
Appeal Decision

Site visit made on 24 August 2021

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2021

Appeal Ref: APP/M1710/W/21/3272806

Red Lion Public House, Oakhanger Road, Oakhanger, Bordon GU35 9JQ

- 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 CY Homes Ltd against the decision of East Hampshire District Council.
 - The application Ref 56230/004, dated 5 June 2020, was refused by notice dated 15 March 2021.
 - The development proposed is conversion of existing store building to provide a two-bedroom dwellinghouse and formation of vehicular access together with associated parking.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Since the refusal of the planning application and the submission of this appeal, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. The main parties were given the opportunity to address this matter, and I have taken the revised Framework into account where relevant to my decision.

Main Issue

3. The main issue is whether the proposed development would provide satisfactory living conditions for future occupiers of the proposal, having regard to noise pollution impacts.

Reasons

4. The appeal site forms part of the site of The Hanger public house, which is located on the west side of Oakhanger Road, within the village of Oakhanger. The pub has recently reopened, following renovation works granted under planning permission Ref 56230/003 (the previous planning permission). This consent included enabling residential development comprising 4 semi-detached houses. These have been constructed adjacent to the appeal site, on part of the former pub garden.
5. The site contains a single storey pitched roof stone outbuilding which abuts the street. The proposal is to extend the building to one side and convert it into a two-bedroomed dwelling. Two parking spaces are proposed to the side of the building, which would be accessed via the existing access to the adjacent new

- dwellings. A private enclosed external amenity area is proposed to the rear of the new dwelling.
6. The previous planning permission included conversion of the outbuilding to an office/store in association with the pub. The appellant states that these conversion works have not taken place, so that funds can be redirected towards increased build costs and internal fit out associated with the approved pub improvement works.
 7. The outbuilding is a narrow rectangular-shaped building which sits parallel to, and in close proximity to, the street frontage, with only a grass verge separating the front wall of the building from the carriageway of the road. This is the main road through the village, and I observed during my site inspection that, whilst a low number of vehicles passed the site, those that did were travelling at a high speed, generating a noticeable amount of traffic noise and vibration.
 8. I also heard noise emanating from vehicles entering and exiting the nearby junction with Hartley Mauditt Road. At the time of my visit, the pub was closed, and I would expect traffic in the vicinity of this road junction to be appreciably greater during the pub opening hours, as vehicles access and exit the main pub car park at the rear of the building via Hartley Mauditt Road.
 9. In addition, to the above traffic associated noise impacts, occupants of the new dwelling would experience noise disturbance impacts arising from the close proximity of the frontage pub car parking area immediately adjacent to the side of the proposed dwelling. Whilst the much larger, main pub car park is located to the rear of the building, it is likely that the front parking area would be reasonably well-used due to its convenient position close to the pub entrance at the front of the building. This use is likely to include patron parking, including disabled parking which is immediately beside the side wall of the building, short duration delivery vehicle parking, and use for dropping off and picking up of pub customers.
 10. As well as noise directly associated with vehicles, such as revving engines, doors opening and closing and in-car entertainment systems, it would be reasonable to expect that noise in this part of the site would arise from voices of customers congregating/lingering at the front of the building before and after visiting the premises.
 11. Notwithstanding the proposed boundary fencing, the new dwelling and its rear garden would be susceptible to noise impacts arising from customers using the pub garden and outdoor terraced seating/dining area which lie in close proximity to the appeal proposal. The impacts from the former would potentially be exacerbated by its siting at an elevated position in relation to the appeal site. It also has access steps from the lower ground level which are close to the appeal site.
 12. Further additional noise impacts could potentially arise as result of the internal use of the two-storey public house, particularly on occasions when the windows and doors are open. Such impacts are likely to occur during the evenings and late at night, when occupiers of the dwelling would be particularly sensitive to disturbance from external sources.

