

Appeal Decision

Site visit made on 5 May 2015

by George Arrowsmith BA, MCD, MRTPI

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

Decision date: 11 June 2015

Appeal Ref: APP/P2935/W/15/3004507

**Strettle Memorials, The Toll House, Castle Square, Morpeth,
Northumberland, NE61 1YB**

- 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 Acton Ales against the decision of Northumberland County Council.
 - The application Ref 14/03329/COU, dated 8 October 2014, was refused by notice dated 12 January 2015.
 - The development proposed is the change of use from A1 to A4 drinking establishment.
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Preliminary Matter

1. At the end of the appeal statement it is said that the appellant will be seeking costs against the Council. No such application has been made.

Decision

2. The appeal is allowed and planning permission is granted for the change of use from A1 to A4 drinking establishment at Strettle Memorials, The Toll House, Castle Square, Morpeth, Northumberland, NE61 1YB in accordance with the terms of the application, Ref 14/03329/COU, dated 8 October 2014, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1:1250 location plan & drawing No MO/TH/4222/01.
 - 2) The drinking establishment hereby approved shall not be open for business outside the hours of 1700 to 2300 from Monday to Friday and 1100 to 2300 on Saturdays and Sundays
 - 3) No music shall be played and no television operated at the premises.
 - 4) Within one month of this permission a noise management plan/method statement shall be submitted to local planning authority. The use shall cease one year from the date of this permission if by that time a noise management plan/method statement has not been approved by the local planning authority.
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Main Issue

3. The main issue is whether the change of use, which has already taken place without planning permission, harms the residential amenity of the adjacent residential property through noise and other disturbance.

Reasons

4. The appeal property is a small single storey stone building attached to Pethgate Court, a much larger building containing residential accommodation. Both Pethgate Court and the appeal property are listed Grade II. The site is on the edge of Morpeth Town Centre and within the Morpeth Conservation Area. The entrance to the appeal building faces east towards the main road into the town centre and away from Pethgate Court. There are two other licensed premises in the immediate vicinity; Waterford Lodge, a hotel on the opposite side of Castle Square and the Joiners Arms a short distance to the west. There is a small public car park within Castle Square and I read that the site is on a pedestrian route between the remainder of the town centre and residential areas to the east
5. I agree with the case officer's assessment that the change of use would not have a detrimental effect on the listed building and would preserve the character of the conservation area. I am also satisfied that it would preserve the appearance of the conservation area.
6. Since the officer's report recommended permission I place considerable weight on the reason for refusal and the Council's appeal statement. The latter adds little to the reason for refusal beyond pointing out that the premises share an internal wall with a neighbouring residential unit and that it would not be possible to control noise from customers entering and leaving the pub. I also have the benefit of a minute of the committee meeting at which the application was refused.
7. With regard to the transmission of noise from within the building, I note the appellant's comment that the internal wall separating the premises from the neighbouring residential accommodation is approximately 3 feet thick. The officer's report says merely that the wall is extremely thick and will minimise the noise heard within the adjacent property. I have no evidence that a significant level of noise is transmitted through the wall and I read that the Council's Public Protection Team have no objection in principle subject to the imposition of a condition requiring the submission of a noise management plan. Further protection would be offered by the imposition of the suggested condition that no music should be played and no television operated. I am therefore satisfied that, with the imposition of the suggested conditions, the adjacent residential property would not experience unacceptable disturbance from noise transmitted through the internal wall.
8. Disturbance to neighbouring residential property could arise through noise from customers gathered outside to smoke or from customers on their way into or out from the premises. Whilst some noise and disturbance would be generated in this way it has to be assessed in the context of the premises' small size and the site's location on the edge of the town centre, next to a busy road, on a pedestrian route and in close proximity to two other, significantly larger, drinking establishments. In this environment I consider that the additional

activity generated by the change of use would have relatively little impact and would not therefore conflict with the guidance in the National Planning Policy Framework.

9. I note a neighbour's account to the committee that refused the application of an unpleasant incident when a man urinated against her window. Whilst I do not minimise the impact of this incident I have no evidence that the man had visited the appeal premises or that allowing the appeal would significantly increase the potential for such antisocial activity in future.
10. Concern is expressed by the head teacher of Morpeth First School on the grounds that parents and children passing the premises would have to walk past customers standing outside smoking. I do not consider that this would be a sufficient reason for refusing permission but in any event the opening hours sought by the appellant, and which can be enforced by condition, exclude the times when children will be at school.
11. Another interested person considers that customers smoking or drinking on the pavement outside the premises might obstruct the nearby pedestrian crossing and thereby cause a safety hazard. I do not think that the likelihood of this happening is sufficient to warrant a refusal of permission nor do I think that a small drinking establishment would be likely to generate enough parking demand to cause any highway safety problems. I note that the Council's Highways Department has not objected to the proposal.

Conditions

12. I have considered the conditions suggested by the Council. The first suggestion concerning the beginning of development is redundant given that the change of use has already taken place. I have imposed the substance of suggestions 2-4, which are necessary in the interests of clarity and residential amenity. As phrased, suggestion 5, which is a justifiable protection of residential amenity, requires a noise management plan/method statement to be approved by the Council, something that is outside the appellant's control. I have therefore modified the condition so that it requires only that a statement be submitted. The condition recognises the possibility that no statement will be approved and requires that in the absence of approval the use should cease. I have however allowed a lengthy period of grace for the statement to be approved and for the appellant to make an appeal if approval is not granted.
13. I have imposed a condition limiting opening hours because the limitation is what is proposed by the appellant and is the basis on which the Council considered the application. Even so, I have no other evidence to justify the imposition of that particular limitation. Any application to relax the hours should in the first instance be the subject of a planning application, which could be considered on its merits

George Arrowsmith

INSPECTOR

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