
Appeal Decision

Site visit made on 28 November 2016

by R C Kirby BA(Hons) DipTP MRTPI

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

Decision date: 25 January 2017

Appeal Ref: APP/X4725/W/16/3156215

The Old Malt Kiln, Harrop Well Lane, Pontefract, Yorkshire WF8 1QY

- 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 Mr Carl Hattersley against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 15/02640/FUL, dated 5 November 2015, was refused by notice dated 12 February 2016.
 - The development proposed is demolition of former malt kiln and construction of 8 No 1 and 2 bed apartments.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of former malt kiln and construction of 8 No 1 and 2 bed apartments at The Old Malt Kiln, Harrop Well Lane, Pontefract, Yorkshire WF8 1QY, in accordance with the terms of application Ref 15/02640/FUL, dated 5 November 2015 and in accordance with the 14 conditions in the attached Schedule.

Main Issue

2. The main issue in this case is the effect of the proposal on highway safety, having particular regard to the design of the garages and local highway conditions.

Reasons

3. The Appeal Site is situated on Harrop Well Lane to the south of Pontefract town centre. In the vicinity of the site the Council has calculated that Harrop Well Lane has a carriageway width of approximately 5.5 metres. There is a footway on its northern side; street lighting and the speed limit is 30 miles per hour. The road is one way in a south-easterly direction past the appeal site, from the A645 Southgate.
 4. The proposed building would include 8 garages with access from Harrop Well Lane, with roller shutter doors. The garages would be set back slightly from the back edge of the adjoining footway.
 5. Policy D14 of the Wakefield Metropolitan District Council - Local Development Framework, April 2009 (LDF) relates to access and highway safety. Amongst other matters, the policy requires development proposals to take into account the features of surrounding roads and footpaths and provide an adequate layout and visibility, to allow the development to be accessed safely.
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6. The Council is concerned that the design of the garages and their location close to the back edge of the carriageway would result in vehicles entering and leaving them stopping in the highway whilst the doors were being opened or closed. This could result in an obstruction in the highway which would be harmful to highway safety.
7. On my site visit, I noted that there were a number of garage doors abutting Harrop Well Lane, as well as gates serving driveways to nearby residential properties. It has not been drawn to my attention that the presence of such features has resulted in harm to highway safety as a result of vehicles stopping in the highway whilst the garage doors or gates were being opened. Indeed, within its statement, I note that the Highway Authority (HA) has confirmed that there have not been any recorded injury accidents recorded on Harrop Well Lane in the last 5 years.
8. Furthermore, I observed that carriageway is wide enough for vehicles to pull over and stop whilst allowing another vehicle to pass. There would therefore be a high probability that users of the garages would pull over and stop by the pavement rather than stopping in the middle of the road to open or close their garage door. Moreover, the new garage doors could be operated electronically, as suggested by the appellant. This would allow users of the garages to open the door as they were approaching it, thereby allowing the vehicle to drive directly into the garage, rather than having to stop in the carriageway. This matter could be controlled by planning condition.
9. The Council has also expressed concern that if vehicles were parked within the carriageway, this would not allow sufficient manoeuvring space for vehicles to access and egress the garages. Clearly, if vehicles were parked adjacent to the garages, in the road, the garages could not be accessed. However, it is reasonable to assume that people would not park their vehicles outside a garage door, and therefore it would be unlikely that the garages would be obstructed. This concurs with the observations that I made on my site visit in respect of access points to nearby commercial and residential properties.
10. Whilst vehicles parked on the opposite side of the road outside the Family Centre would be likely to make manoeuvring into and out of the garages awkward, I have not been provided with convincing evidence that such manoeuvres could not be done. Parking on the opposite side of the road would therefore be unlikely to deter the intended occupiers of the apartments from parking in their garage.
11. I therefore conclude that the proposal would not result in harm to highway safety as a result of the design of the garages and local highway conditions. The residual cumulative impacts of the development would not be severe. There would be no conflict with the access and highway safety objectives of LDF Policy D14.

Other Matters

12. Although not forming part of the Council's reason for refusing the planning application, the HA has raised concern in respect of the amount of car parking proposed for the scheme. Eight units are proposed, 4 of which would have 1 bedroom, and 4 which would have 2 bedrooms. My attention has been drawn to the standards set out in the Council's Street Design Guide (2012) (SDG)

which require 14 spaces to be provided for a scheme of this nature. These standards are expressed as a minimum.

