



Appeal Decision

Site Visit made on 7 September 2021

by K A Taylor MSC URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2021

Appeal Ref: APP/J4423/W/21/3267944

288 Sandygate Road, Sheffield S10 5SE

- 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 Spacepad Construction Ltd against the decision of Sheffield City Council.
 - The application Ref 19/02130/FUL, dated 6 June 2019, was refused by notice dated 7 August 2020.
 - The development proposed is demolition of existing public house, The Plough Inn, and ancillary structures (Use Class A4), and construction of 2 blocks of 4No. 3 bed townhouses (use class C3), raised garden deck, associated undercroft car parking and formation of new access onto highway.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing public house, The Plough Inn, and ancillary structures (Use Class A4), and construction of 2 blocks of 4No. 3 bed townhouses (use class C3), raised garden deck, associated undercroft car parking and formation of new access onto highway at 288 Sandygate Road, Sheffield S10 5SE in accordance with the terms of the application, Ref 19/02130/FUL, dated 6 June 2019, subject to the following conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Spacepad Construction Ltd against Sheffield City Council. This application is the subject of a separate decision.

Procedural Matter

3. A revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In the interests of natural justice both main parties have had the opportunity to make representation. In reaching my decision I have had regard to the revised Framework.

Background and Main Issue

4. The appeal site relates to 'The Plough Inn', a public house (PH) which is also listed as an Asset of Community Value (ACV). The PH ceased trading due to viability issues and the site has been vacant since April 2016. There have been various planning applications at the site, most notable in 2016¹ for a change of use for retail 'Sainsbury's local'. The appeal site is identified as being within a designated housing area within the Sheffield Unitary Development Plan, 1998, Saved by way of direction (UDP).

¹ 16/02925/FUL

5. The PH was first registered as an ACV by the Council in May 2015, and then again in April 2018. It will, therefore, remain on the register until April 2023. The Council contend that the proposal would result in the loss of an existing public house which is listed as an ACV, and there remains a realistic prospect of the public house being brought back into community use.
6. Therefore, the main issue is the effect of the proposed development with regard to the loss of an Asset of Community Value (ACV).

Reasons

7. The Framework at paragraph 93 sets out that to provide the social, recreational and cultural facilities and services the community needs, decisions should (c) guard against the unnecessary loss of valued facilities and services particularly where this would reduce the community's ability to meet its day-to-day needs.
8. Saved Policy CF2 of the UDP permits development which results in the loss of community facilities where (a) the loss is unavoidable and equivalent facilities would be provided in the same area; or (b) the facilities are no longer required; or (c) where a change of use of a building is involved, equivalent accommodation would be readily available elsewhere. The UDP's definition, set out in the preamble, is that community facilities relate to those falling within the former Use Class D1, now forming Class E and Class F.¹² This does not include a public house, wine bar, or drinking establishment, which was Use Class A4, now Sui-generis under the amended regulations.
9. Nonetheless, the policy is broadly consistent with the approach of the Framework, in regard to guarding against the loss of community facilities. At paragraph 93 (a) it specifically refers to the provision and use of shared spaces, community facilities being public houses. However, I note that the Council did not refuse against this UDP policy and have referred to the Framework. Saved Policy CF2 is not cited on the formal decision notice.
10. There has been a significant amount of time since the public house closed, and from the evidence before me including site observations, the building would require significant repairs and investment to bring it up to any standard. It is clear that there has not been any activity at the site for some time and in its present condition, general deterioration, and vandalism, it would not be a viable commercial enterprise.
11. Future uses of the site other than a PH, including any alternative community use or hub would require planning consent, and I have not been provided with any evidence to suggest that an application for an alternative community use is forthcoming. Neither is there any substantive evidence of the PH coming forward as a viable community project with local stakeholders. As such, I am not satisfied that it currently offers any community value, positively contributes to the local community or that there is a real prospect of the site being used in the future for a community use.
12. Nevertheless, I acknowledge the comments made by interested parties concerning the building and its status as an ACV. This is a material consideration in the appeal, and one of planning judgement to what weight is given to the listing of the PH as an ACV. It would appear that the listing of the

² The Town and Country (Use Classes) (Amendment) (England) Regulations 2020

PH at that time in both 2015 and 2018 satisfied the tests of The Act³. In 2015, I have no reason to doubt that it would not have been frequented by members of the local community and may have been a thriving pub at that time prior to its closure in 2016.

