



Appeal Decision

Site Visit made on 27 October 2020

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2020

Appeal Ref: APP/R4408/W/20/3254532

The Goldthorpe Hotel, Doncaster Road, Goldthorpe, S63 9JA

- 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 Mr Jeremy Levine (Dunstan Levine Partnership) against the decision of Barnsley Metropolitan Borough Council.
 - The application Ref 2019/1572, dated 17 December 2019, was refused by notice dated 3 April 2020.
 - The development proposed is 'conversion of building previously used as a public house to provide 10 no. flats.'
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The proposal was amended during the course of the application to change the mix of units from 4 one-bedroom flats and 6 two-bedroom flats to 7 one-bedroom flats and 3 two-bedroom flats, along with minor adjustments to the parking arrangements and external alterations. The Council determined the proposal against the amended plans, and I have considered the appeal on the same basis.

Main Issues

3. Having considered all of the evidence before me, including the responses of consultees and interested parties, I consider the main issues are i) whether the proposal would provide a suitable mix of housing, having regard to relevant development plan policies; ii) the effect of the proposal on the living conditions of neighbouring occupants, with respect to overlooking and privacy and iii) the effect of the proposal on protected species.

Reasons

Housing Mix

4. Policy H6 of the Barnsley Local Plan (January 2019) (the BLP) sets out an expectation that housing proposals include a broad mix of house size, type and tenure to help create mixed and balanced communities. Proposals to change the size and type of existing housing stock must maintain an appropriate mix of homes to meet local needs. This reflects the aims of Paragraph 61 of the National Planning Policy Framework (the Framework) that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies.

5. The former Goldthorpe Hotel stands vacant and in a poor state of repair on the main road through the town. I understand it has not been in use for at least 10 years, and the principle of its redevelopment for residential use is accepted by the Council. Planning permission was granted for conversion of the building to 10 flats in 2011, though this scheme evidently was not implemented.
6. The Council argues that there is sufficient supply of flats in the area and a lack of demand for flatted accommodation in Goldthorpe and the Borough generally. The 2014 Strategic Housing Market Assessment (SHMA) indicates that flats/apartments make up 7.2% of the Borough's housing stock, which is not a significant proportion. I saw the streets immediately surrounding the appeal site to be predominately terraced housing, and as I drove around the area I saw larger semi-detached and detached housing. This tallies with the SHMA data which shows the Bolton, Goldthorpe and Thurnscoe sub-area to have over 50% detached and semi-detached housing and another 30% or so terraced housing¹, with three-bedroom properties being the predominant property size.²
7. In addition, the appellant points to site allocations in the BLP which surround the appeal site and provide for some 882 units. Of these, site HS49 at Kingsmark Way has been granted permission for 116 dwellings, most of which would be three-bedroom, with some four and two-bedroom units. Indeed, I saw an extensive area of recently constructed housing opposite this site on Parkgate and surrounding streets. Another site is referred to at Barnburgh Lane where 61 dwellings are under construction with a mix of two, three and four-bedroom units. It is clear to me that Goldthorpe is well provided for in terms of sites for new housing and that, cumulatively, these sites will provide the broad mix of housing sought under Policy H6. In this context, the provision of 10 one and two-bedroom flats would be insignificant and would not have an adverse impact upon the overall mix of dwelling types or sizes in the area, but conversely would act as a small counterpoint to these schemes and increase the provision of smaller units.
8. Reference is made to comments from the Council's Letting Agency, Berneslai Homes, that demand for Council-owned flats is low in the area. However, the proposal is for market housing which limits the relevance of these comments, given the different needs of those seeking Council-owned accommodation. I also give little weight to the comments from interested parties which seek to link the size of the flats to existing social problems in Goldthorpe including crime, anti-social behaviour and higher rates of unemployment. Whilst I do not dismiss that there may be problems in these respects, the comments made are speculative and lack substantive evidence to corroborate them. The appellant has made clear that the properties are open market units, whether for sale or rent. To my mind, new flats would be a benefit to the area, both in terms of improving the site's appearance and in bringing in new residents to contribute to the social fabric of the area.
9. I acknowledge that there is a low preference for flatted accommodation recorded in the SHMA, but I do not accept that this means no flats need to be provided at all. The data in the SHMA suggests higher levels of dissatisfaction with existing accommodation and levels of vacancy in the area, but this could indicate some of the existing stock is not of an acceptable quality, or poorly located relative to local services. The proposal would increase the choice and

¹ Figure 6.1

² Figure 6.2

quality of accommodation available to residents, in particular for those whose preference is for flats in a central, accessible area close to the town centre.

