

Appeal Decision

Site visit made on 11 June 2018

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2018

Appeal Ref: APP/F2605/W/17/3188621

Development at Ploughshare, The Street, Beeston, Norfolk PE32 2NF

- 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 Pilbrow of The Joli Ltd against the decision of Breckland District Council.
 - The application Ref 3PL/2017/0676/F, dated 19 May 2017, was refused by notice dated 17 August 2017.
 - The development proposed is alterations to The Ploughshare public house and a terrace of 3 houses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted a revised drawing which shows the retention of the WC/toilet block to the side of the building and the provision of a disabled parking space and cycle racks. A copy of the plan was sent to the Council at the time the appellant submitted his written statement in support of the appeal.
3. Although the Council does not refer to the plan, it did have the opportunity to provide comments within its written statement. I have considered this drawing under the principles established by the Courts in *Wheatcroft*¹ and I am satisfied that the drawing does not change the development to such a degree that to consider it would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application and the revised drawing.
4. Since the submission of the appellant's appeal the Revised National Planning Policy Framework (the Framework) was published and came into force on 24 July 2018. In light of this I sought the views of the main parties in writing. However, neither party submitted any additional comments.

Main Issues

5. The main issues are:
 - The effect of the development on the character and appearance of the area;

¹ *Bernard Wheatcroft Ltd v SSE & Harborough DC* [1982] P&CR 233

- The effect of the development on the living conditions of existing and future occupiers with particular regard to noise and disturbance.
- Whether the proposal would be acceptable having regard to policies concerning key local services and facilities; and
- The effect of the development on biodiversity.

Reasons

Character and Appearance

6. The appeal site is the Ploughshare Public House (PH) which lies within the village of Beeston. Part of the car park of the PH located to the rear of the building would be developed with a terrace of three dwellings. The area is rural in character and Beeston itself is a dispersed settlement with development largely taking a linear form. Although Willow Lodge which adjoins the site has a smaller garden, the existing development in the vicinity consists mainly of dwellings sited within relatively spacious plots.
7. The site for the proposed dwellings is currently undeveloped and I consider the openness of the car park to make a positive contribution to the rural setting of the village, which is clearly visible as one passes the PH. The construction of a terrace of three dwellings would have an urbanising impact on the site and would erode the rural setting at this part of the village. Moreover, although there is a space to allow access to the rear garden for plot 1 via a gate, the dwellings would be very close to the shared boundary with Willow Lodge. Furthermore, to ensure that parking can be provided to the front of the terrace, the development would be set against the rear boundary of the site, resulting in a constrained form of development with limited space for the rear gardens and around the buildings.
8. In addition, the proposed development would be surrounded by car parking spaces and would appear as a cramped and contrived form of development, which has been squeezed into the corner of the car park, quite at odds with the prevailing spacious character of the area. Whilst the proposal may make more efficient use of an underutilised area of land to the rear of the PH, this benefit has to be balanced against the impact of the proposal on the visual amenity of the area. The proposed development would fail to reinforce the locally distinctive pattern of development and would have a detrimental impact on the character and appearance of the area.
9. Thus, the development would be in conflict with Policy DC16 of the Breckland Council Core Strategy and Development Control Policies Development Plan Document 2009 (the Core Strategy) and the Framework which seek, amongst other things, to ensure that development proposals preserve or enhance the existing character of an area and secure high quality and inclusive design.

Living Conditions – Future Occupiers

10. The Inspector who considered a previous appeal² at the PH stated that “It is very common in villages (and elsewhere for that matter) for dwellings to be sited close to public houses, and appear to happily co-exist”. However, the layout of the two dwellings allowed on appeal is to the side of the PH and face

² APP/F2605/A/11/2147356 dated 22 July 2011

onto The Street. They are quite different to the proposed terrace of dwellings, as they are not sited immediately adjacent to parking spaces to the rear of the PH.

