



Appeal Decisions

Site visit made on 4 June 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 8th July 2024

Appeal A Ref: APP/K0940/W/23/3334592

Strickland Arms, Great Strickland, Penrith, Cumbria CA10 3DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Anton Flaherty of the Strickland Arms against the decision of Westmorland and Furness Council.
 - The application Ref is 22/0600.
 - The development proposed is the creation of covered area.
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Appeal B Ref: APP/K0940/W/23/3334977

Strickland Arms, Great Strickland, Penrith, Cumbria CA10 3DF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Anton Flaherty of the Strickland Arms against the decision of Westmorland and Furness Council.
 - The application Ref is 22/0599.
 - The development proposed is use of land for the siting of 1 no static caravan and 2 touring caravans.
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Decisions

1. Appeal A is dismissed, and Appeal B is dismissed.

Preliminary Matters

2. The description of the developments in the banner headings above simply and accurately describes the proposals. However, the term retrospective has been omitted, as it is not an act of development.
3. The covered area has been constructed. However, the tarpaulin roof as described on the plans and in the Council's officer report was damaged during storms and has been replaced by a polycarbonate roof.
4. The applications were made to Eden District Council. This Council ceased to exist on 1 April 2023 when it became part of Westmorland and Furness Council who determined the planning applications.
5. Revised plans for Appeal B were submitted with the appeal. These propose to convert the static caravan into a log cabin/lodge for bed and breakfast and to sell and remove the touring caravans from the site. Although I have considered the revised plans, applying the principles established by 'Holborn'¹, I consider that they are a fundamental change to the proposal. It is important that the appeal is determined on the basis of the plans as originally submitted and upon which the Council based its decision. To do otherwise would prejudice the

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin).

interests of third parties and consultees, who have not been consulted on the revised scheme. I have therefore proceeded to determine the appeal on the basis of the plans as originally submitted.

6. As set out above, there are two appeals on this site. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

Main Issues

7. The main issues in respect of both appeals are the effects of the development on:
 - the character and appearance of the host property and the area; and
 - the living conditions of neighbouring properties with regard to noise and disturbance.

Reasons

Character and appearance

8. The Strickland Arms (the Arms) is a detached, stone built, public house located within the village of Great Strickland. The village is largely linear in form, having developed along the street frontage. The Arms is set back from the roadside with limited parking at the front, and a larger parking area to the rear. Behind the public house are a number of wooden cabins, yurts and lodges which, as well as the bed and breakfast rooms within the Arms, provide visitor accommodation. Two marquees are located to the rear.
9. In front of the entrance to the public house is a terrace surrounded by a stone wall, reputed to have been there since 2007. A substantial planter finished in a grey/black material sits atop the stone wall and is filled with a dense green foliage. The covered area has been constructed on the terrace and has solid wooden uprights and wooden beams supporting a polycarbonate roof.
10. The covered area is divided into two: that closest to the building is enclosed by green painted windows and doors, apparently to prevent smoke entering the public house, with picnic tables and a path that leads to the entrance door; and to the front of this is an area open to the sides and front, with chippings on the ground and picnic tables. The appellants contend that the terraced area has allowed for the catering of 60 diners, instead of 45 within the building.
11. Limited evidence has been submitted on the history of the Arms, although I saw that it consists of a former substantial 'barn', attached to a building which looks more residential in appearance. A coat of arms that was formerly on the front of the building was, according to the appellant, put up by a brewery who took over the Arms in 2004. Whilst the building is not listed or in a conservation area, it is an attractive stone building.
12. As the covered terrace has been sited on the front of the building, it is highly visible. The flat roof extends from just below the first-floor windows of the building so that only a small area of stonework on the front elevation is visible from the road. The roof encompasses the whole of the terrace stretching forward 6850mm from the front of the building. This contrast with that of the traditional slate pitched roofs of the original public house, results in an incongruous and overly large addition. Whilst the wooden uprights and

structure provide a substantial construction, it has obscured the front of the building, so that the original doorway and ground floor windows are only visible from within the covered area. This not only hides but visually harms the character and appearance of the building.

