



Appeal Decision

Hearing held on 1 July 2015

Site visit made on 1 July 2015

by S Stevens BSc (Hons) MSc DipTP DMS MCMi MRTPI

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

Decision date: 22 July 2015

Appeal Ref: APP/X5210/W/15/3003396

97 Haverstock Hill, LONDON, NW3 4RL

- 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 Faucet Inn Ltd against the decision of the Council of the London Borough of Camden.
 - The application Ref 2014/1367/P, dated 19 February 2013, was refused by notice dated 26 November 2014.
 - The development proposed is a change of use of the first and second floors from public house (Class A4) to create 2 x 1 bedroom and 2 x 2 bedroom flats (Class C3); extension and relocation of existing kitchen extract flue and associated works.
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Decision

1. The appeal is dismissed

Procedural matters

2. A signed and dated S106 Obligation was submitted before the Hearing to provide a contribution towards highway works and to ensure the development would be car free. I consider the Obligation further below.
3. Prior to the Hearing the appeal premises was included in the list of Assets of Community Value (ACV) under Part 5 Chapter 3 of the Localism Act 2011. However, the appellants have requested a review of the decision to list the property as an ACV. Therefore at the time the appeal was determined the inclusion of the public house in the list of ACVs has not been confirmed. I will consider this further below.

Main Issues

4. The main issues are:
 - whether the proposal would, or would not result in the loss of a community facility;
 - whether the proposal would, or would not provide satisfactory living conditions for the occupants of the proposed residential units; and
 - whether mechanisms are necessary to a) secure car-free housing and b) contributions towards highway works.

Reasons

Community facilities

5. The appeal property comprises a 3 storey end of terrace building with basement and adjoining garden area. It is located on a busy road and is sited at the edge of a retail and commercial parade within a predominantly residential area.
6. The premises are in use as a public house (Use Class A4) which is known as the Sir Richard Steele Public House. The ground floor contains the main bar and seating areas, kitchen and toilets and has a number of interesting features including wooden panelling and a painted ceiling. On the first floor is a function room with a bar plus an office and storage and the second floor is used to provide accommodation for staff with its own bedrooms, kitchen, living room and bathroom. The basement is used as a cellar, cold store and storage. Access to all floors is via internal staircases and there is also an additional separate external staircase and delivery hatch to the cellar. Adjacent to the building is a beer garden accessed from the ground floor bar area.
7. The proposal is to convert the first and second floors to 4 residential units. The proposal would retain the ground floor and basement as a public house. The garden area would be turned into amenity space for the proposed residential units with a smoking shelter for customers of the public house located in the north western corner of the site.
8. The parties disagree whether a public house constitutes a community facility. In early 2015 the public house was listed as an Asset of Community Value (ACV) under the Localism Act 2011. However, the appellant is currently challenging the listing and at the time this appeal was determined its status as an ACV has not been confirmed. The Localism Act defines an ACV to be an actual current use of a building or other land that is not an ancillary use and which furthers the social wellbeing or social interests of the local community.
9. The government's *Community Right to Bid: Non-statutory advice note for local authorities* October 2012 advises that it is open to the local planning authority to decide whether listing as an ACV is a material consideration, taking into account all the circumstances of the case. I regard the request for such as listing to be an indicator of the local support for premises which further the social wellbeing or social interests of the local community. Although the ACV listing has not been confirmed, I attach some weight to it.
10. The appellant relies on Policy CS10 of the Camden Core Strategy 2010 (CS) which it argues does not contain any reference to public houses amongst the community facilities mentioned. This is correct but there may be many types of facilities that are not mentioned that perform a community function and I do not view the omission of a specific reference to public houses in the policy to mean that they can not be a community facility. A community facility provides an opportunity for people, amongst other things, to meet and socialise which is an important function of a public house.
11. Furthermore, the supporting text to CS10 refers to Policy DP15 in the Camden Development Policies (DP) where paragraph 15.6 of the supporting text includes reference to local pubs that serve a community role for example by providing space for evening classes, clubs, meetings or performances. From the written

submissions and evidence given at the Hearing it is clear the ground and first floor of the appeal premises have performed this function until recently when they were stopped by the appellant.

