
Appeal Decision

Site visit made on 7 November 2016

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 20 January 2017

Appeal Ref: APP/B1740/W/16/3151174

**Land adjacent to the Augustus John Public House, Ashford, Fordingbridge
SP6 1DG**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Newriver Property Unit Trust No. 4 against the decision of New Forest District Council.
 - The application Ref 15/11601, dated 30 October 2015, was refused by notice dated 17 December 2015.
 - The development proposed is the erection of a two storey building comprising two apartments.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application was made in outline with all matters other than access to be reserved for subsequent approval.

Main Issues

3. The appellants have submitted a unilateral undertaking dated 10 August 2016 which makes provision for contributions towards affordable housing. However, the Court of Appeal has overturned a legal challenge¹ to the Written Ministerial Statement (WMS) of 28 November 2014. The WMS, amongst other things, indicated that, because of the disproportionate burden of developer contributions on small-scale developers, for sites of 10 units or fewer, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. The Planning Practice Guidance (PPG) has since been amended to reflect the approach in the WMS.
4. The Council has confirmed that in the light of these circumstances, it will not defend the reason for refusal in relation to affordable housing contributions. In this context and because of the considerable weight I attach to the Government's new policy in this respect, I find that the obligation would be unnecessary, and that it would not fulfil the tests set out in the Community Infrastructure Levy Regulations 2010. Accordingly I give it no weight in this decision.

¹ Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council C1/2015/2559; [2016] EWCA Civ 441, dated 11 May 2016

5. The appeal was accompanied by a parking survey and an amended indicative parking layout (Ref: SK002 Rev.D), showing 4 spaces for the proposed flats and 17 spaces to be retained for the public house². The Council and the Highway Authority are content that this would address the highways issue regarding parking.
6. Accordingly, the remaining main issues are:
 - i) the effect of the proposal on the character and appearance of the surrounding area, and
 - ii) whether the proposal would provide satisfactory living conditions for the intended occupiers, with particular regard to noise and disturbance.

Reasons

Character and appearance

7. The proposed block of flats would occupy part of the large car park to the side of the Augustus John public house, on the corner of Station Road and Ashford Close. Whilst residential uses dominate in the area, there are commercial buildings immediately to the north-east of the site, and somewhat further away, to the south-west.
8. The car park appears unusually large in relation to the size of the public house which it serves, and is in a prominent position, on the main road through Ashford. Its openness adds little to the character of the settlement, and in my view, a suitably designed dwelling would reinforce the existing pattern of development with buildings lining the road.
9. There is a varied building line on both sides of Station Road, and the set-back of the proposed building shown on the indicative plan would accord with this pattern. It would be sited close enough to the public house so as not to appear isolated, and boundary treatment and landscaping would help to provide it with its own identity, and would avoid it appearing incongruous in relation to the public house and the car park to the rear. The building would be set back from Station Road further than the public house, but this would be appropriate for a corner plot, to prevent it appearing overly prominent.
10. I therefore conclude on the first main issue that the proposal would not result in material harm to the character and appearance of the surrounding area, or conflict with Policy CS2 of the Core Strategy for the New Forest District outside the National Park (2009), which deals with design quality.

Living conditions

11. The block would be fairly close to a small yard on which are sited some benches, and to a sheltered seating area where there are further benches, where I expect patrons congregate to drink and smoke. It is proposed to retain these areas as part of the pub. Although the area is not large, I consider that in good weather in particular, there could be significant numbers of people gathered there. In my experience, especially when large groups might be present, the noise of people in high spirits chatting, laughing and shouting can be especially disturbing, and it is during good weather when residents of the

² Although the plan was submitted prior to the determination of the application, it is not clear if it was taken into account in the Council's decision.

proposed flats would be likely to wish to have their windows open. Notwithstanding the appellants' argument that the family nature of the pub and effective management enables it to exist comfortably in a residential area, customers' behaviour can only be controlled by the management in extreme cases, and the closeness of the proposed accommodation to the beer garden creates a substantial risk of an unacceptable degree of noise and disturbance being experienced.

12. The appellants have submitted some noise survey data, but it relates only to one day, which in itself limits its usefulness. Moreover, that one day was a Monday, often the quietest day of the week for the leisure and entertainment business, and the Council evidence shows that the day was a cold one, which would be likely to limit the numbers of people using the outdoor areas to drink or smoke. For these reasons I attach little weight to this evidence.
13. The flats would also lie adjacent the access way from the car park to the public house. As patrons leave the premises, particularly late at night, noise of the type I have referred to above, would be likely to be audible from windows at the rear of the building. I acknowledge that there may be many instances where residential premises abut public houses and their grounds, and that occupiers would have a choice as to whether to live there. However, it is a core planning principle of the National Planning Policy Framework (the Framework) always to seek to secure a good standard of amenity for all existing and future occupants of land and buildings. I consider that the juxtaposition of the two uses would give rise to unacceptable degrees of disturbance, and would fail to provide occupiers with the good standard of amenity that the Framework expects.
14. The site is located at the junction of two roads. Whilst Station Road is moderately busy, and measures might need to be provided to mitigate the impact of traffic noise, Ashford Close serves only a couple of dozen houses, and the amount of traffic likely to use it would be small, and would be unlikely to materially affect occupiers' living conditions. Similarly there may be an element of noise that would be heard within the proposed building from the large B1/B8 commercial building to the immediate north-west of the site, but again, on its own it would be not be a reason to dismiss the appeal. However, the combined noise sources of Station Road, Ashford Close and the pub garden, shelter and car park, so close to the façade of the proposed building, would be likely to have a severe adverse effect on occupiers' enjoyment of their homes.
15. I therefore conclude on this issue that the proposal would result in material harm to the living conditions of the intended occupiers of the proposed flats, with particular regard to noise and disturbance, and would conflict with Policy CS2 referred to above, which also includes a requirement that development should not cause unacceptable effects by reason of noise or other adverse impact on amenities.

Other matters

16. The parking for both the proposed flats and that retained for the public house would meet the Council's standards, and this weighs heavily in favour of the proposal. Although I recognise that the parking survey submitted on behalf of the appellants was undertaken during January when it might be expected that trade would be quieter than summer months, in the time since then it has not

been refuted by objectors with specific evidence. Nor has the appellants' contention that some use of the car park is made by non-patrons. On the basis of the information before me, I consider that sufficient parking would be available to serve both uses without serious detriment to highway safety.

17. I have had regard to the effect of the proposal on the viability of the public house, which has been designated as an Asset of Community Value. However, the appellants claim that the pub is a successful one, and its viability would not be harmed by the development. I see no compelling reason to disagree.

Balancing exercise and conclusion

18. I have found that the proposal would not result in material harm to the character and appearance of the area. It would make a more efficient use of land, and it would be in a sustainable location. The provision of 2 flats would also make a contribution to the district's housing stock, although as there is a healthy housing land supply, the benefit of two additional dwellings would be modest. There would also be economic benefits arising from the construction and occupation of the dwellings. However, the harm that I have identified in respect of occupiers' living conditions is substantial, and clearly outweighs the benefits I have identified. I find that the proposal would fail to fulfil the environmental role of sustainable development.
19. Thus, for the reasons given above, I conclude that the appeal should be dismissed.

JP Roberts

INSPECTOR