



Appeal Decision

Site visit made on 8 March 2022

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th March 2022

Appeal Ref: APP/Z1510/W/21/3278217

Swan Inn PH, The Street, Hatfield Peverel CM3 2DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Reginald Hunt (Keens and Hunt Ltd) against the decision of Braintree District Council.
 - The application Ref 20/02214/OUT, dated 28 February 2020, was refused by notice dated 10 June 2021.
 - The development proposed is described as *'The development proposal sits within the site boundaries of the Swan public House of which the deeds are currently owned by us. The proposal consists of the Demolition of an old disused, dilapidated garage which measures 9.6m x 5.6m. that sits 5.5m off the rear boundary to the site and the new development of 6 double bed, single storey motel rooms adjacent to the demolition site. The 6 new units mean 4 existing parking spaces are lost however the overall scheme provides an additional 12 spaces as the demolition of the barn creates another 10 new parking spaces and there will be 6 new parking bays provided in front of the Motel rooms. Right of way access to Swan cottages will remain unaffected. On visual survey all services are existing in the close vicinity and are easily accessible to connect to without causing too much disruption to the local residents and access. A single storey development means views are not obstructed by residents of Haven Court. All labour and building materials will be locally sourced helping to support local business. The design will blend and match the local surroundings helping to compliment and improve the area's Aesthetics. The structure can be founded on a Raft foundation to Prevent damage to nearby tree routes'*.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description in the heading above has been taken from the planning application form.
3. Outline planning permission is sought with all matters reserved. I have thus considered the drawings on an illustrative basis.
4. The National Planning Policy Framework (Framework) was revised on 20 July 2021. It replaces the version from 2019 that the Council considered when it determined the application. Both the appellant and the Council have had an opportunity to comment on the implications of the current version of the Framework on the proposal during the appeal process.

Main Issue

5. The main issue is the effect of the proposal on bats.

Reasons

6. The site includes a public house, a detached outbuilding that the appellant identifies as a garage, and surrounding land. The garage has a tiled roof and is used principally for storage. The proposal includes the demolition of the garage.
7. A Preliminary Roost Assessment Survey was submitted in support of the application. It explains that there are features of habitat value for bats in the area but that local biological record data has not been consulted, which is needed for the assessment to be complete. It also identifies that the garage has damaged ridge tiles, missing mortar, a raised bargeboard, gaps between roof tiles and brickwork, and gaps under roof tiles, which could provide access and habitat features for bats. Although it sets out that the garage has low habitat value for roosting bats and there was no evidence of bat activity internally, it recommends that an emergence or re-entry survey is undertaken during the active bat season to confirm the presence or absence of roosts. As such, there is a reasonable likelihood of bats being affected by the proposal.
8. The appellant has explained that potential entry points into the garage have been sealed. However, precise details of the works undertaken have not been provided and I cannot be sure that bats would be unable to enter the garage as a result of the works. Moreover, when I visited, I saw daylight through gaps in and near the roof consistent with the observations in the survey, which suggests that bats can currently enter the garage.
9. Circular 06/2005¹ states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. On that basis, it would be inappropriate to condition the undertaking of further surveys. The use of conditions to require mitigation or compensation measures, such as the provision of bat habitat elsewhere, would also be inappropriate in the absence of further surveying. This is because there can be no certainty that such measures would satisfactorily address any harm to bats that might occur.
10. It has been put forward that if the garage had been demolished prior to the application being submitted permission would have been granted. I cannot be certain of the outcome of alternative scenarios. In any case, the proposed demolition of the garage is included within the application and therefore I must consider its potential effects. The appellant has also explained that there was no evidence of bats at the public house when works to its roof were recently undertaken. However, this does not indicate that the demolition of the garage would not adversely affect bats.
11. The proposal fails to demonstrate that its effect on bats would be acceptable. It conflicts with Policy RLP84 of the Braintree District Local Plan Review, Policy CS8 of the Braintree District Council Local Development Framework Core Strategy, and Policy HPE1 of the Hatfield Peverel Neighbourhood Development Plan. Amongst other things, these set out that full ecological assessments are required where development may have an impact on protected species and seek to prevent adverse impacts on protected species. In addition, the proposal is contrary to Chapter 15 of the Framework, which aims to conserve and

¹ Office of the Deputy Prime Minister Circular 06/2005: Biodiversity and Geological Conservation - Statutory Obligations and their Impacts within the Planning System

enhance the natural environment. The proposal also conflicts with Policy LPP68 of the Council's emerging local plan², which seeks to prevent harm to protected species too. However, this conflict attracts limited weight as the section of the plan to which Policy LPP68 relates is yet to be examined.

Other Matters

12. I have no reason to doubt that the proposal would be in an accessible location, generate employment during both its construction and operational phases, and support the vitality and viability of the public house and the local area. However, these matters do not outweigh the issue identified above.

Conclusion

13. For the reasons given above the appeal should be dismissed.

Mark Philpott

INSPECTOR

² Section 2 – Publication Draft Local Plan