (LA90) at the curtilage of the nearest noise sensitive premises in lawful existence at the time of this permission by means of a report undertaken in accordance with BS 4142:2014 from a competent acoustic consultant that measures the level of noise emissions from the fixed plant at the nearest noise sensitive premises carried out with all plant operating simultaneously under maximum load. The report undertaken by the competent acoustic consultant shall further demonstrate the emitted noise from the kitchen extraction / ventilation system in relation to the measured background level in the EMAT background noise assessment of the 1 September 2015. The approved details shall thereafter be fully installed before the occupation of the hotel hereby approved and thereafter retained".

4. "If the noise levels from the development hereby approved exceed the levels stated in condition 3 at the nearest noise sensitive premises, then appropriate mitigation measures shall be submitted to and approved in writing by the Local Planning Authority (including details of timing). The mitigation measures shall thereafter be installed in accordance with the agreed timing schedule".

5. "Prior to the occupation of the hotel hereby approved and notwithstanding the submitted details, an amended car and cycle parking layout shall be submitted to and approved in writing by the Local Planning Authority. The layout shall also include details of the access, refuse storage and turning arrangements for vehicles. The details shall further include an indication of permeable surfaces to reduce flood risk. The approved details shall thereafter be fully implemented before the occupation of the hotel hereby approved and retained as such thereafter".

- The reasons given for the conditions are:
 2. "To ensure the development is carried out in accordance with the approved plans".
 3. "To ensure, in accordance with the National Planning Policy Framework, a good standard of amenity for existing and future occupants of land and buildings".
 4. "To ensure, in accordance with the National Planning Policy Framework, a good standard of amenity for existing and future occupants of land and buildings".
 5. "To ensure – in accordance with the National Planning Policy Framework, Core Strategy Policy S11, Local Plan Policies TT4 and TT5 and Draft Core Strategy Policies 41 and 43 – the development hereby approved would not have a severe cumulative impact upon highway safety".
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Decision

1. The appeal is allowed and planning permission Ref 16/00451/FUL for the change of use of existing care home to hotel at former Ravensmount Care Home, Alnmouth Road, Alnwick, Northumberland, NE66 2QG granted on 13 May 2016 by Northumberland County Council is varied by deleting conditions 2, 3 and 5 and substituting for them new conditions as set out in the attached schedule.

Costs

2. An application for costs was made by Dr Anton Lang against Northumberland County Council. That application is the subject of a separate decision.

Procedural Matters

3. The officer report and the decision notice refer to policies in the draft Northumberland Core Strategy. However, this document has yet to be submitted for examination and in accordance with paragraph 216 of the National Planning Policy Framework (the Framework), this limits the weight that can be attached to its policies in coming to my decision.
4. The use of a Travel Plan to manage and mitigate the effect of vehicle movements associated with the approved use of the appeal property as a hotel had not been raised in the appeal submissions by either of the main parties. I therefore sought the views of the main parties on this and I have taken account of their responses in coming to my decision.
5. The appellant's case relies in part on the fall-back position that the former use of the building as a care home could be re-instated without a further grant of planning permission. Having regard to the *Gambone*¹ decision, if the potential implementation of a fall-back position is more than a theoretical possibility, then it is material. The re-instatement of the use would be likely to require refurbishment and alterations to the building and there is no indication of any permission or firm intention for this in the evidence before me. In the circumstances, I attach moderate weight to the former use of the building as a material consideration in the determination of this appeal.

Background and Main Issues

6. The appeal property has planning permission for a change of use from a 32 bedroom care home to a 20 bedroom hotel². The appeal is against four

¹ Raffaele Gambone v SSCLG v Wolverhampton City Council [2014] EWCH 952

² Ref 16/00451/FUL

conditions that were attached to the planning permission relating to implementation in accordance with the approved plans, details of mechanical ventilation/extraction to be agreed and noise levels monitored and an amended access, parking and turning plan to be submitted. Accordingly, the main issues in this case vary according to the conditions in dispute and are as follows:

- Condition 2 - whether it is enforceable and precise;
- Conditions 3 and 4 - whether they are necessary and reasonable having regard to the effect on the living conditions of adjoining occupiers; and
- Condition 5 – whether the arrangements for access, parking and turning would be satisfactory having regard to the effect of the proposal on the safety of other highway users and on the character and appearance of the host property.

