



Appeal Decision

Site visit made on 16 January 2024

by A Berry MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th February 2024

Appeal Ref: APP/R1038/W/23/3326841

135 Cemetery Road, Dronfield, Derbyshire S18 1XX

- 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 Abul Khayere of Mitchell Proctor against the decision of North East Derbyshire District Council.
 - The application Ref 22/01068/FL, dated 1 November 2022, was refused by notice dated 11 May 2023.
 - The development proposed is the demolition of former public house and erection of two detached dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged, a revised National Planning Policy Framework ('the Framework') has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referenced the revised paragraph numbers, where necessary.
3. To address the Council's second reason for refusal, the appellant submitted a Bat Survey Report¹ with their appeal statement. The Council and interested parties have had the opportunity to comment upon the report and therefore have not been prejudiced. I have therefore determined the appeal on this basis.
4. The Council refers to Policy SD12 of the North East Derbyshire Local Plan 2014-2034, adopted 2021 ('the LP') in their first reason for refusal, their Officer Report and their Appeal Statement. However, it is clear from the list of policies contained within the Officer Report that this is a typographical error, and the correct LP policy is SDC12. The appellant refers to LP Policy SDC12 in their Grounds of Appeal and therefore has not been prejudiced by this error.

Main Issues

5. The main issues are the effect of the building's demolition on protected species, the loss of a Non-Designated Heritage Asset ('NDHA'), and the effect of the proposed development on the character and appearance of the surrounding area.

¹ Bat Survey Report Revision A, dated June 2023 and produced by LM Ecology

Reasons

Protected Species

6. The Preliminary Ecological Appraisal and Preliminary Roost Assessment² identified Building B1 (the public house) as having moderate value for roosting bats. Bat emergence and re-entry surveys concluded a likely absence of roosting bats within Building 1 and that roosting bats would not pose a constraint on the demolition of the building. From the information before me, I have no reason to disagree with these findings.
7. Consequently, protected species would not be harmed by the building's demolition. It would comply with Policy SDC4 of the LP which, amongst other things, seeks to protect and enhance the district's natural environment. It would also comply with the Framework which seeks to conserve and enhance the natural environment.

Loss of a NDHA and Replacement Dwellings

8. The existing building comprises a two-storey, detached vacant public house constructed of brick with neo-Tudor detailing to parts of the first floor and has a slate hipped roof with projecting gables. It dates from the inter-war years and is one of three similar buildings within the district that were built by the Stones Brewery. The building is identified as a 'Character Building of Local Heritage Interest' ('CBLHI') within the Dronfield Neighbourhood Plan 2016-2034, made November 2019 ('the NP') which is defined as important in the local context and should be conserved and enhanced. Consequently, it is a NDHA and its significance lies in its architectural and historical values.
9. The proposal would result in the total loss of a NDHA and therefore the significance of the building would be directly affected by the proposal. I acknowledge that the interior of the building contains limited original features or detailing, the fenestration is not original, and the building's condition has deteriorated since the public house's closure, particularly due to vandalism. The current appearance of the building with boarded up and broken fenestration and unkept surrounds detracts from the character and appearance of the surrounding area. However, the evidence suggests that there has been deliberate neglect of the NDHA and therefore in accordance with paragraph 202 of the Framework, I cannot take account of the deteriorated state of the heritage asset in my decision.
10. NP Policy D2 states that the loss of a Dronfield CBLHI will not be supported unless it is demonstrated that any loss or harm cannot be avoided or mitigated and would be clearly outweighed by the benefits of the development. This is supported by paragraph 203(a) of the Framework that requires the decision maker to take account of *the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation*.
11. The appellant suggests that the likely cost of refurbishing the existing building would be unviable. However, this has not been substantiated with evidence. Additionally, limited evidence has been provided to demonstrate that an alternative viable use for the existing building cannot be found. Consequently, I am not persuaded that the building's loss cannot be avoided.

