
Appeal Decision

Site visit made on 3 August 2015

by G D Jones BSc(Hons) DMS DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 18 August 2015

Appeal Ref: APP/X2410/W/15/3012000

Charnwood Mill, Sileby Road, Barrow upon Soar, Leicestershire LE12 8LR

- 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 The Charnwood Trust against the decision of Charnwood Borough Council.
 - The application Ref P/14/1992/2, dated 7 October 2014, was refused by notice dated 6 January 2015.
 - The development proposed is the alteration of existing access following demolition of part of building, use of former employment land for siting for 10 static retirement caravans, and creation of additional parking for Charnwood Mill and residents of Nos 16 - 24 Sileby Road.
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Decision

1. The appeal is allowed and planning permission is granted for the alteration of existing access following demolition of part of building, use of former employment land for siting for 10 static retirement caravans, and creation of additional parking for Charnwood Mill and residents of Nos 16-24 Sileby Road at Charnwood Mill, Sileby Road, Barrow upon Soar, Leicestershire LE12 8LR in accordance with the terms of the application, Ref P/14/1992/2, dated 7 October 2014, subject to the conditions contained within the Schedule at the end of this decision.

Preliminary Matters

2. Although not included in the refusal reason, the evidence refers to Policy CS/2 of the emerging Charnwood Local Plan Core Strategy (the eCLPCS). As the evidence indicates that there are no outstanding objections to it, with reference to paragraph 216 of the Framework, I am able to attribute weight to this Policy.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of occupants of 16 Sileby Road, with particular regard to privacy and potential disturbance resulting from use of the access to the proposed residential use.

Reasons

4. The proposed development is comprised of two related yet distinct elements: demolition of an industrial building and formation of an additional parking area to serve Charnwood Mill, which would continue to be used by the NHS; and the introduction of 10 static residential caravans on land currently used as car

- parking. It is also proposed to widen the access to the static caravan development, which among other things would involve the demolition of a substation structure attached to the side of Charnwood Mill.
5. The evidence refers to the planning history of the appeal site and a neighbouring piece of land to the west, which has been redeveloped for housing. A principal point of disagreement between the main parties concerns the status of an existing vehicular access, which runs between 16 Sileby Road and Charnwood Mill and links the site with Sileby Road. This access way is significant in that it would be the only means of access to the proposed static caravan use. Charnwood Mill, including the existing and proposed additional parking area, would continue to be accessed by vehicles via an existing access to Sileby Road to the west.
 6. In summary, the Council considers that the access between Charnwood Mill and No 16 cannot normally be used by vehicles due to the provisions of a condition attached to a previous planning permission, Ref 90/2663/2. On that basis the proposed static caravan use would lead to additional vehicle movements along this access. Given its proximity, such additional activity could affect the living conditions of the occupants of No 16.
 7. Among other things, the Council's Backland and Tandem Development Supplementary Planning Guidance (the SPG) states that the carriageway of an access serving a backland site of this type should be 5 metres from any side elevation windows or doors to kitchens, lounges, dining rooms, bedrooms or other main living rooms and 3 metres from any ancillary rooms, such as halls, bathrooms, landings, utility rooms and WCs. The main entrance door to No 16 is located in the side elevation that faces the existing access. There are also several windows in this elevation. It is proposed to realign the carriageway of the access bring it closer to No 16 such that there would be conflict with the SPG.
 8. The description of development on the approval notice for planning permission Ref 90/2663/2 is *Provision of enlarged and surfaced car park*. Condition 3 reads *Vehicular access to the car park shall be via the shared access between the premises occupied by European Leisure & Dareham Limited and shall not be taken via the land adjacent number 16 Sileby Road at any time other than in the case of extreme emergency*.
 9. My reading of Condition 3 is that *the car park* referred to is the car park for which consent was sought at that time and granted by planning permission Ref 90/2663/2 only. The appellant's evidence is that the car park approved by that planning permission is limited to an area in the central eastern portion of the site. From the information before me I have found no good reason to disagree. On that basis the industrial unit, which is proposed be demolished as part of the appeal development and its associated 26-space car park are unaffected by Condition 3.
 10. The appellant's uncontested evidence is that the industrial unit could be brought back into use at any time and that there are no controls on the hours of use. Although the building has not been used for some 5 years and appears to be in need of maintenance, I have no good reason to believe that it is beyond economic repair or that it could not be brought back into use at some point in the future.

