



Appeal Decision

Site Visit made on 25 May 2021

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2021

Appeal Ref: APP/A3010/W/21/3266636

The Blacksmiths Arms and land to south, Town Street, Clayworth, Retford DN22 9AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by W E Foers & Sons Ltd. against the decision of Bassetlaw District Council.
 - The application Ref: 20/00761/CONR, dated 25 June 2020, was refused by notice dated 25 November 2020.
 - The application sought planning permission for: Proposed minor external alterations and conversion of outbuilding at rear of cottage to form four letting rooms, without complying with a condition attached to planning permission Ref: 15/00355/FUL, dated 27 May 2015.
 - The condition in dispute is No. 3, which states that: Occupation of the letting rooms hereby permitted shall be limited only to the staff and customers of the adjacent public house and restaurant known as the Blacksmiths Arms. The rooms shall not be sold or let independently and shall remain ancillary to the Blacksmiths Arms in perpetuity.
 - The reason given for the condition is: In the interests of highway safety.
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Decision

1. The appeal is allowed, and planning permission is granted for minor external alterations and conversion of outbuilding at rear of cottage to form four letting rooms at The Blacksmiths Arms and land to south, Town Street, Clayworth, Retford DN22 9AD in accordance with the terms of the application, Ref: 20/00761/CONR, dated 25 June 2020, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out only in accordance with the details and specifications shown on the amended drawing 2615-02B, received by the Local Planning Authority on 5 May 2015.
 - 2) All new windows and doors throughout the development hereby permitted shall be of timber construction only and shall be retained as such in perpetuity.

Preliminary Matters

2. The development has already been carried out and I was able to see the appeal building from the outside when I visited the site. I was not able to access the interior of the building, but I have no reason to believe that the original planning permission was implemented other than in general accordance with its terms.

3. From the other evidence that has been provided, notably the Council officer's report, the appellant's Statement of Case, and the Highways Notes, the submitted location plan purporting to show the building in question and the red line boundary is incorrect. It was apparent from my site visit that the area identified on the submitted location plan is a raised terrace area and accommodation that forms part of the operational areas of the public house. It was also apparent that the building to which the appeal relates is located opposite the public house, on the east side of the access lane that leads to the car park, with a gable end facing Town Street.
4. This inaccuracy notwithstanding, it is clear from the planning application form which planning permission is referred to and, consequently, this incorrect plan does not prevent consideration of the appeal.
5. On 20 July 2021 the Government published a revised version of the National Planning Policy Framework (the Framework). None of the revisions to the Framework are of direct relevance to the principal disputed matter in this appeal. I have determined the appeal with reference to the revised Framework.

Background and Main Issue

6. Planning permission has previously been granted for the use of the appeal building as four letting bedrooms in association with the operation of the Blacksmiths Arms public house. This planning permission was granted subject to a condition that tied the operation of the letting bedrooms to that of the public house and sought to prevent them from being sold or let independently of the public house. The condition was attached in the interests of highway safety as the appeal building shares an access lane with the public house and which is also the route of a Public Right of Way footpath. The application which forms the subject of this appeal sought to sever the use of the building as letting bedrooms from the public house use.
7. Consequently, the main issue in this appeal is the effect that removing the condition would have on the safe operation of the highway in the vicinity of the appeal site.

Reasons

8. The appeal building is located adjacent to Town Street, which is the main road through the village of Clayworth. The letting rooms are accessed from a short stretch of lane which runs between the appeal building and the neighbouring Blacksmiths Arms public house. The access lane leads to the public house car park and service area and also serves a dwelling house to the south west of the appeal site, beyond the car park. A Public Right of Way footpath follows the line of the access lane and then passes through the car park area.
9. The letting bedrooms were previously operated in conjunction with the public house and the existing access served both uses. I am advised that the public house has ceased trading, however, there is no evidence to indicate that this is a permanent cessation, or that the use could not resume in the future.
10. The Highway Authority state that the access and junction is substandard in terms of its width and the available visibility splays onto Town Street. It is also stated that the purpose of the disputed condition is to ensure that the consented letting rooms do not cause a material increase in traffic using the

substandard access arrangements. It is this latter point that is the principal matter in dispute between the parties.

