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Residential and Commercial Planning : Planning Applications, Appeals and Enforcement

PLANNING APPEAL
STATEMENT OF CASE

PROPOSED CHANGE OF USE OF FIRST FLOOR TO CREATE ADDITIONAL DINING SPACE AND KITCHEN STORE AT BUTCHERS ARMS, TOWN GATE, HEPWORTH

SEPTEMBER 2021

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1. INTRODUCTION

1.1 This appeal is made following the decision of Kirklees Council to refuse to grant planning permission for the change of use of the first floor from living accommodation to additional dining space, with a kitchen store, at the Butchers Arms, Town Gate, Hepworth.

1.2 The purpose of this statement is to provide an evaluation of the site and its surroundings, together with a review of the relevant local and national planning policies associated with the proposal, before presenting a case in support of the appeal, taking into account all material planning considerations.

1.3 The appeal is supported by the following documents and plans which the decision on the application was made on:

- Site Location Plan
- Existing and Proposed Floor Plan (Drawing No R955-01)
- Heritage Statement
- Highways Technical Note

2. THE APPEAL SITE AND PLANNING BACKGROUND

2.1 The Butchers Arms is situated within Hepworth Conservation Area and is a Grade II listed building. It is centrally positioned within the historic core of the village, fronting onto Town Gate and with a side aspect on to Upper Gate. The public house has its own car parking area with a right of access through it to third party properties on Upper Gate.

2.2 The application for the change of use of the first floor to form additional dining space together with kitchen storage and preparation areas was submitted on 24 April 2020.

2.3 An objection was raised by the Council's highway officer on the grounds of absence of parking details and trip generation details. The appellant subsequently commissioned a highway consultant to provide a technical note addressing the impact of the development on highway safety and including trip generation details. This was submitted in support of the application however the highway officer maintained his objection.

2.4 The application was refused on 6 July 2021 for the single reason that the proposal would increase traffic movements in the vicinity of the site as well as demand for parking where additional provision cannot be accommodated. It was considered that this would likely result in indiscriminate parking within the vicinity of the premises that could lead to access problems for residents located on Upper Gate as well as around the site to the detriment of highway safety and other road users and contrary to Policies LP16 (d & e), LP21 and LP22 of the Kirklees Local Plan and the National Planning Policy Framework.

2.5 There were no other issues of concern raised and there were no heritage related objections. A listed building application for the internal alterations at the first floor was submitted in April 2020 and was approved by the LPA on 21 May 2021 – details attached at Appendix 1.

3. PLANNING POLICY CONTEXT

3.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that all planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The Kirklees Local Plan allocates the property as falling within the Hepworth conservation area.

3.2 Policy LP16 refers to the food and drink economy and sets out criteria that should be met in any related development proposals. This includes the availability of public transport, parking and servicing, as well as general highway safety considerations.

3.3 Policy LP21 requires development proposals to demonstrate that they can accommodate sustainable modes of transport and be accessed effectively and safely by all users, with proposals needing to demonstrate adequate information and mitigation measures to avoid a detrimental impact on highway safety and the local highway network.

3.4 Policy LP22 refers to car parking provision and much of its content relates to town centre locations. On general points the policy advises that the level of car parking in new development will be determined by the availability of public transport, the accessibility of the site, location of the development, local car ownership levels and the type, mix and use of the development.

3.5 Policy LP48 requires community facilities to be provided in accessible locations where they minimise the need to travel or they can be made accessible by walking, cycling and public transport. It is advised that proposals will be supported for

development that protects, retains or enhances provision, quality or accessibility of existing community, education, leisure and cultural facilities that meets the needs of all members of the community.

National Policy

3.6 The most recent version of the National Planning Policy Framework was published in July 2021.

3.7 Paragraph 81 advises that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.

3.8 Paragraph 93 says that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

3.9 Paragraph 111 advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4. CASE IN SUPPORT OF THE APPEAL

4.1 The sole issue with this appeal relates to highway safety matters and the issue of potential additional parking demand from the number of covers proposed as a

result of converting the first floor of the public house. The LPA's view is that the proposals will increase traffic movements and demand for parking to the detriment of highway safety.

4.2 As set out above the appeal was supported by a Highway Technical Note. This is discussed below.

4.3 Prior to addressing the highway issues though it is relevant and important to assess the scope of local and national policy support for the development. The Framework at paragraph 81 advises of the need to create conditions where businesses can invest, expand and adapt. Critically it advises that significant weight should be placed on the need to support economic growth and productivity. Paragraph 93 emphasises the importance of social and community facilities which service the needs of the community, and requires both planning policies and decisions to ensure that established facilities and services are able to develop and modernise, and are retained for the benefit of the community.