11. Moreover, a patio area adjoining the PH, which would be used by patrons for sitting out and drinking, would also be sited very close to the proposed dwellings. Consequently I consider that significant levels of noise and disturbance would be experienced by future occupiers of the dwellings, through the movement of people and the general chatting of patrons using this area. In addition, four parking spaces are proposed directly on the flank elevation to unit 3 with a further disabled parking space adjacent to its garden area. Notwithstanding that the development proposes a 1.8m boundary wall to the car park, the comings and goings of vehicles and the slamming of doors, from both patrons and staff vehicles, and general chatting would result in noise and disturbance to future occupiers of the dwellings. Moreover, as the PH is likely to be open seven days a week and into the evening, the noise and disturbance would be experienced in the evening and during anti-social hours.
12. I do not agree with the appellant's assertion that as the PH will be aimed towards local residents who are within walking distance of the site, the use of cars would be limited. There is no guarantee that this would be the case and it would not be possible to restrict visits to the PH to pedestrians only. Furthermore, the area is generally devoid of street lighting and footpaths which would not make walking an attractive option for those further away from the PH.
13. Thus, in this regard, the development would be in conflict with Policy DC01 of the Core Strategy and the Framework which seek, amongst other things, to ensure that development proposals do not have unacceptable effects on the amenities of future occupants.

Living Conditions – Adjoining Occupiers

14. The Council also raise the concern that the introduction of the dwellings in conjunction with the use of the car park for the PH would have an impact on the living conditions of the occupiers of Willow Lodge through noise and disturbance. However, the car park at the PH is an existing arrangement and should the PH re-open, its use could resume. Moreover, the layout with garden areas adjoining one another is an acceptable form of development and noise and disturbance from the dwellings is unlikely to amount to an unacceptable nuisance.
15. Thus, the development would be in accordance with Policy DC01 of the Core Strategy and the Framework which see, amongst other things, that development proposals do not have unacceptable effects on the amenities of neighbouring occupants.

Key Local Services and Facilities

16. Policy DC18 of the Core Strategy seeks to protect key local services and facilities from development and their loss will not be permitted unless it meets the criterion set out within the Policy. The supporting text to Policy DC18 at paragraph 4.106 specifically identifies public houses as a key local service. This is consistent with paragraph 83 d) of the Framework which, in supporting

a prosperous rural economy, promotes the retention of local services and community facilities in villages, such as public houses.

17. The PH is registered with the Council as an Asset of Community Value (ACV) by Beeston Community Enterprises Ltd. (BCE) which is in effect until 2020. The appellant states that although he has made the PH available for sale and leasehold to BCE, no offer has been accepted and the building remains closed. The appellant also asserts that there is no intention to redevelop the PH but that the removal of the function room would allow a smaller PH to trade more effectively.
18. The removal of the function room would result in a floor area of the PH at some 65 sq. m, which includes the bar area and a 'snug' room which is considered by the appellant to be the same size as numerous other village pubs. The appellant also states that the function room was a relatively recent addition and is very basic. Moreover, the PH traded successfully in the past without the need for a function room.
19. I have not been provided with any trading figures before the PH closed. However, the appellant does provide a letter of interest³ from a couple who would be willing to lease the PH should it become smaller and provide a list of suggested terms for a lease. Nevertheless, I have no detailed evidence before me of what income the PH could expect to achieve should the function room be removed. However I note that BCE have undertaken their own assessment and conclude that the PH would be unviable if the function room were to be lost.
20. While I accept that the function room was not an original part of the PH, it was nonetheless part of it when it was "apparently providing a good service to the community".⁴ Moreover, BCE state that the function room was not used to provide a food offer, with only drinks for sale, prior to the closure of the PH in January 2016. Clearly, the retention of the function room would add to the range of services that the public house could provide and I have not been provided with substantive evidence that its removal would indeed make the public house more viable.
21. Conversely, it seems to me that removing the function room would hinder the PH's ability to offer food, an area for entertainment or an alternative use such as a local shop. Moreover, in my experience a PH is normally associated with local clubs and societies and offers a place for them to meet. Such a small space as proposed following the removal of the function room would not be able to provide a satisfactory level of accommodation for such uses. I find that the removal of the function room would reduce the viability of the PH and not increase it, which is also a concern raised by the Council's Economic Development Team. Furthermore, the appellant has not provided any examples of public houses with similar floor areas that are trading at a profitable level.
22. Moreover, I do not agree with the appellant that the listing of the building as an ACV has led to an impasse which means that the PH remains closed as the listing of the building has no bearing on the ability of the PH to continue trading. However, Policy DC18 of the Core Strategy seeks to resist the loss of community facilities unless an alternative provision is available, reasonable

