



Planning Report for 2017/1225

1:2,778

Planning Reference:
Location

2017/1225
Site of the Former Cavendish
Cavendish Road, Carlton



NOTE This map is provided only for purposes of site location and should not be read as an up to date representation of the area around the site.
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Report to Planning Committee

Application Number: 2017/1225

Location: The Cavendish Cavendish Road Carlton
Nottinghamshire

Proposal: Section 73 application to vary condition 2 of planning permission 2014/0559 (Demolition of existing pub and re-development of the site to create 41 no. residential units) to amend the rear boundary and retaining wall

Applicant: Mr Anthony Leach

Agent: CPMG Architects

Case Officer: David Gray

1.0 Site Description

- 1.1 The site, measuring approximately 0.588 hectares, is located to the east of Cavendish Road within the urban residential area of Carlton. There is a significant drop in level of the site, approximately 10 metres, from the north to the south. To the north of the site is Carlton Parish Unregistered Footpath which is an unregistered right of way between Cavendish Road and Westdale Lane. The site is currently under construction for residential development following a previous planning approval.
- 1.2 Residential properties are located to the north, south and east of the site. The rear gardens of properties on Southview Road back onto the east boundary of the application site and are in an elevated position. The north, east and south boundaries of the site are defined by mature vegetation and trees. The housing to the west of Cavendish Road and to the north of the application site is Post War 50's / 60's semi-detached properties. The properties to the south are modern retirement bungalows, in a terrace, fronting Cavendish Road.

2.0 Relevant Planning History

- 2.1 In July 2015, ref: 2014/0559, Full Planning Permission was granted for the 'Demolition of existing pub and redevelopment of the site to create 41 no. residential units (12 x 1 bed flats; 23 x 2-bed units; and 6 x 3-bed units).'
- 2.2 In July 2016, ref: 2016/0720NMA, a non-material amendment was granted to Planning Permission ref: 2014/0559 was granted to amend plot levels and heights following further surveys of the site.

- 2.3 In August 2016, ref: 2016/0542DOC, Details pursuant to conditions on Planning Permission ref: 2014/0559 were satisfactorily discharged.

3.0 Proposed Development

- 3.1 Following the grant of Full Planning Permission ref.2014/0559, the Non-Material Amendment ref. 2016/0720NMA and the Discharge of Condition Application 2016/0542DOC the applicants now wish to amend Condition 2 detailing the approved plans to account for a new retaining wall structure on the rear east boundary of the site adjoining the rear gardens of properties of South View Road and within plots 34, 35, 36, 37, 38, 39 and 40. This application is retrospective as the development of the retaining wall has been substantially completed.
- 3.2 The retaining structures would be sited mainly within the rear garden areas serving individual dwellings.
- 3.3 A section of retaining wall would be located between plots 25 and 26 which would reduce overall car parking on the development by 1 allocated car parking space and 1 visitor car parking space.

4.0 Consultations

4.1 Nottinghamshire County Council (Highway Authority) –

The variation of condition relates to a retaining wall to the rear of the site that does not affect the highway. No objections.

4.2 Nottinghamshire County Council (Rights of Way Officer) –

No definitive paths are affected by this development.

For additional information the previously unregistered path through the site is now in the process of being added to the definitive map as a public footpath.

4.3 Arboricultural Officer –

No trees are affected by the variation of condition application.

4.4 Neighbouring Properties were notified a Site Notice and Press Notice were posted and 3 letters of representation were received as a result. The comments can be outlined as follows:

4.4.1 *Means of Enclosure*

- ☐ Request that a boundary fence is erected to improve security;
- ☐ The retaining wall was not on the original plans;

4.4.2 *Security and Safety*

- ☐ Without a high robust fence there would be easy access to rear garden areas, this is exacerbated by the location of a public parking area in this location giving free access to the public;

4.4.3 *Amenity*

- ☐ People using the parking bays can look directly into adjoining gardens;
- ☐ There are overlooking concerns raised regarding upper windows from some of the completed properties;
- ☐ Without adequate fencing neighbours would be exposed to disturbance from traffic using the parking bays i.e. lights, engine noise, car door shutting, and fumes.

5.0 **Planning Considerations**

5.1 This application relates to a Section 73 application for the variation of condition 2 in connection with the previous approval for planning permission for residential development and associated works. The principle reason for the changes to the original condition is that a substantive retaining structure was required along the rear boundary with the elevated properties on South View Road.

