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## Appeal Decision

Site visit made on 18 July 2014

**by M Seaton BSc (Hons) DipTP MRTPI**

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

**Decision date: 21 August 2014**

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**Appeal Ref: APP/H0738/A/14/2218165**

**Former English Martyrs Roman Catholic Church Site, Hardwick Road/Whessoe Road, Stockton-on-Tees, Cleveland, TS19 8LB**

- 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 William Gate against the decision of Stockton-on-Tees Borough Council.
  - The application Ref 14/0650/FUL, dated 10 March 2014, was refused by notice dated 17 April 2014.
  - The development proposed is for new car parking on a vacant site.
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### Decision

1. The appeal is allowed and planning permission is granted for new car parking on a vacant site at Former English Martyrs Roman Catholic Church Site, Hardwick Road/Whessoe Road, Stockton-on-Tees, Cleveland, TS19 8LB in accordance with the terms of the application, Ref 14/0650/FUL, dated 10 March 2014, subject to the conditions set out in the Annex.

### Application for costs

2. An application for costs was made by Mr William Gate against Stockton-on-Tees Borough Council. This application will be the subject of a separate Decision.

### Procedural Matters

3. The Council has adopted a fuller description of the address of the appeal site, including reference to the former occupation of the site by the English Martyrs Roman Catholic Church. I have noted that the appellant has also adopted the same description in the Grounds of Appeal, and as I am satisfied that this would be an accurate reflection of the location of the appeal site, I have also adopted the same description.
4. At the time of my site visit the use of the appeal site for car parking had already commenced, albeit that the development had not been completed in full accordance with the submitted plans.
5. Amended plans were submitted by the appellant prior to the determination of the planning application by the Council. The plans show the boundary wall and timber post and rail detail, as well as the addition of a 3 metre wide landscape belt around the road frontages of the site. I have assessed the impact of the revised plans and I am satisfied that no party would be prejudiced by my determination of the appeal on this basis.

## **Main Issues**

6. The main issues are;

- the effect of the proposed development on highway safety arising from traffic generation and movements; and
- the effect of the proposed development on the living conditions of neighbouring occupiers, having regard to noise and disturbance.

## **Reasons**

### *Highway safety*

7. The appeal site comprises an area of land which was formerly occupied by a church, and which is currently operating as a public car park. The site is located adjacent to the junction between Hardwick Road and Whessoe Road, and is close to the existing surface car parking linked to the nearby North Tees Hospital.
8. The Council has concluded that the completed development would have an adverse impact on highway safety as a result of additional traffic generation, and that the potential for congestion on surrounding roads as a result of cars queuing to gain access to the car park, would cause the obstruction of the free flow of traffic and 'blue light' movements on Hardwick Road. Whilst I have had regard to these concerns, the Council has not provided any substantive or technical evidence in support of this contention, and whilst I observed the regular arrival of cars at the existing car park, their numbers and frequency would not, upon the implementation of barrier controls, have resulted in adverse highway conditions. In reaching this conclusion, I have also taken into account the advice given to the planning committee of the appellant's intention for the barriers proposed to be of a design and specification to ensure that vehicles would not be delayed in accessing the car park for more than a few seconds, which is a detail controllable as part of the information to be agreed by condition for the car park management plan.
9. The proposed exit from the car park on to Hardwick Road would incorporate satisfactory visibility splays, and the development would also provide improvements to the pedestrian environment on this part of Hardwick Road through the provision of a pedestrian crossing. Whilst I have taken into account the doubts of interested parties that the car park will alleviate existing parking problems within the area as it would not be free, this contention did not appear to be borne out by the significant level of use that I witnessed at the time of my site visit. I have also had regard to additional concerns and issues raised regarding the combination of heavy plant and vehicles in connection with the construction site to the north and cars accessing the car park, and existing inconsiderate parking on pavements in the area. However, in assessing these impacts, I am mindful that the prevalence of construction traffic and heavy plant related to the adjoining development site will only be a temporary addition to traffic in the area, whilst the issue of inconsiderate parking is a matter for which the development could not be reasonably held to be responsible. I have also noted the absence of an objection from the Highway Authority on highway safety grounds, finding this to add further weight in support of the proposals.