4.4 At the local level Policy LP48 advises that proposals relating to community facilities will be supported for development that protects, retains or enhances provision, quality or accessibility of existing community and leisure facilities that meet the needs of all members of the community.

4.5 The advice in these policies is important in any balancing exercise carried out with regard to the merits of the application, with particular relevance to the **significant weight** that should be placed on supporting economic growth and productivity. In this respect the business employs 17 people, both part and full time, and more staff will be employed once the first floor becomes fully operational. The business

needs to expand to remain viable in what are challenging times for the hospitality industry. Quite simply it cannot continue to function on a commercial level without this expansion, and a community facility and a significant number of jobs will be lost if the business can't expand.

4.6 Turning to the key issue of highway impact arising from the development, the following key points are set out in the Technical Note:

- *The proposals will retain existing parking levels and a turning area which allows cars and service vehicles to enter and exit the site in forward gear;*
- *The existing highway network and site access arrangements operate safely having regard to the absence of any accident reports in the vicinity of the site;*
- *Prior to March 2020 (i.e. Covid pandemic) the ground floor of the pub would accommodate approx. 75 customers;*
- *With the proposals in this application there would be a total of 74 covers – 22 on the ground floor and 52 on the first floor;*
- *Whilst there is no scope to increase off-street parking the majority of customers are local to Hepworth and therefore within walking distance;*
- *The number of trips to the site and parking demands should not increase from levels that existing prior to the Covid pandemic.*

4.7 The initial assessment of the Council's highway officer was one of objection to the proposal based on a view that the proposals would double the size of the pub's commercial area by creating the additional dining space. However, it was stated that, *"we do not consider that the proposals would generate sufficient new trips*

as to have a severe impact on the operation and efficiency of the local highway network."

4.8 In providing further comments following the submission of the Technical Note, the highway officer maintained his objection and essentially the area of disagreement related to the position with regard to the use of the premises during the Pandemic period and how it may operate post-pandemic. There was also disagreement over the TRICS trip rates analysis.

4.9 The position as it stands now can in many ways be considered to be a post-pandemic situation given that limitations on how public houses could operate were removed on 19 July 2021. However in removing those restrictions the Government made it clear that they wanted people and businesses to ***"make their own informed decisions about how to manage the virus***".

4.10 With that advice in mind, the Butchers Arms continues to operate on the basis of the social distancing requirements which existed up to 19 July and will continue to do so going forward. That is how it has decided it can best operate both in safety and commercial viability terms. In this respect the highway consultation comments were very much dismissive of the Covid environment which, notwithstanding the lifting of restrictions in July, will continue to remain highly significant in the long term.

4.11 In terms of traffic generation, the Council assessment was too simplistic in taking a view that the proposals would double the number of trips and double the parking requirements. As the Technical Note shows that is not the case. There is in fact an overall reduction in seating capacity in real terms.

4.12 It is also to be noted that there are no parking standards set out by the Council so it is not straightforward to assess what any requirements may be. There is though a general point in Policy LP22 that development proposals should incorporate minimum parking spaces. This is not a destination venue. It is a facility which predominantly serves the local community. Only four members of staff drive from outside the local area, the rest are either within walking distance or use public transport. There are bus stops to the south of the site at the junction of Townsgate and Butt Lane, with half hourly services during the day and hourly in the evenings.

4.13 The advice at paragraph 111 of the Framework helpfully separates road safety and operational highway issues stating that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The impact of the development in traffic generation terms and in terms of demand for parking is clearly set out in the Technical Note and concludes that the development would not significantly add any traffic generations to the existing local highway network during the normally accepted morning and evening network peak hours or during the peak operating hours of the pub and restaurant.

5. CONCLUSION

5.1 There are benefits arising from the proposed development in that it would assist in boosting the local economy. There would be direct economic benefits associated with the development in terms of employment retention and creation. There would be environmental benefits relating to the sustainable location and the resulting options for travel other than the private motor vehicle, as well as securing a long

term future for a heritage asset. There would also be social benefits associated with assisting in securing a long term future for a local community asset. Those benefits are significant and outweigh the level of concern expressed in the decision notice on the previous application.

5.2 For the above reasons the applicant considers that the proposals put forward are acceptable and compliant with local planning policies, as well as national policy in the NPPF.