5.2 The principle of the layout, design and scale of the development has already been established through planning application 2014/0559 as amended by 2016/0720NMA. The Council granted full planning permission for the 'demolition of existing pub and redevelopment of the site to create 41 no. residential units'

5.3 The main planning considerations in the determination of this application are therefore:

- ☐ the impact the amendments would have on the design and visual appearance of the development;
- ☐ the impact on the amenity of nearby residential properties; and
- ☐ the impact on off-street car parking.

6.0 **Design and Visual Appearance**

6.1 In terms of visual amenity, I consider that, the amendments to the boundary retaining walls would be in keeping in terms of design with the surrounding development. I note that the concrete retaining structures would be clad with vertical timber boarding to soften the appearance within the scheme and that most of the development would be within the curtilages of previously approved dwellings. Whilst I note that some garden areas are shortened as a result of the development I consider that the amendment would sit well within the approved layout.

6.2 Having considered the impact of the minor material amendment on the design of the scheme and the constraining factors, it is my opinion that the proposal would satisfy the design and landscaping criteria of Policies ENV1 of the RLP, Policy 10 of the ACS and the broad aims of the NPPF.

7.0 **Impact on the amenity of nearby residential properties**

7.1 The layout, design, and the location of windows have all been previously approved under application 2014/0599. Given the topography of the land,

which drops significantly from South View Road and that a number of trees have been removed concerns have been raised that there is potential for the upper floor windows of properties on the development to overlook the rear amenity areas of plots 24 and 26 South View Road. Outside of the controls or requirements of the planning process, by way of a good will gesture, the developer has provided 1.8 metre fencing on the properties affected. Whilst outside the requirements of this application or the previous planning approval I am satisfied that the erection of the new fencing significantly reduces any over-looking impact.

- 7.2 I note the comments regarding the disturbance from vehicles using the parking area. During the processing of the application amendments were made to the scheme to increase the height of the wooden clad fencing above the concrete retaining structure adjacent to the car parking areas a further 1.8 metres. In my view this additional screening would prevent any undue light, disturbance, or overlooking from the car parking area and would improve security for the adjoining properties as the proposed height would now be above what could easily be climbed over.
- 7.3 I am therefore satisfied that the proposed development would not result in any additional undue overbearing, overlooking or overshadowing impact on neighbouring residential amenity from the previously approved scheme. It is therefore considered that the details deposited with the application accord with the NPPF, Policy ENV1 of the RLP and Policy 10 of the GBACS.

8.0 Impact on Off-Street Car Parking

- 8.1 When considering the car parking provision the adopted Parking Provision for Residential Development Supplementary Planning Document (SPD) May 2012 is relevant. When referring to the car parking SPD the proposed development for 31 residential units with allocated car parking of 40 spaces would result in an additional demand for 19 spaces. The development provides 40 allocated spaces with 16 unallocated/visitor spaces. This is an under provision of 3 spaces.
- 8.2 I note that the amendments sought by this application would result in a further reduction of only 1 visitor space when compared to the previously approved scheme. I would also note that at least 1 allocated off street car parking space has been assigned to each residential dwelling and the majority of the properties are 1 and 2 bedroom affordable properties. I therefore consider that the further reduction of 1 visitor space to allow for the construction of the retaining wall would not be significant in this instance. I would also note that the Highway Authority have not objected to the level of car parking provision.
- 8.3 In light of the above consideration and that the layout, access areas and turning were previously I consider that there would be no undue highway safety implications that would warrant a refusal of this application.

9.0 Obligations

- 9.1 This Section 73 application would effectively produce a replacement planning permission to that previously approved under 2014/0559 if granted. The

previous approval was subject to a s106 agreement for the provision of, or financial contributions towards Affordable Housing, Educational Facilities, Healthcare and Open Space.

- 9.2 Therefore any grant of this Section 73 application amending planning permission 2014/0559 should be subject to the applicant entering into a deed of variation amending the original s106 Agreement so that it applies to both permissions.

10.0 Conclusion

- 10.1 Given the considerations above I consider that the proposed amendment to the internal retaining wall and individual boundary alterations can be considered a minor material amendment to the plan approved under 2014/0559 as amended by 2016/0720NMA, and subject to the details approved under 2016/0542DOC and planning permission should be granted.