Reasons

7. The appeal site is located approximately 1.3km to the east of Alnwick town centre, on the edge of the built up area. It comprises a substantial stone and slate property of traditional proportions and appearance and set within landscaped grounds. The site is accessed from the A1068 Alnmouth Road via a single car width access drive between two stone entrance piers. The grass highway verge and established trees and planting behind the stone frontage wall contribute to the pleasant and verdant street scene.
8. The site is within the 30mph speed limit and there are no waiting restrictions along this section of Alnmouth Road. There is a continuous footway on the north side of the road whilst on the site side, the hardened footway starts at the bus stop approximately 50 metres to the west of the site. Opposite the site there are private access drives serving the dwellings which are set back from the road.

Condition 2

9. Condition 2 of the planning permission seeks to ensure that the development is carried out in accordance with the approved plans. However, the Drawing Reference numbers have been omitted. Whilst the Council refers to the note on the first page of the decision notice as a 'failsafe' in this situation, as drafted, the condition is neither enforceable nor precise and does not meet the test for conditions set out in paragraph 206 of the Framework. I have therefore deleted condition 2 and replaced it with a new condition that refers to the correct Drawing Numbers and also includes a reference to amendments to the drawings that may be secured by condition 5.

Conditions 3 and 4

10. The existing kitchen is located within a single storey offshoot to the side of the building and would be retained in this location as part of the hotel use. It is served by a single metal flue projecting above the ridge of the roof. A number of vents on the north elevation of the building serve the existing boiler room which would be retained in its current position.
11. The hotel kitchen would be approximately 10 metres from the common boundary with 'Kirkdale' to the west which has a number of windows and a side garden facing the common boundary with the appeal property. The side gable

of another dwelling to the south of Kirkdale is on the common boundary with the appeal property, approximately 10 metres from the hotel kitchen and has a first floor obscure glazed window facing onto the site. These are noise sensitive receptors.

12. No details of mechanical ventilation for the kitchen or any other accommodation within the hotel have been supplied in the evidence before me. However, it is likely as part of the refurbishment of the property and to meet licensing requirements that new equipment would be installed. Given the proximity of the kitchen to the common boundaries with residential dwellings, it would be prudent to secure the details of extraction equipment in order to ensure that there would be no material harm to the living conditions of adjoining occupiers arising from noise and disturbance. Condition 4 provides a mechanism to control any breaches of the noise limits established under condition 3.
13. As indicated in the Planning Practice Guidance, any adverse effect from noise has to be balanced against the economic and social benefits of the proposal³. However, in this case the submission of details in accordance with condition 3 and their subsequent monitoring in accordance with condition 4 represent a proportionate approach which would not undermine the social and economic benefits of the hotel use. Such details are commonly required for commercial proposals which are located in proximity to existing dwellings.
14. I acknowledge the appellant's point that condition 3 contains a reference to a noise assessment report that does not form part of the planning application submission. I have therefore modified the condition to remove reference to the report, as background noise levels will be established by the noise report required to be submitted. I have had regard to the wording for condition 3 suggested by the appellant, but as there is no evidence of existing background levels which would form a 'baseline' for future monitoring, the condition would not be precise or enforceable and would not meet the tests for conditions set out in the Framework.
15. I conclude that condition 3 as modified and condition 4 are necessary and reasonable to ensure that the living conditions of adjoining occupiers would not be materially harmed. They are also necessary to comply with the provisions of the Framework which indicates at paragraph 123 that new development should avoid noise giving rise to significant adverse impacts on health and quality of life and that other adverse impacts should be mitigated for and reduced to a minimum, including through the use of conditions. The Framework also requires a good standard of amenity for all existing and future occupants of land and buildings. The wording of condition 3 has been varied to improve precision and enforceability.