10. The proposed development would not result in an adverse effect on highway safety arising from traffic generation. The Council has not referred to any Development Plan policies in respect of highway safety in its reason for refusal, although reference has been made to policy CS2 of the Stockton-on-Tees Core Strategy Development Plan Document (2010) in the appeal statement, and I have therefore assessed the appeal against this policy and the National Planning Policy Framework (the Framework). The development would not conflict with policy CS2 of the Core Strategy, which seeks to ensure that all new development is fully integrated into existing transport networks, and improves accessibility. Furthermore, the development would accord with the Framework in that it would provide for safe and suitable access to the site for all people, and the residual cumulative impacts of development on highway safety would not be severe.

*Living conditions*

11. The principal concerns in respect of the impact on living conditions relate to the potential for noise and disturbance for neighbouring occupiers of Whessoe Road, as a result of the comings and goings of vehicles on the appeal site.

12. In reaching its conclusions, I note that the Council sought advice from its own Environmental Health team, although no objections were raised in principle to the development and no further concerns in respect of noise and disturbance for occupiers of the neighbouring dwellings were highlighted as a result of the operation of the car park.

13. On the basis of the evidence placed before me, the Council appear ultimately to have reached a decision, contrary to the advice of the consultee, in the absence of any technical assessment of noise and disturbance to support their own conclusion. Whilst accepting the subjective nature of noise generation, I have been particularly mindful of the position of the appeal site adjacent to Hardwick Road, which from my observations at the time of the site visit, appeared to be a generally busy road with regular flows of traffic in each direction. Given the similarities in the nature of the existing noise sources in the immediate locality, it is therefore unlikely that any additional vehicular comings and goings from the appeal site would result in an adverse effect on the amenities of the neighbouring residential area, but that such movements would blend in with the existing noise environment.

14. Concerns have been raised by interested parties over the potential for light pollution from both the headlights of vehicles and any future lighting scheme agreed for the car park, and also the potential for instances of anti-social behaviour within the car park during evenings. I have carefully considered the impact of vehicle headlights, and I am satisfied that any such impact would be adequately mitigated through the implementation of an appropriately designed landscape belt on the Whessoe Road boundary, as has been indicated on the proposed plan. Furthermore, I note that the Council has suggested a condition requiring the details of any lighting scheme on the site, and I consider that this would provide the Council with an appropriate level of control over the nature of any lighting of the appeal site, which would enable the protection of neighbouring occupiers from any potential for light spillage. In respect of anti-social behaviour, I have noted that Cleveland Police have raised no objections to the development subject to the car park complying with the requirements of the Safer Parking award, and that the management plan condition has been

suggested as a means of addressing this and other matters related to the operation of the car park, which I consider to be a satisfactory approach.

15. The proposed development would not have not have an adverse effect on the living conditions of neighbouring occupiers, having regard to noise and disturbance. The Council has not referred to any Development Plan policies in respect of living conditions in either its reason for refusal or appeal statement, and I have therefore assessed the appeal against the Framework. The development would not conflict with paragraph 17 of the Framework, which seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.

### **Other Matters**

16. Interested parties have raised a number of other issues in respect of the development including its visual impact, and whether there is a need for the additional car parking. The proposed reinstatement of a low wall around the road boundaries would be characteristic of existing boundary treatments in the area. Whilst I note that the incorporation of a metal railing on top of the wall would also reflect the character and appearance of the vicinity, the use of a timber post and rail fence would not result in any significant visual harm, with its overall impact ultimately diminished once the landscape belt has been planted. In respect of whether the car park is needed, at the time of my site visit I observed that the main car parks on the hospital site did not appear to be full, whereas the appeal site appeared to be well-used, with nearby streets also appearing generally to be at capacity for on-street parking. However, the question of the need for additional parking as a land use is not one which the Council has addressed in any great detail, and it has not identified the principle as contrary to the Development Plan. Therefore, in the absence of any further evidence on this matter, I have not attached any significant weight to the issue of need.

