



Appeal Decision

Site visit made on 7 November 2023

by J J Evans BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th November 2023

Appeal Ref: APP/R5510/W/23/3315133

De Burgh Arms, 2 Station Approach, West Drayton, Middlesex UB7 7DQ

- 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 Davinder Singh against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 8053/APP/2022/1406, dated 26 April 2022, was refused by notice dated 16 August 2022.
 - The development proposed is described as the "change of use to out building currently a nightclub, D2 use, to be Thai massage parlour, sui generis use."
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The De Burgh Arms is a Grade II listed building. As required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.
3. Article 7 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) sets out the information required with an application. This includes a plan which identifies the land to which the application relates and any other plans, drawings and information necessary to describe the development which is the subject of the application. The Planning Practice Guidance sets out that an application site should be edged clearly with a red line and other land in the same ownership by a blue line. A location plan should include all land necessary to carry out the proposed development, for example, land required for access to the site from the public highway, visibility splays and car parking.
4. The Council determined the original application on the basis of a location plan that outlined only the nightclub building in red, along with existing and proposed floor plans (drawing refs SC/DS 2022.72.01 and SC/DS 2022.72.02). For the appeal the appellant has provided these floor plan drawings, and also a site plan and a block plan, both of which outline, in red, the outbuilding, the public house and its car park. These revisions were submitted after the Council's refusal of the scheme, and there are differences between the appeal scheme and that considered by the Council as the revised drawings depict a

much larger site area. Whilst the Council have had an opportunity to comment, others have not. In the interests of openness and fairness the revised plans have not been accepted as part of the appeal as the drawings result in a fundamental change to the original application site area.

Main Issue

5. The main issue in this case is the effect of the proposed use upon the safety of other highway users.

Reasons

6. Positioned to the northern side of a railway line, the outbuilding is within the car park of a public house that is positioned in the corner plot formed by Station Road and Station Approach. In addition to the outbuilding, to the rear of the public house is an area of hardstanding used for parking and storage, which has two vehicular access points onto the public highway. Tall walls and railings separate the parking area from the public footway, within which there are a row of bus stops. Beyond the parking area is the railway line and station. The appellant has explained that the massage parlour would provide for a maximum of six clients, albeit the submitted proposed floor plan drawing shows ten treatment areas.
7. Whether the number of clients being treated at any one time would be a maximum of six or ten, neither the original application nor the appeal has been supported with evidence to demonstrate the impact of the use on the highways network and its users. It may be the appellant's intention for clients to utilise the existing on-site parking, but whether this could occur has not been demonstrated. I saw during my mid-day site inspection that most of the parking area was already being used, with frequent vehicular movements occurring both into and out of the site, and that other uses were also happening, such as refuse and miscellaneous storage. I appreciate that what I observed was activities occurring at a particular time and day. However, if it is the intention of the appellant to use this car park, what has not been provided are details of the existing use of the parking area, nor how the future clients of the massage parlour could enter and leave without conflicting with any other users.
8. The outbuilding is currently used as a nightclub, being licenced for 100 people, although no details of the opening hours and days have been provided. The massage parlour would be open every day of the week, including Sundays, starting at 08.00 till 23.00 Monday to Saturdays and from 09.00 till 20.00 on Sundays. Given the proposed opening hours, details of the level of use, including the number of clients massaged in a day and the length of time clients would be on site, would be necessary to assess the impact of the proposal upon highways safety.
9. The appellant considers there would be few traffic movements associated with the use, with clients using the public house car park and nearby public car parks. That may be the case, but given the size of the premises, the number of treatment areas, and the proposed opening hours, there could be multiple and frequent movements. In addition to clients having treatments, others would be waiting, and there would also be staff present. Whilst there may not be the same concentration of numbers of people as could occur with the nightclub, on a daily basis there could be a steady flow of clients, and the effect

of the increased movements that would occur in what is already a busy area has not been demonstrated.

