



Appeal Decision

Site visit made on 21 January 2025

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 March 2025

Appeal Ref: APP/P1615/W/24/3355260

Nags Head Inn, Oldcroft Road, Yorkley Slade, Lydney, Gloucestershire, GL15 4RX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Lydney Developments Ltd against Forest of Dean District Council.
 - The application Ref is P0862/24/FUL.
 - The development proposed is the conversion of existing public house (Sui Generis) to provide three terraced dwellings (Use Class C3) utilising the existing access from Oldcroft Road, including associated parking and landscaping, and demolition of rear extension and outbuildings.
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Decision

1. The appeal is dismissed and planning permission for the conversion of existing public house (Sui Generis) to provide three terraced dwellings (Use Class C3) utilising the existing access from Oldcroft Road, including associated parking and landscaping, and demolition of rear extension and outbuildings is refused.

Main Issues

2. The main issues are;
 - whether the facilities offered by the Nags Head Inn Public House should be retained to serve the needs of the local community, having regard to local planning policy;
 - the effect of the proposed development on the character and appearance of the area, including the impact on a non-designated heritage asset (NDHA);
 - the effect of the proposed development on protected species, namely bats; and
 - biodiversity net gain.

Reasons

Loss of a Community Asset

3. The Nags Head Inn is a public house located within the open countryside in a sporadically developed area comprising mainly of dwellings to the south of the settlement of Yorkley. The Forest Edge South Neighbourhood Plan (2024) (NP) identifies the appeal building as both a NDHA and a community asset. NP Policy 20 stated that these community assets are important resources for the local community and that proposals for their change of use will not be supported unless

it is allocated in the NP for another use or if it can be demonstrated that it is no longer financially viable, necessary or a suitable replacement can be provided elsewhere.

4. To justify the loss of the public house and to comply with part a) of NP Policy 20, the appellants have undertaken a viability assessment. The assessment has provided details on the condition of the building, including the costs of refurbishing the building to a modern standard. However, whilst it had provided details regarding the number of barrels sold over a number of years no past accounts, or detailed financial evidence of the actual operation of the public house has been submitted to demonstrate that it is no longer financially viable. Notwithstanding this, I have taken account of a number of reasons, which led the appellants to conclude that the business was no longer viable. This includes the costs associated with renovating it.
5. The appellants also state that substantial works would be required in order to reconfigure and expand the premises to offer the scale of dining facilities, including a modernised commercial kitchen. Nevertheless, these along with the other assertions made by the appellant, do not amount to substantive evidence to demonstrate that the public house is not viable or cannot be made so.
6. The appellant has drawn my attention to a recent appeal decision, however I am not convinced that the particulars of that appeal are comparable to the appeal before me, particularly as that development appeared to provide detailed financial evidence regarding net sales and profits. In any event, I have dealt with this appeal on its own merits.
7. For the above reasons, in the absence of detailed financial information specifically related to the operation of the public house I conclude that the proposed development would result in the unjustified loss of a community asset. It would therefore be contrary to NP Policy 20 and Policy AP.1 of the Forest of Dean District Council Allocation Plan (2018) (AP) which seek, amongst other things, to ensure that community assets are retained.

Character and Appearance

8. The appeal building is a two-storey semi-detached building, finished in white render under a slate roof, fronting on to Oldcroft Road. It is set back from the highway by a deep garden, which appeared to have been used as a beer garden, along with an are to the side and rear of the building. Whilst the appeal site is located in close to the settlement of Yorkley, it is located on a narrow lane with no pavements or street lighting, built development is sporadic and agricultural fields are located adjacent to the appeal site. This gives the area a rural character.
9. Main parties do not dispute that the appeal building should be considered a non-designated heritage asset (NDHA). From the evidence before me and my observations on site, I have no reason to reach an alternative view and consider the appeal building to have sufficient heritage significance to warrant NDHA status. I find its significance to derive from its local historic and architectural interest as a good example of a relatively unaltered rural public house.
10. The Council's main concern relates to the loss of the public house use on the NDHA and the construction of a car park in an area that had been used as a garden associated with the public house.

