



Appeal Decision

Site visit made on 6 January 2023

by S Poole BA(Hons) DipArch MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 February 2023

Appeal Ref: APP/D5120/W/22/3306922

Foresters Arms, Upper Wickham Lane, Welling DA16 3ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Wellington Pub Company against the Council of the London Borough of Bexley.
 - The application Ref 22/00416/FUL, is dated 2 February 2022.
 - The development proposed is the erection of two, 2-bedroom, semi-detached dwellings and the reconfiguration of the public house car park
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of two, 2-bedroom, semi-detached dwellings and the reconfiguration of the public house car park at Foresters Arms, Upper Wickham Lane, Welling DA16 3ER in accordance with the terms of the application, Ref 22/00416/FUL, dated 2 February 2022, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural Matters and Main Issues

2. The Council has advised that had an appeal not been lodged, the planning application would have been presented to the Council's planning committee with a recommendation of approval. There have however been representations from local residents and a local councillor. Based on these submissions I consider the main issues requiring consideration are the effects of the proposal on:
 - (i) the viability of the Foresters Arms public house; and
 - (ii) highway safety, with particular regard to car parking pressure on surrounding streets.

Reasons

3. The appeal site comprises land to the rear of the Foresters Arms public house that includes a car parking area, a concrete shed and part of the public house's garden. The Foresters Arms faces Upper Wickham Lane and is situated next to the junction with Highbanks Close, from which the car park is accessed. There is housing to either side of the appeal site, a cemetery on the opposite side of Upper Wickham Lane and the East Wickham Open Space is located to the rear.

4. The proposal would comprise the erection of a pair of 2-storey, semi-detached, houses on the rear part of the appeal site. These would each have an off-street car parking space at the front and a small rear garden. The concrete shed would be demolished and a new car park formed between the houses and public house with access gained via a crossover from Highbanks Close. I note that the proposal follows the refusal of a planning application for a terrace of four houses on the site in 2020 (ref: 20/00130/FUL).

Viability

5. Policy HC7 of the London Plan (2021) seeks to protect the loss of public houses where they have heritage, economic, social or cultural value to local communities. In particular, this Policy states that *"development proposals for redevelopment of associated accommodation, facilities or development within the curtilage of the public house that would compromise the operation or viability of the public house use should be resisted"*.
6. The proposal would result in a reduction in the size of the area within the site available for visitors to the Foresters Arms to park. There is no evidence before me to suggest that the car park is used to its full capacity at present. Five car parking spaces would be provided which would be an ample number in my judgement given the public house is relatively small and located in a suburban area close to homes and amenities.
7. The appellant has produced a viability assessment and this has been reviewed for the Council by an independent specialist. The review concludes that the loss of car parking spaces would be unlikely to adversely affect the viability of the public house in its current trading format. There is nothing before me to suggest that the viability assessments have under-estimated the impact of the reduction in on-site car parking on the viability of the public house.
8. For these reasons I conclude that the proposal would not have an unacceptable effect on the viability of the Foresters Arms public house. It therefore accords with London Plan Policy HC7.

Highway Safety

9. The evidence presented by the appellant suggests the car park is not currently used to its full capacity. Although there is no evidence before me to indicate otherwise, I appreciate that there may be some occasions when a large number of people may drive to the public house and that this may result in visitors parking in the surrounding streets. I recognise that the proposal would result in more cars parking in surrounding streets at peak times.
10. However, based on my site visit and the information before me I am satisfied that on the occasions when demand for car parking spaces may not be met by the 5 proposed spaces that sufficient local capacity exists to cope with this occasional demand without resulting in unacceptable harm to highway safety.
11. As the proposed pair of dwellings would be set back from the junction between Highbanks Close and Pinecroft, I am satisfied that adequate visibility would be maintained for drivers exiting the latter road.
12. For these reasons I am satisfied that the proposal accords with the aims of Policy CS15 of the Bexley Core Strategy (2012), which encourages walking, improving air quality and seeks appropriate controls on parking to secure a

sustainable environment. It also accords with London Plan Policy T6 which states that developments should be designed to provide the minimum necessary parking.

Other Matters

13. The proposed houses would be situated close to houses and flats and the public house and would be similar in height and scale to these buildings. As such the proposal would not have an unacceptable effect on the character and appearance of the area or the setting of the nearby open space. There are recycling bins situated within the appeal site that would be removed as part of the proposal. As these bins do not directly relate to the development proposed, their re-instatement cannot be secured as part of the proposal.
14. I recognise there is a need to ensure disturbance during the construction period is minimised and any possible contamination. Planning conditions to secure adequate construction management and to deal with possible contamination have therefore been imposed. Reference has been made to subsidence in the area and a nearby ancient river. The structural stability of the proposed development is not a planning matter.

Conditions

15. I have considered the conditions suggested by the Council having regard to the National Planning Policy Framework and Planning Practice Guidance. For the avoidance of doubt and in the interests of proper planning, a condition requiring the development to be carried out in accordance with the approved drawings is imposed in addition to the standard commencement condition. To ensure the development is constructed to an acceptable standard, details of proposed materials, including the acoustic fence, will need approval.
16. In the interests of highway safety and sustainable transportation conditions are imposed requiring details of footway works and car parking area and the provision of adequate visibility splays and cycle storage. The appellant has advised that the public house has occasional music events. To protect the amenity of the occupiers of the approved dwellings a condition is imposed to ensure the houses include adequate sound insulation measures. To protect the amenity of the area a condition removing certain permitted development rights is imposed. To ensure the site is adequately drained and contributes towards local biodiversity conditions requiring sustainable drainage measures and the provision of bird and bat nesting boxes/bricks are also applied.

