
Appeal Decision

Site visit made on 14 February 2017

by J C Clarke BSc(Hons) BTP MRTPI

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

Decision date: 6 March 2017

Appeal Ref: APP/X4725/W/16/3162114

Masons Arms, Bell Lane, Ackworth, Pontefract WF7 7JD

- 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 Tony Kendrick against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/02075/FUL, dated 22 August 2016, was refused by notice dated 17 October 2016.
 - The development proposed is described as 'Detached Dwelling'.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) The effect of any noise or disturbance caused by the use of the nearby Masons Arms public house on the living conditions of future occupiers of the proposed dwelling; and
 - (b) The effect of the proposed development on the setting of the Grade II Listed Building at the Masons Arms.

Reasons

Living conditions

3. The proposed dwelling would be located in a currently open area to the rear of the Mason Arms public house. The Council's concerns relate to the potential for noise and disturbance from the public house including the areas proposed to be retained as its beer garden and its car park.
 4. The proposed dwelling would be separated by a metre wide drive and a 2.4 metre high boundary wall from the public house building and its retained garden. Whilst I note the Appellant's view that the public house garden is only occasionally used I am aware of no planning or similar restrictions preventing its regular use. Whilst the boundary wall would undoubtedly provide some noise attenuation, the evidence before me does not demonstrate that high levels of noise would not on occasion particularly on warm summer evenings spill over the proposed boundary wall.
 5. Furthermore, the front of the proposed dwelling, including lounge, kitchen and bedroom windows would be immediately next to the public house car park.
-

Residents using these rooms would be likely to experience high levels of noise and disturbance as customers return to their cars, with associated closing of car doors and noise of car engines. There is nothing in the evidence before me to suggest that such disturbance would not take place until late in the evening.

6. I accept that the noise and disturbance caused by the public house to occupiers of the proposed dwellings may be less continuous than might be experienced in some dwellings next to busy roads. However, this does not mean that living conditions would be of sufficient quality within the proposed dwelling.
7. I note that the Appellant and his family may live in the dwelling themselves. The Council Environmental Health Officer has also indicated that if the dwelling is proposed to be only occupied by persons associated with the public house business then she would have no objection to it. However, as the public house falls outside the boundary of the appeal site, as defined by the red edge on the site plan which accompanied the application, a condition restricting the occupation of the dwelling to persons involved in running the public house and their family would not be enforceable. In such circumstances and given the absence of a legally enforceable legal agreement securing such a restriction, it cannot be assured that the dwelling would not in due course be occupied by persons who are not connected with running the public house.
8. Whilst potential occupiers of the dwelling would be likely to be well aware of the likely noise from the public house before they acquire the property or move in, this would not mean that living conditions within the proposed dwelling would be acceptable.
9. Having regard to all these points I consider that noise and disturbance caused by the use of the nearby Masons Arms public house would cause substantial harm to the living conditions of future occupiers of the proposed dwelling. Allowing the appeal in such circumstances would conflict with relevant provisions in Policy D9(k) of the Wakefield Local Development Framework Development Policies Document (WLDFDPD) and the National Planning Policy Framework (the 'Framework') related to this matter.

Setting of the Listed Building

10. The proposed dwelling would be located in the current grounds of, and very close to, the Grade II Listed Building of the Masons Arms public house. This is a substantial building, built in coursed sandstone with a stone slate roof, and identified on its list description as dating mainly from the late 18th Century. Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I must have special regard to the desirability of preserving the setting of this Listed Building in my decision. Paragraph 132 of the Framework requires that I give great weight to this matter.
11. Whilst the public house appears to have been substantially altered, and has roof pitches and outriggers which run in different directions, its fundamental original character remains.
12. I understand from the submitted evidence that the proposed dwelling would be further from the public house than a previously proposed dwelling would have been. Like the public house, it would also be built in natural stone with a natural slate roof.

13. However, the proposed dwelling would be a substantial structure which would cause a notable enclosing effect within the currently open area to the rear of the public house. It would visually dominate this area, which currently offsets the bulk of the Listed Building and forms an important part of its setting. Furthermore, the design details of the proposed dwelling, including its porch, tightly spaced series of dormer extensions and numerous breaks in the eaves line on both its front and rear sides, and the angle of its roof pitches would not reflect the simpler form of the public house and its rear outriggers. The resultant clash of styles would be apparent in views from the public house car park, the area near the entrance to this off Bell Lane and nearby properties.
14. For these reasons, I consider that the proposed development would cause substantial harm to the setting of the Grade II Listed Building at the Masons Arms, which would be sufficient to substantially harm its significance. Its approval would conflict with Policy CS10(c) of the Wakefield Local Development Framework Core Strategy (WLDfCS) 2009¹ related to this matter.

Other Considerations

15. Under paragraph 133 of the Framework, where a development would, as I have found in this case, cause substantial harm to the significance of a designated heritage asset, it should not be approved unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh the harm.
16. In this context, the appeal proposal would, by providing a new dwelling, contribute to the Government's objective of significantly boosting the supply of housing. However, whilst this benefit would be important and carries some weight, the proposal would only make a modest contribution to overall housing needs in the area.
17. I note the Appellant's claim that the proposed dwelling could reduce noise levels to existing neighbouring dwellings and that the Council officer report states that the public house has given rise to complaints in the past. However, any shielding of neighbouring dwellings that would be provided by the proposed dwelling from the public house and its car park would be only partial. Although the proposal would make use of an area which did not, at my site visit, appear to be heavily used at present, this point carries limited weight given that the site provides at least partial separation between the public house and nearby dwellings.
18. I note that the Council has not resisted the proposal on the basis of any effect on the living conditions of occupiers of neighbouring dwellings. Whilst the proposed dwelling would be quite close both to 'Chez Nous' and the dwellings to the rear of the site, the evidence does not demonstrate that it would conflict with any Council policies relating for example to interface distances between dwellings or privacy. However, this conclusion constitutes a neutral lack of harm in relation to this point rather than a positive benefit to weigh in the planning balance.

¹ Whilst this Policy was not referred in the Council's reasons for refusal, a copy has been submitted with the Council questionnaire relating to the appeal.

Overall Planning Balance and Conclusion

19. I have found that the living conditions of future occupiers of the proposed dwelling would be substantially harmed by noise and disturbance caused by the use of the nearby Masons Arms public house. I have also found that the proposed development would cause substantial harm to the setting of the Grade II Listed Building at the Masons Arms.
20. In support of the proposal it would deliver public benefits, including the notable benefit of providing a new dwelling. However, having regard to the points which I have set out, I do not consider that these would outweigh the cumulative harm that I have identified in relation to my two main issues or the harm that would be caused individually to the setting of the Listed Building. Allowing the appeal in these circumstances would conflict with relevant policies in the development plan and Framework related to these matters. Due to the harm that I have identified, the proposal would also not contribute to the environmental dimension of sustainable development or constitute sustainable development as a whole.
21. For the reasons given above I conclude that the appeal should be dismissed.

Jonathan Clarke

INSPECTOR