13. It appears that a bid was made for the PH in 2017 by the 'Plough Community Benefit Society' (PCBS), but this failed post moratorium, and it was subsequently sold to the appellant. I am satisfied that the Council acted accordingly in 2018, by re-registering the pub as an ACV and on the basis of 'recent past use' and that the community bid was in the previous year. Which would give rise at that time to the realistic possibility that in the next five years there could be a non-ancillary use of the building or other land that would further the social, wellbeing or social interests of the community. Also, at that time the owner of the land or property would have been entitled to an internal review of the decision to list and appeal the decision through other legal mechanisms.
14. However, The Act does not stipulate that any owner must sell to a community group or force a sale, irrespective of their intentions to retain the facility for community use. Neither does it discourage alternative uses for such buildings. Moreover, I have no substantive evidence that the cost of the purchase was based on the potential redevelopment of the site for housing rather than the reinstatement of the building as a PH.
15. There is no definitive period set out within any existing policy in the UDP for the marketing of a business to assess its viability. The Council contend that the appellant should repair the building and actively market the property at an appropriate rental value for a period of no less than 12 months and the valuation for rental purposes carried out by three independent land agents. It appears from the evidence that the site was marketed for sale by Enterprise Inns from September 2012, until the purchase by the appellant in 2017. It was then marketed 'To Let' by Crosswaite Commercial in 2018 and has continued.
16. The appellant's evidence⁴ sets out that since the refusal of the application, there has been a small flurry of interest, but no formal offers. This included a change to the PH to include facilities such as a café or tearoom and media centre. It would appear that generally marketing was maintained throughout the planning process, but due to the pandemic the market for public houses has declined. There has also been no contact from any community group and no dialogue has taken place on negotiating the site on behalf of the community within the three years of marketing taking place.
17. In terms of rental figures, the Council in the 'officer's report' confirms that the now disputed figure of £50,000 per annum was assessed by an 'Independent Assessor'. In their opinion, it was a reasonable amount for a free house and would not act to discourage potential tenants. The Council now contend that this is incorrect. There is no substantive evidence as to why this is now disputed by the Council or its Independent Assessor, and I have no reason to disagree that the comparable examples given would not be relatable.

³ The Localism Act 2011

⁴ Crosswaite Commercial, letter dated 27th November 2020

18. Furthermore, the Council appear to place some weight on the detail of the 'Marketing Brochure'. This is rather onerous on the appellant, particularly as I would expect any such sales negotiations to be conducted in private between parties, rather than exclusively being set out on a sales/letting brochure. Therefore, on the basis of the evidence, it has been demonstrated that the appellant has extensively marketed the property for a satisfactory period and at an appropriate value. There is also no substantive evidence of market demand for an alternative use of the PH or community use or project at the site during the last 3 years.
19. Moreover, there are also alternative provisions of nearby public houses and community facilities. Adjacent to the site is a bar at Hallam Football Club, open to the public and available to hire as a venue and The Church of St Francis of Assis, a community facility which includes meeting rooms. Nearby within 1km of the site are further community facilities, open to use by the public and public houses, including The Sportsman, Crosspool Tavern all in suitable walking distance with The Bulls Head, slightly further distance.
20. Whilst I appreciate that the loss of the ACV would be regrettable, and it has been a treasured PH in the past with regular loyal customers, on the basis of the evidence before me. It has been demonstrated that the existing PH is not viable, and that the PH could not currently be described as a valued community asset given the lapsed time since it closed. There are alternative provisions for community facilities in the area that would meet the day-to-day living needs of nearby residents and the wider community.
21. Therefore, there does not appear to be any realistic prospect of the PH and the site returning to its former use in the future and the Council has provided little justification for its reasoning in coming to this conclusion. Even if, there was an undertaking from the appellant to repair the building this would not necessarily mean it would return to its former use and reopen. However, the Council has not provided any evidence of how such obligation or undertaking could be implemented.
22. In coming to my decision, I have had regard to a dismissed appeal decision⁵ to demolish a public house which was registered as an ACV and erect an A1 retail development. Although, there may be some similarities with the appeal scheme, I do not consider this is directly comparable with the appeal site with regard to the location, planning policy and including that the public house was in continuous use. Furthermore, the proposal was for retail unlike the scheme before me which is for residential development. In any case I have considered the appeal proposal on its own merits.
23. Consequently, taking all these matters into account, I conclude that the proposal and the loss of the ACV would not lead to the reduction to the community's ability to meet its day-to-day needs. It would not be in conflict with paragraph 93 of the Framework, that has regard to community facilities. Although not cited on the decision notice, there would be no conflict with Saved Policy CF2 of the UDP.