Condition 5

16. It is clear from the Highway Authority's (HA) consultation response to the planning application that it had sought the submission of a revised block plan showing the required access, car and cycle parking spaces and space for the manoeuvring of delivery vehicles before planning permission was granted. The conditions suggested by the HA have been 'rolled' into one condition and fail to indicate the precise requirements that the HA was seeking, for example the

³ Paragraph ID 30-003-20140306

number of additional parking spaces required and the width of the access. Had the Council wished, it could have withheld planning permission until the required plan had been submitted. However, the principle of the hotel use has already been established in this case and that is a material consideration to which I attach significant weight.

17. There is nothing in the evidence to confirm the likely number of vehicle movements or demand for parking arising from the hotel use. Aside from the reduction in the number of staff from 25 to 15 and fewer medical visitors, there is no further evidence to substantiate the appellant's claim that the hotel would result in a net reduction in the number of vehicle trips compared with the care home. Nor is there anything to corroborate the appellant's assertion that bed space occupation would be likely to be 75%, thus reducing the demand for parking spaces. The hotel use would be likely to create 'peaks' in demand when catering for larger functions and regular daily deliveries for catering and other services would also be necessary.
18. From my observations at the site visit, the provision of 12 parking spaces shown on Drawing No 1373_07 within the existing brickweave area at the front of the building represents a realistic figure of the car park's capacity. There is little scope for any re-configuration of the layout or space for additional parking given the position of the trees within the landscape belt on the road frontage that are protected by a Tree Preservation Order (TPO).
19. The provision for parking is significantly less than the 25 spaces required to comply with the standards set out in saved Policy TT4 and Appendix E of the Alnwick Local Plan (2007) (LP). The care home operated with 32 bedrooms and 25 full and part-time staff, the parking provision for which also fell significantly short of the required standards set out in the LP. The Framework indicates that in setting standards for non-residential development, the accessibility of the development and availability of and opportunities for public transport should be taken into account, together with the type, mix and use of development. It also states that development should create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians and accommodate the efficient delivery of goods and supplies.
20. Despite the location of the appeal property on the edge of Alnwick, the continuous footway along the north side of Alnmouth Road provides a safe and accessible route into the town centre. Although there is a gradual fall into the town centre along Bondgate Without, there are no steep inclines. The hotel would be within walking and cycling distance of the town centre. There are Public Rights of Way (PROW) opposite and to the east of the site which would provide access to the wider PROW network for leisure purposes.
21. There are bus stops opposite the site and approximately 50 metres to the west. The x18 and x20 services run regular services to larger centres including Newcastle and Berwick-upon-Tweed. The nearest railway station at Alnmouth 3 miles away is served by both bus routes. Whilst the Council indicates that the property is not within a town centre location where reduced standards of parking might be acceptable, it is accessible by alternative modes of transport to the private car.
22. In addition to an amended car and cycle parking layout, condition 5 also requires details of the proposed access, refuse management and turning areas to be submitted. The HA indicates that a minimum driveway width of 5.5

metres would be required to enable two vehicles to pass side by side. This would necessitate the re-location of at least one of the existing stone gate posts, removal of a section of wall and the surfacing of part of the grass verge. In the absence of further details of the position and means of construction of the widened access, there is nothing to confirm that it could be accommodated without having an adverse effect on the long term health of the protected trees which would be harmful to the verdant character of the street scene. The driveway is of limited length and the number of occasions on which there would be conflict between vehicles entering and leaving the site would be likely to be limited. Based on these considerations, I am not persuaded that the widening of the existing access would be necessary or reasonable.