² Preliminary Ecological Appraisal and Preliminary Roost Assessment, dated 06/02/2023, produced by arbtech

12. I acknowledge the Council's Conservation Officer raised no objection to the demolition of the NDHA if a better design response could be secured for the site. However, the Council is not bound by the views of its officer. I have been directed to the demolition of another inter-war Stones Brewery public house within the district. However, from the information before me, I am unable to determine whether it is directly comparable to the appeal proposal. In any event, I must determine the proposal on its own merits.
13. I have been directed to a previous approval for extensions and alterations to the existing building and its change of use to a restaurant³. I acknowledge that the approved extensions would have significantly altered the external appearance of the NDHA, however, it is unclear if the permission is extant or that a lawful commencement was made. In this regard, I therefore attach limited weight to the approval. It has been asserted that the existing building did not feature as a good example of an inter-war building in a study undertaken by Historic England in 2015. However, I have limited information regarding the study and therefore it is unclear why the appeal property and other inter-war public houses within the district do not feature.
14. Turning to whether the loss of the NDHA would be clearly outweighed by the construction of two detached, two and a half storey dwellings. The existing public house is located on a prominent corner at the junction of Cemetery Road and Chesterfield Road within a predominantly residential area. The existing building is set back from the corner/junction with a hard surfaced car park and has a similar siting as the pair of semi-detached dwellings on the opposite corner. The existing building addresses and responds to its corner location with three active frontages facing the roads.
15. The proposed dwellings would front Chesterfield Road, would occupy almost the full width of the plot and would be sited significantly closer to both roads than the existing public house. Both dwellings would be unduly prominent on this exposed and open corner due to their substantial scale, their proximity to both roads, and their siting forward of the dwellings on the opposite corner. Furthermore, the dwellings would not address/turn the corner of Cemetery Road, particularly as the side elevation of the dwelling on Plot 1 would be subordinate in its design. Furthermore, a 1.8m high screen wall abutting part of the pavement along Cemetery Road would be incongruous and unduly dominant when compared to the hedgerows and low boundary walls that currently exist on the opposite side of the road. Consequently, I do not consider that the proposed dwellings would respond positively to their context.
16. I accept that the size of the proposed dwelling's rear gardens, the level of glazing, and the proposed materials would be commensurate with the character and appearance of the surrounding area. However, these matters would not overcome the harm I have identified.
17. In respect of the balancing exercise in LP Policy SDC9 and paragraph 203 of the Framework, the proposed development would marginally increase the supply of housing, temporarily provide construction jobs, increase the amount of soft landscaping on the site, provide income for the Council through the collection of Council Tax, and provide some ecological enhancements. I consider these public benefits to be modest.

³ Planning Ref 19/00940/FL

18. It is asserted that the proposal would make efficient re-use of previously developed land and could result in a reduced number of car movements, less odour and less noise and disturbance than a public house. However, I am not convinced that an alternative scheme without the identified harm could not be found that would offer similar benefits. Additionally, while the proposal is considered to improve highway safety, this has not been substantiated with evidence. Consequently, even if the loss of the existing building could not be avoided, the benefits associated with the proposal would be insufficient to outweigh the identified harm.
19. In conclusion, I am unconvinced from the information before me that the demolition of the NDHA cannot be avoided or mitigated; the proposed development would adversely affect the character and appearance of the surrounding area; and the benefits associated with the proposal would not outweigh the harm I have identified. It would therefore be contrary to LP Policies SS1, SDC9 and SDC12 and NP Policies D2 and D3 that, amongst other things, seek to protect and enhance the character, quality and settings of towns and villages and heritage assets; respond positively to local character and context; and create good design which is well related to its site and surroundings. They also permit developments affecting a NDHA provided they positively sustain or enhance the significance of the asset, its features, character and setting. It would also conflict with the Framework that seeks to achieve well-designed and beautiful places and conserve and enhance the historic environment.

Other Matters

20. The Council is satisfied that the loss of the use of the building as a public house would comply with LP Policy ID5. While this is accepted, the appellant has not demonstrated that an alternative use generating less traffic, noise and odours could not utilise the existing building. While it is asserted that there is a shortage of housing in the district, this has not been supported by evidence that the Council is failing in its five-year supply of deliverable housing or the Housing Delivery Test. It is asserted that the loss of the public house would be welcomed by the immediate residents. However, the number of representations supporting the loss of the public house is low.
21. I acknowledge the Council interchangeably describe the building as dating from the inter-war period and, incorrectly, from the post-war period. However, this has not prevented me from forming a decision on the main issues.

Conclusion

22. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

A Berry

INSPECTOR