⁵ APP/J4423/W/17/3171556

Other Matters

24. I have had regard to the status of the building. Although built in 1929 and has been of some architectural merit in the past, it is not a designated heritage asset or within a conservation area. There is no statutory protection for non-designated heritage assets, including those on a local list. It would appear that 'Historic England' had rejected any call to list the building as it was not of special interest for its relatively late date, and ongoing refurbishments. The Framework at paragraph 203 requires the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining an application. A balanced judgement will be required having regard to the scale of any harm and the significance of the asset.
25. Although the building has become dilapidated it still remains of traditional form and materials which positively contribute to the area. However it is not of special architectural interests, and over time substantially altered including the large areas of hardstanding that surround it. Therefore, I have no reason to disagree with the Council's assessment that the building has a less than moderate significance as a non-designated heritage asset, and with regard to the scale of harm, its loss and significance would not be significant.
26. My attention has been drawn to the sporting heritage of the site, Hallam FC, and connection with the football rules '*1858 Sheffield Football Rules*'. This appears to relate to a legacy formed some many years ago, prior to the erection of the PH. Moreover, it would appear that the football club currently has its own hospitality facilities for matchdays. Therefore, I have given this matter limited weight.
27. Due to the intervening distances achieved the proposal would not result in any significant loss of privacy or overlooking for occupants of the neighbouring residential properties. The submitted shadow analysis ensures there would be limited overshadowing. Nor is there any firm evidence to suggest that the development would have any adverse effect on biodiversity, extra rubbish, rat infestations or place an undue strain on local services. Any disturbance during construction would be for a temporary period only.
28. The concerns about demand for the proposed residential uses, the impact on the value of the site and whether implementation would take place are not matters which would justify withholding permission. The access and parking arrangements would be satisfactory and there is no evidence that highway safety would be compromised.
29. In regard to the current condition of the building, I have no evidence that there has been other deliberate damage, untoward theft or anti-social behaviour at the site. This would be a matter for the relevant authorities. If unauthorised activity/use at the site has taken place, this is a matter for the Council to investigate. I note the reasons relating to the private sentimental value of the PH, but little weight can be attached to such personal circumstances.

Conditions

30. I have considered the conditions suggested by the Council, comments from the appellant including pre-commencement, and in light of the Planning Practice Guidance (PPG). For clarity, precision and to ensure compliance with the PPG, I have undertaken some minor editing and rationalisation.