³ Letter dated 27 June 2017 from Alexandra & Sam Hodgkinson

⁴ Paragraph 7 of APP/F2605/A/11/2147356 dated 22 July 2011

efforts have been made to preserve the facility or the facility is in an inherently unsustainable location. No substantive evidence on any of these matters has been provided by the appellant.

23. Furthermore, while the removal of the function room would provide a patio area for patrons to sit out, in light of my findings in respect of noise and disturbance, there could also be a conflict with the future occupiers of the proposed terrace which could affect the ability of the PH to trade effectively.
24. Therefore, I conclude that the development would be in conflict with Policy DC18 of the Core Strategy and the Framework which seek, amongst other things, to protect key services and community facilities from development that could affect their viability.

Biodiversity

25. The Natural Environment Team (NET) at Norfolk County Council was consulted on the planning application and state that the site is semi-rural and within 50m of a pond that contains great crested newts (GCN). Furthermore, as works to the roof of the existing building are proposed, bats could be impacted upon. As a result, the NET requested that a bat and GCN survey be undertaken.
26. From my visit, I noted that the land to be developed was partly gravel and unmanaged grass areas. The appellant confirms that the site for the proposed dwellings is an under used part of the PH car park which leads me to conclude that there is potential for protected species such as reptiles to be present at the site, which may be adversely affected by the development. Moreover, as a survey has not been undertaken, it is not possible to confirm that reptiles do not exist at the site or that bats are not present within the roof of the function room.
27. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. Furthermore, *Circular 06/2005: Biodiversity and Geological Conservation*, states that a survey should be carried out before planning permission is granted and that surveys should only be required by a planning condition in exceptional circumstances. However, no exceptional circumstances have been put forward by the appellant.
28. Accordingly, the proposed development would fail to protect local biodiversity. It would therefore be contrary to Policy CP10 of the Core Strategy which seeks, amongst other things, to ensure that areas of biodiversity interest are protected from harm and that appropriate assessments are undertaken.

Other Matters

29. I note that allowing the development of a terrace of three dwellings could provide funds to refurbish the PH or to allow a reduction in its selling price to enable BCE to purchase the building. However, there is no guarantee that the funds would be used for such a purpose. Moreover, I acknowledge that the dwellings would add to the housing stock for the District and would provide low cost homes for local people. They would also reflect the local vernacular and the Local Highway Authority has not objected to the development. However, neither this nor any other material consideration that has been advanced outweighs the harm that I have identified above.

30. I also note that local residents have objected to the development, some of whom raise additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Conclusion

31. I have found that the proposed development would not have an unacceptable impact on the living conditions of adjoining occupiers. However, I have also found that the scheme would have an unacceptable impact on the character and appearance of the area and would cause harm to the amenities of future occupiers of the proposed dwellings. Furthermore I have concluded that the appellant has failed to demonstrate that the development would not impact on the viability of the PH or that potential biodiversity at the site would not be harmed. Therefore, for the reasons given above, and having regard to the development plan when read as a whole and all other material considerations, I conclude that the appeal should be dismissed.

Graham Wyatt

INSPECTOR