



Appeal Decision

Site visit made on 4 April 2017

by **JP Roberts BSc(Hons), LLB(Hons), MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 May 2017

Appeal Ref: APP/C1625/W/16/3161152

The Full Moon Public House, Mount Pleasant, Wotton under Edge GL12 7HL

- 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 Woodbourne Homes Limited against Stroud District Council.
 - The application Ref S.14/2430/FUL, is dated 22 October 2015.
 - The development proposed is the proposed demolition of an existing public house and erection of 12 No. dwellings with access and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the proposed demolition of an existing public house and erection of 10 No. dwellings with access and parking at The Full Moon Public House, Mount Pleasant, Wotton under Edge GL12 7HL in accordance with the terms of the application, Ref S.14/2430/FUL, dated 22 October 2015, subject to the conditions set out in the Annex to this decision.

Application for costs

2. An application for costs was made by Woodbourne Homes Limited against Stroud District Council. This application is the subject of a separate Decision.

Procedural matter

3. The application was amended during its consideration by the Council, including the reduction of the number of dwellings to 10. I have dealt with the appeal on the basis of the amended plans.

Main Issues

4. Prior to the making of the appeal, the Council resolved to refuse the application for the following reason:

"To accept the loss of the pub and principle of residential development unless robust new information is received from the community. Object on grounds of impact on trees and detailed design and layout."

5. The main issues are therefore:
 - i) the effect of the proposal on the character and appearance of the surrounding, mainly residential area, and
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- ii) whether the proposal would provide satisfactory living conditions for occupiers of the proposed houses.

Reasons

Character and appearance

6. The site is occupied by a public house and large car park, located at the junction of a number of roads and paths, in a mainly residential area to the east of the Wotton under Edge town centre.
7. There are two large trees on the appeal site and one on an adjacent area of amenity space owned by the Parish Council. A Tree Preservation Order protects one of the trees on the appeal site, a large silver birch, and a copper beech on the Parish Council land. There is no objection from the Council to the loss of the unprotected tree. It is intended to retain both of the protected trees. I accept that the combined effect of the two trees, when in leaf, makes a significant contribution to the attractiveness of the area.
8. The proposal would leave a swathe of open space to the side of Plot 6, which would complement that of The Green and would provide a link between the two trees. The Green would remain as a focal point as views of the copper beech would be maintained in views when travelling westbound along Synwell Lane from Knapp Road and The Green, and views of the silver birch would be only slightly reduced from these directions. There would also be a glimpsed view of the silver birch through the access when seen from Mount Pleasant. It is only in eastbound views from Synwell Lane to the west of the site where views of both trees would be more significantly curtailed, and this would result in very limited harm.
9. I consider that the openness of the appeal site relates poorly to the surrounding development. When seen looking east from Synwell Lane, or from Mount Pleasant, it is dominated by the car park, and to my mind represents a poor use of space which adds little to the quality of the townscape. Whilst views of the trees would be curtailed from some viewpoints, I consider that any harm would be outweighed by the benefit of providing a group of houses which address the street frontage, and respond well to their context.
10. I have also considered whether there would be inexorable pressure to carry out damaging works to the trees as a result of their impact on the occupiers of the proposed dwellings. For the reasons explained below, I consider that this would not be likely to occur. In respect of the copper beech, it is on land owned by the Parish Council, which would retain control over it, but in any event, I consider that in respect of both trees, their shape would enable a degree of crown lifting and canopy thinning to take place which would not result in material damage to their shape or the contribution that they make to the amenity of the area.
11. I therefore conclude on this issue that the proposal would not result in material harm to the character or appearance of the surrounding area or conflict with Policies HC1, CP14 and ES8 of the Stroud District Local Plan (SDLP), which respectively deal with small-scale housing within defined settlements, high quality sustainable development and trees, hedgerows and woodlands.

Living conditions

12. Two of the proposed houses (plots 7 and 8) would face towards the copper beech tree. Lying to the north of the proposed dwellings it would have no effect on sunlight. The trunk of the tree would be opposite a point between plots 7 and 8 and as the tree does not have a very large canopy, open views to the side of the canopy would be obtainable from windows in the front elevation of the proposed dwellings. Even allowing for future growth, I consider that the tree would be pleasant to look at, and would not be oppressive or overbearing. In winter, when light levels are poorest, the absence of leaves would ensure that both light and views would be obtainable through the branches. I consider that its presence would not materially harm living conditions.
13. The silver birch tree is somewhat larger; it would be located in a part of the side garden of Plot 7, but to one side of the rear elevation of that property. When in leaf it will reduce the amount of sunlight reaching the rear garden of Plot 7, but it would still allow good levels of sunlight for significant parts of the day.
14. There would be a greater impact on the rear gardens of Plots 5 and 6; the silver birch would overhang much of the rear gardens of these properties and would block or filter sunlight during the morning. In winter, when the sun is low in the sky and when there would be no leaves on the tree, more sunlight would be obtainable. At all times of the year, there would be some direct sunlight. There would also be problems of leaf litter. I have referred above to my finding that the tree has the capacity to withstand some works to reduce the canopy without harm to its amenity contribution, and thus, on balance, I consider that the impact of the tree would not harm living conditions to a degree that would justify refusing permission. I therefore find no material conflict with SDLP Policy HC1 which, amongst other things requires appropriate areas of amenity space.

