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## Appeal Decision

Site visit made on 11 October 2021

**by T J Burnham BA (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 29 November 2021**

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### **Appeal Ref: APP/H0738/W/21/3280308**

### **The Mile House, Durham Road, Stockton-On-Tees TS19 9AA**

- 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 Cliff Court (Redcar) Developments Ltd against Stockton-on-Tees Borough Council.
  - The application Ref 21/0118/COU, is dated 24 December 2020.
  - The development proposed is alterations to, and the change of use of, the former Mile House public house to accommodate a drive thru coffee shop (Class E) and one retail unit (Class E) with associated car and cycle parking.
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### **Decision**

1. The appeal is allowed. Planning permission is granted for alterations to, and the change of use of, the former Mile House public house to accommodate a drive thru coffee shop (Class E) and one retail unit (Class E) with associated car and cycle parking at The Mile House, Durham Road, Stockton-On-Tees TS19 9AA in accordance with the terms of the application Ref 21/0118/COU dated 24 December 2020 subject to the conditions in the attached schedule.

### **Application for costs**

2. An application for costs was made by Cliff Court (Redcar) Developments Ltd against Stockton-on-Tees Borough Council. This application is 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 putative reasons for refusal. These constitute the matters of disagreement with the appellant, and they therefore form the main issues in this case.
4. Along with further evidence aimed at addressing the concerns of the Council, a revised site layout plan has been submitted during the course of the appeal referenced L020089 – 007 Rev B. This plan largely shows minor internal alterations to the layout of the site with a slight reduction in parking spaces from 47 to 44 to accommodate the changes. It has been submitted in direct response to the objections of the Council.
5. Given the minor nature of the changes, I do not consider that they would leave the development so altered such that to allow the appeal would deprive those

who should have been consulted on the changed development the opportunity of such consultation. The Council has been offered the opportunity to comment. Since doing so would not prejudice interested parties, I have based my decision on the revised site layout.

6. The description of the proposal has altered from the application form to that included within the acknowledgement letter from the Council. That on the application form however adequately describes the proposal and I have determined the appeal on this basis.

### **Main Issue**

7. The main issue therefore is the effect of the proposal on the safety of drivers, pedestrians and other road users at and around the site with particular regard to pedestrian and vehicular manoeuvrability and congestion and the free flow of traffic.

### **Reasons**

8. The appeal site relates to the former Mile House Public House which occupies a reasonably large site adjacent to the junctions of Durham Road and Darlington Lane.
9. At the time of my site visit which was made during a weekday morning rush hour, traffic around the site was brisk and the junction was busy, but orderly. The use of the building as a public house had ceased and it was suffering from a degree of dereliction.
10. When considering the effects of the proposal on users within the site, it would be likely that vehicle speeds would be low when manoeuvring around the site, which would limit danger to pedestrians.
11. On the basis of the evidence before me, there is nothing to indicate that the footpaths within the site are so narrow that they would constrict pedestrian movement through the site. The layout allows for movement from the rear car park to the front of the site, which would not involve significant gradient and there is also the provision for immediate access from the car park to the rear of the units.
12. Due to the positioning of the pedestrian crossings within the site and the locations of the order point and collection window, drivers would be granted good visibility of pedestrians ahead of them at points that they would be stopped during the 'drive thru' process. There would not appear to be significant potential for vehicles to need to stop on the crossing points.
13. Further, the larger number of parking spaces are to the rear from where users of the site would be unlikely to need to cross the 'drive thru' lane.
14. A gap has also been provided between the bank of car parking spaces to the rear of the premises such that pedestrians would not have to pass between parked cars should they not wish. Clear rights of way markings would be provided to drivers, and the good levels of visibility and low vehicles speeds on the site would again limit the potential for conflict between vehicles.
15. The arrangement close to the accessible parking bays would not directly attract short term parking and signage would direct users of the site towards general parking at the side and rear.

16. I accept that previous Covid-19 restrictions on people being able to enter some premises for food and drink will have resulted in 'drive thru' premises becoming more popular. This will have inevitably resulted in increased numbers of people utilising them in their vehicles.
17. However, this increase in use is likely to have been necessitated by the stricter restrictions which were in place earlier this year. There is nothing to suggest that such stringent restrictions will become commonplace, especially over the longer term.
18. The proposal would allow for up to 8 cars to be accommodated within the 'drive thru' lane. The evidence indicates that at five existing 'drive thru' sites within the region, the maximum number of cars waiting within the 'drive thru' lane was 6. There is nothing to indicate that the situation would be so different at the appeal site. In any event, a driver arriving at the premises and seeing the 'drive thru' lane full could also have the option to drive on to the car park. It is therefore unlikely that traffic would spill back onto Darlington Lane to the degree that it would compromise the free flow of traffic.
19. I therefore conclude that there is nothing within the evidence which indicates that the safety of drivers, pedestrians and other road users at and around the site would be compromised with regard to pedestrian and vehicular manoeuvrability and congestion and the free flow of traffic.
20. The proposal would not therefore conflict with policies SD6(2), SD8(1f) or TI1(12) of the Stockton-on-Tees Local Plan (2019) which amongst other things seek a safe road network, development which responds positively to the existing transport network and the need to provide safe and satisfactory access and parking for all modes of transport which prioritise pedestrian movements.

### **Other Matters**

21. There is no evidence that the proposal would result in any significant reduction in air quality and a proposal for a green wall is included. The use of render is not uncommon within the area and therefore the part rendered finish would not appear out of place. The proposal would inevitably increase levels of activity at and around the site and concerns over noise, litter and gathering are raised. However, such impacts would likely equally also be associated with the previous use of the building as a public house. I therefore afford these matters limited weight.