11. If the appeal were to be dismissed, it is reasonable to assume that the site owners would actively look to secure a new occupant for this vacant unit in order to generate income from an under-used part of the site. I recognise that the unit has been unused for several years. This is likely to be due, at least in part, to the appellant's efforts to secure planning permission for the site. I am also mindful that the most recent occupant vacated the unit in 2010 during the economic downturn, such that it is likely that it would have been difficult to let at that time.
12. Overall, I have found no good reason to believe that this unit would not be brought back into use within a reasonable timeframe in the event that the appeal were to be dismissed. On that basis, although alternative access arrangements might be made available for the unit via the existing access to the west of Charnwood Mill, there is good reason to believe that the existing access between No 16 and Charnwood Mill would be used in these circumstances.
13. In summary therefore and notwithstanding the anecdotal information from a former occupant of No 16 referred to in the Council's evidence, I consider that there is a fallback use available that would be likely to be brought into use in the event that the appeal were to be dismissed and that it would result in some use of the existing access between No 16 and Charnwood Mill. Given the size of the industrial unit and its 26-space car park, vehicle movements associated with the proposed 10 static caravans use would be unlikely to be significantly greater than those of the fallback use. On this basis there would not be any significant additional effect on the living conditions of the occupants of No 16 in terms of privacy or disturbance resulting from use of the access relative to the fallback use.
14. Therefore, notwithstanding the identified conflict in the SPG, the proposal would not significantly affect the living conditions of occupants of 16 Sileby Road, with particular regard to disturbance and privacy associated with use of the access to the proposed residential use. Consequently, in this respect, it would accord with Policy EV/1(vii) (Design) of the Charnwood Local Plan 2004 and Policy CS/2 (High Quality Design) of the eCLPCS and with paragraph 17 of the National Planning Policy Framework.

Other Matters

15. The Council's evidence also indicates that, while planning obligations would normally be sought for 10 new residential units, as the proposed static caravans are intended for use as retirement homes these obligations would not be required subject to a legal agreement restricting occupancy. While no legal agreement has been provided, this matter could be reasonably controlled via a planning condition.
16. In addition to the foregoing matters, other concerns have been expressed locally including by the Parish Council. These include the proposed development's potential effect on the living conditions of other neighbouring occupants, on highway safety and parking, and on flood risk and drainage. Other concerns include whether there is a need for the proposals, the amount of recreational/amenity space proposed, the safety and practicality of the proposed parking for Nos 16-24 Sileby Road and lack of detail of boundary treatment and landscaping. These matters are largely considered within the Council officer's report on the appeal proposal. They were also before the

Council when it prepared its evidence and it has identified no reasons that would warrant refusal of the application on these grounds, and I see no compelling reasons to disagree.

Conditions and Conclusion

17. The Council has requested a number of conditions which I have considered in the light of government guidance on the use of conditions in planning permissions. Additionally, the standard time limit condition and, for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would be necessary.
18. Given the site's previous industrial use and the residential use proposed, a condition requiring investigation and, if necessary, mitigation of any contamination would be necessary in the interests of public health and environmental protection. In the interests of highway safety, conditions would be necessary to secure and retain the proposed improvements to the junction/access and associated parking and circulation space proposed to serve the static caravan use, as well as the 64-space car park for Charnwood Mill and the 5-space car park for use by occupants of 16-24 Sileby Road.
19. The Council also requested a condition regarding potential modifications to openings in 16 Sileby Road. However, given my assessment set out in the Reasons section above such a condition would be unreasonable.
20. As suggested by the appellant, in order to restrict occupancy of the proposed static caravans for the reason outlined in paragraph 16 above, a condition limiting the caravans' occupation to people over the age of 55 would also be necessary.
21. For all of the reasons given above, I conclude the appeal should, subject to the identified conditions, be allowed.

G D Jones

INSPECTOR

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/X2410/W/15/3012000:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan; F09079/01 Rev B; 301111H; 120813.
- 3) No development shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority (LPA). If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the LPA. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the LPA. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the LPA. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the LPA within 28 days of the report being completed and approved in writing by the LPA.
- 4) None of the caravans hereby permitted shall be occupied until the proposed access/junction works shown on drawing number F09079/01 Rev B and the car parking and turning shown on drawing number 301111H have been fully implemented, hard surfaced, marked out and made available for use. Once provided the access, car parking and turning space shall thereafter be permanently retained for those purposes only.
- 5) None of the caravans hereby permitted shall be occupied until the 64 car parking spaces proposed to serve Charnwood Mill and associated access and circulation space shown on drawing number 301111H have been fully implemented, hard surfaced, marked out and made available for use. Once provided these facilities shall thereafter be permanently retained for those purposes only.
- 6) None of the caravans hereby permitted shall be occupied until the 5 car parking spaces proposed to serve 16 to 24 (even, inclusive) Sibley Road and associated access and circulation space shown on drawing number 301111H have been fully implemented, hard surfaced, marked out and made available for use. Once provided these facilities shall thereafter be permanently retained for those purposes only.
- 7) The 10 static caravans hereby permitted shall be occupied only by persons over the age of 55.