



Appeal Decision

Site visit made on 24 January 2023

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2023

Appeal Ref: APP/C2741/W/22/3308426

Four Alls Inn, Malton Road, Stockton on the Forest, York YO32 9TW

- 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 Mr Harley of Dennis Harley Developments against the decision of City of York Council.
 - The application Ref 20/00526/FUL, dated 13 March 2020, was refused by notice dated 17 May 2022.
 - The development proposed is the conversion of existing Inn and garage building to provide drive-thru coffee shop with first floor offices, and an A1 unit.
-

Decision

1. The appeal is allowed, and planning permission is granted for the conversion of existing Inn and garage building to provide drive-thru coffee shop with first floor offices, and a retail unit (Use Class E) at Four Alls Inn, Stockton on the Forest, York YO32 9TW in accordance with the terms of the application, Ref 20/00526/FUL, dated 13 March 2020, subject to the conditions set out in the attached schedule.

Applications for costs

2. Applications for awards of costs were made by both main parties in respect of each other. Those applications are the subject of separate Decisions.

Procedural Matters

3. As part of the appeal submission, the appellant has put forward a revised block plan and Surface Water Drainage Report. The amended plans and report were not formally submitted as part of the application, and as such have not been considered by the Council or other parties. Consequently, in the interests of fairness to all parties I have made by decision on the basis of the plans that were before the Council when it reached its decision.
4. Since the submission of the application the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 have been introduced. Uses which formerly fell within Use Class A1 under the previous Regulations now fall within Use Class E. I have therefore amended the description of the development in line with the updated Order. On the basis that a subsequent planning permission for development at the site has been determined on this basis, I am satisfied that no party has been prejudiced by this alteration.
5. At the time of my site visit I saw that development had commenced. The development as described above has been partially carried out insofar as works to the buildings had taken place and areas of hardstanding were under construction. I am therefore proceeding on the basis that the development has,

in part, already occurred. For the avoidance of doubt, I have considered the appeal on the basis of the information shown on the plans before me.

Main Issue

6. The main issue is the effect of the development on surface water and foul drainage and flood risk.

Reasons

7. The appeal site is a former public house on the north side of Malton Road (A64). The site is bounded on three sides by a grassed field which is also in the control of the appellant. The proposal involves the change of use of an existing public house to a coffee shop and offices and the change of use of a building to the rear of the site into a retail unit.
8. The Council's concern relates to surface water and foul drainage from site. The site lies in Flood Zone 1 and therefore is at the lowest risk of flooding. However, infiltration testing has concluded that soakaways are unfeasible due to soil conditions in the locality.
9. It is therefore proposed to drain surface water from the site to a sustainable urban drainage (SUDs) pond in the field to the east of the application site which would in turn drain into a ditch at the northern boundary of the field. The system has been designed to withstand a +40% 1 in 100-year rain event to allow for climate change over the lifetime of the development. However, the ditch which the pond drains to has not been proved to be connected to the wider drainage network. Foul drainage is provided by a package treatment plant which in turn drains to a ditch at the field boundary.
10. Policy GP15a of the Council's Development Control Local Plan 2005 (DCLP) supports the use of SUDs. The Council's Sustainable Drainage System Guidance 2018 (SDSG) provides detailed guidance for developers and advises that minor developments should be able to demonstrate a robust drainage strategy that manages flood risk at a local level.
11. ENV5 of the City of York Publication Draft Local Plan 2018 (PDLP) also encourages the use of SUDs, which has been submitted for examination, I have not been made aware of that there are not unresolved matters in respect of this policy. Therefore, whilst the PDLP carries some weight, I give the conflict with this policy limited weight in my consideration of this appeal.
12. On the basis of the information before me, including that the appellant owns the wider field with the drainage ditch which the field currently drains to, I am satisfied that a drainage scheme could be designed which would not increase flood risk on site or elsewhere which would satisfy the requirements of DCLP Policy GP15a, PDLP policy ENV5 and the advice set out in the SDSG. This could be adequately controlled by conditions which would include requirements for the details of connections to the drainage network and a maintenance programme to be agreed with the Council.
13. Since the submission of the appeal before me, planning permission has been granted by the Council for the development. I have not been provided with all the details of this application. From the information before me, however, it is clear that planning permission has been granted on the basis of a Grampian condition to require submission of a drainage scheme and secure works to the

wider drainage ditch network which would resolve the matters in dispute. A similar approach in this instance would therefore be appropriate.

14. The proposal would therefore not conflict with DCLP policy GP15a and PDLP policy ENV5 which encourage the use of SUDs. The proposal would also not conflict with advice set out in the SDSG which also supports the implementation of SUDs.

Other Matters

15. I have had regard to representations made on the application with regard to highway safety and design matters. These were not reasons for refusal, and whilst I have allowed the appeal on the main issue above, I have not been presented with any reasons to reach an alternative conclusion with regard to these matters.

