
Appeal Decision

Site visit made on 13 October 2020

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 4th December 2020

Appeal Ref: APP/H0738/W/20/3248289

The Mile House, Durham Road, Stockton-On-Tees TS19 9AA

- 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 Cliff Court (Redcar) Developments Ltd against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 19/2620/REV, dated 3 December 2019, was refused by notice dated 28 January 2020.
 - The development proposed is redevelopment of site comprising the erection of drive-thru coffee shop (mixed use class A1/A3), extension to the rear of existing building and change of use of existing public house to 1 retail unit (A1) and 1 veterinary practice (D1) with associated car parking and cycle parking.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was refused for a similar proposal and the subsequent appeal, which initially was scheduled to be the subject of a Hearing, was withdrawn¹. This appeal proposal seeks to overcome the reasons for refusal of the earlier proposal and to address the effect on trees protected by the Tree Preservation Order, 2019 No TPO 898 made on 5 August 2019. One lime tree (T9) is diseased and needs to be removed irrespective of the current proposals and crown lifting works have been given separate consent by the Council.
3. New Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 commenced on 1 September 2020. The Parties have responded to written Inspector Questions, including the implications of the new Regulations for this appeal, by way of an Additional Statement of Common Ground dated 25 September 2020. Third Parties, including members of the public, were given an opportunity to make further representations.
4. My appeal site visit was delayed because of the disruption caused by the Covid 19 pandemic. It was carried out at the morning peak travel time during the autumn term time when schools were open. I have taken into account that traffic may still have been affected due to the pandemic.
5. The decision notice refers to Policy SD3 of the Stockton on Tees Borough Council Local Plan 2019 (the LP). However, this relates to Housing Strategy and is not relevant to the appeal proposal so I have disregarded references to it.

¹ Planning Ref 17/2915/FUL; appeal Ref APP/H0738/W/19/3241173

6. The appeal site is outside Stockton Town Centre. The main Parties indicate that there are no other suitable available sites within, or on the edge, of the town centre; and that the proposal would not unduly affect its vitality and viability as, whilst the drive-thru element is unlikely to do so, the other proposed uses would be likely to serve a local catchment area. The site is easily accessible by a range of transport modes. On the basis of the available evidence I see no reason to disagree on these matters.
7. Accordingly the main issues are: the effect of the proposed development on the character and appearance of the area; whether or not sufficient accessible and convenient provision would be made for parking within the site, and if not, the effect of this on the adjacent highway.

Reasons

Character and appearance

8. The Mile House, a former public house, is a detached building which is prominent on the corner of the junction of the A177 Durham Road and Darlington Lane. It is set back diagonally from the junction, rather than being on the same building line as nearby houses. It has a large carpark. A betting shop occupies part of the building. The appeal site is bounded by Durham Road, Darlington Lane and Ragpath Lane.
9. The local character is of a mixed inter war/post war housing, with related neighbourhood services and facilities along a network of primary and secondary streets, including on the opposite corner of the junction. Dwellings are predominantly two storey and single storey with hipped roofs, set back behind front gardens. The only nearby larger building of any significance is the St Gregory's Catholic Academy (the Academy), set in its generous grounds, which shares a boundary with the appeal site. The protected trees are in a line inside this shared boundary. The relatively wide verges, trees and hedges locally provide an attractive spacious and verdant streetscape.
10. Owing to its siting, design, eye catching windows, roof shape, and tall chimneys, The Mile House is a local landmark in terms of sense of place and recognisability. This is so whether or not it has other historic significance. The proposed extensions and alterations to the building would be mainly at the rear. These would be visible from Ragpath Lane but would not be out of keeping with the existing building and would be acceptable in this location.
11. The proposed drive-thru building would be positioned parallel to the boundary of the Academy grounds. It would be well forward of the Academy building, at an angle to the existing building, and forward of it towards Durham Road. There is nothing wrong in principle with the modern design of the proposed building. However, the proposed siting, combined with the asymmetric roof and large advertisement projecting well above the highest part of the roof means the proposed drive-thru building would be incongruous and intrusive in this location. I acknowledge that the Academy is of modern design but that building is well set back from the adjoining highways and is less prominent than the proposed drive-thru building would be.
12. Space would be retained between The Mile House building and the junction itself, with the opportunity for landscaping to create a greener frontage including a beech hedge around much of the site boundaries. The intention is to

re-use the current hard surfacing with little by way of excavation. On this basis there would be very limited impact on the protected trees.

13. However, the drive-thru building would be relatively cramped towards the side boundary with the Academy. A substantial 2.4m high fence/wall is proposed along the shared boundary with the Academy to address noise and traffic fumes because of the proximity of drive-thru operations to the outdoor play/activity areas of the Academy. This would be tall and prominent and would further intrude on openness despite the trees alongside Durham Road.
14. The drive-thru lane would be positioned between about 0.9m and 2.5m from the boundary and the drive-thru building would be predominantly surrounded by hard surfacing. There would be little available space to carry out any significant planting or for planting such as the proposed beech hedge to thrive to successfully soften the appearance of the fence/wall or the proposed building. Moreover, as proposed it would appear there would be no room within the appeal site for even a "living wall" to be planted to soften the appearance of the proposed fence/wall as seen from the grounds of the Academy or in views along Durham Road. Whilst a more vibrant colour palette for the fence/wall might animate the boundary for children in the Academy grounds, this would be more intrusive and would not make the appearance of the development more acceptable in the street scene.
15. I acknowledge that position of the front the proposed drive-thru building would not be significantly different to that of houses further along Durham Road. However, these are some significant distance away. Accordingly I consider the relationship to The Mile House building to be more important in the context of the effect of the proposal on the character and appearance of the area.
16. Views of the proposed drive-thru building would be relatively limited for those in vehicles passing through the junction along Darlington Lane. However, this would not be so for those along Durham Road or walking along the footpaths. Although smaller than the existing building its siting and design, particularly the roofline and high level signage structure, would be very prominent and discordant in relation to The Mile House.
17. Given my concerns relates to the amount of available space for siting the drive-thru building and associated requirements of parking and access a condition requiring the submission of soft landscaping details would not address the harm I have identified. For the above reasons I conclude the proposal would amount to a cramped over development of the site which would be harmful to the verdant and spacious character and appearance of the area. It would not amount to good design and would be contrary to Policy SD8 of the LP and those principles of the National Planning Policy Framework (the Framework) that seek design of the highest possible standard.

Parking and effect on the highway

18. The Framework provides for local planning authorities to set local parking standards. In this case the Supplementary Planning Document 3: Parking Provisions for New Developments (SPD3) indicates that 62 car parking spaces would be needed. The largest requirement would arise from the numbers of covers proposed for the drive-thru use. The intended occupier is Starbucks. Based on surveys undertaken at other Starbucks' sites the Council has agreed that the number of spaces for the drive-thru use could be reduced by 14 and

- raises no objections to the total number of spaces proposed. However, any permission would run with the land and a different occupier to Starbucks might operate differently and may have greater parking requirements.
19. The spaces would be distributed throughout the site and vehicles would also be stacked in the drive-thru lane. Plan L017065-002 Rev J shows 14 spaces alongside the service road near the entrance to the site. It seems probable that these spaces would be preferred as being closest to the entrances to the proposed A1/D1 units and apartment so drivers may well pause in the aisle to access these spaces in preference to driving to the rear of the building. This, together with reversing movements, could well result in blockages of the access road close to the entrance leading to vehicles waiting on the highway to turn into the site, whether or not there were queues to the drive-thru lane that blocked access to the northern carpark area.
 20. Car parking space No 15 would be beside the bin store for the drive-thru coffee shop. As it would be the closest one to the service door it seems likely that some delivery drivers, particularly of smaller vehicles, would choose to park there to carry out deliveries meaning it would be likely to be unavailable for customers for some of the time.
 21. A further 33 spaces would be to the north of the buildings arranged around a roughly triangular space. This space would also function as the exit route through to Ragpath Lane and would provide the servicing area for deliveries, refuse collection etc. The evidence indicates servicing vehicles up to about 11m long could manoeuvre adequately around the site and, depending on its position, a car could pass a service vehicle of this size parked in the northern car park. However, there is no dedicated service vehicle parking zone and, depending on where parked, service vehicles could block access to/from some of the car parking spaces. This adds weight to my findings that the proposals amount to over-development of the site.
 22. The appellant has indicated that one or two deliveries per day are likely and whilst some would be by a rigid HGV, others would be by transit type vans and smaller 7.5T lorries. A typical duration of servicing is predicted as about 15 minutes. The appellant also considers there would be sufficient spare parking capacity that, even at busiest times if 7 spaces were blocked by the largest predicted service vehicle (weekly refuse collection), there would still be adequate parking capacity. However, there is no certainty on these matters and different patterns of delivery vehicles and times could ensue.
 23. A condition restricting hours could help ensure deliveries took place at quieter times and the appellant has additionally offered to secure this through a clause in the lease together with on-site parking control. However, future site owners and leaseholders might be unwilling to adhere to such a clause. Moreover, the timing of deliveries and sizes of delivery vehicles are rarely under the control of the site owner(s)/occupier(s) and delivery drivers may be unaware of the restrictions. Accordingly these measures may not be totally effective in preventing deliveries during busy periods.
 24. On balance the extent of the shortfall of the total number of parking spaces proposed, combined with the potential interruption of use of some of the spaces and the possible for disruption of circulation near to the access point access, lead me to conclude that sufficient accessible and convenient parking

would not be available within the site. I turn now to the effect of this on the adjacent highway.

25. The A177 Durham Road is the main north-south route in the Borough. The junction with Darlington Road is a signalised cross road with full pedestrian crossing facilities. There are restrictions on the nearby highways in respect of parking at any time and/or during weekdays when children would be likely to be entering/leaving The Academy. As well school keep clear markings at the Academy entrance Ragpath Lane has waiting restrictions, traffic calming speed humps, localised kerb build-outs and cycle lanes.
26. During my morning peak period visit there was on street parking available away from the main junction although not close by on Ragpath Lane where children were being brought to the Academy entrance. I noticed some vehicles parked somewhat inconsiderately/and or over the verge.
27. The existing vehicle access to Durham Road would be closed and mitigation measures are proposed to ease the flow of traffic through the junction. In terms of modelling some residual capacity issues at the junction could be expected taking into account other developments proposed in the area. However, the Council considers these issues would not be particularly associated with this appeal proposal and considers that the impact of this proposal on the highway network in terms of amount of traffic generated and flow through the main junction would not be severe in terms of the Framework. Based on the available evidence I see no compelling reason to disagree.
28. I acknowledge that in the past vehicles may have been parked on the appeal site for the purposes of delivering and collecting children. However, this was an informal arrangement and at the time of my visit the appeal site was mostly enclosed by security fencing. Whether or not others park inconsiderately would not be a reason for resisting the current proposal. Whilst the shortfall in the numbers of parking spaces proposed might lead to parking on street and might annoy the neighbours, I consider the extent would not be such as to be likely to cause significant inconvenience or traffic hazards for other highway users.
29. Similarly there may be intermittent hold ups for vehicles turning into the site resulting in nuisance to users of the highway and local residents. However, whilst it adds to my concerns about over-development of the site this would not be severe in terms of the Framework.
30. I acknowledge there have been some traffic accidents in the vicinity of the site. However, taking into account the public house use which could recommence and the benefits of the closing of one entrance to the site; the proposed one way system through the site reducing the numbers of vehicles exiting onto the main through routes; together with traffic mitigation to ease the flow of traffic through the junction; I see no reason to conclude that highway safety would be unduly prejudiced by the proposed development.
31. I conclude that sufficient accessible and convenient parking could not be ensured within the site. Accordingly there would be some degree of conflict with those parts of Policies SD TI1 of the LP, SPD3 and the Framework that seek to ensure sufficient accessible and convenient parking. However, taking into account the previous commercial use of the site and the benefits identified above there would not be such a harmful effect on the free and safe flow of traffic as to justify withholding permission on these grounds. Accordingly I find

no conflict with those parts of Policies SD8 and TI1 of the LP which seek to ensure highway safety. Nor would there be conflict with the Framework which advises development should only be refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Other Matters

32. The overall development has been scaled back compared to that originally proposed. The appellant also indicates that Council Officers have in the past indicated support for the demolition of The Mile House and re-development of the whole site. However, such an eventuality would allow for a different disposition of building(s) and activities across the site. Neither of these matters lead me to conclude the proposal before me is acceptable.

Planning balance and conclusion

33. The Framework is clear that the economic social and environmental objectives of sustainable development should be delivered through the preparation and implementation of plans: they are not criteria against which every decision can or should be judged. Nevertheless the proposal would make efficient use of a site that has been partially vacant for some time and is suffering from disrepair and anti-social behaviour. The proposed capital investment; employment during construction and from the proposed uses; additional business rates; an improved range of accessible services for local residents; and the provision of electric vehicle charging points would provide significant benefits. However, these benefits could be achievable in other less harmful ways which reduces the weight that attaches to them.
34. The use as a public house established a high level of commercial activity at the site. It is unlikely that the proposed development would increase activity levels to such an extent as to adversely affect the living conditions of occupants of houses which are some distance away. Nor would the development result in an adverse overshadowing or overbearing impact for local residents. However, these are matters that are to be expected from developments and do not provide a positive weight in favour of the proposals.
35. I have found that the proposal would be over-development of the site that would have a harmful effect on the character and appearance of the area. Whilst there are opportunities for landscaping at the front of the site these would be offset by the paucity of opportunities at the rear and the intrusive nature of the proposed boundary fence. Sufficient accessible and convenient parking would not be available within the site which adds to my concerns about over-development even if the consequences would not severely harm the free and safe flow of traffic. The proposal would not amount to good design. These matters are not outweighed by the benefits I have identified above.
36. In failing to fully comply with Policies SD8 and TI1 of the LP the proposal cannot comply with the development plan taken as a whole. I have found no material considerations that indicate the decision should be otherwise than in accordance with the development plan. The appeal should be dismissed.

S Harley

INSPECTOR