



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: 16th February 2021

Appeal Ref: APP/V2723/W/20/3260002

Land to the north of Woodland Avenue, Colburn DL9 4WD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by CG Robinson and CJ Leonard (C G Robinson & Sons Ltd and C J Leonard & Sons Ltd) against Richmondshire District Council.
 - The application Ref 19/00218/FULL, is dated 2 April 2019.
 - The development proposed is the erection of a Use Class A1 / A3 drive thru' coffee shop (167 sq.m) and 3 No. Use Class A1 / A2 / A3 / A4 / A5 units (334 sq.m) with car parking, drive thru' lane, hard and soft landscaping, refuse areas and associated works.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by CG Robinson and CJ Leonard (C G Robinson & Sons Ltd and C J Leonard & Sons Ltd) against Richmondshire District Council. This application will be the subject of a separate decision.

Procedural Matters

3. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has submitted a statement which sets out its objections. These concerns are the matters of disagreement with the appellant, and they therefore form the basis of the main issues in this case.
4. Although the description of the application refers to 3no. retail units, the proposals have been amended during the course of the application to reduce that number to 2no. units along with the coffee shop.

Main Issues

5. The main issues therefore are the effect of the proposal on the character and appearance of the area and the effect of the proposal on the living conditions of occupiers of property on Woodland Avenue, particularly those at No. 7.

Reasons

Character and appearance

6. The appeal site, which is currently un-developed is located closely to the south of the busy A6136 (Catterick Road) where it runs through Colburn. The route has a generally open character near to the site, this is particularly the case to the north and north east where a retail parade with car park and residential properties are set well back from the road behind wide verges and open space.
7. The existence of the bridleway and the need to find an acceptable diversion does place constraints on the development of the site. Its presence appears to have necessitated the provision of a 6ft high close boarded timber fence which would run close to the majority of the boundary of the site adjacent to Catterick Road and also turn the corner to partially enclose the eastern boundary.
8. This fence would significantly obscure views of the site from Catterick Road. It would be hard up against the bridleway on the north eastern boundary of the site and the plan indicates that there would only be a limited verge on the north west boundary. There is nothing within the evidence to suggest that the width of the remaining boundary would be wide enough to accommodate a landscaping scheme that would be sufficiently robust to reduce the hard edge to the site that would result.
9. I therefore conclude on this matter that the abrupt and enclosed edge to the site would be significantly at odds with the character and appearance of the area. The proposal would therefore fail to comply with Core Policy CP13 of the Richmondshire Local Plan Core Strategy (2014) (RLPCS) which amongst other things requires proposals that respect and enhance the local context and provide visually attractive development.

Living conditions

10. Woodland Avenue is a modest residential access road and hosts a number of dwellings to the south of the appeal site. The properties that sit close to the proposed entrance to the development are set away from Catterick Road, and I observed that these properties benefit from a quieter environment as a result.
11. The site access would be set a short distance from and directly opposite residential property at No. 5 and No. 7 Woodland Avenue. The development, which would include 2no. commercial units, a 'drive thru' coffee shop and substantial parking provision would inevitably attract a significant amount of vehicular traffic into Woodland Avenue, over and above existing levels, despite the incorporation of pedestrian links. This would be noticeable for the occupiers of properties at No.s 1, 3, 5 and 7 Woodland Avenue, past which the majority of the vehicular movements would be made.
12. The occupiers of these properties would inevitably suffer harm to their living conditions as a result of noise and disturbance associated with the comings and goings including noise caused by the revving of engines and intrusion from headlights as vehicles pull out of the access. The greatest harm would likely be to the occupiers of No.7, which is set forward, close to the road with a very shallow front garden and like the other properties, has no front boundary treatment.
13. I therefore conclude on this matter that the occupiers of No.s 1, 3, 5 and in particular No. 7 Woodland Avenue would suffer a significant reduction in living

conditions which would detract from the enjoyment of their homes as a result of noise and general disturbance caused by vehicle movements associated with the development. The proposal would not therefore accord with Policy CP3 of the RLPCS which amongst other things seeks development which promotes the health and amenity of the population.

Planning balance

14. I accept that there are various benefits to the proposals including economic benefits such as the provision of employment and investment within the area that would contribute positively to and enhance the local economy. In these respects, there is accordance with other policies within the RLPCS and aims within the National Planning Policy Framework and I do afford this matter weight. The proposal would utilise a blank site. However, these benefits do not outweigh the harm that I have identified would arise from the scheme.
15. I accept that the scheme would be acceptable in relation to issues such as energy efficiency, drainage, crime and anti-social behaviour and highway safety. These are however neutral matters.

Other Matters

16. I note that the proposal has been scaled back by removing a retail unit. Conditions are commonly added to such proposals to restrict opening hours. However, given the detrimental impacts associated with the location of the access, I feel any condition I could impose to restrict opening times would place such substantial restrictions in order to protect the living conditions of nearby occupiers, that it would be unreasonable, and therefore fail the conditions tests.
17. Concern is expressed in relation to the conduct of the committee in relation to the prospective tenant, this is however not a matter for my consideration and would be a matter to be directed through the Council's complaint procedure should the appellant wish. While the evidence does not indicate that the areas of disagreement between the parties were raised by officers earlier in the application process, the committee were entitled to raise these concerns which were incorporated into the Council's statement.

Conclusion

18. Taking all relevant matters into account, the appeal should be dismissed.

T J Burnham

INSPECTOR