12. In any event the CS predates the National Planning Policy Framework (the Framework) which advises that planning decisions should promote opportunities for meeting between members of the community who might not otherwise come into contact with each other. It also states that decisions should plan positively for the provision and use of community facilities such as public houses in order to enhance the sustainability of communities and residential environments.
13. My attention was also drawn to the emerging Local Plan (LP) which provides additional protection to public houses. However, the LP is in the early stages of preparation and I shall give it very limited weight. Nevertheless, given the Framework, CS10 and DP15 I conclude that a public house is a community use. Consequently, the Framework and these policies are relevant and seek to protect and enhance community, leisure and cultural activities and to resist their loss unless alternative provision is available nearby or it can be demonstrated that that the premises are no longer economically viable for pub use.
14. The appellant's submissions state the upper floors of the premises do not provide a community use and in any event the public house on the ground floor would remain. Therefore, if the public house is a community use such a use would not be lost. The second floor is used for accommodation for staff of the public house and in that respect this floor does not itself provide a community use albeit it serves to support one. However, the first floor comprises a substantial, high ceiling room that is accessed via two separate staircases, one being the fire escape. At the time of my visit the room contained a number of small tables, a raised area that could act as a small stage, an unstocked bar and various pieces of equipment including a projector, screen and loud speakers. The room and the rest of the floor appeared quite dated and shabby in appearance but nevertheless could still be used for meetings, social events and performances.
15. The public house has a web site which includes a section on bookings and includes reference to parties and private functions in one of the function rooms. It also includes photographs of the first floor function room. Submissions by interested parties at the Hearing indicated the first floor function room had been regularly used for events up until the end of 2014 when the public house stopped any further events. Uses included a weekly comedy club and a language club that would have entailed some organisation prior to the event and could not be regarded as very informal uses. I consider such events to be community uses providing local residents and others with social and educational activities and, from the submissions, such events ceased due to the decision of the appellant rather than due to lack of demand.
16. The appellant suggested that these uses could relocate to either the existing ground floor or basement. I am not persuaded that this would be practical as this would interfere with the bar area and cellar/storage area below and the configuration of ground floor and basement would not be suitable for larger gatherings and events. Very limited information is available on alternative local accommodation and this means I am unable to conclude whether any is available.
17. It was emphasised that the proposal retains the public house on the ground floor but the Council and interested parties expressed concerns regarding the impact

of the development on the remaining public house and consequently its long term survival. As the CS and Framework seek to retain community facilities I consider this to be a material consideration. Furthermore, the mere retention of an A4 use would not, in my opinion, be sufficient to satisfy the general expectations of policies broadly seeking to safeguard the community benefits of public houses. The effect of the proposed development on the remaining public house is a relevant consideration.

18. The proposal would result in the loss of the beer garden would be turned in to amenity space for the proposed residential units. This area is a popular attraction and used for regular BBQs which were being advertised. In my opinion the loss of the beer garden, especially in an inner city area, would result in the loss of a valued community facility.
19. The operational management plan submitted by the appellant sets out the current licensing restrictions for alcohol sales, recorded and live music and dancing. These conditions would remain in effect if the appeal were to be allowed but the management plan notes that there would be the opportunity for the Council to further restrict activities to protect the amenities of the future residents. Indeed the plan indicates that in order to protect the amenities of residents above live music and dancing would be prohibited. This could alter the attraction of, and number of customers to the premises.
20. No submissions were made regarding the impact of the proposed development might have on the remaining public house on the ground floor. When questioned, the appellant said some analysis had been done but was unable to provide any details. In the absence of any documentation regarding the effect of the proposal on the public house I can not conclude with any certainty what the impact might be. Nevertheless, I share the concerns regarding the consequential impact of the loss of the function room, beer garden and possible licensing restrictions on the future viability of the public house.
21. My attention has been drawn to a number of recent appeal decisions relating to the conversion of public houses to other uses and the matter of what constitutes a community facility¹. I do not have the full details of all of these cases and the nature of the developments do not all replicate this appeal proposal. However, they do indicate a public house and their function rooms can be considered to be a community facility. In any event I have had regard to the submissions made and the specific circumstances relating to this appeal.
22. In support of the proposal the appellant also argued that the London Plan and the recently adopted Further Alterations to the London Plan indicated a substantial increase in the capital's population and consequently an acute requirement to make the best possible use of available land to create new homes. The Council stated it could meet its housing targets without the conversion of this site. Whilst the proposal would result in 4 additional residential units which would make a small contribution towards the supply of housing I also consider the retention of community facilities to be important for the social wellbeing local communities. I do not consider the provision of additional housing outweighs the harm that would result to the provision of community facilities in the locality.

