
Appeal Decision

Site visit made on 9 August 2021

by C Coyne BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 December 2021

Appeal Ref: APP/N4720/W/21/3275810

The Drysalts, Ring Road, Beeston, Leeds LS11 8AX

- 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 NHG Estates Ltd against the decision of Leeds City Council.
 - The application Ref 20/07519/FU, dated 13 November 2020, was refused by notice dated 18 May 2021.
 - The development proposed is Demolition of Public House and Erection of Drive-Through Coffee Shop.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On 20 July 2021 a revised version of the National Planning Policy Framework (the Framework) was published. However, as the main parties have had an opportunity to comment on this matter, I am satisfied that neither party has been prejudiced in this regard.

Main Issues

3. The main issues are:
 - whether the proposed development would result in the unacceptable loss of a community facility and local service;
 - the effect of the proposed development on the character and appearance of the area having regard to trees; and
 - the effect of the proposed development on highway safety.

Reasons

4. The Drysalts public house (the Drysalts) is a moderately sized two storey building situated just off the A6110 (Elland Road). It has two vehicular access points off this road as well as ample parking to the side and rear. There are several mature trees located in a rear corner to one side of the site. The surrounding area on this side of the road predominately comprises large retail or storage/light industrial uses with the other side of the road consisting of a large green open area/sports field with a large crematorium/graveyard to its side. To the side and behind this sports field is the Cottingley residential estate. A pedestrian crossing links this estate with the side of Elland Road that the appeal site is on. There are also several street trees on either side of the road.

Community facilities and services

5. Paragraph 93 of the Framework sets out that planning decisions should: plan positively for the provision and use of community facilities, including public houses, and other local services to enhance the sustainability of communities and residential environments; and 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.
6. The Council argues that the proposal would unnecessarily remove a valued local community facility thereby reducing the sustainability of this community and its residential environment and that the number of objections received indicate that the community do indeed value the Drysalters as it meets their day-to-day needs.
7. In response the appellant has argued that the Drysalters is not economically viable due to its limited food offer and wet-led sales model. They also argue that there are other similar establishments in the area that can serve the local community just as well and, in some cases, serve them better given that they have been substantially refurbished, have larger enclosed beer gardens, and provide a more wide-ranging food offer than the Drysalters.
8. Indeed, the submitted Savills Viability report (Savills Report) states that due to its limited offer and dated appearance the Drysalters is unlikely to appeal to the average customer therefore making it unlikely that an operator would invest to refurbish the property to provide facilities for a viable food service and that for it to become a destination food-led pub that it would need a kitchen extension and a reconfiguration to provide a larger dining area.
9. In addition, the Savills report estimates that the capital investment required for what in their view is a necessary refurbishment to ensure a reasonable potential future Fair Maintainable Turnover (FMT) and Fair Maintainable Operating Profit (FMOP) means that the resulting profit margin would be so low as to render the pub as loss making after the deduction of market rent thereby making it commercially unviable in the long term.
10. However, even though the Drysalters relies somewhat on wet sales, this is not the same as it not providing a food offer at all or for that offer not to be in demand. Further, as the Savills report acknowledges the Drysalters has recently increased its food offer by partnering with a company to offer dine-in and takeaway food. Consequently, it is therefore likely that the Drysalters is now less reliant on wet sales than it once was. Furthermore, the Savills report also fails to consider a scenario where the pub continued to trade as it does at present either with a less extensive or expensive capital investment and refurbishment or where no refurbishment was undertaken at all.
11. Moreover, the DVS viability report submitted by the Council (DVS report) indicates that the potential FMT of the Drysalters based on its current operating model is a reasonable one, considering that the current market rent being paid by the tenant is within the expected range and lower than that estimated by the Savills report. Additionally, from what I observed on my site visit and the photos contained within the Savills report, it would be fair to say that the Drysalters is not currently in a great state of disrepair and is serving food as well as drinks.