Conclusion

17. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

S Poole

INSPECTOR

Schedule of Conditions

- 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: P016219/00 Rev A, 6219/10 rev B, 6219/11 Rev B, 6219/12, 6219/13, 6219/14 and 6219/15.
- 3) Prior to the commencement of development, a Construction Management and Logistics Plan shall be submitted to and approved in writing by the Local Planning Authority. It is recommended that the submitted Plan is prepared in accordance with the appointed contractor(s). The Plan shall include details of:
 - construction methods and techniques;
 - management of construction and associated vehicle movements and parking, including deliveries of construction materials.
 - means of minimising noise and vibration (including any piling), and compliance with BS 5228;
 - means of minimising dust and similar emissions, in accordance with Air Quality: Best Practice Guidance - The Control of Dust and Emissions During Construction and Demolition Supplementary Planning Guidance (published by the Greater London Authority, July 2014);
 - construction site lighting;
 - the location of notice boards on the site to include details of the site manager, including contact details (phone, email, postal address) and 'out of hours' contact details.

The development hereby permitted shall only be carried out in accordance with the approved details
- 4) No development above ground floor slab level shall occur until a detailed schedule and specification/samples of the materials and finishes to be used shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
 - Brickwork (including bonding and mortar);
 - Windows and doors;
 - External guttering;
 - Roofing tiles;
 - Boundary treatments (including acoustic boarding on the eastern boundary with the Foresters Arms)

The development shall be carried out and retained in accordance with the approved details.
- 5) Details of the proposed footway works in Highbanks Close, including construction, surface treatment, vertical alignment and any necessary retaining structures shall be submitted to and approved in writing by the Local Planning Authority and constructed prior to the first occupation of the development hereby approved.

- 6) The use of the area for vehicle parking shall not be commenced until the area has been laid out, surfaced and drained in accordance with details to be submitted to, and approved in writing by, the Local Planning Authority and shall be permanently maintained and available for such use thereafter.
- 7) Before the development hereby permitted is first occupied or brought into use the vehicle access shall be provided with those parts of 2.4m x 2.4m pedestrian visibility splays that can be accommodated within the site in both directions and (with the exception of trees selected by, or on behalf of, the Local Planning Authority) shall thereafter be maintained free of all obstructions to visibility between heights of 0.6m and 2m above the level of the adjoining highway.
- 8) Before any part of the development is first occupied details of facilities for parking of cycles, in accordance with London Plan Standards shall be submitted to and approved in writing by the Local Planning Authority and once approved shall be fully implemented in accordance with those details before the development hereby permitted is first brought into use.

The Assessment shall include details of appropriate noise mitigation measures including acoustic glazing and ventilation for all habitable rooms and acoustic fencing to meet the criteria specified in BS8233:2014.

The residential units shall not be occupied until such time as the approved measures have been implemented. The approved measures shall be retained and maintained thereafter in accordance with the manufacturer's recommendations.

Verification that works have been carried out in full accordance with the approved scheme shall be submitted to and approved in writing by the Local planning Authority prior to first occupation.
- 10) Prior to commencement of the development (excluding demolition), a scheme for a Sustainable Drainage System in accordance with the Bexley Sustainable Drainage Design and Evaluation Guide (2018) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include details of:
 - i. How reduction in surface water runoff to the greenfield runoff rate shall be achieved;
 - ii. Calculations to demonstrate that the proposed system is fit for purpose, including correctly sized attenuation and surface water discharge rates;
 - iii. Installation of petrol/oil interceptors as necessary;
 - iv. Distribution of foul water flows into the surrounding sewer network as necessary;
 - v. Installation of rainfall attenuation units for capturing and reusing water;

vi. Information about the design storm period and intensity, the method employed to delay and control surface water discharged from the site and measures taken to prevent pollution of the receiving groundwater and/or surface waters;

vii. Include a timetable for its implementation; and

viii. Provide a management and maintenance plan for the lifetime of the development.

The Scheme must demonstrate how the drainage hierarchy set out in London Plan Policy 5.13 has been followed.

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

- 11) Prior to occupation of the development hereby approved, details of bird and bat nesting boxes/bricks to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority.

Bird nesting boxes/bricks should be suitable for swifts, and other urban living bird species. The details shall include the exact location, number specification and design of the habitats

The boxes/bricks shall be installed within the development in accordance with the approved details, prior to the first occupation of the building to which they form part or the first use of the space in which they are contained and shall be maintained as such thereafter.

- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting this Order) no development permitted by Classes A, B, C and E of Part 1 of Schedule 2 of the aforementioned Order (as amended), shall be erected or implemented within the curtilage of the dwellings hereby permitted without the prior written approval of the Local Planning Authority.

- 13) If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing. Before development restarts at that part of the site a risk assessment and remediation scheme shall be produced by a suitably qualified person and submitted for approval, in writing, by the Local Planning Authority.

The development may only restart on that part of the site in accordance with the approved remediation scheme.

Prior to first use/occupation of the development a signed verification report shall be submitted to and approved in writing by the Local Planning Authority (whether or not contamination had been identified during construction).

End of Schedule