
Appeal Decision

Site visit made on 26 June 2018

by R A Exton Dip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th July 2018

Appeal Ref: APP/R4408/W/17/3190856

The Cross Inn, 7 Summer Lane, Royston, Barnsley S71 4SE

- 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 Admiral Taverns against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2017/1196, dated 1 September 2017, was refused by notice dated 27 October 2017.
 - The development proposed is described as retention of beer garden and new car parking spaces to rear of the Cross Inn, Royston.
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Decision

1. The appeal is allowed and planning permission is granted for the formation of a beer garden and car parking spaces at The Cross Inn, 7 Summer Lane, Royston, Barnsley S71 4SE in accordance with the terms of the application, Ref 2017/1196, dated 1 September 2017, subject to the following 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: MM1269/30-100 Revision C.
 - 3) Construction or remediation work forming part of the development hereby permitted comprising the use of plant, machinery or equipment, or deliveries of materials shall only take place between the hours of 0800 to 1800 Monday to Friday and 0900 to 1400 on Saturdays and at no time on Sundays or Bank Holidays.
 - 4) The parking/manoeuvring facilities, shown on plan Ref MM1269/30-100 Revision C, shall be surfaced in a solid bound material (i.e. not loose chippings) and made available for the manoeuvring and parking of motor vehicles prior to the development being brought into use, and shall be retained for that sole purpose at all times thereafter.
 - 5) No development shall take place until a management plan relating to the use of the beer garden hereby permitted has been submitted to and approved in writing by the Local Planning Authority. The use of the beer garden shall thereafter be operated in accordance with the approved management plan for the lifetime of the development.

Procedural Matter

2. The description on the planning application form and the Council's decision notice refers to, 'retention' which is not an act of development. In the formal

decision above I have therefore amended the description of development to accurately reflect the planning permission granted.

Main Issues

3. The main issues are the effect of the appeal proposal on: i) living conditions of nearby residents, with particular regard to noise and general disturbance; and, ii) highway safety, with particular regard to the availability of customer parking space within the appeal site.

Reasons

Living conditions

4. The Cross Inn is situated at the junction of Summer Lane and Back Lane West. The area to which this appeal relates is to the rear of the site which is closest to Back Lane West. The surrounding area appears to be mainly residential. The closest properties to the appeal site are No 2 Back Lane West, to the west, and a terraced row fronting Summer Lane to the north.
5. At the time of my site visit a beer garden set out with tables and seating occupied the area around the rear entrance to the public house, extending part of the way along the boundary to Back Lane West. This was separated by fencing from storage areas, including detached outbuildings, along the northern and western parts of the appeal site.
6. From the evidence before me it appears that the appeal site has operated as a public house for some considerable time. It also appears that prior to its current form, the appeal site contained a small amount of seating and an area of car parking. This would have generated an amount of noise and general disturbance. Some would have arisen from customers using the outdoor seating, particularly in summer months. Some would also have arisen from the use of vehicles within the car park area. Nearby residents will therefore have long experienced a degree of noise and general disturbance associated with these types of activities.
7. Regardless of the outcome of this appeal, I accept that a degree of informal outdoor drinking could take place within the appeal site. Parking and manoeuvring of vehicles could also take place. This would also generate a degree of noise and general disturbance. It is therefore against this background that this appeal proposal must be assessed.
8. Appeal Refs APP/R4408/W/16 3141809 and 3141817 related to the use of the beer garden in its current form. In assessing these, my colleague concluded that the potential harm to residential amenity of nearby residents was sufficient to refuse planning permission.
9. This appeal proposal differs significantly from the previous appeals. The beer garden forming part of this appeal proposal is significantly smaller than that considered in the previous appeals. It is also concentrated around the rear entrance to the public house. This results in significant separation distances from the boundaries to No 2 Back Lane West and the terrace of properties to the north. Taking account of these factors, I consider that there would not be significant harm arising from the use of the beer garden to the living conditions of nearby residents. This would therefore not warrant the refusal of planning permission. Furthermore, the imposition of a management plan by planning

condition would give the Council and effective means of controlling the effect on nearby residents.

10. I note interested parties comments on the possibility of activities taking place outside the proposed beer garden area. This however is not a matter for this appeal. Other routes exist for the Council to control such matters.
11. The area of car parking forming part of the appeal proposal would generate a limited amount of noise and general disturbance. This would be likely to be similar to the situation experienced by nearby residents when the appeal site was in its previous form. I consider that this would not cause significant harm to the living conditions of nearby residents or be sufficient to warrant the refusal of planning permission either.
12. In light of the above I conclude that the appeal proposal would accord with Policy ED4 of the UDP¹ and Policy 40 of the Core Strategy². These require development proposals to take account of effects on residential amenity.

Highway safety

13. The previous appeal proposals made no provision for parking within the appeal site. In assessing those appeals my colleague considered that the absence of on-site parking would mean that customers arriving by car would have to park on nearby roads. He concluded that whilst this could have an adverse effect on highway safety, it would not be sufficient in itself to warrant the refusal of planning permission.
14. This appeal proposal would represent a significant improvement over the previous appeal proposals. Four parking spaces together with a turning area would be provided within the appeal site. The highway authority does not object to this arrangement and I have no reason to disagree. This would reduce the requirement for customers arriving by car to park on nearby roads and any consequential effect on highway safety. Its provision and retention could be required by a suitably worded condition.
15. Consequently, on the issue of highway safety, I conclude that the appeal proposal would accord with Policy 26 of the Core Strategy. This requires new development to provide safe secure and convenient access for all road users.

Other matters

16. I note interested parties comparisons with the previous appeal proposals on the site. I have made comparison with the previous appeals so far as they are relevant above. However, I have assessed this appeal proposal on its own merits based on the policies and evidence before me.
17. I also note interested parties comments regarding parking arrangements on nearby roads, access for ambulances and people with disabilities. However, there is insufficient evidence before me to demonstrate that these matters warrant the refusal of planning permission.

¹ The Barnsley Unitary Development Plan adopted in 2000

² The Barnsley Local Development Framework Core Strategy adopted in 2011.

Conclusion and Conditions

18. For the reasons given above, and taking all other matters raised into account, I conclude that the appeal should be allowed.
19. I have considered the 4 conditions the Council requests are imposed if planning permission is granted. Whilst condition No 1 is necessary to ensure that the development is carried out in accordance with the approved plan, there is no justification for the development having to be carried out within 3 months. I have therefore split this condition and applied the standard 3 year time limit condition in addition to the approved plans condition. Any time limits imposed in relation to the previous appeals on the site or the injunction referred to by the Council are separate matters.
20. Conditions No 2 is necessary in the interests of highway safety. Conditions Nos 3 and 4 are necessary in the interests of living conditions of nearby residents. The conditions are re-numbered in the above list.

Richard Exton

INSPECTOR