



Appeal Decision

Site visit made on 25 October 2016

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 24th November 2016

Appeal Ref: APP/Y5420/W/16/3156608

Winchester Hall Tavern, 206 Archway Road, Hornsey, London N6 5BA

- 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 GFO Capital against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2016/0003, dated 24 December 2015, was refused by notice dated 18 February 2016.
 - The development proposed is addition of two new residential units on the ground floor (from the central spine wall to the rear façade) and change of use from A4 to C3.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the determination of the application Pre-Submission Development Management Development Plan Document (DPD) (2016) has been submitted to the Secretary of State and examination hearings took place in August and September 2016. Modifications to the DPD were published for consultation on 18 November 2016 until 13 January 2017.
3. No modifications are proposed to Policy DM50 (Public Houses) which is pertinent to this appeal. However, at the request of the Inspector who examined the DPD criteria iii of paragraph 7.21 of the supporting text is proposed to be modified to provide clarification on information which would be required to demonstrate suitable marketing of the business as a going concern.
4. The Winchester Hall Tavern was nominated as an Asset of Community Value (ACV) under Part 5, Chapter 3 of the Localism Act 2011. I regard the listing as an ACV a material consideration that I have taken into account in determining this appeal.

Preliminary Matter

5. Planning permission¹ was granted on 14 December 2015 for the addition of one residential unit to the rear of the ground floor flat. Consequently, flat 12 of the appeal proposal already has planning permission. Parties agree that the issue in dispute is Flat 11 of the appeal proposal and I have determined the appeal on this basis.

Main Issue

6. The main issue in this case is the effect of the proposal on the viability of the public house and whether it would result in the loss of a community facility.

¹ Planning permission reference HGY/2015/1469

Reasons

7. The appeal property is a four-storey building situated on the corner of Northwood Road. The property used to house a public house with a hotel and residential accommodation in the upper floors. Archway Road is densely developed with a mixture of commercial and residential properties. The property lies within the Highgate Conservation Area.
8. Paragraph 70 of the National Planning Policy Framework (the Framework) states that planning policies and decisions should plan positively for the provision and use of shared space and community facilities, such as public houses to enhance the sustainability of communities and to guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
9. Policy 4.8B (c) of the London Plan (LP) 2015 states that local planning authorities should prepare a policy framework for maintaining, managing and enhancing local and neighbourhood shopping facilities which provide local goods and services and develop policies to prevent the loss of retail and related facilities that provide essential convenience and specialist shopping or valued local community assets, including public houses, justified by robust evidence.
10. Policy SP15 of the Haringey's Local Plan Strategic Policies (SP) 2013-2026 (2013) seeks, amongst other things to safeguard and foster the borough's existing recreational and sporting facilities through the protection and enhancement of sporting and leisure facilities in areas of deficiency. The appellant points to a number of pubs in the area, with the nearest pub 350m away and a total of 10 pubs within a mile radius of the appeal property. There is no evidence before me that there is a deficiency of public houses in the area and I, therefore, consider that no conflict arises with this Policy.
11. Policy SP16 states that the Council will work with its partners to ensure that appropriate improvement and enhancements, and where possible, protection of community facilities and services are provided for Haringey's communities. Pubs are included within the definition of 'community facility'. The extent to which the proposal would result in the loss of a community facility is addressed in my reasoning below.
12. Criterion A of Policy DMD 50 of the Pre-Submission Development Management Development Plan Document (DPD) (2016) states that the Council will resist proposals that result in the loss of a public house unless it can be demonstrated that the public house is no longer financially viable; all feasible options for re-provision of the public house on site have been explored; and the redevelopment of the site would secure an over-riding public benefit. The supporting text at paragraph 7.21 of the DMD sets out a list of evidence which would be required to demonstrate that the public house is no longer viable including patronage levels and trading accounts for the past 4 years; the actions taken by the owner to respond to falling patronage level; suitable marketing activity for the past 12 months; and adequate provision of public houses serving the local area.
13. Paragraph 216 of the Framework states that decision takers may give weight to relevant policies in emerging plans according to the degree of preparation; the extent to which there are unresolved objections; and the degree of consistency with the policies in the Framework. As the Policy is not adopted, I cannot attach full weight to it in my Decision. However, taking into account the degree of synergy with the Framework and the London Plan, the advanced stage of

preparation; that no modifications are proposed to the Policy itself and that there are no unresolved objections to the Policy, I consider that significant weight can be attached to it in my Decision.

