



Appeal Decision

Site visit made on 29 October 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2019

Appeal Ref: APP/B2355/W/19/3234957

1222, The Old Glory, Burnley Road, Rawtenstall BB4 8RG

- 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 Mr S Ainsworth against the decision of Rossendale Borough Council.
 - The application Ref 2018/0617, dated 19 December 2018, was refused by notice dated 16 July 2019.
 - The application sought planning permission for the conversion of former public house and attached barn to form 8 rather than the previously permitted 6 apartments without complying with conditions attached to planning permission Ref 2018/0399, dated 26 September 2018.
 - The condition in dispute is No 1 parts (c) and (d) which state that:
(c) the private forecourt to the front of the premises shall be enclosed with a physical boundary wall (constructed of course natural local stone) no greater than 900mm in height, full details of which (including its position, form and appearance) shall first be submitted to and approved in writing by the Local Planning Authority; and
(d) the existing lowered kerb along the frontage of the property shall be replaced with a full height kerb (at the developer's expense).
 - The reason given for the condition is: In the interests of highway safety and promoting sustainable transport, in accordance with the advice of LCC Highways.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site has had two previous planning permissions granted in 2016 (Refs 2015/0523 and 2016/0137) for the conversion of the former public house to apartments. Similar to Ref 2018/0399, both previous permissions were subject to conditions including the above requirements, which were considered necessary by the Council for highway safety reasons.
3. The appellant maintains that parts (c) and (d) of Condition 1 are unreasonable or unnecessary as the alterations would not deter residents from parking on the roadside, such that Condition 1 should be amended via their removal.

Main Issues

4. The main issues are whether the conditions are reasonable or necessary in the interests of highway safety with regard to the parking and manoeuvring of vehicles on Burnley Road.

Reasons

5. The site lies adjacent to Burnley Road (the A682), a long and straight road which is well-used by traffic traveling between Rossendale/Rawtenstall to the south and Burnley to the north of the site. To the front of the site the kerb is lower than the rest of the nearby kerb, forming an expansive vehicle crossover along for the length of the site frontage, this currently facilitates vehicles to access a forecourt to the front of the appeal building, and cars to park along the road straddling the footway. Off-street parking is provided for the apartments on the northern side of the appeal building, which according to the Council, has its access 45 metres up the road from the apartments. Opposite the site is a row of terraced residential properties, with an on street parking bay marked along the road to the front of the dwellings, to the eastern side of the road.
6. The evidence indicates that vehicles have been parking on Burnley Road across the front of the property, partially on the carriageway and partially on the footway. Parking in this manner partially obstructs the footway and carriageway impeding pedestrian movement on the footway, and vehicle movement on the carriageway. The evidence suggests that whilst the existing parking bay on the opposite side of the road does not impede or interfere with the free-flow of traffic, the addition of parked vehicles across the front of the appeal site narrows the width of useable carriageway to the point that it would prevent two vehicles travelling in opposite directions to freely pass each other, therefore impeding the flow of traffic.
7. Motorists have also been parking on the forecourt to the front of the building, meaning they have to enter Burnley Road when the driver's visibility is limited by the on-street parking described above. Furthermore, there is no evidence that vehicles can turn within the forecourt and leave in a forward gear. Therefore, the vehicles parked on the forecourt to the front of the site are likely to have to reverse onto the A682, this manoeuvre in itself is undesirable, however in combination with vehicles parked along the road visibility is impeded to the detriment of safe highway conditions. This combined with conflict with pedestrian on the footway result in highway conditions that pose a public safety risk.
8. The purpose of the Condition 1 (c) and (d) is to prevent the occurrence of such circumstances, and to encourage occupants and visitors of the apartments to use the car park spaces provided to the north of the site. While there can be no guarantee, the introduction of the conventional height kerb, due to its form and function is more likely to discourage parking along the footway in contrast to a kerb that is flush with the carriageway. Therefore, based on the evidence provided I have no reason to disagree with the advice of the Lancashire County Council as Local Highway Authority, that these provisions are necessary and reasonable to prevent highway conditions that would pose a risk to public safety.
9. There is no clear-cut evidence with regards to the vehicle movements associated with the former use of the building as a public house, or with the informal use of its car park. However, from the information before me it appears more likely that the current use would be worse given that the residents of the development are likely to own and keep vehicles and are likely to be visited by people traveling in cars, whereas the public house use would

be more likely to attract patrons on foot. I understand no accident records have been provided, however this does not affect my findings above.

10. I conclude that the condition is reasonable and necessary in the interests of the safety of users of the highway. The development without these conditions would adversely affect public safety. As such the requirements accord with Policies 8 and 23 of the Core Strategy Development Plan Document: The Way Forward 2011-2026 (2011), which seek to ensure that new development does not affect public safety.

Other Matters

11. Whilst the appellant considers the costs of the required works to be unreasonable, there is no evidence to suggest that this would render the scheme unviable. Therefore, this does not alter my findings above.
12. I understand that the appellant has raised concerns in relation to the difficulty some occupiers of the flats accessing the car park via the steps to the north. I have considered the representation from a resident of the development, setting out their personal health circumstances and that they hold a blue badge for parking. Whilst there has been correspondence between the Council and the appellant regarding a scheme to retain one disabled space to the front of the building, no details have been provided with this appeal. As I am dismissing the appeal the planning conditions will remain in place, such that the needs of that resident could be provided for through the relevant retained conditions.

Conclusion

13. For the reasons given above, the appeal should be dismissed.

R Cooper

INSPECTOR