



Appeal Decision

Site visit made on 14 June 2022

by Helen Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th July 2022

Appeal Ref: APP/C3240/W/22/3294244

The Lion Inn, A442 Junction to Catsbitch Lane Junction, Waters Upton, Telford TF6 6NP

- 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 Raj Patel against the decision of Telford and Wrekin Council.
 - The application Ref TWC/2021/0717, dated 21 June 2021, was refused by notice dated 10 December 2021.
 - The development proposed is for the erection of one dwelling with all matters reserved.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of one dwelling with all matters reserved at The Lion Inn, A442 Junction to Catsbitch Lane Junction, Waters Upton, Telford TF6 6NP in accordance with the terms of the application, Ref TWC/2021/0717, dated 21 June 2021, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are:
 - Whether the site is an appropriate location for housing;
 - The effect of the proposal on the viability of the Lion Inn;
 - The effect of the proposal on the living conditions of future occupants, regarding to noise and light pollution.

Procedural Matters

3. The planning application the subject of this appeal was submitted in outline with all matters reserved. I have therefore determined the appeal on this basis and taken all plans submitted to be indicative as an illustration of how the development could be carried out.

Reasons

Location of development

4. The appeal site is located on a parcel of land to the rear of the Lion Inn and Shanti House and adjacent to the existing residential development at Upton Stones. There is a hard surfaced car parking area with marked bays adjacent to the site. It is therefore enclosed by built form on several sides and is also adjacent to a large outbuilding located to the rear of the neighbouring dwelling 'Twin Oaks'.

5. Given the site's hard surfaced area and its close proximity to existing built form, it is experienced as being a part of the urban development, rather than the more rural context beyond. I acknowledge that the site is backland in character. However, the proposal would infill a small gap between existing buildings in a broadly linear formation and would not protrude harmfully into the open countryside.
6. As such, the proposal would comply with Policy HO 10 of the Telford & Wrekin Local Plan (LP) (2018), which supports a limited amount of infill development within named settlements, including Waters Upton. The proposal would also comply with WUH1 of the Waters Upton Neighbourhood Plan (2016), which supports small infill development that would not cause visual intrusion into the open countryside.
7. The Council's decision notice makes reference to Policy HO 11 of the LP that relates to small scale affordable housing schemes. The proposal would not meet the requirements of this policy. However, as the proposal is not for affordable housing Policy HO 11 weighs neither for nor against the proposed development.

Viability of the Lion Inn

8. The Lion Inn is currently operating as the Bharat Indian restaurant/takeaway and is therefore no longer a public house. There is no substantive evidence before me that the restaurant is a local amenity that should be protected as a community asset. Although a restaurant provides opportunities for people to meet and socialise, it does not provide the same function as the informal and communal setting offered by a public house. Accordingly, Policy COM1 of the LP is not relevant to this appeal, as it seeks to preserve existing community facilities, such as public houses, which the building is no longer used as. In any event, insufficient evidence has been provided to substantiate the assertion that the restaurant business would be negatively impacted by the proposal.
9. Based on the evidence before me, the viability of the Lion Inn would not be impacted negatively by the proposal. As such, the proposal would not conflict with Policy COM1 of the LP (2018), which seeks to preserve existing community facilities.

Living Conditions of future occupiers

10. The appeal site is adjacent to existing dwellings and therefore located within an established residential setting. There is no clear evidence before me to support the noise and disturbance assertions and I have not been provided with any evidence of historical complaints connected to the use of the Lion Inn or its associated car park.
11. In addition, the appellant has confirmed that there is no lighting scheme associated with the car park. I acknowledge that vehicles manoeuvring within the car park could cause light pollution. However, the effect of such disturbance can be mitigated by a landscaping scheme to include a front boundary enclosure and could be imposed as a condition at reserved matters stage.
12. Therefore, I find that noise and light pollution associated with the Lion Inn would harmfully impact upon the living conditions of the future occupants. Therefore, the proposal would accord with paragraph 130 of the Framework,

where it seeks to promote health and well-being and a high standard of amenity for existing and future users.