¹ APP/X5210/A/14/2218740, dated 2 October 2014, APP/X5210/A/13/2199667, dated 12 December 2013, APP/K5600/A/13/2199870, dated 10 December 2013, APP/K5600/A/12/2180954, DATED 10 January 2013 and APP/K5600/A/12/2172342, dated 17 September 2012.

23. Having considered all the submissions I consider the proposal would result in the loss of part of a premises that provides community facilities and that development would compromise and undermine the value of the existing A4 use as a community facility. Consequently, the proposal would be contrary to the underlying aims of CS Policy CS10, DP Policy DP15 and the Framework which seek to safeguard the community benefits that may arise from public houses.

Living conditions

24. The appellant argues that the existing use of the second floor as staff accommodation demonstrates the upper floors can co-exist harmoniously with the public house. This accommodation is ancillary to the public house and it is reasonable to assume that the occupants would be involved with the operation of the public house during opening times. Occupants of the proposed units may be expected to be within their accommodation during opening hours and I therefore do not consider the present ancillary accommodation demonstrates that satisfactory living conditions would automatically result from the proposal.
25. It was agreed by the parties that the proposed residential units would meet the Council's housing space and amenity area standards and I have no reason to take a different view.
26. The residential use would be above the public house and such arrangements exist elsewhere. A noise assessment submitted with the application indicates that internal sound insulation would be required that would exceed building regulation requirements in order to safeguard the amenity of the proposed occupants. This could be dealt with by way of a condition. The licence forbids customers to drink outside the premises on the pavement and even if the windows of the upper floors are opened the noise from the public house would be limited, especially when compared against the noise from traffic on the nearby road.
27. The existing beer garden would be converted to provide private amenity space for the occupants of the proposed flats. However, the access to the cellar is within the proposed garden area and beer deliveries would have to be brought into the amenity space. In addition, the waste storage for the public house is located to the rear of the site and would need to be brought to the front of the site, via the amenity space, in order that it could be collected.
28. Furthermore, the public house has a number of large windows and doors that face the amenity space. Although the public house doors would be closed and only used for emergencies the customers of the public house would be able to look out over the amenity space. A smoking shed for customers of the public house would also be located in the corner which would be accessed from the street. Although it would be separated from the amenity space users of the garden would be aware of people using it which would add to the lack of privacy.
29. Consequently, whilst the external space may satisfy the area standards I consider it would be overlooked and its users disturbed by deliveries and waste disposal. In the circumstances I consider it would provide a poor standard of outdoor amenity for the proposed occupants of the flats.
30. However, having considered the matters raised I conclude on balance the proposal would not cause a degree of harm to the living conditions of the proposed occupants that would justify the dismissal of the appeal. The proposal

would therefore comply with CS Policy CS5 and DP Policy DP26 but this does not outweigh the harm identified regarding the loss of a community use.

S106 Obligation

31. A signed and dated planning Obligation was submitted prior to the Hearing and the Council agreed that the third and fourth reason for refusal had been satisfactorily addressed. However, the Obligation does not overcome the harm identified in terms of the loss of a community facility. Accordingly, it is not necessary to assess the content of the Obligation against the relevant tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 or the accompanying guidance.

Other matters

32. The site lies within the Eton Conservation Area and I have had special regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. The building is not listed but is identified in the Conservation Area Statement as making a positive contribution to the character and appearance of the conservation area.

33. The external elevations of the building would remain unaltered and the only change would be to the extract flue. The existing flue is a substantial and unsightly metal structure fixed to the rear of the building. The proposed flue, although taller, would be encased in matching brickwork and would be visually less obtrusive. Consequently, I consider the proposal would preserve or enhance the character or appearance of the conservation area in accordance with the Act.

Conclusion

34. For the reasons given above I conclude that the appeal should be dismissed.

Sarah Stevens

INSPECTOR

APPEARANCES

For the appellant:

Mr Stephen Cox	Faucet Inn Ltd
Mr Stuart Walburn BA Hons MTP MRTPI	Iceni Projects
Mr Kieron Hodgson BA (Hons) MTP MRTPI	Iceni Projects

For the Local Planning Authority:

Mr Alex McDougall BAsc (Hons) MURP	Senior Planner, London Borough of Camden
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Interested persons:

Cllr Jonny Bucknell	Elected member, London Borough of Camden
Mr Martin Besserman	
Ms Dale Ingram MSc CHE	Planning for Pubs Ltd

DOCUMENTS SUBMITTED AT THE HEARING

1. A list of application plans agreed by appellant and Council (Document 1)