- 11.0 Recommendation: Grant variation to condition 2 of planning permission 2014/0559 by issuing a replacement planning permission subject to the applicant entering into a deed of variation amending the original Section 106 Agreement with the Borough Council as local planning authority, the County Council as education authority and the National Health Service for the provision of, or financial contributions towards Affordable Housing, Educational Facilities, Healthcare and Open Space; and subject to the following conditions.**

Conditions

1. DELETED - Duration of permission - development has commenced.
2. The development hereby permitted shall be completed in accordance with the approved plans drawing no's: 7595 70-001 (Site Plan as Existing), 7946 70-100 Rev: C4 (08.06.2016) (Site Plan as Proposed), 7595 20-000 Rev A (Block Elevations as Proposed), 7595 20-001 Rev A (Block Elevations as Proposed), 7595 20-002 Rev A (Block Elevations as Proposed), A-7595-20-006 (Apartment Elevations), 795 00-000 Rev A (Typical Unit Floor Plans as Proposed), 7595 20-004C (Street Elevations), (1) 131 (Brick Retaining Wall Sections at Apartment Block), (1) 128 (Brick Retaining Wall Sections at Apartment Block GA Plan), (1) 129 (Brick Retaining Wall Sections at Apartment Block Elevations and Sections), 25842-22 (Retaining Wall Sections Units 20 - 26), 25842-12 (Retaining Wall Sections Units 15 - 19), (1) 110 (Retaining Wall Plans and Elevation), 25842-20 (Site Part Plan Units 20 - 26), (1)125 (Brick Retaining Walls at Plot 33 - 42 GA Plan, 25842-10 (Site Part Plan Units 15 - 19), and 25842-12 (Retaining Wall Sections Units 15 - 19).

3. The development hereby permitted shall be completed in accordance with the Arboricultural Implications Assessment and Arboricultural Method Statement: Appendix 3, dated April 2014.
4. No part of the development hereby permitted shall be brought into use until the private car parking areas are surfaced in a bound material with the parking bays clearly delineated in accordance with drawing number 70-100 Rev C4 (Site Plan External Works). The parking areas shall be maintained in the bound material for the life of the development and shall not be used for any purpose other than the parking of cars.
5. The new access junction onto Cavendish Road shall be retained for the life of the development in accordance with drawing number 70-002-RevD.
6. No part of the development hereby permitted shall be brought into use until the visibility splays are provided in accordance with the approved plans. The area within the visibility splays referred to in this condition shall thereafter be kept free of all obstructions.
7. No part of the development hereby permitted shall be brought into use until all drives and parking areas are surfaced in a bound material (not loose gravel). The surfaced drives and parking areas shall then be maintained in such bound material for the life of the development.
8. The development hereby approved shall be completed in accordance with the plans that received s38 technical approval from the Highway Authority drawing no's: 11327-1003A, 11327-2001-D, 11327-2003B, 11327-2004A, 11327-2005A, 11327-2006, and H083630-3006.
9. No part of the development hereby permitted shall be brought into use until the access driveways and parking areas are constructed with provision to prevent the unregulated discharge of surface water from the driveways and parking areas to the public highway. The provision to prevent the unregulated discharge of surface water to the public highway shall then be retained for the life of the development.
10. The development hereby approved shall be implemented in accordance with the details submitted under the Cavendish Road - 'Traffic Management Plan'.
11. The development hereby approved shall be implemented in accordance with the details submitted by Robert Woodhead's incorporating 100mm Welford Buff facing bricks and Russell Grampian / Highland Grey Slate Effect roof tiles.

12. The development shall be completed strictly in accordance with the approved plans A-7946-25-200/201/202 and A-7946-70-006-P2 approved under application 2016/0542DOC. The landscape works shall be maintained in accordance with the approved details for a minimum period of five years from the date the soft landscape works are completed.

Reasons

1. In order to comply with Section 51 of the Planning and Compulsory Purchase Act 2004.
2. For the avoidance of doubt.
3. To ensure the adequate and safe tree retention on site in the interests of good Arboricultural practise.
4. To ensure that adequate off-street parking provision is made to reduce the possibilities of the proposed development leading to on-street parking in the area.
5. To ensure the development is constructed to adoptable standards
6. To maintain the visibility splays throughout the life of the development and in the interests of general Highway safety.
7. To reduce the possibility of deleterious material being deposited on the public highway (loose stones etc).
8. To ensure the development is constructed to adoptable standards.
9. To ensure surface water from the site is not deposited on the public highway causing dangers to road users.
10. In the interests of Highway safety.
11. For the avoidance of doubt.
12. To ensure that the final form of the development complies with policies ENV1, H7 and H16 of the Gedling Borough Replacement Local Plan (Certain Policies Saved 2014).