13. The Council refer to Policy COM1 of the LP (2018) for their reason for refusal. However, this policy considers matters of community facilities. As such, I do not consider it to be relevant to this main issue. I have therefore applied the Framework, as above.

Other Matters

14. The Council has drawn my attention to a dwelling with a restricted occupancy agreement and a potential legal breach. Whatever the situation, I have dealt with this appeal on its own merits and found the proposal to be acceptable.
15. Concerns have been raised about parking issues. However, the Highway Authority has confirmed that parking and access issues were resolved as part of the application process and sufficient parking space would be maintained outside the application site for existing users of the site. As the proposal would use an existing access, there is no obvious reason why any further change to it would be required.
16. The Council have raised no objection to the proposal in respect of the effect it would have on the setting or significance of the Local Interest Building, the Lion Inn. Based on the evidence before me and the observations I made during my site visit, I also find the proposed development would have no effect on the setting or significance of the Local Interest Building. This is a neutral effect and thus carries no weight in favour of the proposal.
17. The Parish Council has raised concern that granting permission to this proposal would set a precedent for other sites to come forward. However, I have determined this appeal on its own individual merits with regard to its site-specific characteristics.
18. The proposal would not result in a loss of privacy to neighbouring residents due to the sufficient separation distances between the appeal site and the neighbouring dwellings.

Conditions

19. In the interests of certainty, I have imposed the relevant conditions concerning the timescales for the commencement of development, the submission of the reserved matters and the approved plans. I have also imposed conditions to ensure the adequate drainage of the site and to avoid flooding.
20. A Site Environmental Management Plan is required to protect the living conditions of neighbouring occupiers and for the purposes of highway safety throughout the development works.
21. To protect and enhance wildlife, I have imposed conditions relating to lighting and requiring the provision of additional roosting and nesting opportunities.
22. I have made some revisions to the Council's suggested conditions in the interests of clarity and consistency. I have omitted conditions relating to materials, levels, access, and landscaping as they relate to the reserved matters.

Conclusion

23. For the reasons given, I have found that the proposal complies with the development plan, read as a whole. No material considerations have been shown to have sufficient weight as to warrant a decision otherwise than in accordance with it. Therefore, the appeal is allowed.

Helen Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 2) The development hereby permitted shall take place not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) Prior to the commencement of development, a Site Environmental Management Plan shall be submitted to and approved in writing by the local planning authority. The plan should include the following details:
 - a. Location of site compound.
 - b. Parking of vehicles of site personnel, operatives and visitors.
 - c. Loading and unloading of plant and materials.
 - d. Storage of plant and materials in constructing the development.
 - e. Storage of oil, fuel and chemicals.
 - f. Prevention of mud being deposited on highway.
 - g. Measure for the control and reduction of noise from construction works.
 - h. Measures for control of construction traffic within the site and on the surrounding highway network.
 - i. Hours of operation of construction works and other works on the site.
 - j. Measures for the monitoring and enforcement of the plans.
 - k. The erection and maintenance of security hoarding, including decorative displays and facilities for public viewing, where appropriate.

The agreed plan shall be complied with at all times during construction work.

- 4) Prior to its installation, details of a scheme for foul drainage and surface water drainage shall be submitted to and approved in writing by the local planning authority. The approved scheme shall be completed before the development is first occupied and thereafter maintained as such.
- 5) Prior to its installation, details of any external lighting proposed shall be submitted to and approved in writing by the local planning authority. The installations shall then be carried out in accordance with the approved details and thereafter retained for the lifetime of the development.
- 6) Prior to the first occupation of the development hereby permitted a suite of artificial nesting and/or roosting boxes shall be erected on the site. The type and location of features shall have been submitted to and agreed in writing with the local planning authority beforehand. The scheme shall then be undertaken in accordance with the agreed details and shall thereafter be maintained as such.

*****End of Conditions*****