



Appeal Decision

Site visit made on 19 January 2021

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16/02/2021

Appeal Ref: APP/C4615/W/20/3259449

The Rollers Arms, Foundry Street, Coseley WV14 8XW

- 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 S Feng, Skyline Property Investments Ltd against the decision of Dudley Metropolitan Borough Council.
 - The application Ref P20/0839, dated 19 June 2020, was refused by notice dated 26 August 2020.
 - The development proposed is change of use from Public House (Use Class A4) to Hotel (Use Class C1).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Skyline Property Investments Ltd against Dudley Metropolitan Borough Council. This application is the subject of a separate decision.

Procedural Matter

3. For the avoidance of doubt, recent changes to the Use Classes Order means that Public Houses are a *Sui Generis* use and the reference to Use Class A4 is no longer applicable¹.

Main Issues

4. I consider that the main issues are:-
 - the effect of the proposed use on the amenities of future users of the hotel; and
 - whether the proposed hotel is in a location where it would have a harmful effect on the vitality and viability of town, district or local centres.

Background

5. The Rollers Arms is a vacant Public House that has been in use as a House in Multiple Occupation (HMO). It seems that this was unauthorised and following

¹ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1 September 2020.

refusals of planning applications, an appeal was dismissed², and an enforcement notice was upheld on appeal with a period of compliance extended for 9 months³. As the time of my site visit the premises were boarded up and empty.

Reasons

Living Conditions

6. Previous refusals for use of the premises as a HMO have been referred to and one of the main reasons for concern related to the effect of the nearby industrial estate on the living conditions of occupiers of the HMO. This proposal differs from a HMO in that it would provide non-permanent accommodation. However, for the avoidance of doubt, my reference to living conditions relates to the overnight accommodation provided by hotels for either short stay or longer stay guests, bearing in mind the appellant's reference to imposing a condition to restrict the length of stays.
7. Regardless to the length or reason for guests stay, I consider that this site is entirely unsuitable for a hotel use. It is surrounded by industrial uses which, at the time of my site visit during the day were quite noisy. It is an unattractive location that would not encourage people to stay for business, work or leisure purposes. Whilst it may have served the local community and local businesses as a Public House, I do not consider that a hotel would make a comparable contribution.
8. Development Strategy⁴ Policy D2 indicates that development will not be permitted if it is incompatible with the surrounding uses as a result of the amenity of occupiers of the building being unduly harmed by noise and disturbance, light and air pollution and odours and fumes. Policy D5 establishes that development will not be permitted for either noise generating proposals or noise sensitive proposals. A noise survey has been submitted with the appeal documents which concludes that despite the industrial nature of the locality, noise levels were relatively low. Intermittent noise was noted but not considered intrusive during the day. The survey notes that there are residential properties nearby and whilst residents may have become acclimatised to local noise, hotel guests would not experience noise in the same manner as local residents due to a shorter duration of their stays at the hotel. An assessment of air quality has also been submitted which finds no harm arising from neighbouring uses.
9. Notwithstanding the submitted surveys, I cannot agree that a hotel in this location is appropriate. It is not a location where guests would stay for leisure purposes and I am not convinced that business guests would find it an appropriate location. Some guests may be attracted to low cost temporary accommodation, a maximum of 90 days is referred to by the appellant, but whoever the future guests may be I cannot support a hotel in this location. I do not consider that it meets the policy objectives referred to above, regarding incompatible land uses. An added concern with regard to potential incompatible uses is the pressure existing employment uses could experience if users of the hotel made subsequent complaints about noise levels.

² Appeal Ref: APP/C4615/W/18/3196550.

³ Appeal Ref; APP/C4615/C/18/3216892.

⁴ Dudley Borough Development Strategy Adoption March 2017.

10. I accept that there may be occasions where there is a need for hotel accommodation in industrial or commercial areas but I do not accept that this is one of them. I consider that, however transient, the living conditions of future occupiers of the hotel would be harmed by virtue of the location of The Rollers Arms.

Out of Centre

11. The appeal site is not located within a Town Centre or in a District or Local Centre and Core Strategy⁵ CEN5 identifies the main function of District and Local Centres is to meet the day-to-day convenience shopping and local service needs. Thresholds are set which aims to serve the centres and their catchments. CEN6 Sets out thresholds for small scale facilities outside defined centres. Core Strategy CEN7 seeks to control out of centre development in order to encourage growth and ensure the vitality and viability of centres. The National Planning Policy Framework⁶ includes hotels as a main town centre use.
12. The Framework advises that a sequential test should be applied to planning applications for main town centre uses. Main town centre uses should be located in town centres, then edge of centre locations, and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered. No sequential test has been carried out in this case but the appellants case rests on obtaining a viable alternative use for an existing building. The appellant considers that there is a market for small hotels outside of town centres that are linked to industrial estates, the local community and to users of the strategic cycle network such as this one.
13. Whilst there may be a market for hotels serving the needs identified by the appellant, there seems little justification for allowing a hotel in this location, other than to make use of a vacant building. From the evidence before me, I have no reason to accept a proposal that clearly conflicts with the Council's town, local or district centres policies and national guidance referred to above. I have otherwise found the site an unsuitable location for a hotel as set out above and this adds to my conclusion on this issue.

Conclusion

14. My main concern is the suitability of a hotel in this location. I have considered all matters raised including the sustainability of re-using a vacant building but this does not overcome my overriding view of the unsuitable nature of this proposal. As stated, I have found that the living conditions of occupiers of the hotel would be unacceptably harmed due to the proximity of industrial uses, notwithstanding that occupation would be of a varying temporary nature. The lack of a sequential test in the context of allowing a main town centre use in an out of centre location adds to my concerns. I have considered all other matters raised but none alter my conclusion.
15. I conclude that the proposal would have a harmful effect on the living conditions of future users of the hotel and in the absence of a justifiable reason, the proposed hotel, in an out of centre location, would have a harmful effect on the vitality and viability of town, district or local centres.

⁵ Black Country Core Strategy, Adopted February 2011

⁶ Ministry of Housing, Communities and Local Government National Planning Policy Framework, February 2019.

16. The proposal would conflict with the policies referred to above and therefore the appeal fails.

J D Clark

INSPECTOR