



Appeal Decision

Site visit made on 22 June 2021

by Nigel Harrison BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/C3430/W/20/3262248

Minerva Inn, Wolverhampton Road, Essington, Wolverhampton, WV11 2BX

- 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 Star Pubs and Bars against the decision of South Staffordshire Council.
 - The application Ref 20/00085/FUL dated 4 February 2020, was refused by notice dated 30 March 2020.
 - The development proposed is: Change of use from car park to beer garden to left hand side of main entrance area. New post and rope to boundary. New polycarbonate roof to existing smoking shelter. New timber external fixed seating. New loose furniture fixed down. New coloured tarmac. Re-white-line car parking spaces.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is retrospective, as the development has already been carried out largely as indicated in the application details and plans, except that the parking spaces have not been marked out as shown on drawing No 2242-100. However, the number of spaces remains the same, and this minor variation does not affect my consideration of the merits of the appeal.
3. The Council says there was an error in drafting the decision notice, as the reasons for refusal should have stated that the proposal conflicted with Core Strategy policies EV12 & EQ9. However, as no reference was made to them in the decision, the appellant says they should be disregarded. However, these policies (and others) were clearly set out in the Officer Report, a public document, and are not 'new' evidence. I shall therefore take them into account in my considerations of this appeal.
4. The appellant also says he was not aware of the objections to the proposal submitted by local residents at the application stage. However, these are summarised in some detail in section 4.1 of the Officer Report, and could have been viewed by the appellant prior to the determination of the application.

Main Issues

5. There are two main issues. Firstly, the adequacy of the parking arrangements and the effect on highway safety, and secondly; the effect of the proposal on the living conditions of nearby residents with particular regard to noise and other disturbance.

Reasons

6. The Minerva public house is located at the junction of Wolverhampton Road and New Street, with the main frontage facing south onto New Street. Apart from a nearby take-away and a florists' shop, the area is predominantly residential. The new outdoor drinking area (beer garden) is located on the left-hand side of the front forecourt and is a dedicated space marked by a low post and rope boundary. The proposal also includes a new polycarbonate roof to the smoking shelter and timber tables and seating. The right-hand side has been laid out for car parking (4/5 useable spaces in total in an 'L' shaped arrangement).

Parking

7. The Council's first reason for refusal relates to highway safety, and its main concern in this regard (and that of many neighbours) relates to the intensification of use of the site in the context of added pressures for on-street parking in the area.
8. Policy EV12 of the *South Staffordshire Core Strategy Development Plan Document* (CS), adopted 2012 requires adequate parking to be provided as part of any new development and says the Council will have regard to the impact on highway safety from potential on-street parking. CS Appendix 9 (Parking Standards) sets out the parking provision requirement for public houses. Based on these standards the outdoor drinking area would generate the need for a significant amount of additional parking.
9. However, the beer garden facility has reduced the parking capacity from about 10/11 spaces to just 4/5 whilst at the same time increasing the potential capacity for customers. Objections have been received from local residents raising concerns about the increased demand for on-street parking which has been generated, saying that pub customers are parking on both sides on New Street and on Wolverhampton Road close to the road junction (notwithstanding the recently introduced double yellow lines). Some residents also say vehicles sometimes block residents' driveways, and pedestrians have to step into the carriageway to get around vehicles. Further concerns have been raised regarding parked vehicles hindering visibility for road users coming into and out of the New Street junction.
10. The location is an accessible one, and I accept that some customers would walk to the public house or even use public transport or taxis. However, I consider the amount of off-street parking retained would be insufficient to serve the needs of the operation, and would lead to significant additional pressure for parking on adjacent residential streets in the locality, particularly New Street where there are no parking restrictions other than adjacent to the Wolverhampton Road junction. This would be harmful to highway safety in terms of the free and safe flow of traffic close to a junction, and the safety of pedestrians using the footways on either side on New Street.
11. I share the concerns of the Highway Authority that the development fails to make adequate provision for parking within the site curtilage, resulting in an increase in the likelihood of highway danger due to the potential for more customers vehicles being parked on the public highway. I therefore conclude on this issue that the proposal would lead to increased pressure for parking on the surrounding streets with a consequential harmful effect on highway safety. It conflicts with CS Policy EV12 and section 9 of the *National Planning Policy*

Framework, which says development proposals should minimise the scope for conflict between pedestrians and vehicles.

Living Conditions

12. The capacity for outside drinking has increased significantly to 11 tables (compared with 2/3 previously), and many local residents have raised concerns about problems noise, disturbance, anti-social behaviour, and debris/litter arising from the use of the outdoor area. The Council's Environmental Health Officer (EHO) has referred to a long history of noise complaints from the Minerva Inn including complaints of loud music from bands, recorded music, and other issues including anti-social behaviour, and says the proposal could worsen these problems as the new seating capacity encourages people outside, increasing the noise levels which has a detrimental effect on the amenity of nearby residential properties.
13. The post and rope enclosure clearly offers no acoustic protection against the transmission of noise, and any control mechanisms offered through even the most careful of management regimes (such as controlling the hours of use of the outdoor drinking area) would be difficult to enforce and in any event would not mitigate the harm caused when open, particularly given the relatively large numbers that can be accommodated. From my observations of the site and surroundings it is evident that the most affected properties are in very close proximity to the public house, which would heighten sensibilities and annoyance. I therefore conclude on this issue that the proposal would cause significant harm to the living conditions of nearby residents in terms of noise and general disturbance. As such, it would conflict with CS Policy EQ9, which requires all development proposals to consider the amenities of nearby residents, particularly with regard to matters including noise and disturbance.

Other Matters

14. CS Policy 7 says supporting the local economy, existing businesses and jobs are key elements of the Council's Spatial Strategy, and facilities such as public houses can make an important contribution to the vitality of a community. However, it has not been suggested that the long-term viability or future of the public house is in any way dependant on the provision of the outdoor seating area, although it must add to the appeal of the facility. I also accept that the area has been well laid out, and arguably has provided a more attractive frontage to the street than the previous larger parking area.
15. Nonetheless, these factors do not weigh sufficiently against my conclusions on the main issues, which must be decisive. The proposal conflicts with the development plan as a whole and there are no material considerations which might justify a departure from the development plan.

Conclusion

16. Therefore, for the reasons given above and taking into account all other matters raised (including one representation in support of the proposal), I conclude that the appeal should be dismissed.

Nigel Harrison

INSPECTOR