11. The development proposes only minor alterations to the external of the building, including the addition of a door and alteration to two windows. Works to facilitate the conversion to three dwellings would largely be internal, therefore the proposed works to the building would be minor and would preserve the character and appearance of the NDHA.
12. Whilst there may be some domestic paraphernalia associated with the proposed development this would likely be minor structures such as garden sheds, washing lines and children's play equipment. From the evidence before me the grassed areas to the front, side and rear were used as a beer garden, with benches and other minor structures. As such, the introduction of domestic paraphernalia would not appeal at odds with the appeal building and its existing use.
13. A car park would be constructed on an area currently laid to grass, which was being used as an agricultural field during my site visit. The proposed development would alter the appearance of the grassed area; however, it would remain open, free from built development, and allow views through to agricultural land. Hedgerows would be planted along the boundary of the car parking area as well as further landscaping. The car park area would have the appearance of an open area bound by hedgerow, its open nature and landscaping would contribute to the rural appearance of the area. The area would retain its rural characteristics which contributes to the setting of the NDHA.
14. In light of the above I do not consider that the proposed development would cause harm to the NDHA or its setting.

Protected Species

15. Paragraph 187 of the National Planning Policy Framework (the Framework) refers to amongst other things, protecting and enhancing sites of biodiversity, and minimising impacts on and providing net gains for biodiversity. Paragraph 193 indicates that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or as a last resort, compensated for, planning permission should be refused.
16. Planning Practice Guidance¹ (PPG) states that an ecological survey will be necessary in advance of the planning application if the type and location of development could have a significant impact on biodiversity and existing information is lacking or inadequate.
17. The appeal site comprises a semi-detached building with slate roof, and of a brick construction. From the evidence before me and what I saw during my site visit the building has recently become unoccupied with elements becoming dilapidated.
18. The PPG advises that surveys should be required where roosts are likely. It lists a series of examples when roosts may be located in buildings, which includes, buildings with little or no artificial lighting, uneven roof tiles and has cracks, crevices, and small openings. Given that the appeal property has uneven tiles, openings and cracks, the proposed development could impact on bat roosts.
19. A preliminary ecological assessment was undertaken at the site which concluded that whilst the main building had high suitability for roosting, due to its lack of a humid environment would only be suitable for summer roosting and not for

¹ Bats: advice for making planning decisions

hibernation. The PEA concluded that due to this no further surveys were required on the main building, this is also due to limited work being undertaken on the building. However, emergence surveys were recommended for the single storey extension and the detached outbuilding.

20. A bat activity survey was undertaken which concluded that, whilst there was not activity at the single storey extension, there was a roost in the detached outbuilding. A number of recommendations were made such as the retention of the outbuilding, ecological supervision during construction works, working hours and external lighting and light spill.
21. Circular 06/2005² states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by development, is established before planning permission is granted. Based on the evidence before me, I consider that sufficient information has been provided to ascertain the presence of bats and the potential impacts have been identified and appropriately mitigated. It would therefore be appropriate to ensure that the development is carried out in accordance with the survey recommendations and mitigation via conditions.
22. For the reasons outlined above I conclude that it has been demonstrated that the scheme would avoid or adequately mitigate unacceptable harm to bats, which are a protected species. The scheme would therefore accord with Forest of Dean District Council Core Strategy Policy CSP.1 and AP Policies AP.1, AP.7 and AP.8 that together seek, amongst other things, to ensure that development safeguards and enhances the biodiversity of the site.

Biodiversity Net Gain

23. NP Policy 2 required that development respond positively to the natural environment of the parish and deliver a minimum 10% net gain in biodiversity. The appeal is supported by an amended Biodiversity Net Gain Assessment.
24. The submitted assessment details the baseline value of the site as 0.73 habitat units and 0.24 hedgerow units. Post development, with the addition of landscaping and hedgerow planting and biodiversity enhancements the post-development value has been assessed as having 0.97 habitat units and 0.38 hedgerow units. An increase of 32.09% and 57.1%, respectively. The assessment recommends a Landscape and Ecological Management Plan being conditioned to ensure all the biodiversity enhancement are provided and maintained.
25. In light of the above, and in the absence of any evidence to the contrary, I have no reason to disagree with the findings of the assessment. The proposed development would therefore accord with NP Policy 2, which seeks to ensure that a minimum of 10% biodiversity net gain is provided.

Other Matters

26. In respect of the Wye Valley and Forest of Dean Bat SAC, Severn Estuary SAC and Ramsar, Habitats Regulation 63(1) states that a competent authority, before deciding to give permission, must make an appropriate assessment of the implications of the development of that site. Given my reasoning in respect of the

² Biodiversity and geological conservation: circular 06/2005

main issues and that the appeal is dismissed, there is therefore no requirement upon me in that regard and have not considered the matter further.

Conclusion

27. For the above reasons, there are no relevant material considerations, including the approach of the Framework, that would indicate a decision otherwise in accordance with the development plan. It is for this reason that the appeal should be dismissed.

Tamsin Law

INSPECTOR