31. A condition specifying the time limit and approved plans is necessary as this provides certainty. I have imposed a condition (3) specifying materials are to be agreed, and in order to safeguard the character and appearance of the area.
32. Condition (4) is necessary for construction methods, and the interests of both the living conditions of nearby residents and highway safety. Condition (5), in the interests of sustainability and mitigating climate control. Condition (6), (7), (11), (12) are necessary and required for highway safety and for retaining suitable parking provisions. Condition (8) is necessary for suitable drainage and to alleviate any flood risk at the site. Condition (9), (10) are necessary for landscaping of the site, in the interests of living conditions of future occupiers and the character and appearance of the area.
33. I have not imposed the Council's suggested conditions on removing permitted development rights. In accordance with the PPG and the Framework, planning conditions should not be used to restrict national permitted development rights unless there is clear justification. In accordance with the PPG, they would not be reasonable or necessary and there is no clear justification for doing so.

Planning Balance and Conclusion

34. The Council have confirmed an updated position relating to its housing supply from when the application was determined. This reflects the deliverability of sites as of 1 April 2020 and in relation to the local housing need figure, taking account of the 35% urban centres uplift. This results in a 4-year deliverable supply of housing land. Therefore, the Council are unable to demonstrate a 5-year housing land supply.
35. Consequently, the relevant policies for the supply of housing are considered to be out of date and the 'tilted balance' is engaged in regard to paragraph 11 d) ii of the Framework. It requires planning permission to be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
36. As I have found above, the appeal proposal would not result in any adverse impacts, including the loss of the PH. It would secure a number of benefits and would not be in conflict with the Framework. Accordingly, the presumption in favour of sustainable development applies and planning permission should be granted.
37. There would be a number of benefits to the appeal proposal. These include the redevelopment of the site which would make efficient use of previously developed land. Securing new residential units and boosting the supply of new homes in line with paragraph 60 of the Framework. There would also be economic benefits, although short term it would create the provision of construction jobs, purchasing of materials from local suppliers and contractors. Revenue for the Council including Council tax and CIL payment. Increased local spend and support for local services and facilities. Be within a sustainable location with good transport links.
38. In view of the position on housing delivery in the Borough I would accord these benefits significant weight and they add to further support to the findings I have reached above.

39. In reaching the above conclusions, I have taken account of all other matters that have been raised, including letters from local residents, PCBS, CAMRA, other interested parties and other appeal decisions, but I have found nothing that alters my conclusion that the appeal should be allowed subject to conditions.

KA Taylor

INSPECTOR

Appeal Ref: APP/J4423/W/21/3267944
288 Sandygate Road, Sheffield S10 5SE

Schedule of conditions attached to planning permission

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 27398 A(00)01 Site Location Plan
 - 27398 A(01)01A Site Plan Existing
 - 27398 (01)02A Site Plan Proposed - Roof Level
 - 27398 (01)03B Proposed Ground Floor
 - 27398 (01)04A Proposed Site Plan - Existing and Proposed Footprints
 - 27398 (01)05 Vehicle Tracking - Parking Scenario 01
 - 27398 (01)06 Vehicle Tracking - Parking Scenario 02
 - 27398 (01)07 Vehicle Tracking - Parking Scenario 03
 - 27398 (02)01A House Type Drawings - Type 01A (Plot 01)
 - 27398 (02)02A House Type Drawings - Type 01B (Plot 05)
 - 27398 (02)03A House Type Drawings - Type 02 (Units 2, 3, 6, 7)
 - 27398 (02)04A House Type Drawings - Type 03A (Unit 04)
 - 27398 (02)05A House Type Drawings - Type 03B (Unit 08)
 - 27398 (03)01A Site Sections Existing
 - 27398 (03)02A Site Sections Proposed
 - 27398 (04)01A Site Elevations Existing
 - 27398 (04)02A Site Elevations Proposed
 - 27398 (04)03A Site Elevations Proposed
 - 27398 (04)04A Site Elevations Proposed
 - 27398 (05)01A View west along Sandygate Road - existing
 - 27398 (05)02A View west along Sandygate Road - proposed
 - 27398 (05)03A View east along Sandygate Road - existing
 - 27398 (05)04A View east along Sandygate Road - proposed
 - 27398 (05)05A View from St Francis Close - existing
 - 27398 (05)06A View from St Francis Close - proposed
 - 27398 (05)08A Aerial View 01
 - 27398 (05)09A Aerial View 02
- 3) No development shall take place until a sample panel of the materials to be used in the construction of the external surfaces shall have been prepared on site for inspection and approved in writing by the local planning authority. The sample panel shall be at least 1 metre x 1 metre and show the proposed materials, bond, pointing technique and palette of materials (including masonry, roofing, cladding and render) to be used in the development. The development shall be constructed in accordance with the approved sample, which shall not be removed from the site until completion of the development.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:

