



Appeal Decision

Site visit made on 10 November 2022

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 December 2022

Appeal Ref: APP/P1750/W/22/3291498

The White Lion, 20 Lower Farnham Road, Aldershot GU12 4EA

- 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 Mr A Jaman against the decision of Rushmoor Borough Council.
 - The application Ref 21/00545/FULPP, dated 21 June 2021, was refused by notice dated 19 August 2021.
 - The development proposed is alterations and erection of one and two storey rear extension, and change of use to provide 4 no. flats, with associated amenity space, bin store and bike stores.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - whether the proposed change of use from a public house, an Asset of Community Value (ACV) to four flats would be acceptable, with particular regard to the need for the public house in this location,
 - the effect of the proposed development on Thames Basin Heaths Special Protection Area (SPA),
 - the effect of the proposed development on highway safety, and;
 - the effect of the proposed development on the living conditions of surrounding residents and whether the development would provide satisfactory accommodation for its future occupiers with regard to noise and disturbance.

Reasons

Public House Need

3. The appeal property is a two storey public house located on Lower Farnham Road (B3208) at its junction with Stone Street. It is situated at the end of a residential terrace and the wider area to the western side of Lower Farnham Road is predominantly residential with a variety of larger scale commercial uses on the eastern side, opposite the appeal site.
4. The appeal property was designated as an ACV in October 2019. Representations have been submitted which indicate the support for retaining the social facility. The appellant has however stated that this has not translated

into any offers or bids by the local community or any commercial operator for the public house or for any community type use, and the building continues to remain vacant even after the end of the protected period following the listing of the appeal site as an ACV.

5. Whilst this may be the case, Policy LN8 of the Rushmoor Local Plan 2014-2032 (Local Plan) states that development proposals resulting in the loss of a public house will only be permitted if it can be proven through effective marketing for a period of 12 months that there is no longer-term need for the facility.
6. The application subject of the appeal included details of a marketing exercise¹ undertaken for a period of around 21 months between January 2019 and October 2020. Although this exceeded the required 12 months marketing set out in local policy, there are a number of concerns arising from this, including the marketing being undertaken partly during the period there were Government imposed restrictions due to Covid-19. The marketing exercise generated 12 viewings and 2 offers, neither of which resulted in a firm offer. Although the appellant considers that there is no need for the public house to remain, the marketing evidence provides little information on whether the price the property was marketed at was reasonable and appropriate. There is also a lack of evidence of an on-site marketing board and screenshots of websites showing the property advertised. Given these deficiencies, I cannot be sure that the property has been fully exposed to a wide audience and the requirement to demonstrate that there is no longer term need for the public house has not been met.
7. The appellant has identified a number of factors which are said to make the public house unviable, including the limited floorspace, reliance on wet sales and lack of food offering and car parking as well as the location on a quieter B-road. I have also taken into consideration wider market trends and changes in lifestyle. Whilst I acknowledge these factors and the challenges facing public houses, particularly following the Covid-19 pandemic, no commercial viability study has been provided which the Development Affecting Public Houses Supplementary Planning Document (SPD) states would evidence whether it is economically viable to retain the building for its existing use class.
8. My attention has been drawn to other community facilities, including Public Houses within a reasonable distance of the site. Whilst there may be alternative community facilities, this matter is not determinative when considering the longer term need for the facility and whether effective marketing has been undertaken, especially given the representations submitted which demonstrate support for the public house to remain. Although the absence of licenced premises having beneficial effects on health and well-being, they nevertheless provide an important social meeting place.
9. Given the above, I conclude that it has not been demonstrated that there is no longer term need for the public house and as such, the proposed development would conflict with Local Plan Policy LN8, which seeks, amongst other matters, for the retention of public houses unless there is no longer term need for the facility. The appellant considers the SPD to be out of date as there have been changes in national legislation and guidance. Although there have been changes to the Use Class Order, in relation to Public Houses, the change has taken this use from Class A4 to a Sui Generis use and afforded them greater

¹ Marketing Report, June 2021 (Savills)

protection from changes under permitted development rights. As such, I have no reason to find the SPD to be out of date with such changes and to the contrary, this supports the aims of the SPD which seeks to prevent the loss of public houses as community facilities. The development would be contrary to this SPD.