13. The static caravan and a touring caravan are located behind a vertical wooden fence within the car park, parallel to the boundary with No 2 Lowther Cottages (No 2). Close to these is a second touring caravan. The appellant has set out that the caravans were purchased as a result of the Government's Ukraine Refugee Sponsorship Appeal and housed two families. Having supported the refugees for seventeen months, the refugees have now moved elsewhere.
14. Views of the static caravan are limited from the street, particularly when seen from outside the Arms, where it is partly hidden by a stone boundary wall between the car park and the property 'Delvale' to the front. The touring caravan next to it is only visible when in the car park, whereas the other touring caravan can be clearly seen from the street.
15. The car park is, however, for the parking of vehicles by guests and visitors to the Arms. Whilst a suitably worded condition could be used to provide a fence along the boundary with No 2, based on the size and height of the caravans, a fence would not ameliorate the harm identified. Whilst there are several units of visitor accommodation to the rear of the Arms, these are clad in timber and are largely not visible from public vantage points. Therefore, despite the restricted visibility of the caravans, they do result in some localised harm to the character and appearance of the area.
16. In conclusion, the covered terrace has resulted in significant harm to the character and appearance of the host building and the area, whilst the caravans located in the car park result in localised harm.
17. The proposal does not accord with Eden Local Plan 2014-2032 (ELP) Policies DEV5 and COM1 which together supports high quality design that reflects local distinctiveness and the character of an area. It also does not accord with Chapter 12 of the Framework which requires well-designed buildings and places.
18. Whilst the Council has referenced ELP Policy HS2, housing in smaller villages, this does not directly refer to the Council's main concern regarding the character and appearance of the area.

Living conditions

19. The covered area is large and can accommodate many people. It overlooks the main street and so is close to several residential properties opposite the site, whereas the houses either side are further away. Whilst some representations have referred to drinking on the terrace which has caused noise issues, the appellant has stated that no complaints have been received from the Parish Council and the local Environment Agency, whilst the Council's Environmental Officer has not objected to the proposal.
20. The enclosure of part of the covered area helps to restrict noise escaping from the premises, whilst the planting along the wall provides privacy and some noise reduction. However, whilst it is inevitable that there would be some noise when living opposite an established public house, this would be exacerbated

when there are large numbers of customers using the covered area in the evening.

21. The static caravan is close to both No 2, and 'Delvare', next to the car park entrance. However, I saw that within the grounds of No 2, and forming part of the boundary, are traditional, linear buildings with pitched roofs, providing some separation between the caravans and the house which is some distance from the boundary. Whilst the caravans are located close to adjoining properties, there is no substantive evidence that their occupation would lead to noise and disturbance over and above that expected from living next to a public house.
22. Therefore, I conclude that whilst the terrace causes harm to the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance, the occupation of the caravans would not cause harm.
23. In terms of Appeal A, the development does not accord with ELP Policies DEV5 which seeks to protect the amenity of existing residents, and COM1 which requires the extension of community services to be compatible with residential amenity. Whilst for Appeal B, it accords with ELP Policy DEV5 as set out above.