10. Within the surrounding area there is on-street parking as well as public parking provision at the station and further afield. The mixed uses of Station Road means that it is busy and bustling with both pedestrian and vehicular movements. Beyond this road many of the surrounding streets are resident parking only. Close to the site is on-street parking and the station car park, and from what I saw at my site inspection most of the spaces are used. It might be the case that this was an exceptional occurrence, but the massage parlour would be in a busy town centre location and the appellant has provided no details of alternative public parking provision in the area nor if there is capacity for accommodating the proposed use.
11. Clients may avail themselves of alternative means of transport other than a private car, particularly as there is a train station and bus stops nearby. However, the suitability and practicality of such alternatives to serve the development has not been provided, nor have details of any cycle parking facilities been proposed so as to encourage sustainable access to the use.
12. The Council have raised concerns regarding the possibility of on-street parking occurring near to the site. There could be a risk to pedestrians avoiding cars parked outside the site in Station Approach, and I saw at my visit that parking was occurring outside of the zoned areas in the station car park. However, apart from the bus stops, double yellow lines exist along much of Station Approach, and if anti-social and inconsiderate parking was to occur, this would be a matter for the relevant responsible bodies to resolve.
13. The use could generate a significant number of movements throughout much of the day on a daily basis, and the proposal has failed to demonstrate that it would not have an adverse impact upon the safety of users of the local highway network. The suggested conditions would not mitigate these harms. The scheme would fail to accord with policies DMT 2, DMT 4 and DMT 6 of the London Borough of Hillingdon: Local Plan Part 2 Development Management Policies (2020), and to policies T4 and T6 of the London Plan (2021). These policies seek amongst other things, the provision of sustainable development that does not lead to the deterioration of safety for all road users, that transport impacts can be mitigated, that development does not lead to a deleterious impact on street parking or congestion, that cumulative impacts upon the public transport and the road network have been taken into account, and that where possible development should be either car-free or car-lite, if appropriate. Nor would the scheme accord with objectives of the National Planning Policy Framework (the Framework), which requires that development should not have an unacceptable impact on highway safety, and that any significant impact on the transport network could be effectively mitigated.

Other Matters

14. The public house is a grade II listed building dating from the late sixteenth century, and has a prominent presence within the area. The detached nature of this large building emphasises its distinction, and particularly so as it occupies a commanding position through being elevated above Station Road. The position of the building, along with its distinctive tall, detached form and its symmetrical front elevation gables, makes it a recognisable landmark within

the area. This presence, and the public house's distinctive form and age, are all part of the significance of this listed building.

15. To the rear of the public house is the nightclub and the car park, along with storage uses and various boundary treatments. The buildings and uses to the rear of the public house have a legible, functional ancillary relationship to the listed building. The change of use of the single storey outbuilding would not result in any external changes to its size or appearance. Although the nightclub is close to the public house, it has a modest form, and is recognisable as an ancillary outbuilding, which does not erode the physical and functional dominance of the public house.
16. The town centre location of the property is such that the public house is positioned within an area of bustling liveliness, and in this context the existing use of the outbuilding and that of the public house would involve frequent comings and goings that would contribute to this vibrancy. A massage parlour would provide a use for the building that would also contribute towards the vitality of the area and the diversity of uses is already part of the setting of the listed building. The external appearance of the building would not change, and the visual and functional supremacy of the public house within its setting would be maintained. Taken as a whole, the proposed use would not erode the special interest and significance of this listed building. The change of use would not detract from the setting of the listed building nor the ability to appreciate and understand it. This being so, there would be no conflict with the Act nor objectives of the Framework.
17. Finally, the appellant has raised a number of concerns regarding the Council's handling of the application that relate to procedural matters and have no bearing on my consideration of the planning merits of the case.

Conclusion

18. For the above reasons the adverse impacts arising from the proposal would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these substantial harms. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR