
Appeal Decision

Site visit made on 25 January 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th February 2021

Appeal Ref: APP/G2713/W/20/3260622

Romanby Court, High Street, Northallerton DL7 8PG

- 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 Arkgrove Limited against the decision of Hambleton District Council.
 - The application Ref 20/01259/FUL, dated 17 June 2020, was refused by notice dated 11 September 2020.
 - The development proposed is the Erection of 3no. kiosks (Use Classes A1/A3).
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Decision

1. The appeal is allowed. Planning permission is granted for the Erection of 3no. kiosks (Use Classes A1/A3) at Romanby Court, High Street, Northallerton DL7 8PG in accordance with the terms of the application Ref 20/01259/FUL dated 17 June 2020 subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1741/104S, 1741/115 & 1741/116A.
 - 3) No hot food shall be prepared at or sold from the kiosks.
 - 4) The kiosks shall only be used between the hours of 07:00 and 21:00 daily including any required preparation for opening and closing.

Procedural Matter

2. Changes were made to the use class order following the submission of the planning application. The appeal must be determined by reference to the use classes in place at the time of the application.

Application for costs

3. An application for costs was made by Arkgrove Limited against Hambleton District Council. This application is the subject of a separate decision.

Main Issues

4. The main issues are the effect of the proposal on the character and appearance of the Northallerton Conservation Area (the Conservation Area) and the suitability of the kiosks for the preparation and sale of hot food.

Reasons

Character and appearance

5. The appeal site is a courtyard area behind Northallerton High Street. It is enclosed by two storey buildings and contains planters with seating surrounded by ground floor mainly retail units. The evidence indicates that there are residential units on the first floor of surrounding buildings with windows that open over the courtyard.
6. The site is within Northallerton Town Centre, which contains a wide range of retail, commercial and leisure uses. The site provides a pedestrian link from the High Street to the supermarket to the rear and is located within the Northallerton Conservation Area that is characterised by its predominantly town centre uses that stretch along the High Street. The central marketplace, Town Hall and square, and variety of building and plot styles and sizes form key features of the conservation area.
7. The appeal site is formed by one of the historic burgage plots on the High Street which characterises the medieval street pattern of the town centre and can be read as such as a result of its clear shape, sense of openness and the surrounding buildings. The legibility of this space contributes positively to the significance of this part of the Conservation Area.
8. Whilst this may be the case, the overall character of the courtyard is that of a relatively modern shopping complex. The sense of openness and legibility of the plot has been broken up slightly through the provision of timber planters and seating. The kiosks are slender and not of substantial size meaning that the openness and therefore legibility of the space would not be materially affected. As a result, the provision of three kiosks of modern appearance and the size proposed would not detract from the heritage significance of the Conservation Area. Subsequently the proposal would preserve the character and appearance of the Conservation Area. The proposal would therefore accord with Policy DP28 of the Hambleton District Development Policies (2008) (HDDP) which amongst other things seeks to protect and enhance Conservation Areas.

Hot food

9. Notwithstanding that the evidence indicates that there is no longer the intention to install a previously approved glazed canopy at the site, the evidence indicates that this permission is nonetheless extant and some weight should therefore be afforded to this. In any event, of greater concern is the close presence of residential windows, meaning that the occupiers of these properties would be likely to be affected by odour arising as a result of the preparation and sale of hot food. No evidence has been put before me that indicates that a sufficiently robust odour extraction system could be provided for such small kiosks sited independently within the courtyard.
10. However, some agreement between the parties now appears to have been reached on this matter. Within its statement, the Council suggested a condition that would prevent the sale of hot food. The appellant indicates that this condition would be acceptable to them. While I have amended the wording of the condition, I consider that it is necessary in the interests of the living

conditions of nearby occupiers to protect them from odour associated with hot food and that such a condition meets the relevant tests.

Other Matters

11. I have found no conflict with other policies of the HDDP that have been brought to my attention. I have also found no conflict with the policies of the Hambleton District Council Core Strategy (2007) which have been submitted alongside the appeal.
12. The appellants have indicated that the existing seating areas would be retained alongside the provision of the kiosks. I cannot see that the units would do anything other than compliment the existing retail provision within the courtyard.

Conditions

13. Other conditions are necessary including the standard three-year time limit and a condition requiring that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. A further condition is necessary restricting the hours of use of the kiosks in the interests of the living conditions of nearby occupiers. A condition requiring the submission of details of external materials is not necessary as these are clearly detailed on the submitted plans and are acceptable.

Conclusion

14. The appeal should therefore be allowed.

T J Burnham

INSPECTOR