11. Town Street is a two way carriageway that is lit, and which is subject to a 30 mph speed limit. It has footways to each side, although the footway on the same side as the appeal building, and outside the Blacksmiths Arms, is comparatively narrow. The stretch of Town Street in the vicinity of the appeal site has a generally straight horizontal alignment and is generally flat, rising only gently from south east to north west. There are no parking restrictions on this section of road.
12. It was evident from the site visit that visibility for drivers emerging from the access to join Town Street is compromised by the presence of the public house building and to a slightly lesser extent by the appeal building, which is set further back from the edge of the footway than the public house. I also observed that if vehicles were parked on the carriageway, these obscured visibility of the access for drivers on Town Street such that it may not be obvious that a vehicle was emerging from the access. However, I also saw that there were a large number of direct accesses onto Town Street from other properties and that many of these had similarly constrained visibility for drivers joining the main carriageway due to the adjacent buildings being situated directly at the back of the footway.
13. It was also apparent from the site visit that the width of the access, although not unduly narrow, was such that there may be potential conflicts between vehicles travelling in opposite directions. That said, whilst the access clearly does not meet modern highways standards it is, nonetheless, an existing access that has served both the public house and the letting bedrooms in the past.
14. At the time of my site visit Town Street was lightly trafficked and observed vehicle speeds were not high, in part due to parked vehicles partially obstructing the carriageway requiring drivers to manoeuvre around them using the opposite lane. I also recognise that, as some restrictions relating to the coronavirus pandemic were still in force at that time, it is likely that travel would have been suppressed and, consequently, vehicle movements would be lower than usual. In addition, I am aware that travel patterns vary during the day and what I saw was only a snapshot of the conditions at the time I was at the site. This notwithstanding, neither party has submitted any evidence that would indicate that Town Street carries significant volumes of traffic.
15. Policy DM4 of the Bassetlaw Core Strategy 2011 (the Core Strategy) expects, among other matters, that development prioritises safe, easy, and direct pedestrian movement. The Framework seeks to ensure that development provides safe and suitable access to the site for all users but notes that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.
16. The proposal is supported by two Transport Notes which explore trip generation in relation to the previous use as a public house with attached accommodation, and for both uses operating independently.
17. There is a discrepancy between the two Transport Notes in that one assesses the proposal based on there being six letting rooms at the premises whilst the other assessment is based on seven letting rooms. It is not clear in which

order these Highways Notes were submitted and, in any event, the proposal before me relates to only the four letting rooms located within the appeal building. I have not seen any evidence that would indicate that there are further letting rooms within the main public house building, or that these could be used independently of the public house use.

18. I have not been provided with any data that has been based on an actual survey of vehicle movements at the premises. The trip generation figures cited in the Transport Notes for the existing combined uses and the disaggregated uses sought by the appeal proposal have been derived using the TRICS database. Notwithstanding that the Transport Notes calculate the total vehicle movements based on a higher number of letting rooms, both Transport Notes are predicated on the basis of 4 arrivals and 4.5 departures per room, per day, resulting in approximately 8 to 9 overall movements per room, per day, for the letting bedrooms. This is consistent with the appellants first principles sensitivity check, which arrived at a similar conclusion and which is not challenged by the Council.
19. In the trip generation figures for the current, combined, use, vehicle movements associated with the letting rooms are necessarily included in the overall figure and it cannot be otherwise. As there would be no increase in the number of letting rooms, the number of vehicle movements directly associated with guests in these rooms would not change as a result of the uses being disaggregated. This would remain consistent, although I recognise that there may be a small increase as a result of the rooms no longer being serviced by the public house, necessitating a small number of staff movements.
20. However, the trip generation figures provided for the operation of the residual public house and restaurant use, 73 arrivals and 74 departures daily, are only very slightly lower than those for the existing combined operation, 77 arrivals and 78 departures daily. This is despite the arrivals and departures previously associated with the letting bedrooms no longer being included in the total.
21. Whilst I accept that these trip generation figures are derived from different datasets, in reality, and with all other things being equal, there is nothing in the evidence that would indicate a reason why the number of vehicle movements associated with the residual public house and restaurant use would effectively increase as a result of the letting bedrooms being disaggregated from it. Logically, the number of associated vehicle movements should decrease by a similar number to that directly associated with the occupiers of the letting bedrooms, as those movements are no longer connected with the public house and restaurant use.
22. Ultimately, all of the vehicle movements will occur through the same junction and utilise the same access lane as before. For the reasons set out above, I do not find the argument that the separation of the uses would result in a significant intensification of the use of the access a persuasive one. As the number of letting bedrooms is not increasing, the number of vehicle movements directly attributable to their use would not increase. There is nothing in the evidence that would demonstrate why the vehicle movements associated with the public house and restaurant use would increase following the removal of the letting bedroom use if there are otherwise no other changes.