Other matters

15. A number of local residents object to the loss of the public house, which they regard as a valued community facility. However, the appellants have provided evidence to show that the pub is no longer viable, a conclusion backed by the independent appraisal commissioned by the Council. There are also alternative nearby public houses to serve local people. Whilst a local group sought to promote an alternative community use, they could not provide adequate evidence to show that this would be feasible. For these reasons the Council decided not to object to the principle of the loss of the pub, and I consider that it would comply with SDLP Policy EI6, which aims to protect public houses unless criteria, relating to matters I have referred to above, are satisfied.
16. I have also had regard to concerns about the potential for overlooking of the dwelling at 17 Synwell Lane, to the north of the appeal site and of The Full Moon, to the east of the appeal site. The nearest house to 17 Synwell Lane would be Plot 7, which would be across The Green, with the copper beech intervening. The combination of distance and angle between the two properties would ensure that harmful overlooking would be avoided. Part of the rear of 1 The Green would also be overlooked from the rear of Plot 10, and to a lesser extent from other plots, but the degree of overlooking would not be significant.

17. Local residents have raised concerns about parking stress in the area, and refer to the function of the pub car park as an overspill parking area. However, there are no rights for residents to use the car park, and it cannot be relied upon to perform such a function. The proposal would provide 2 spaces per dwelling, which the Highway Authority deems to be satisfactory. I see no reason to disagree.
18. I have also taken into account neighbours' concerns about disturbance and subsidence during construction, but I am satisfied that a combination of Building Regulations controls and the imposition of a condition dealing with construction management would adequately address these concerns.

Conditions

19. The Council has suggested a number of conditions which I have assessed in the light of national guidance. A condition to require the development to be carried out in accordance with the approved plans is needed to achieve certainty. Conditions relating to materials and tree protection are needed in the interests of appearance. For the same reasons, and although not suggested by the Council, to give effect to the applicant's intention to carry out new planting in gardens and open spaces throughout the development, I shall impose a condition requiring the submission and implementation of a landscaping scheme.
20. In order to protect the living conditions of nearby residents, it is necessary to impose conditions regarding control of dust and dirt, hours of construction and deliveries and the management of construction. Conditions relating to visibility splays, the provision and retention of parking spaces and the timing of access works are needed in the interests of highway safety. A condition concerning the management of the internal street is needed to protect the living conditions of occupiers, and in the interests of highway safety.
21. The Council has suggested a condition to require the provision of a separate footway for the length of carriageway between plots 4 and 5. The condition also refers to Plot 11, so it is clear that the condition was not aimed at the proposal before me. There is no carriageway shown on the submitted plans between Plots 4 and 5, but even supposing it meant to secure a separate footway alongside the access between Plots 3 and 4, I am not convinced that it would be necessary. The access is wide, with a raised speed table to keep traffic speeds low, and with good visibility along its length. In a small development of only 10 homes, I consider that the use of a shared access would be acceptable.

Conclusion

22. For the reasons given above, I conclude that planning permission should be granted and that the appeal should be allowed.

JP Roberts

INSPECTOR

ANNEX

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: Refs: 9270.59 Revision A "Site Layout & Streetscene" 05/07/16, 9270.60 Revision A "External Works Layout" 05/07/16, 9270.61 "Plots 1-3, 4-7" Feb 16, and 9270.62 Revision A "Plots 7-8, 9-11" 04/07/16 except in respect of the access visibility splay shown on plan ref: 9270.60, Revision A.
- 3) No works shall take place on the external surfaces of the buildings hereby permitted until full details and samples of the materials to be used in the construction of the external surfaces of the building works have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.
- 4) Notwithstanding the submitted details, minimum 2m x 2m visibility splays (at a height of between 0.6 and 2.1m above the adjacent footway level) at the point at which the proposed access road meets the footway of Mount Pleasant shall be provided prior to occupation of the first dwelling and shall be maintained as such thereafter
- 5) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i. the parking of vehicles of site operatives and visitors;
 - ii. the loading and unloading of plant and materials;
 - iii. the storage of plant and materials used in constructing the development, and
 - iv. wheel washing facilities.
- 8) No development shall be commenced until details of the proposed arrangements for future management and maintenance of the proposed streets within the development have been submitted to and approved in writing by the local planning authority. The streets shall thereafter be maintained in accordance with the approved management and

maintenance details until such time as either a dedication agreement has been entered into or a private management and maintenance company has been established.

- 9) No work shall take place on site until the silver birch tree (T1) and beech tree (T2) covered by Tree Preservation Order TPO 545 have been secured by tree protection barriers in accordance with British Standard 5837 'Trees in relation to Construction'. The protective fencing must remain in place through the construction period. No construction activity, storage of plant or materials, ground level changes or any burning shall take place within the protected area.
- 10) No construction site machinery or plant shall be operated, no process carried out and no construction-related deliveries taken at or dispatched from the site except between the hours 08:00 and 18:00 on Mondays to Fridays, between 08:00 and 13:00 on Saturdays and not at any time on Sundays, Bank or Public Holidays.
- 11) No dwelling hereby approved shall be occupied until the carriageway(s) (including surface water drainage/disposal, vehicular turning head(s) and street lighting) providing access from the nearest public highway to that dwelling have been completed to at least binder course level and the footway(s) to surface course level.
- 12) The dwellings hereby permitted shall not be occupied until the vehicular parking and turning facilities have been provided in accordance with the submitted plan 9270.60 Revision A, and those facilities shall be maintained available for those purposes thereafter.

Richborough Estates