13. Whilst noting these standards, I have not been provided with substantive evidence that the area suffers from parking stress. Furthermore, as acknowledged by the planning case officer in their report, the appeal site is within walking distance of the town centre and its shops, services and employment opportunities. It is also within walking distance of the railway station on the opposite side of Station Road, and bus stops within the locality. Taking these matters into account, I find that the standards suggested by the HA in this case, would conflict with paragraph 29 of the National Planning Policy Framework (the Framework) which states that the transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice of how they travel.
14. In light of the foregoing and in the absence of convincing evidence to demonstrate that a reduction in car parking standards would result in on street parking congestion which would put the safety of drivers, cyclists and pedestrians at risk, I conclude that the level of proposed parking to serve the scheme is acceptable. There would be no conflict with the safety objectives of LDF Policy D14 in this regard.
15. Concerns have been raised by the occupier of the neighbouring industrial unit in respect of encroachment and a party wall. Whilst noting this matter, I have not been provided with documentary evidence to demonstrate this. In any event, the grant of planning permission does not permit the development of third party land, or allow access to third party land without the consent of its owner. Such matters are not determining factors in this case.
16. Neighbouring occupiers have expressed concern that the proposal would affect privacy to their properties. The Council acknowledge within its delegated report that the windows in the rear elevation of the building would be below the 12 metre distance from neighbouring properties, as set out in its Residential Guide. However, these windows would not serve the individual apartments as habitable accommodation. They provide light to an internal corridor on each of the 3 floors and are shown to be obscure glazed. Given these matters, I am satisfied that a loss of privacy would not result to neighbouring occupiers.
17. I note the representations made that a neighbouring occupier was not allowed to put windows in the side elevation of a development that they were proposing. However, I have not been provided with the individual circumstances of this case and I am therefore unable to ascertain whether the circumstances are similar to the scheme before me. In any event, I have found that the windows in the apartment building would not harm privacy. Each planning application and appeal should be determined on its individual merits and this is the approach that I have taken.
18. Concern has also been expressed in terms of the new building affecting light to the neighbouring commercial unit. Whilst noting this concern, I have not been provided with documentary evidence to demonstrate this. Accordingly, I am only able to attach very limited weight to this matter in my consideration of the appeal proposal. I note that the Council did not raise this matter as a concern when it determined the planning application.

19. In light of my findings above, I am satisfied that the proposal would result in a good standard of amenity being provided for all existing and future occupants of land and buildings, in accordance with the core planning principle of the Framework.

Conditions

20. The Council has provided me with a number of conditions that it would wish to see imposed in the event that the appeal was allowed. I have considered these against the guidance on conditions in the Planning Practice Guidance and the Framework.
21. A condition is necessary to ensure that the development is carried out in accordance with the approved plans. In the interests of the character and appearance of the area a condition is necessary controlling external materials. To protect the living conditions of neighbouring occupiers, a condition is necessary requiring that the windows in the rear elevation of the building are obscure glazed. Conditions relating to the implementation of the approved noise survey, construction hours and delivery times and survey work relating to contamination of the site are also necessary to protect living conditions.
22. In the interests of highway safety conditions relating to highway works, controlling the occupation of the apartments, the use of the garages and the design of the garage doors and the implementation of a Construction Method Statement are necessary. To ensure that the site is suitably drained and in the interests of flood risk, a condition is necessary requiring drainage details to be submitted for approval and implemented.
23. In the interests of crime prevention, a condition is necessary requiring measures to be incorporated in the design of the building. In the interests of archaeologically, a condition is necessary requiring a written scheme of investigation to be approved.
24. For clarity, I have amended the wording of some of the Council's conditions and amalgamated others.

Conclusion

25. For the above reasons, and having regard to all other matters raised, the appeal is allowed.

R C Kirby

INSPECTOR

Schedule

Conditions

1. The development hereby permitted shall be begun not later than three years of the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: site location plan; block plan; elevations and floor plans Rev B dated Jan 2016.
3. No development shall commence until of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples.
4. The building hereby permitted shall not be occupied until the windows in the rear elevation of the building have been fitted with obscured glazing. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
5. The development hereby permitted shall incorporate measures to minimise the risk of crime and meet the specific security needs of the application site and the development shall be submitted to and approved in writing by the local planning authority prior to the development commencing. The approved measures shall be implemented prior to the development being first occupied and shall be retained thereafter.
6. No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) delivery, demolition and construction working hours.The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
7. No demolition/development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research objectives- and
 - i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;

- vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.

No demolition/development shall take place other than in accordance with the approved Written Scheme of Investigation.

8. No development shall commence until a scheme detailing foul and surface water drainage has been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
 - ii) include a timetable for its implementation; and,
 - iii) provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

No part of the development shall be brought into use until the drainage works approved have been completed.

9. No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority.

If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority.

The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority.

If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to and approved in writing by the local planning authority.

10. Prior to the first occupation of the apartments hereby approved, the building shall be sound insulated in accordance with the ENS Noise Impact Assessment dated 18 December 2015, unless otherwise agreed in writing by the local planning authority.

11. Notwithstanding the details shown on the submitted plans, no apartment shall be occupied until details of the design and operation of the garage doors have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
12. The apartments shall not be occupied until details of any footway crossings have been submitted to and approved in writing by the local planning authority. Development shall be implemented in accordance with the approved details.
13. The apartments shall not be occupied until the garages and their means of access have been completed.
14. The garages hereby permitted shall be kept available at all times for the parking of motor vehicles and cycles and for no other purpose.