### **Conditions**

22. The conditions that are included are broadly reflective of those suggested by the parties although I have amended some of the wording in the interests of precision and clarity.
23. Planning permission is granted subject to the standard three-year time limit. It is necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
24. Conditions relating to a construction management plan, green wall, waste management, lighting, opening hours and noise levels are necessary in the interests of the living conditions of nearby occupiers. Conditions relating to hard and soft landscaping and tree protection are necessary in the interests of the character and appearance of the area. A condition is necessary so that

proper drainage of the site which includes extensive hard surfacing is secured. A condition is necessary in relation to a service management plan in the interests of highway safety.

25. No detailed evidence has been submitted which would justify the introduction of a use class restriction or a restriction on the combination of the two units. This condition is not therefore necessary.

### **Conclusion**

26. Taking all relevant matters into account, the proposal accords with the development plan and there is no indication that a decision should be made other than in accordance with it. The appeal is therefore allowed and planning permission is granted.

*T J Burnham*

INSPECTOR

### **SCHEDULE OF CONDITIONS**

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: Site Location Plan, L020089-001, L020089-002, L020089-005, L020089-004, L020089-003, L020089-006B & L020089-007B.
3. No development shall take place until a Construction Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Management Plan shall provide details of: The site construction access/es; ii) Parking locations for vehicles of site operatives and visitors; iii) Loading and unloading of plant and materials including any restrictions on delivery times; iv) Storage of plant and materials used in constructing the development; v) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing; vi) Measures to be taken to minimise the deposit of mud, grit and dirt on public highways by vehicles travelling to and from the site; vii) Measures to control and monitor the emission of dust and dirt during construction; viii) A site waste management plan; ix) Details of the routing of associated HGVs including any measures necessary to minimise the impact on other road users; x) Measures to protect existing footpaths and verges; xi) a means of communication with local residents; and xii) construction hours.

The approved Construction Management Plan shall be adhered to throughout the construction period.

4. Prior to the commencement of the development, full details of the proposed hard landscaping, including car parking spaces, footpaths, roadways and accessways, shall be submitted to and approved in writing by the local planning authority. The details shall include all external finishing materials, finished levels, and all construction details confirming materials, colours, finishes and fixings. The scheme shall be completed in accordance with the

approved details prior to the first use of the development. Any defects in materials or workmanship appearing within a period of 12 months from completion of the total development shall be made good by the owner as soon as practicably possible.

5. Prior to the commencement of development, tree protection measures in accordance with the Arboricultural Survey, Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan shall be in place and retained until construction works are complete. Works at the site shall proceed in accordance with the methods detailed in the above documents.
6. Prior to the first use of the development a detailed scheme for a green wall to mitigate and minimise air borne particulates shall be submitted to and be agreed in writing with the local planning authority. The scheme shall include; details of the type of the solid barrier at a minimum height of 2.4m; the support mechanism for associated planting; any hydroponic system/s and full planting specification along with full details of any maintenance programme for the structure and planting.

All associated planting on the green wall should be designed to provide continuous living cover in all seasons and ensure that plant species with a high particulate capture ability are used.

The structure shall be installed in full accordance with the agreed details prior to the first use of the development and thereafter shall be maintained in full accordance with the agreed details for the lifetime of the development.

7. Prior to the first use of the development, full details of soft landscaping, including tree and shrub planting, shall be submitted to and approved in writing by the local planning authority. Details shall include a planting plan and specification of works indicating soil depths, plant species, numbers, densities, stock size and type, planting methods including construction techniques for pits in hard surfacing and root barriers and short/long term maintenance arrangements. All works shall be carried out in accordance with the approved plans and implemented within the first available planting season. Any trees, shrubs or plants which within 5 years of the date of planting, die, become diseased or are removed shall be replaced in the next planting season with the same or similar species of a comparable size.
8. Prior to the first use of the development, surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the

arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

9. Prior to the first use of the development, a scheme for the management and collection of all waste shall be submitted to and approved in writing by the local planning authority. The management and collection of waste shall thereafter be carried out in accordance with the agreed scheme.
10. Prior to the first use of the development, details of the specification and positioning of any lighting to be installed at the site shall be submitted to and approved in writing by the local planning authority. The lighting shall thereafter be installed in accordance with the agreed details.
11. Prior to the first use of the development, a servicing management plan shall be submitted to and approved in writing by the local planning authority. The plan shall demonstrate the expected number, time and duration of all deliveries and servicing trips to the site, with the aim of reducing the impact of servicing activity and limiting the number of service vehicles on site at the same time to the number of servicing parking bays proposed. The plan shall specify the type of service vehicles to be used. The plan shall also specify how communication with delivery drivers will be made in the event that their delivery slot is not available and where these vehicles will stack and wait off the adopted highway until called. There shall be no waiting of service vehicles on site. The servicing management Plan shall be implemented in full accordance with the approved details from the first use of the development and adhered to for the lifetime of the development.
12. The hereby approved development shall not be open for business outside the hours of 07:00 – 22:30. Deliveries associated with the use shall not take place outside of the permitted hours of operation.
13. The rating level of sound emitted from any fixed plant and/or machinery associated with the development shall not exceed background sound levels by more than 5dB (A) between the hours of 0700-2300 (taken as a 1 hour LA90 at the nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142: 2014 (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments. Where access to the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location to be agreed with the local planning authority and corrected to establish the noise levels at the nearest sound sensitive property. Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.