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## Appeal Decision

Site visit made on 21 March 2017

**by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC**

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

**Decision date: 26<sup>th</sup> April 2017**

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**Appeal Ref: APP/L2630/W/16/3164793**

**Cherry Tree Inn, 116 High Street, Wicklewood, NR18 9QA**

- 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 Ms Julie Savory and Roger Abrahams against the decision of South Norfolk District Council.
  - The application Ref 2016/1236, dated 24 May 2016, was refused by notice dated 15 September 2016.
  - The development proposed is described as '*outline planning application for the erection of a four bedroom two-storey dwelling with attached garage to include means of access only.*'
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. As identified in the development description, the application is in outline with access to be considered and all other matters reserved.
3. The application also included layout plan which indicates the layout of the proposed dwelling and garage and remaining car park for the public house. This was amended during the course of the original application in respect of car parking arrangements (1575-02b). I have had regard to this plan but, as layout was reserved for future consideration, I have treated this as illustrative only.

### Main Issues

4. The main issues are the effect of the proposed development on (a) the living conditions of future occupants of the development with specific regard to noise and disturbance and (b) the versatility and viability of Cherry Tree Inn.

### Reasons

#### *Living Conditions*

5. The appeal site comprises of an area of open land currently used for parking for visitors to the Cherry Tree Public House (PH), which occupies a corner plot, fronting on to High Street.
  6. The proposed development would involve the creation of an access from Wymondham Road, along the western boundary of the site, and the erection of a detached dwelling to the rear. An existing access would be retained and
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would continue to serve as the vehicular access for the PH. Part of the existing parking area, along with an area to the south of the PH which is currently used as a beer garden, would also be used to create 15 car parking spaces. While the layout plan is indicative, it is clear from the site plan that part of the parking area would project sideways across the front boundary of the proposed dwelling. A separate existing beer garden which is located to the rear of the PH would be retained and would form the eastern boundary of the appeal site.

7. Due to the proximity and juxtaposition of the parking and beer garden to the PH, I consider that significant levels of noise and disturbance would be experienced by future occupants of the proposed dwelling. This would be in terms of vehicle manoeuvres, the slamming of car doors and general comings and goings directly adjacent to the front boundary of the proposed dwelling. The use of outdoor areas directly adjacent to the east of the site for purposes which would not necessarily be controlled by any other regulations would also give rise to disturbance of future occupants.
8. I am also mindful of the opening hours of the pub which operates on a 7 day basis and closes at midnight on Friday's and Saturday's. This effect would therefore be experienced during anti-social hours.
9. The wider area is residential in character with a number of other dwellings located in proximity to the PH and it is clear that historically the uses have not given rise to any nuisance or conflict in respect of noise and disturbance. Prospective purchasers of the dwelling would also be aware of the presence of the PH. However, the intensification of built development and the relationship of the proposed development to the PH would cause harm to its future occupants.
10. I also note the comments made in respect of the use of the car park in light of laws around drink driving. Nonetheless, while the Highways Authority have no objection to the number of spaces to be provided, these would be below the normal required standards and there is no evidence before me to suggest that these would not be necessary as part of the commercial use of the PH. There may be instances when the car park is not full, however, due to the form of this and the site boundaries, the comings and goings of any visitors by car would still be likely to give rise to noise and disturbance.
11. On this matter, I therefore conclude that the development would give rise to noise and disturbance which would cause harm to the living conditions of future occupants of the dwelling. The development would therefore conflict with Policy DM3.13 of the South Norfolk Local Plan Development Management Policies Document 2015 (LP) which seeks to avoid incompatible neighbouring uses in respect of noise and other nuisances.

#### *Versatility and Viability*

12. Paragraph 28 of the National Planning Policy Framework (the Framework) seeks to support a prosperous rural economy and promote the retention of local services and facilities, including public houses. Paragraph 123 of the Framework recognises that existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.

13. As evidenced by the recent registration of the PH as an Asset of Community Value (ACV) under the provisions of the Localism Act 2011, the PH is clearly an important asset within the Village. The concerns of the Council are two-fold; firstly there is a concern regarding complaints arising from noise and disturbance affecting the viability of the PH in terms of future restrictions. Secondly, there is a more general concern that the loss of the land would reduce the facilities and amenities associated with the PH, which would reduce the future versatility of the business.
14. In light of my findings in respect of noise and disturbance, I consider that the development could result in restrictions being placed on the existing business. This is a concern raised by the Environmental Quality Team in respect of the Licencing Act 2003 and I am also mindful of other provisions in respect of the Environmental Protection Act 1990.
15. The submitted business accounts indicate that the PH currently operates at a loss and, accordingly, I consider that it would be highly likely that any such restrictions required as a direct result of the proposed development would further affect the profitability and in turn, the future viability of the PH.
16. Based on the information before me, there would be no overall reduction in terms of facilities and amenities of the PH arising from the loss and development of the existing car park independently of the PH. The car parking provision would be replaced to a level deemed to be acceptable based upon the size of the premises. There would also be a beer garden to the rear of the PH to off-set the off of the existing beer garden for parking. The remaining land would thus seem reasonable for the scale of the PH.
17. The current owners also have no plans to expand or change the existing offer, and that the continued use of the PH as an ACV is also safeguarded to a degree, as this must be offered to the local community in the event this were to be sold.
18. Nonetheless, in light of the lack of profitability of the existing PH, any diversification of the business required in order to turn a profit, be it by the existing or future ownership by the local community, would also be at risk from the proposed development.
19. The appellant cites that the development would help protect and sustain the business into the future, however, in light of the direct conflict between the PH and the development and the resultant effect upon viability, I give limited weight to this claim.
20. I therefore conclude that the development would cause harm to the versatility and viability of the PH. The development would therefore conflict with paragraphs 28 and 123 of the Framework.

## **Conclusion**

21. For the reasons above and having considered all matters raised, the appeal should therefore be dismissed.

*C Searson*  
INSPECTOR