### **Conditions**

17. The Council has suggested conditions which it considers would be appropriate were the appeal to be allowed. I have considered these below in the light of paragraph 206 of the National Planning Policy Framework.
18. In the interest of proper planning, a condition relating to the identification of plans would be necessary, but as the development is partly retrospective, a condition related to implementation of development would be unnecessary. I have sought to combine the proposed conditions regarding the provision of hard and soft landscaping, as well as their maintenance. In this respect I have had regard to the appellant's contentions that the re-surfacing of the car park and landscaping of the site would be unnecessary and overly onerous. However, I am satisfied that the avoidance of loosely-bound materials on pavements and roads would be necessary in respect of highway safety, that an appropriate form of surfacing and maintenance of boundary landscaping for the site would help to maintain the character and appearance of the area, and that the boundary landscaping would also protect the living conditions of neighbouring occupiers on Whessoe Road.
19. On the basis of my conclusions in respect of the proposed boundary treatment, additional details of the means of enclosure for the appeal site would be unnecessary. However, whilst I have noted the point raised by the appellant

regarding the main hours of operation of the car park, during the winter months this would encompass hours of darkness in the evening, and in order to maintain the security of the site and protect the living conditions of neighbouring occupiers, the provision of details of a lighting scheme would be necessary. A condition requiring a management plan for the car park which would include details of opening, and parking control procedures would be necessary to ensure that there would not be an adverse effect on highway safety, the living conditions of neighbouring occupiers, and safety and security of the site. The provision of a pedestrian crossing across Hardwick Road would be in the interests of highway safety.

20. I have noted that the Environmental Health team had also suggested a condition requiring the restriction of hours of construction for the car park. However, given the limited scope and nature of the works which would remain to be completed, I am satisfied that such a condition would be unnecessary in this instance.

**Conclusion**

21. For the reasons given above and subject to the conditions listed, the appeal should be allowed.

*M Seaton*

INSPECTOR

Attached – Annex – Conditions

## **Annex**

### **Conditions**

- 1) Other than as required by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, and Drawing Nos. 14/12/01B & 14/12/03A.
- 2) Notwithstanding any previously submitted details, within 28 days of the date of this decision, full details of both hard and soft landscape works shall have been submitted in writing for the approval of the local planning authority. The details of hard landscaping shall include external finishing materials, finished levels, and all construction details confirming materials, colours, finishes and fixings. The soft landscaping details shall include a detailed planting plan and specification of works indicating soil depths, plant species, numbers, densities, locations and inter-relationships of plants, stock size and type, grass, and planting methods including construction techniques for pits in hard surfacing, and root barriers including details of all existing or proposed utility services.

All hard and soft landscape works shall be carried out in accordance with the approved details. The hard landscaping shall be completed within 12 months of the date of this decision, whilst the soft landscaping shall be completed within the first planting season following the date of this decision.

- 3) Notwithstanding the submitted plans and details, a soft landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for all landscape areas and retained vegetation, shall be submitted to the local planning authority for approval within 28 days of the date of this decision.

Any vegetation within a period of 5 years from the date of the completion of the development that is dying, damaged, diseased or is failing to thrive, shall be replaced by the same species of a size at least equal to that of the adjacent successful planting in the next planting season, unless a variation is agreed in writing by the Local Planning Authority.

Landscape maintenance shall be detailed for a minimum period of 5 years establishment from the date of completion of the development, followed by a long-term management plan for a period of 20 years. Development shall be carried out in accordance with the approved schedule.

- 4) Notwithstanding any submitted details, a scheme of external lighting on the appeal site, to include details of mitigation for light spillage, shall be submitted to and approved in writing by the local planning authority writing within 28 days of the date of this decision. The agreed scheme shall be implemented in accordance with the approved details and be maintained and remain for the lifetime of the development.
- 5) A scheme for the management of the car park shall be submitted to the Local Planning Authority for approval in writing within 28 days of the date of this decision. The scheme shall include but not be restricted to signage, hours for lighting and any car park control procedures including its use for long stay parking. The scheme shall include a complaints procedure in the event of complaints being received from residents in the vicinity of the car park relating to the use of the car park outside of the

permitted hours, and mitigations measures in the event that the Local Planning Authority deem that use to be detrimental to the amenity of the neighbours/complainant, including use of a car park barrier system. The scheme shall include details of the barrier type, its automated operation and timescales for its installation if required by the Local Planning Authority. The car park shall be managed in accordance with the agreed scheme for the operational life of the car park and, if installed, the barrier shall be operated in accordance with the agreed scheme thereafter for the operational life of the car park.

- 6) Within 28 days of the date of this permission a scheme shall be submitted to the Local Planning Authority for prior written approval for the construction of a pedestrian crossing and dropped kerbs on Hardwick Road. The works shall be carried out within a period of two months of the date of this permission.