Thames Basin Heaths SPA

10. The appeal site is situated around 2.2km from the Thames Basin Heaths SPA. The Habitat Regulations require that developments do not adversely impact on the integrity of the SPA. The SPA consists of a network of heathland sites that provide a habitat for internationally important bird species, namely, the nightjar, woodlark and dartford warbler. These species nest at low level and are easily disturbed by human activity such as recreational walking and predation by domestic animals. Given the proposed flats are within the zone of influence of the protected area, taken both in isolation and cumulatively, that the proposal would have a significant adverse effect on the integrity of the SPA.
11. It is common ground between the main parties that the mitigation measures should include contributions towards Suitable Alternative Natural Green Spaces (SANGs) and Strategic Access Management and Monitoring (SAMM), and in this regard, it is for the Council to demonstrate the evidence base for any planning contributions sought and where the contribution is to be made.
12. The appellant has submitted a draft section 106 obligation, however, the Council has stated that due to limited and finite capacity within the SANGs, such an allocation must be agreed in writing prior to the submission of a planning application. I note the Council's position, but it remains the case that where a planning contribution is sought, it should be clear where and how it is to be spent.
13. As there is no completed obligation before me which secures the necessary mitigation, either towards SANGs or SAMM, the development would have a likely significant effect, either alone or in combination with other developments.
14. It is therefore highly likely that additional activity associated with the proposed development would cause recreational disturbance to the integrity of the SPA. There is no mechanism in place by which the required mitigation can be secured, and no other solutions have been put to me and I have found none myself. Nor is the provision of a small number of flats sufficient enough to amount to such an overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted.
15. I therefore conclude that the proposed development would result in significant harm to the integrity of the SPA. It would therefore be contrary to Local Plan Policy NE1 and saved Policy NRM6 of the South East Plan – Regional Spatial Strategy for the South East which seek to permit development provided it would not give rise to likely significant adverse effect upon the integrity of the Thames Basin Heaths SPA.

Highway Safety

16. The appeal property is situated in an area where some properties have off-road parking provision, but where many others utilise on-street parking. This results in high levels of on-street parking. Despite this, there was some availability of on-street parking at the time of my visit, in the early afternoon on Stone Street

and the surrounding highway network. This area is not in a Controlled Parking Zone.

17. The proposal, which includes extensions, would provide a combination of 2 bedroom and 1 bedroom flats. Having regard to the Car and Cycle Parking Standards Supplementary Planning Document (CC SPD), these set out a requirement for 2 and 1 parking spaces per flat respectively, which would result in a requirement for 6 parking spaces. Principle 7 of the CC SPD states that a minimum provision of 1 space per residential dwelling should be provided.
18. The site is situated in an accessible location with easy access to public transport in the form of bus routes. A number of day to day amenities are also within walking distance in the immediate area. I do not therefore consider that all future occupants would be reliant on private cars, but given that no off-road parking is provided, the development would result in on-street parking.
19. I note that a detailed parking survey that accords with the best practice and widely acknowledged 'Lambeth Methodology' has not been provided. However, having regard to the scale of the development, the accessible location, and my observations in the area, I consider the parking resulting from the development could be accommodated on the surrounding highway network.
20. I note the comparison between the existing and proposed uses, including the parking standards being expressed differently in terms of one being a maximum standard and the other a minimum. I also appreciate that the Public House is longstanding, and its parking characteristics differ from the residential use, but it is nevertheless the case that as the Public House is only served by a single small parking space, at certain times its demands from customer and employee parking would be greater than the residential use proposed. The proposal would also have a beneficial effect as it would result in the removal of servicing requirements for the Public House, which would take place on-street. Having regard to all of the above, I do not consider that there would be a detrimental impact on the free flow of traffic or to safety on the highway network.
21. I therefore conclude that the proposed development would not have an adverse impact on highway safety. As such, there would be no conflict with Local Plan Policy IN2, which seeks, amongst other matters, development that provides safe, suitable and convenient access for all potential users. It would also not be contrary to the aims of the CC SPD, which seeks to ensure that development provide appropriate parking provision.

Living Conditions

22. As there is no on-site parking proposed, future occupiers would be reliant on on-street parking. Whilst this would give rise to vehicle movements as future occupants look for a parking space, having regard to the parking demands from the existing Public House use, albeit there are differences between the nature of the existing and proposed uses, I do not find that this would cause unacceptable noise, disturbance or other inconvenience for existing neighbouring residents. Given the appeal property faces a classified road, and there are parking restrictions around the junction with Stone Street, I do not find that similar vehicle movements near the site would be harmful to future occupants.

23. I therefore conclude that the proposal would not give rise to unacceptable harm to the living conditions of neighbouring residents with regard to noise and disturbance and the development would provide satisfactory accommodation for its future occupiers also in relation to noise and disturbance. As such, it would not be contrary to Local Plan Policy IN2 which requires, amongst other matters, for development to provide convenient access for all potential users.

Other Matters

24. The National Planning Policy Framework seeks to significantly boost the supply of housing and small and medium sites can make an important contribution to housing delivery. The proposal, a windfall site, would utilise a vacant building in an accessible location and add to the supply and mix of housing in the area. The proposal receives support from local policy and this weighs in its favour.
25. The appeal proposal would provide future occupants with good living conditions without giving rise to adverse impacts in terms of light, outlook or privacy on neighbouring occupants. The scheme would also be acceptable in terms of its design and in terms of flood risk. The appeal site is also not a listed building, in a conservation area or subject to any article 4 directions. These are however all neutral matters.

Conclusion

26. I have considered the contribution this proposal would make to the supply and mix of housing in the area. However, given the scale of the development, this benefit would be moderate. The lack of harm to highway safety and living conditions are neutral considerations. The positive benefits of the scheme would not outweigh the social harm arising from the loss of the public house and the significant adverse effect upon the integrity of the SPA.
27. I conclude, for the reasons given above, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, that the appeal should be dismissed.

F Rafiq

INSPECTOR