Conditions

16. I have considered the conditions suggested by the Council against the National Planning Policy Framework and Planning Policy Guidance. I have undertaken some minor editing in the interests of precision and clarity. I have also amended the plan references from those provided in the conditions suggested by the Council to those before me. I have excluded plan references 100-P-004 Rev D (Swept Path Analysis Refuse Collection vehicle (RCV)) and 100-P-006 Rev A (Swept Path Analysis HGV) from the list of approved plans as these inform the scheme layout in terms of vehicle swept path and do not include built development. They are, therefore, unnecessary to include as approved plans. For the avoidance of doubt there are three plans with the same reference, I have therefore included the plans titles of the drawings in order to differentiate them.
17. The schedule of suggested conditions provided by the Council did not include any conditions relating to drainage matters. The appellant provided suggested wording and the Council have had the opportunity to comment. I have also had regard to the drainage conditions imposed by the Council on the subsequent planning permission, a copy of which has been provided by the council. I am satisfied that neither party has been prejudiced by my inclusion of these conditions.
18. As the development has commenced it is not necessary to impose the standard time limit. Plans and materials conditions are necessary and reasonable in the interests of certainty.
19. Conditions relating to the submission of a drainage scheme (3) and a management plan for the SUDs (4) are necessary and reasonable in the interests of flood risk management. A condition relating to a post-consent archaeology watching brief (5) is also considered reasonable in this instance due to the proposed SUDs works. I have imposed conditions relating to cycle parking (6) in the interests of promoting cycling and the completion of parking provision (7) in the interest of highway safety.
20. Conditions relating to ecology (8 & 9) are necessary in the interests of the protection of wildlife and conditions relating to lighting (10) and landscaping and trees (11 & 12) are necessary in the interest of the appearance of the site.

Conclusion

21. For the reasons given above, having considered the development plan as a whole and all other matters raised, I conclude that the appeal should be allowed.

K L Robbie

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 019111-002 (Location Plan); L019111-002 (Proposed Ecological Plan); L019111-002 Rev E (Proposed Block Plan) L019111-005 (Proposed Floor Plans); L019111-006 (Proposed Elevations); 001_01 Rev G (Chargepoint Express 250 (with bollards)); 001_08-02 Rev F (RMC 1600 – with Roots); 100-P-002 Rev F (General Arrangement); 100-P-003 Rev D (Junction Visibility); SD-P-01 (Pedestrian Refuge and Crossing Detail).
- 2) The materials to be used in the construction of the external surfaces of the development shall match those of the existing buildings.
- 3) Notwithstanding the details shown on plan L019111-002 Rev E (proposed block plan) within three months of the date of this permission a scheme for the provision of surface and foul water drainage works shall be submitted to the local planning authority for approval in consultation with the Internal Drainage Board. The scheme shall be implemented in full prior to the development being brought into use.
- 4) The development hereby permitted shall not brought into use until a SuDS Management Plan (including a specification for maintenance actions and their frequencies) has been submitted to and agreed in writing by the local planning authority.
- 5) (a) No further development or ground disturbing works shall be undertaken e.g drainage, pond, re-laying of car park until a written scheme of investigation (WSI) for an archaeological watching brief has been submitted to and approved in writing by the local planning authority. The WSI shall be submitted and approved in writing within 3 months of the granting of this planning permission. For land that is included within the WSI, no development shall take place other than in accordance with the agreed WSI. The WSI should conform to standards set by local planning authority and the Chartered Institute for Archaeologists.

(b) The site investigation and post-investigation assessment shall be completed in accordance with the programme set out in the Written Scheme of Investigation approved under part (a) of this condition and the provision made for analysis, publication and dissemination of results and archive deposition will be secured. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI.

(c) A copy of a report (and evidence of publication if required) shall be deposited with City of York Historic Environment Record to allow public

- dissemination of results within 2 months of completion or such other period as may be agreed in writing with the Local Planning Authority.
- 6) Prior to the development hereby approved being brought into use details of the cycle parking areas, including means of enclosure, shall be submitted to and approved in writing by the local planning authority. The building shall not be occupied until the cycle parking areas and means of enclosure have been provided within the site in accordance with such approved details, and these areas shall not be used for any purpose other than the parking of cycles
 - 7) The buildings shall not be occupied until the areas shown on the approved plans for parking and manoeuvring of vehicles (and cycles, if shown) have been constructed and laid out in accordance with the approved plans, and thereafter such areas shall be retained solely for such purposes.
 - 8) No tree works, or vegetation clearance shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of suitable habitat for active birds' nests immediately before the works and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local planning authority.
 - 9) Prior to the development hereby approved being brought into use the owl, bat, and bird nesting boxes detailed in Drawing Number L022044-002 'Proposed Ecological Plan' (received 26 April 2021) shall be constructed across the site in accordance with the plan and the Preliminary Ecological Appraisal ref LF-21-03 dated May 2021 by Naturally Wild) received 27 May 2021.
 - 10) Prior to the development hereby approved being brought into use the lighting scheme detailed in the Lighting Assessment by TamLite Lighting received 17 June 2021 shall be installed. The lighting shall be installed and maintained in accordance with the approved details.
 - 11) Prior to the commencement of drainage works, works to the car park, construction of the attenuation ponds, road widening and site access works a final revised version of Arboricultural Method Statement and Tree Protection Plan ref: ARB/AE/2609 and scheme of arboricultural supervision regarding protection measures for existing trees shown to be retained on the approved drawings shall be submitted to and approved in writing by the Local Planning Authority. Amongst other information, this statement shall include details, and locations, and phasing of protective fencing and ground protection, a schedule of tree works if applicable, site rules and prohibitions, specialist excavation techniques where applicable, locations for stored materials, and means of moving materials around the site, locations and means of installing utilities, location of site compound. The content of the approved document shall be strictly adhered to throughout development operations. A copy of the document will be available for reference and inspection on site at all times.
 - 12) Prior to the development hereby approved being brought into use a detailed landscape scheme shall be submitted to and approved in writing by the Local Planning Authority. This shall include the species, stock size, density (spacing), and position of trees, shrubs and other plants; and

seed mixes, sowing rates and maintenance regimes where applicable; and tree planting details. The approved scheme shall be implemented within a period of six months of the practical completion of the development. Any trees or plants which within a period of ten years from the substantial completion of the planting and development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of a similar size and species.

End of Schedule