14. The appellant contends that the Policy only applies to the loss of pubs in their entirety. I agree that criterion A applies to the loss of a pub in its entirety and, therefore, does not apply. The supporting text at paragraph 7.21 sets out the evidence required to demonstrate that a public house is unviable and also does not apply. However, Criterion B states that any permitted change of use from Use Class A4 involving the alteration and/or the extension of a public house must ensure that any proposed alteration does not affect the viability of the pub. I, therefore, consider that Criterion B applies to the appeal proposal.
15. The property lies on a prominent corner of the road and when open would have contributed to the offer and choice of drinking establishment in this part of Highgate. The loss of the upper floor accommodation and some ancillary space to residential use has already been accepted. However, the Council is concerned that the loss of the function and pool room represents the loss of useable floor space to the public house which may potentially result in the public house being unviable.
16. The remaining pub would consist of the ground floor bar area which would retain the traditional bar. The basement would include the ancillary space for toilets, food preparation area, office and staff area. The remaining floor space would be approximately 281m² with a customer accessible floor area of approximately 146m².
17. The appellant has submitted evidence to support the appeal which was not before the Council when it determined the application. This includes a letter from the commercial agent which marketed and negotiated the sale of the proposed unit to the pub operator. It explains that the 3,025 ft² pub unit is a typical size and of the six pub lettings that they have been involved with over the last 18 months, three have been for pubs with less floor space than the appeal proposal would provide. Attention is also drawn to two pubs in the surrounding area which have less useable floor space than the appeal proposal. However, there is no evidence before me to demonstrate that those pubs are viable. Furthermore, I note that the two pubs are closer to the city centre and may, therefore, serve a different market.
18. It confirms that the marketing of the pub on the basis of the ground floor and basement floor space attracted considerable attention, resulting in four bids, one of which is now being progressed. Evidence of the four offers received has been included. Evidence is also submitted relating to agreed heads of terms and terms of engagement between the respective parties in transaction of the long leasehold interest of the subject property. Whilst these offers are evidence of potential interest in the commercial unit, there is no guarantee that the transaction currently under negotiation will be completed. Furthermore, this evidence does not demonstrate that the pub would be viable on the basis of the reduced floor space.
19. In addition, a letter from the business which will be purchasing the unit and operating it as a public house has also been submitted. It explains that they have confidence in being able to successfully operate a pub from this unit prompted by their bid for the long lease (999 years), which has been accepted. It points out the benefits of the pub including its location within a large residential catchment, in a busy shopping parade with the potential for pass-by trade and by an

underground station; its situation on Archway Road, providing a high level of public visibility; and the attractive interior.

20. Nonetheless, I note that a letter of objection to the planning application was received from the prospective purchaser which states that *'in order to make this a viable business for the long term adequate trading space is required.'* It goes on to state that *'we will provide a hub for the local community but this will require adequately sized zones to cater for the many different occasions people will visit the pub'*. The prospective purchaser clearly had concerns regarding the operation of a viable business on the basis of the reduced floor space. The contradictory nature of the evidence from the prospective purchaser on the issue of viability limits the weight which I can attach to their letter of support in my Decision.
21. Part B of Policy DM50 of the DPD requires that changes of use involving the alteration and/or the extension of a public house must ensure that any proposed alteration does not affect the viability of the pub. A financial assessment has not been submitted in support of the application and none of the information submitted actually demonstrates that the pub would be viable at the reduced floor space. In the absence of cogent evidence I must conclude that the proposal would be contrary to Policy DM50.
22. I acknowledge that there are other pubs in the area; however, I note the concerns from the local community that either due to their nature or the distance from the appeal site they are not reasonable alternatives to the Winchester Hall Tavern. In any event Policy DM50 seeks to protect all public houses, regardless of proximity to other pubs.
23. Taking into account that retention of the pub has generated considerable support within the community and has been listed as an ACV I consider that it can be deemed to be a valued facility. The function room was often used for meetings of community groups and its loss would, therefore, diminish the value of the pub to the community.
24. For the reasons stated and in the absence of any substantive evidence to the contrary, I conclude that the proposal would harm the viability of the public house, diminish the value of the pub to the local community and potentially result in the loss of a community facility. The proposal is, therefore, contrary to Policy SP16 of the SP, Policy 4.8B (c) of the LP, Policy DM50 of the emerging DPD and paragraph 70 of the Framework.

Other matters

25. As the proposal does not include any external alterations or extensions I consider that the proposal would preserve the character and appearance of the Highgate Conservation Area. Whilst the proposal would have some benefit in terms of the provision of an additional residential unit, I consider that this benefit would be outweighed by the significant harm which I have identified.

Conclusion

26. For the reasons stated and taking all other considerations into account the appeal should be dismissed.

Caroline Mulloy

Inspector