Other Matters

24. Guidance was issued by Natural England (NE) on 16 March 2022 requiring competent authorities to carefully consider the nutrient impacts of any new plans and projects (including new development proposals) on habitat sites and whether those impacts may have an adverse effect on the integrity of habitat sites that requires mitigation, including through nutrient neutrality.
25. The site is located close to The River Eden and Tributaries Site of Special Scientific Interest (SSSI) and the River Eden Special Area of Conservation (SAC). Therefore, under the Conservation of Habitats and Species Regulations 2017 (the Regulations), and as advised by NE, a Competent Authority must consider the nutrient impacts of projects and plans which affect habitat sites. This includes the catchment area of The River Eden SAC. Whilst the caravans would result in an increase in overnight stays, no nutrient neutrality calculation has been submitted, or any mitigation or offsetting measures. Although this lack of evidence was a reason for the refusal of the application being considered under Appeal B, as I am dismissing the appeal on other grounds it is not necessary for me to consider this matter further.
26. The terrace is reputed to have been there since 2007 when the public house was run by a brewery, although it was of limited use during bad weather, which affected trade. To provide a safe and dry area for customers and to continue operating the public house, the covered area was constructed during the covid pandemic when government support for the hospitality industry allowed temporary structures.
27. The appellant contends that the covered area encourages customers, particularly as most trade is during the summer. The Arms has been run by the appellant for 18 years during which he has documented surviving country wide financial crises, the effects of the covid pandemic, long-term infrastructure works in the village, as well as investment in the business to improve the dining room and provide visitor accommodation. As the Arms is not owned by

the appellant, he considers that it must be viable and adapt to customer's needs.

28. The appellant has listed a number of public houses in the Eden valley and beyond that have permanently closed, or opened and closed in recent years, highlighting the difficulties of running a rural hospitality business, particularly in this area outside the Lake District. Whilst I acknowledge the difficulties experienced by the hospitality sector, there is no substantive evidence to suggest that the public house is unviable or that the removal of the covered area would directly impact on viability.
29. Evidence has been submitted of other public houses where external seating areas have been allowed by the Council. Whilst the appellant contends that twenty huts have been allowed on the existing car park of The Duke of Cumberland, Kendal, from the limited evidence before me, these are not on the front or attached to the building and the proposal does not appear directly comparable to this appeal. At The Royal Oak, Appleby, the structure is not attached to the building and the building is clearly visible behind it. Reference has also been made to an appeal at the Fisher Beck Hotel, Ambleside, although no substantive evidence has been provided. Therefore, I am not certain that this compares to the appeal before me. I have given limited weight to these cases, determining the appeal on its own merits, based on the evidence before me.
30. I understand that the covered area has become an important part of the business as it provides a visible external seating area to be used in all weathers including by bed and breakfast visitors, as well as providing shelter for walkers and cyclists, and formerly the Ukrainian children waiting for the school bus. Evidence in the form of signatories collected over a period in May 2024 and other third-party support, including from a campaign group for public houses, confirms the popularity of the terrace with locals and visitors. These factors do not, however, outweigh my concerns.
31. There is a right of access across the car park to land owned by two other individuals, one containing an old caravan, which is not affected by the proposals. Whilst historically two car spaces may have been removed at the front of The Arms when the terrace was built, there is adequate parking to the rear. Therefore, the development does not cause harm with regard to highway safety.
32. Ongoing investigations between the appellant and the Parish Council are matters between the parties and have no bearing on my decision which is based on the planning merits of the case. Likewise, any neighbour concerns do not affect my determination of the appeal.
33. Whilst the appellant disagrees with the Council that a new application to use the static caravan for visitor accommodation would be required, and that any permission would be limited to three years, that is between the parties. Moreover, that is not the scheme before me, which I have determined based on the original plans.

Planning Balance and Conclusion

34. With regards to Appeal A, although the appellant has suggested changing the materials used for the covered area on the terrace, this would not overcome

the harm that I have identified to the character and appearance of the host building and the area. I have also found that the covered terrace when used by large numbers of customers would cause harm to the living conditions of some occupiers of neighbouring dwellings close to the public house.

35. Turning to Appeal B, the caravans result in localised harm to the character and appearance of the area and, they are no longer used for their original purpose as temporary residential accommodation for refugees. I find that within the overall context of the site, they do not cause harm to the living conditions of neighbouring occupiers with regard to noise and disturbance.
36. Therefore, to conclude, the proposed development conflicts with the development plan when considered as a whole and there are no material considerations, including the Framework, that outweigh the identified harm and associated development plan conflict.
37. For the reasons given above, both appeals are dismissed.

M J Francis

INSPECTOR