23. Whilst the public house and restaurant use is currently inactive, the overall number of vehicle movements through the existing access would be significantly less than previously. Even if this use were to be reinstated and guests staying in the letting bedrooms chose to use the facilities of the public house, this would not result in any additional vehicle movements to the public house due to the proximity of the two uses.
24. The disaggregation of the letting bedrooms from the other uses may result in a very small number of additional vehicle movements through the junction because of separate staff being required to service the rooms which were previously serviced from the public house. However, there is no evidence that would indicate that this would result in a large number of additional vehicle movements through the junction or that these would occur during peak times.
25. Whilst the access that would be utilised does not meet modern highway standards and has less than ideal visibility, traffic speeds on Town Street were relatively low and there is no evidence that it carries particularly high volumes of traffic. In addition, I have not been provided with any evidence of accident records on this stretch of road. I recognise that non-injury accidents are not generally recorded, however, had collisions been a regular occurrence, the highway authority would likely be aware of this fact and would have raised it in its comments.
26. The access lane between the appeal building and the public house is shared by a Public Right of Way footpath. This will bring additional pedestrian movements onto the access lane over and above those associated with the buildings it serves. However, the appeal proposal would not result in a noticeable increase in vehicle movements on the access lane and, due to its nature and restricted width, vehicle speeds on the lane would not be high. As a consequence, the appeal proposal would not compromise safety for pedestrians using the right of way.
27. I therefore conclude that the removal of the condition would not cause harm to the safe operation of the highway in the vicinity of the appeal site. The proposal would not conflict with the relevant requirements of Policy DM4 of the Bassetlaw Core Strategy 2011 or the Framework.

Other Matters

28. The appeal site is located within the Clayworth Conservation Area. There is no substantive evidence from either party in respect of the significance of the Conservation Area. However, the appeal proposal would not result in any alterations to the external appearance of the appeal building. Nor would the use of the building be fundamentally altered by the proposal which seeks, in effect, to alter the management arrangements for the existing use. Within this context, I find that the proposal would preserve the character and appearance of the conservation area.
29. The Council has not raised any other objections or concerns in respect of the proposal and from what I have read, and from what I saw when I visited the site, I have no reason to find differently.
30. I have noted the comments of the Parish Council that separating the letting bedrooms from the public house may prevent a future buyer for the public

house from coming forward. Nonetheless, a generalised concern of this nature is not sufficient justification to withhold planning permission.

Conditions

31. I have had regard to the list of conditions suggested by the Council. As the development has already been carried out, it is not necessary to impose a condition in respect of the time period for commencing the development. As a permission granted under Section 73 of the Town and Country Planning Act 1990 (the Act) creates a new planning permission for the development, subject to different conditions, and to provide certainty regarding what has been granted planning permission, I have included a condition that specifies the approved drawings.
32. The Appellant suggests that conditions 3 and 4 that have been suggested by the Council, which relate to the materials for the doors and windows and details of the design and installation of rooflights, are unnecessary as those details were not part of the current application. Whilst this is the case, as set out above, an approval under Section 73 of the Act is a new planning permission and should include any conditions from the original planning permission that are still relevant or operative.
33. The Council's suggested Condition 3, which replicates Condition 4 of the original permission, contains a retention clause and, consequently, remains an operative condition. Due to the location of the appeal building within a conservation area, in order to preserve the character and appearance of the conservation area it is necessary that timber doors and windows be retained on the building. It is, therefore, necessary to include this condition.
34. The Council's fourth suggested condition, which replicates Condition 5 of the original permission, is a pre-commencement condition and does not include any form of retention clause. I have not been advised whether this condition was formally discharged for the original permission. Nonetheless, as the development has been carried out and the original condition does not include a retention clause, I do not consider that it would serve any planning purpose to re-impose this condition.
35. The Highway Authority have suggested an amended wording for the disputed condition that would, in effect, retain the connection between the two uses but allow the letting bedrooms to operate independently if the public house were closed for a period of longer than 24 hours. As I have found that the disaggregation of the uses would not cause harm to highway safety, I do not consider that this condition is necessary.

Conclusion

36. For the above reasons, I conclude that the appeal should be allowed.

John Dowsett

INSPECTOR