13. There would also be noise associated with the operation of the pub kitchen/store areas which are sited immediately adjacent to the appeal site. Impacts arising from the operational use of the kitchen, including staff conversations, radios and kitchen equipment noise, could be significant, given that that a dining element features strongly within the pub facilities. Kitchen extraction facilities and the close proximity of kitchen windows and a door to the appeal site, could potentially exacerbate concerns in this respect. These impacts are likely to be greater during warm weather and summer evenings when both the beer garden and private garden of the new dwelling are most likely to be occupied, and when both buildings are more likely to have windows and doors open for ventilation.
14. The location of the site within a quiet area where day and night time ambient noise levels are low, means that discrete noise events associated with public house activities could potentially be more noticeable and disruptive to future occupants of the dwelling, particularly during the evening and at night.
15. Moreover, whilst there is no evidence before me that there have been any complaints by local residents regarding the operation of the public house premises, this was prior to the recent refurbishment and expansion of the business and in the absence of a dwelling located in the position now proposed. Furthermore, whilst currently operating as a restaurant-focussed business, the nature of the pub offer may also change in future to reflect future customer preferences and trends.
16. Any future holding of live events by the pub could potentially result in increased noise affecting the occupiers of the new dwelling. Whilst the pub does not currently have a licence for outdoor music and events, and currently operates as a bistro pub, future continued restrictions in respect of live events could have financial implications for the viability of the business, and so potentially there is a risk that they may be relaxed. Whilst such events may be subject to obtaining a licence, it would not be appropriate to rely solely upon the licensing regulations to ensure appropriate living conditions for future occupiers of the new dwelling.
17. The proposed residential layout and proximity of the appeal site to the pub, is such that there is little opportunity for future occupants to avoid the aforementioned potential noise impacts from the adjacent business operation and the road. Also, the scope for positioning windows of the dwelling away from the potential noise sources is limited, in particular, those of the open plan living/kitchen/dining room would face the road and the pub frontage parking.
18. I have considered the conclusion of the appellant's Noise Impact Assessment, that the proposal should be able to provide a reasonable standard of living for the future residents of the dwelling with the inclusion of various noise mitigation measures, including appropriately designed windows together with necessary ventilation and heat control mechanisms, boundary screening and a reduction in the noise levels emanating from the pub kitchen extractor unit.
19. However, given the small and confined nature of the appeal site, the narrow single room depth of the building and the associated room layout, so that all windows and the external private amenity area would be in close proximity to surrounding sources of noise pollution, I consider that the large amount number of restrictions required to be incorporated into the appeal site would impact on the general living environment experienced by future residents,

resulting in living conditions that would fail to provide a high standard of amenity, as required by the Framework.

20. Moreover, the future effectiveness of such noise insulation measures within the site of the dwelling together with the proposed operation of a noise management plan by the pub, which would incorporate such measures as signage requesting that patrons are respectful of neighbouring living conditions, staff training to ensure patrons leave quietly, careful positioning of smoking areas, controlled use of front entrance, restricting the frontage parking to staff use only, controls over delivery times and arrangements, restriction on music from the premises and limitations on the times patrons can use the beer garden, would be dependent upon future independent actions of the dwelling occupiers to retain the measures built into the dwelling and the pub management to ensure the continued implementation of the management plan proposals.
21. The proposed noise management plan would be dependent upon the cooperation of a number of parties separate from the dwelling occupiers, including pub management and staff, patrons and visiting delivery personnel, and, as such it could be difficult to enforce, particularly since some actions could potentially impact on business viability and/or customer satisfaction with their visit.
22. Moreover, failure to satisfactorily avoid noise disturbance impacts could potentially result in complaints leading to statutory nuisance investigations which could only be effectively addressed through restrictions on the operation of the pub. Moreover, notwithstanding that the pub and appeal site are currently within the same ownership, any future separation of the residential and commercial enterprises, which could potentially occur given the proposed layout of development which readily lends itself to the new dwelling becoming a completely separate entity to the pub, would potentially increase the risk of noise conflicts between the two uses.
23. As such, I am not persuaded the proposal accords with advice within the Framework that requires planning decisions to ensure that new development can be integrated effectively with existing businesses and community facilities, including pubs, which should not have unreasonable restrictions placed on them as a result of development permitted after they were established. The Framework is clear that, where the operation of an existing business or community facility could have a significant adverse effect on new development, including changes of use, in its vicinity, the 'agent of change' should be required to provide suitable mitigation before the development has been completed.
24. I have noted that the appeal scheme comprises an amended scheme to that originally submitted, including the removal of first floor accommodation, and a reduction in fenestration and the proposed amount of living accommodation. However, whilst these changes have reduced the potential susceptibility of the building to sources of external noise, they are not sufficient to overcome my above concerns in respect of this main issue.
25. I also note the appellant's intention to prevent future deterioration of the building. However, I am not persuaded, on the basis of the evidence before me, that the appeal scheme is essential to ensure this objective.