Reasons for Decision

In the opinion of the Borough Council the proposed development is visually acceptable, results in no significant impact on neighbouring properties, the area in general and is acceptable from a highway safety viewpoint. The proposal therefore accords with Policy 10 of the Aligned Core Strategy (2014) and H7, H16 and ENV1 of the Gedling Borough Council Replacement Local Plan (Certain Policies Saved 2014)

Notes to Applicant

Planning Statement - The Borough Council has undertaken negotiations during the consideration of the application and during Pre Application discussions to address adverse impacts identified by officers to address concerns in connection with the proposal, addressing the identified adverse impacts, thereby resulting in a more acceptable scheme and favourable recommendation. The Borough Council has worked positively and proactively with the applicant in accordance with paragraphs 186 to 187 of the National Planning Policy Framework (March 2012).

The attached permission is for development which will involve building up to, or close to, the boundary of the site. Your attention is drawn to the fact that if you should need access to neighbouring land in another ownership in order to facilitate the construction of the building and its future maintenance you are advised to obtain permission from the owner of the land for such access before beginning your development.

Notwithstanding any planning permission if any highway forming part of the development is to be adopted by the Highways Authority the new roads and any highway drainage will be required to comply with the Nottinghamshire County Council's current highway design guidance and specification for roadworks, the 6CsDG.

The Advanced Payments Code in the Highways Act 1980 applies and under section 219 of the Act payment will be required from the owner of the land fronting a private street on which a new building is to be erected. The Highway Authority should be contacted with regard to compliance with the Code, or alternatively to the issue of a Section 38 Agreement and bond under the Highways Act 1980. A Section 38 Agreement can take some time to complete. Therefore, it is recommended that the Highway Authority is contacted as early as possible.

In order to carry out the off-site works required you will be undertaking work in the public highway which is land subject to the provisions of the Highways Act 1980 (as amended) and therefore land over which you have no control. In order to undertake the works you will need to enter into an agreement under Section 278 of the Act. Please contact the County Council for details.

Should any bat/s be found during demolition, work must stop immediately. If the bat/s does not voluntarily fly out, the aperture is to be carefully covered over to provide protection from the elements whilst leaving a small gap for the bat to escape should it so desire. The Bat Conservation Trust should be contacted immediately on (0845) 1300228 for further advice and they will provide a licensed bat worker to evaluate the situation and give advice. Failure to comply is an offence under the Wildlife and Countryside Act 1981 and the Conservation of Habitats and Species Regulations 2010 which makes it an offence to kill, injure or disturb a bat or to destroy any place used for rest or shelter by a bat (even if bats are not in residence at the time). The Countryside and Rights of Way Act 2000 strengthens the protection afforded to bats covering 'reckless' damage or disturbance to a bat roost.

This consent will require approval under Section 19 of the Nottinghamshire County Council Act 1985 and where the new streets are to be adopted an Agreement

pursuant to Section 38 of the Highways Act 1980 will be required. Please contact Nottinghamshire County Council to ensure that approvals and agreements are secured before commencement of works.

It is strongly recommended that the developer contact the Highway Authority at an early stage to clarify the codes etc. with which compliance will be required in the particular circumstance, and it is essential that design calculations and detailed construction drawings for the proposed works are submitted to and approved by the County Council (or District Council) in writing before any work commences on site

I bring your attention to Carlton Parish Unregistered Footpath that passes through the site from Cavendish Road to Westdale Lane. The availability of the footpath should not be affected or obstructed in any way by the proposed development at this location unless subject to appropriate diversion or closure orders.

It is noted that suitable habitat for slow worms exist on site. Should any slow worms be found during works to clear the site, work must stop immediately until a suitably qualified ecologist has attended the site to ensure that potential impacts on this protected species are properly considered and to enable any required mitigation to be incorporated into the development. Slow Worms are protected under Schedule 5, Section 9 (1 and 5) of the Wildlife and Countryside ACT 1981 and the Countryside and Rights of Way act 2000 against deliberate or reckless killing and injuring and sale.

The proposed development lies within a coal mining area which may contain unrecorded coal mining related hazards. If any coal mining feature is encountered during development, this should be reported immediately to The Coal Authority on 0845 762 6848. Further information is also available on The Coal Authority website at www.coal.decc.gov.uk. Property specific summary information on past, current and future coal mining activity can be obtained from The Coal Authority's Property Search Service on 0845 762 6848 or at www.groundstability.com.

It is an offence under S148 and S151 of the Highways Act 1980 to deposit mud on the public highway and as such you should undertake every effort to prevent it occurring.