23. The Framework indicates that developments which generate significant amounts of movement should be required to provide a Travel Plan which is a key tool to facilitate sustainable modes of transport. Whilst there is nothing to confirm the level of traffic that would be generated by the hotel use, a Travel Plan would help to promote the use of public transport (including the shuttle minibus service referred to by the appellant), cycling and walking to hotel guests and manage staff and guest parking particularly at times of peak demand. A Travel Plan would be unlikely to fully address the shortfall in car parking given the extent of the shortfall against the Council's adopted standards. However, it would be a pragmatic and proportionate approach having regard to the fact that planning permission has already been granted for the hotel use and the availability of bus services in proximity to the site.
24. There is nothing to indicate that the accident on Alnmouth Road referred to by local residents arose from vehicular activity connected with the appeal site. However, local residents indicate that the former care home use generated on-street parking and reversing manoeuvres out of the site by delivery vehicles, due to the lack of available space for turning. The appellant indicates that deliveries will be actioned using the roads around the site, the existing access and the spaces near the entry points to the unit.
25. A bin storage area is identified on Drawing No 1373_07 and bins would be left on the verge on collection day, avoiding the need for refuse vehicles to enter the site. However, it is not clear how other delivery vehicles could be manoeuvred within the brickweave parking area shown on Drawing No 1373_07 given the restricted space available. In order to minimise the likelihood of deliveries occurring on the adjacent public highway, it is necessary for further details of the provision to be made for the manoeuvring of delivery and servicing vehicles within the site to be submitted. The use of other parts of the site beyond the existing parking area to achieve this would be a matter for the local planning authority and the appellant to resolve. Details of cycle parking which were required by condition 5 are also necessary for clarity and to support sustainable modes of travel. There would be no change to the area of hardsurfacing currently on the site and in these circumstances further details of the permeability of surfacing is not necessary.
26. The economic and tourism benefits of the hotel which have been acknowledged by Northumberland Tourism would comply with CS Policies S8 and S10 and this adds further weight in favour of allowing the appeal. I conclude that the parts of condition 5 relating to the access and car parking layout are not necessary, reasonable or precise because there is no evidence to confirm the effect of widening the access on the long term health of protected trees and the

condition does not make clear that additional parking spaces would be required and there would be practical difficulties in accommodating more spaces. However, a Travel Plan would help to encourage the use of sustainable modes of transport and address some of the shortfall in parking provision.

27. Details of how delivery vehicles would be accommodated and manoeuvred and cycle parking would be provided remain necessary to minimise the likelihood of deliveries on the public highway in interests of highway safety and to support sustainable modes of travel. The requirements of LP Policies TT4 and TT5 which seek to have regard to the effect of traffic on settlements and require parking provision in line with the adopted standards would not be fully met, however, this limited conflict with the development plan is outweighed by the material considerations in this case which are outlined above.

Conclusion

28. For the reasons given above and having had regard to all other matters raised, the appeal is allowed and the planning permission Ref 16/00451/FUKL is varied by deleting conditions 2, 3 and 5 and substituting them with new conditions as set out in the attached schedule. Condition 4 of the permission is retained.

Sarah Housden

INSPECTOR

SCHEDULE OF CONDITIONS

2. Except where amended in accordance with any condition below, the development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos 1373_04, 1373_05, 1373_06, 1373_07, 1373_08 and 1373_09.
3. The hotel hereby approved shall not be brought into use until details of any fixed plant (including extraction vents and stacks) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include scaled elevation drawings, details of odour abatement from the kitchen extraction / ventilation system to provide a high level of odour control and a cleaning and maintenance schedule for the kitchen extraction / ventilation system (including interval and methods employed to clean and maintain all relevant parts of the kitchen extraction / ventilation system). The details shall also demonstrate that the specific noise level from the operation of the fixed plant, as measured in accordance with BS4142:2014, shall be 5dB (decibels) below the measured background level (LA90) at the curtilage of the nearest noise sensitive premises in lawful existence at the time of this permission by means of a report undertaken in accordance with BS4142:2014 from a competent acoustic consultant that measures the level of noise emissions from the fixed plant at the nearest noise sensitive premises carried out with all plant operating simultaneously under maximum load. The approved details shall be fully installed before the hotel hereby approved is brought into use and thereafter retained.
5. The hotel hereby approved shall not be brought into use until:
 - i) A Travel Plan has been submitted to and been approved in writing by the local planning authority. The Travel Plan shall seek to reduce travel to and from the development by private car and minimise the demand for staff and guest car parking at the site. Once approved, the Travel Plan shall be fully implemented in accordance with the agreed details; and
 - ii) A plan showing the details of the turning and manoeuvring arrangements for delivery and servicing vehicles and provision for cycle parking has been submitted to and approved in writing by the local planning authority. The approved details shall be fully implemented before the hotel hereby approved is brought into use and thereafter retained.