12. Therefore, while its current food offer may not be as extensive as other larger or more recently refurbished establishments, this does not mean that it is insufficient or that it does not adequately cater for the day-to-day needs of its existing customers or potential future customers.
13. Further, while I note that the pub is not a designated asset of community value, based on the comments submitted by interested parties and the other evidence before me the Drysalters would appear to be well frequented by football fans and users of the crematorium in addition to residents of the Cottingley Estate as well as others from Beeston and Churwell. Indeed, the Savills report acknowledges that *'the business is traded as a wet-led community football friendly pub showing live sports and hosting regular events including live music. The Property also hosts live outdoor events between the months of May and September.'*
14. Consequently, while some objectors live in Churwell, Beeston and further afield they are nonetheless still concerned with the loss of the Drysalters even though they are closer to other pubs. As a result, it would be reasonable to think that these patrons have a clear strength of positive feeling for the Drysalters and its role in bringing various strands of the community together in one place for either parties, quiz nights, open mic nights, a funeral commemoration, or a football match.
15. In addition, the other public houses cited by the Savills report as comparable or better alternatives to the Drysalters are either located within the Beeston or Churwell areas or further afield meaning that they would be a comparatively long walk away for residents on the Cottingley estate for whom the Drysalters is much closer. The Savills report also acknowledges that the *'residential estate of Cottingley, situated between Beeston and Churwell, close to the subject Property does not benefit from any public house venues although we understand that the current Drysalter's replaced the 'Old Drysalters' which was situated in the estate, suggesting that the immediate community of Cottingley alone could not support a public house'*.
16. As a result, while there may have been low demand for the old public house, the fact that it was replaced makes it reasonable to think that the demand increased at that time. Furthermore, given the number of objections to the proposal and the comments contained therein, and the fact that the Drysalters is currently still trading, it is also reasonable to think that this demand has been maintained, if not fully by residents of the Cottingley estate alone. In any event given that the evidence shows that residents of the Cottingley estate do use the Drysalters and given that there is no alternative venue in the immediate vicinity of the estate, I fail to see why they should have to travel further, particularly if they are walking, to go to a public house.
17. Accordingly, in the context of the above, I afford substantial weight to the community objections to the proposal. In this context and based on the evidence before me I am therefore also not convinced that the Drysalters public house would be economically unviable in the long term. Moreover, given this and the clear strength of feeling in the local community and beyond and the fact that the pub appears to be used as a regular meeting place for residents and football fans alike, as well as a venue for mourners using the crematorium, I am also not convinced that its loss would not have a materially harmful social impact on this disparate community by removing this meeting

place of theirs. For similar reasons, I also consider that the loss of the Drysalts would reduce the community's ability to meet its day-to-day-needs in these regards.

18. I therefore conclude that the proposed development would result in the unacceptable loss of a community facility and local service. Accordingly, it would fail to meet the requirements of paragraph 93 of the Framework.

Character and Appearance - Trees

19. Even though they are not protected, the mature trees to the side and rear corner of the appeal site make a positive visual contribution to the site and its surroundings which complements the contribution made by the other trees to the front of the site and those that are placed along the footpath on the opposite side of the road.
20. Based on appendix 6 of the submitted Arboricultural Report (AR) the proposed building would impinge on the Root Protection Area (RPA) for tree T3 and would also be very close to the RPAs of trees T4 and T8. The submitted plans also show that tree T9 and the shrubbery closest to it would be removed.
21. I acknowledge that the proposal's infringements on the RPAs of these trees would appear to be within the limits set by BS 5837. However, the AR states that the RPAs shown are likely to be a simplified representation of the tree roots actual morphology and disposition. As a result, it would be reasonable to think that the proposal could potentially infringe on the RPAs of these trees by a factor greater than that stated in the AR. Consequently, I consider that the proposal would potentially cause unacceptable harm to these trees thereby having an adverse visual impact on the appeal site and wider area in this regard.
22. I therefore conclude that the proposed development would materially harm the character and appearance of the area having regard to trees. As a result, it would fail to meet the character requirements of policy P12 of the adopted Core Strategy (CS) and saved policies LD1 and GP5 of the Unitary Development Plan Review (UDPR).

Highway Safety

23. Initially the Highway Authority (HA) raised a concern that the appellant had submitted insufficient information on delivery vehicle access and the associated internal layout and design of the junction. In addition, they also raised a concern that insufficient information had been submitted in respect of Electric Vehicle (EV) charging points and their design/specifications.
24. According to a series of emails dated 19 January 2021, following the submission of revised plans the HA appear to have been satisfied that these matters had been adequately addressed apart from that of the proposed two EV charging points and whether they should each have a minimum capacity of 50 kilo-volt-amperes (kVA). According to the evidence the local power supply could accommodate two EV charging points with this minimum capacity. The evidence also shows that there are other similar charging points and ones with higher capacities installed at other premises in the area. Consequently, I consider it reasonable that the two proposed EV charging points should each have a minimum capacity of 50 kVA.

25. Even so, based on the evidence I consider that this matter could be adequately addressed via the imposition of suitably worded conditions which for example would secure the EV charging points' specifications.
26. I therefore conclude that the proposed development would not harm highway safety. As a result, it would not conflict with policies T2 and EN8 of the CS or saved policy GP5 of the UDPR.

Other Matters

27. The appeal property is located within an area of high flood risk. However, the appellant has submitted a Flood Risk Assessment (FRA). In addition, the Environment Agency have not raised an objection to the proposal which they have deemed to comprise a less vulnerable use. The Council's Flood Risk Management consultee has also raised no objection. Consequently, I am satisfied that any potential flood risk could be adequately mitigated by the imposition of a suitably worded condition to ensure that the proposal would be carried out in accordance with the FRA's recommendations.

Conclusion

28. The fact that the proposed development would not cause harm to highway safety does not alter, overcome, or outweigh the significant harm it would cause to the character and appearance of the area or by virtue of the unacceptable loss it would cause to local community facilities and services.
29. Consequently, it would not accord with the development plan and the Framework when read as a whole and the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies contained within them. Furthermore, there are no material considerations which indicate a decision otherwise than in accordance with the development plan.
30. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

C Coyne

INSPECTOR