26. I acknowledge the position of the recently built 4 dwellings to the side of the public house site and the presence of other dwellings elsewhere within the site vicinity that directly front onto the road. However, I am not persuaded that the design and positioning of these dwellings in relation to neighbouring noise-generating activities is directly comparable to that of the appeal scheme, which would be surrounded by such impacts within close proximity of three site boundaries.
27. Some other properties close to the road have only the road noise issue to contend with. Of the recently approved adjacent housing only one of the new dwellings is sited immediately adjacent to the pub site, and in this case, the living accommodation within the house is separated from the beer garden by its garage and parking area and acoustic fencing. The adjacent dwellings are also sited much further back from the road than the building the subject of this appeal, and have living accommodation layouts which provide more scope for occupiers to avoid potential external noise impacts.
28. In contrast, having regard to the above, I am not satisfied, on the basis of the evidence before me, that the appeal proposal is capable of providing adequate noise conditions for future occupants of the development. This is due to the cumulative impact of the number of potential surrounding noise impacts that I have identified above, and their proximity to, and position in relation to the appeal site, together with the constricted nature of the appeal site in relation to surrounding development, the design and small size of the proposed dwelling and its garden, and risks associated with the future implementation and/or maintenance of the appellant's proposed noise control measures.
29. For the above reasons, I therefore conclude that the proposed development would provide demonstrably harmful living conditions for future occupiers of the proposal, having regard to noise pollution impacts. As such, it would be contrary to Policies CP27 and CP29 of the *East Hampshire District Local Plan: Joint Core Strategy* (2014) (the Core Strategy). These policies, amongst other things, require developments sensitive to pollution, including noise, to only be permitted if they are appropriately separated and designed to remove the risk of unacceptable impacts, and for new development to be of an exemplary standard of design, ensuring a layout and design appropriate and sympathetic to its setting and its relationship to adjoining buildings.
30. This is generally consistent with paragraph 130 of the Framework, which seeks to ensure that developments will function well, and create places which promote health and well-being, with a high standard of amenity for existing and future users. It is also consistent with paragraph 174 of the Framework which requires planning decisions to prevent new development from being adversely affected by unacceptable levels of noise pollution, and paragraph 187 which requires new development to integrate effectively with existing businesses and community facilities, such as pubs, and that existing businesses should not have unreasonable restrictions placed upon them as a result of development permitted after they were established.
31. The Council's reason for refusal also refers to Core Strategy Policy CP1. This is a positive policy endorsing a presumption in favour of sustainable development and I do not find it directly relevant to this main issue.

Other Matters

32. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in a village location where there is reasonable access to facilities and services. Also, there would be a small social benefit in providing an additional housing unit, and economic benefits as a result of the construction and occupation of the new house. However, these benefits would not overcome the significant harm I have identified to the living conditions of the future occupiers of the new dwelling.
33. In viability terms, the appellant states that the proposal could contribute financially to funding the public house refurbishment works, which increased from those originally forecast. However, these works have already been completed and the business has reopened, with the approved scheme including market dwellings as an exception to the Development Plan, as enabling development to aid the future retention of the public house as a community facility.
34. Whilst the renovation works involved additional costs, the appellant's submitted Viability Report does not demonstrate that the appeal scheme is justified on this basis, since the predicted returns for one and two bedroomed dwellings, an affordable dwelling, tourism accommodation and office use of the building would all exceed the quoted increase in expenditure involved in carrying out the renovation works to the public house. Moreover, the monies saved from not implementing the approved office use of the building could contribute towards those additional costs. As such, this matter is not sufficient to justify or outweigh my concerns in respect of the main issue.
35. I note that there are no objections from the Council in respect of matters including detailed building design, highway safety, drainage and flooding and biodiversity. These are requirements of the development plan in any case.

Conclusion

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

S Leonard

INSPECTOR