
Appeal Decision

Site visit made on 22 May 2017

by Gareth Wildgoose BSc (Hons) MSc MRTPI

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

Decision date: 21 July 2017

Appeal Ref: APP/R1038/W/17/3169452

7 Parkside Shopping Centre, Killamarsh S21 1FY

- 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 Aldi Stores Ltd against the decision of North East Derbyshire District Council.
 - The application Ref 16/00910/FL, dated 1 September 2016, was refused by notice dated 15 December 2016.
 - The application sought planning permission for alterations to extant planning permission (11/00647/FL) for regeneration of the Parkside Shopping Centre, alterations to include: alterations to the finished floor levels and lowering of the foodstore, alterations to the store entrance and front elevation, resiting of foodstore towards rear of the site, resiting of service point to the front, raising of parapet to rear and side of existing retail units (Major Development) (Part Owned by NEDDC) without complying with a condition attached to planning permission Ref 12/00464/FL, dated 16 July 2012.
 - The condition in dispute is No 5 which states that: *"From the first occupation of the new retail unit hereby approved the car parking spaces hereby approved as shown on the approved application layout plan shall be maintained available for public Town Centre parking. The car park shall either remain unrestricted in terms of the permitted length of stay or shall be subject to a restriction of three hours maximum length of stay. The length of stay between the hours of 9pm and 8am shall remain unrestricted"*.
 - The reason given for the condition is: *"In the interests of providing public Town Centre car parking in accordance with Policy T9 of the North East Derbyshire Local Plan"*.
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Decision

This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 7 June 2017.

1. The appeal is allowed and planning permission is granted for alterations to extant planning permission (11/00647/FL) for regeneration of the Parkside Shopping Centre, alterations to include: alterations to the finished floor levels and lowering of the foodstore, alterations to the store entrance and front elevation, resiting of foodstore towards rear of the site, resiting of service point to the front, raising of parapet to rear and side of existing retail units (Major Development) (Part Owned by NEDDC) at 7 Parkside Shopping Centre, Killamarsh S21 1FY in accordance with the application Ref 16/00910/FL, dated 1 September 2016, without compliance with condition No 5 previously imposed on planning permission Ref 12/00464/FL, dated 16 July 2012, subject to the conditions set out in the attached schedule.
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Background and Main Issue

2. The regeneration of Parkside Shopping Centre, including alterations to provide the Aldi foodstore, upgrades to other retail units and the car park was originally granted planning permission in November 2011 under reference: 11/00647/FL. The planning permission included a condition which provided for 3 hours free parking between the hours of 8am - 9pm for visitors and outside of those hours that the maximum length of stay would be unrestricted. A further planning permission was granted in July 2012 under reference: 12/00464/FL for alterations to the original planning permission. The latter permission was subsequently implemented and the Aldi foodstore opened in early 2013.
3. The appeal relates to an application seeking variation of condition 5 attached to planning permission reference: 12/00464/FUL which imposed the same provision for 3 hours free parking as the condition of reference: 11/00647/FL. The appellant has suggested substitution with an alternative condition to provide 2 hours free parking between the hours of 8am - 9pm for visitors and outside of those hours that the maximum length of stay would be unrestricted.
4. The main issue is the effect that varying the condition relating to the maximum length of stay for parking would have on the viability and vitality of Killamarsh Town Centre.

Reasons

5. Killamarsh Town Centre as defined by the North East Derbyshire Local Plan (LP), adopted November 2005 has around 60 existing units in total consisting of a mix of retail, commercial and community uses, with a small number of vacant units and some residential properties. It is served by regular buses during the day and into the evening to and from the surrounding larger urban areas of Sheffield, Rotherham, Chesterfield and Worksop. Those services also assist accessibility within its catchment area that includes its rural hinterland and smaller settlements nearby.
6. The Parkside Shopping Centre is located within Killamarsh Town Centre. The shopping centre consists of the Aldi foodstore which is the anchor, together with a small cluster of shops and hot food takeaways. The car park is accessed from Stanley Street which also has a group of retail and commercial units opposite, together with the Killamarsh Community Campus and a residential area beyond. The shopping centre also adjoins the Killamarsh Clinic, with a link through to Bridge Street where a mix of retail, commercial and residential uses are located, including a post office. Immediately to the rear of the shopping centre is a Co-op retail store and an associated car park, which has through access between Bridge Street and Stanley Street. Sheffield Road runs along the frontage of the site and consists of residential properties, Killamarsh Methodist Church and retail and commercial properties located toward the junction with Bridge Street.
7. Having regard to the above, Parkside Shopping Centre and the remainder of Killamarsh Town Centre have a range of complimentary uses that would encourage some linked trips to take place whilst shopping at the Aldi foodstore. It is clear that part of the justification for granting the original planning permission was to promote those linked trips and enhance the viability and vitality of the Killamarsh Town Centre. In that respect, it is necessary that the Parkside Shopping Centre car park should provide some capacity for visitors to