- (a) The parking of vehicles of site operatives and visitors.
- (b) Loading and unloading of plant and materials.
- (c) Storage of plant and materials used in constructing the development.
- (d) Measures to prevent mud or other deleterious material from being deposited on the highway.
- (e) Measures to control the emission of dust and dirt during construction.
- (f) A scheme for recycling/disposing of waste resulting from demolition and construction works.
- (g) Delivery, demolition and construction working hours.
- (h) Site compound and welfare facilities

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development shall take place until a report has been submitted to and approved in writing by the local planning authority, identifying how a minimum of 10% of the predicted energy needs of the completed development will be obtained from decentralised and renewable or low carbon energy, or an alternative fabric first approach to offset an equivalent amount of energy. Any agreed renewable or low carbon energy equipment, connection to decentralised or low carbon energy sources, or agreed measures to achieve the alternative fabric first approach, shall have been installed/incorporated for each dwelling prior to the occupation of that dwelling. The development shall be carried out in accordance with the approved details, and thereafter the agreed equipment, connection or measures shall be retained in use and maintained for the lifetime of the development.
- 6) No above ground works shall commence until details have been submitted to and approved in writing by the local planning authority including timescales for the closure of redundant access points and reconstruction of footways adjoining the site. The development shall be carried out in accordance with the approved details and agreed timescales.
- 7) No development shall take place until a dilapidation survey of the highways adjoining the site is undertaken, jointly with the Council and the results submitted to and approved in writing by the local planning authority. Any remedial works shall be carried out in accordance with the approved details and prior to the first occupation of any dwelling.
- 8) The site shall be developed with separate systems of drainage for foul and surface water on and off the site. There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which should be submitted to prior to any works starting on site and approved in writing by the local planning authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to: -
 - a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical.

- b) evidence of existing positive drainage to public sewer and the current points of connection; and
- c) the means of restricting the discharge to public sewer to the existing rate less a minimum 30% reduction, based on the existing peak discharge rate during a 1 in 1 year storm event, to allow for climate change.

The development shall be carried out in accordance with the approved drainage details.

- 9) No development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: -

- (a) A statement setting out the design objectives and how these will be delivered.
- (b) Earthworks showing existing and proposed finished levels or contours, including any raised garden areas.
- (c) Boundary treatments.
- (d) Vehicle parking layouts; other vehicle and pedestrian access and circulation areas.
- (e) Hard surfacing materials.
- (f) Minor artefacts and structures (e.g., furniture, refuse or other storage units, signs, etc).
- (g) Proposed and existing functional services above and below ground (e.g., drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant).
- (h) Renewable energy installations where relevant.
- (i) Lighting and any CCTV.
- (j) An implementation programme, including phasing of work where relevant.

The landscaping works shall be carried out in accordance with the approved details and in accordance with the agreed implementation programme. The completed scheme shall be managed and/or maintained in accordance with an approved scheme of management and/or maintenance.

- 10) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 11) No dwelling shall be occupied until all redundant accesses shall have been stopped up and kerb and footways reinstated. Any necessary adjustment to adjacent waiting restrictions and Traffic Regulation Order (TRO) that is made in respect of this condition. 'Made' means that the TRO has been approved and can be implemented shall be brought into first prior to any occupation of the dwellings.

- 12) No dwelling shall be occupied until space has been laid out within the site for 18 cars to be parked in accordance with the approved plans and that spaces shall thereafter be kept available at all times for the parking of vehicles.

- END OF SCHEDULE -