- park there, irrespective of whether they are shopping at the foodstore or using other shops or services within the Town Centre.
8. Notwithstanding the above, it is reasonable that the majority of customers of the Aldi foodstore would buy quantities of goods requiring access to a private car, rather than using public transport. Consequently, a maximum length of stay for parking should reflect the most effective balance between providing opportunities for linked trips and if possible, ensuring sufficient parking capacity to meet levels of peak demand through an appropriate turnover of cars leaving.
 9. The appellant has provided information and surveys relating to the use of the Parkside Shopping Centre car park and the availability of alternative car parking provision in other parts of Killamarsh Town Centre. Parkside Shopping Centre car park has a total of 86 spaces, including 4 spaces allocated for disabled motorists and 9 spaces for Parent & Child. The surveys provided by the appellant were undertaken at 15 minute intervals on Friday 13 May 2016 and Saturday 14 May 2016 between the hours of 0800-2200 on both days. It is evident that the capacity of the car park was reached or exceeded in 5 of those periods during the Friday surveys and in 4 of those periods during the Saturday surveys, with a further 14 occasions on the Friday and 9 occasions on the Saturday when the car park use was above 90% of its capacity. In those circumstances, it is reasonable that even with a regular turnover of vehicles leaving that vehicles would be queuing within the car park to take spaces as they become available, driving around looking for available spaces within the Town Centre or alternatively leaving the Town Centre without visiting.
 10. The surveys also included an indication of the operation of the car park in terms of duration of stay taking account of the number plate and times of vehicles entering and exiting the car park. The results indicated an average duration of stay of 49 minutes, with a significant proportion of vehicles staying within the car park for less than 30 minutes (41%) and 93% of vehicles staying less than 2 hours. Consequently, only 7% of visitors were identified as staying within the car park for a period longer than the 2 hours duration of stay proposed.
 11. The Council have provided no contrary evidence to the parking surveys and the Highway Authority offered no objections despite acknowledging the possibility of some displacement of vehicles. Nevertheless, the Council have expressed concern regarding limitations of the surveys being undertaken only during what it perceives to be busier periods on a Friday and Saturday. However, during my visit in the late afternoon on a Monday, I observed that levels of use of the car park were broadly consistent with equivalent time periods in the survey. It is reasonable that such an observation reflects a snapshot in time. Nonetheless, I have no reason to consider that the surveys provided by the appellant are not an accurate reflection of general parking conditions in Parkside Shopping Centre.
 12. Based on the evidence before me and my observations of the site and its surroundings, peak levels of parking demand in Parkside Shopping Centre which regularly occur cannot be satisfied if a maximum stay of 3 hours during 8am - 9pm continues to be imposed by condition. It is reasonable that an increased parking capacity could be achieved if the maximum stay were to be reduced to 2 hours during those periods due to the resultant greater turnover

of spaces. Such an approach would benefit the Parkside Shopping Centre and the retailers, businesses and community facilities in Killamarsh Town Centre as a whole by providing greater footfall and an increase in linked trips.

13. With regard to the above, the appellant has drawn my attention to a previous appeal decision¹ whereby the benefits of increased trips from reducing maximum length of stay for parking were taken into account. However, I do not have the full details of that case and cannot be certain that the circumstances are the same as the proposal before me. The extent of stated benefits relating to this particular proposal, based upon the appellant's estimation of increased visitor trips and associated economic benefits, appear to be over-estimated given variations in parking demand during each day and the current percentage of visitor stays beyond 2 hours. Nevertheless, to my mind, the level of increased footfall would derive sufficient benefits to the viability and vitality of Killamarsh Town Centre to significantly outweigh any adverse effect upon the ability of some visitors to make full use of its services and facilities whilst parked in Parkside Shopping Centre car park.
14. In reaching the above view, I have taken into account that other car parking provision is available within the Town Centre to satisfy the needs of visitors who wish to stay longer than 2 hours when visiting other retail, commercial uses and community facilities. The provision includes the Co-op car park which has 34 spaces free for customer use with no time restrictions and a car park with 40 spaces on Bridge Street that is free for visitors to a number of retailers and commercial uses with no time restrictions. Approximately 11 on-street spaces on Sheffield Road have free parking limited to 40 minutes with no return within 1 hour. The Killamarsh Community Centre and Killamarsh Medical Practice also have their own car parks with respective totals of around 60 and 30 car parking spaces respectively, which are free for visitors using those facilities.
15. Having regard to the above and based upon my observations, I have no reason to consider that visitors to the Town Centre displaced from Parkside Shopping Centre car park by maximum stay restrictions of 2 hours could not be suitably accommodated within the alternative car parking provision. Furthermore, the availability of public transport provides an alternative means of travel for those that intend to visit the Town Centre for longer than 2 hours.
16. There is no substantiated evidence before me that would lead me to consider that any increase in vehicle movements arising from a reduction in maximum length of stay for parking in Parkside Shopping Centre car park would have a detrimental effect on local highway conditions or highway safety. Furthermore, there is no substantiated evidence before me that the development of an Aldi store at Drakehouse would considerably alter local parking conditions and demand in Killamarsh Town Centre.
17. I conclude that varying the condition relating to the maximum length of stay for parking from 3 hours to 2 hours between the hours of 8am - 9pm for visitors with the maximum stay unrestricted outside of those hours, would not have a harmful effect on the viability and vitality of Killamarsh Town Centre. Such a condition would ensure that the development complies with Saved Policies SH2 and T9 of the LP which, when taken together, seek to ensure that existing major retail/commercial centres including Killamarsh can be accessed

¹ APP/Q1445/A/14/2225311

by both public and private transport and that development would not lead to an unacceptable increase in the number or length of journeys made by private car with adherence to maximum parking standards. The policies are consistent with the National Planning Policy Framework in so far as it seeks accessibility of development and improvements to the quality of parking in Town Centres so that it is convenient, safe and secure. I find no conflict with Draft Policy SP4 of the Consultation Draft Local Plan 2011-2033 which is afforded limited weight in any case due to its early stage of preparation. I also find no conflict with the Regeneration Framework for Killamarsh, adopted January 2017.

Conditions

18. I have concluded that a maximum length of stay for parking of 2 hours between the hours of 8am - 9pm for visitors with the maximum stay unrestricted outside of those hours would be acceptable. Condition No 5 of Ref:12/00464/FL should, therefore, be varied accordingly through the grant of a new planning permission.
19. The advice contained within Planning Practice Guidance (PPG) makes it clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. In allowing this appeal and granting planning permission I have considered the conditions imposed relating to planning permission Ref 12/00464/FL and the Council have provided a suggested list of conditions which reflects their status as to whether they have been previously discharged. For those reasons, the disputed condition subject to this appeal would be numbered as condition 1 of the new permission, given that previous conditions 1-3 of planning permission Ref 12/00464/FL have been discharged by implementation. Furthermore, the retention clause of the previous condition 4 relating to the car park can be appropriately merged into the new condition 1 through the suggested wording.
20. The appellant has offered no objections to the suggested conditions, subject to the variation of condition 5 of planning permission Ref 12/00464/FL. I consider that the suggested conditions accord with the advice contained within paragraph 206 of the Framework and the guidance contained in the PPG and are, therefore, imposed accordingly. In the event that some have in fact now been discharged, that is a matter which can be addressed by the parties.

Conclusion

21. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed and planning permission granted as set out in the formal decision.

Gareth Wildgoose

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The car parking spaces as shown on the approved application layout plan shall be maintained and made available for public Town Centre parking. The car park shall either remain unrestricted in terms of the permitted length of stay or shall be subject to a restriction of two hours maximum length of stay. The length of stay between the hours of 9pm and 8am shall remain unrestricted.
- 2) The approved Travel Plan shall be implemented in full and in accordance with the timetable set out therein. For a period of five years from the first occupation of the new retail unit, reports demonstrating progress in promoting sustainable transport measures shall be submitted annually, on each anniversary of the date of the planning consent, to the Local Planning Authority for approval in writing.
- 3) From the first occupation of the retail unit hereby approved, the route to the service yard along Stanley Street shall be monitored in accordance with the approved monitoring scheme for a period of 5 years. If during this five year period the monitoring identifies the need for mitigation works these works shall be carried out in full in accordance with the delivery mechanisms approved in the scheme of monitoring.
- 4) Any trees or plants which within a period of 5 years from the occupation of the retail unit die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 5) The development hereby approved shall be carried out in accordance with the details shown on the proposed site layout 11670-110 Revision E, Proposed Roof Layout 11670-114 Rev B, Proposed Site Sections 11670-113 Rev B, Proposed Elevations 11670-112 Rev C, Proposed GA Layout 11670-111 Rev B, V11670-L01 Rev G.
- 6) The public realm works implemented shall be retained in accordance with the details as submitted and agreed under NED/12/00124/DISCON in perpetuity.
- 7) The approved lighting scheme agreed by planning reference NED/12/00124/DISCON shall be retained in perpetuity.
- 8) The approved CCTV scheme approved under planning reference NED/12/00124/DISCON shall be retained in good working order in perpetuity.
- 9) The public art approved and agreed under planning reference NED/12/00518/DISCON shall be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- 10) The boundary treatment approved under planning reference NED/12/00124/DISCON shall be retained as approved unless otherwise agreed in writing by the Local Planning Authority. The scheme includes the retention of the existing bow top railings along the Sheffield Road and Stanley Street frontages.
- 11) The approved Environmental and Sustainability statement submitted under planning reference NED/12/00124/DISCON shall be implemented in full and shall be retained as such thereafter.

- 12) The plant and/or machinery sited at the retail store shall only be operated strictly in accordance with the details approved under planning reference NED/12/00124/DISCON. Any variations in specifications of plant and machinery will need to be agreed in writing by the Local Planning Authority and thereafter maintained in accordance with those details.

END OF SCHEDULE