10. Taking these matters together, I find that the proposal would provide a suitable mix of housing, having regard to the housing need and supply in the area. I therefore conclude that the proposal would accord with the stated aims of Policy H6 of the BLP and the Framework.

Living Conditions

11. The Council's concern relates to the effect of the proposal on the occupants of 135 Doncaster Road, the side elevation of which faces the side elevation of the appeal building across Hamilton Road. No 135 has two windows to the side elevation, one at ground floor and one at first floor, whilst the appeal building has six windows at ground floor and three at first floor. The shortest distance between them is some 14.63m, based on the appellant's plan, which the Council indicates is less than the 21m separation distance of its Supplementary Planning Document: Design of Housing Development (May 2019) (the SPD).
12. However, the SPD distance specifically relates to back-to-back distances which typically involves private gardens separating the buildings. The SPD does not specify any distance for side-to-side relationships, but it does indicate that front elevations of similarly scaled dwellings facing a road can be a minimum of 12m apart. It also adds that the standards may be slightly relaxed in town centre situations or higher density areas. To my mind, the 12m measurement is the more pertinent of the two measurements in the SPD as the windows in question are separated by the public realm in much the same way at the front elevation example. Taking this measurement, the windows would be a sufficient distance apart.
13. This aside, the Council makes no acknowledgement of the fact that the windows of No 135 face the public realm where direct views can be had into the windows from the footpath. There is a naturally greater expectation that windows facing the public realm may be subject to views, and residents will screen windows accordingly. In a similar vein, occupants of the proposed flats may seek to screen views into their properties to ensure privacy. Taking these factors together, I am not persuaded that the proposals would lead to a demonstrable loss of privacy for occupants of No 135.
14. I therefore conclude that the proposal would not cause harm to neighbours' living conditions, and no conflict would arise with Policy GD1 of the BLP, which supports proposals which have no significant adverse effect on the living conditions and residential amenity of existing and future residents.

Effect on protected species

15. All species of bats are protected by law under the Conservation of Habitats and Species Regulations 2017 and the Wildlife and Countryside Act 1981. Moreover, Circular 06/2005³ states that the presence of a protected species is a material consideration when a development is being considered which would be likely to result in harm to the species or its habitat. It goes on to state at Paragraph 99 that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established *before* planning permission is granted (my emphasis).

³ Biodiversity and Geological Conservation – Statutory Obligations and their impact within the Planning System

16. A holding objection was made by the Council's biodiversity officer on the basis that the information provided in the appellant's Preliminary Roost Assessment (PRA), was insufficient to establish whether the proposal would affect bats. However, the Council did not refuse permission for this reason, remarking that the matter could be addressed by condition. However, given the above-mentioned legislation and guidance, I wrote to the main parties to seek their further comments and have considered the responses, including support from both parties for a pre-commencement condition requiring further survey work.
17. The PRA identified no evidence of previous bat activity and determined the site to have 'low suitability to support roosting bats', but several Potential Roosting Features were recorded within the building. Moreover, the PRA states that '*to confidently determine if bat species are present, further presence/absence surveys will be required*' and '*If the development was to continue as planned, it may lead to the destruction of a roosting site of a protected species, and increased disturbance, injury or harm to individual bats and/or their young.*' The PRA concludes with recommendations for further presence/absence survey work to be carried out at the appropriate time of year in order to establish the presence or likely absence of bats within the building, with any enhancement prescriptions to then be set out in a separate Bat Emergence Survey Report.
18. The proposal would not involve demolition of the building, but it would require its wholesale renovation internally which has the potential to disturb any bats which may be roosting in the building. Without additional survey work recommended by the appellant's own PRA, it is not known to what extent bats are currently using the site for roosting and it is not possible to identify suitable mitigation measures to minimise the potential impacts on this protected species. Full details of any mitigation measures would need to be provided in order to apply for a licence from Natural England. However, in the absence of these details, I cannot be certain that an application for a license would be successful.
19. Circular 06/2005 advises that surveys should only be required by condition in exceptional circumstances. This might be acceptable had the surveys recommended by the PRA been undertaken, a mitigation strategy prepared on the basis of the findings and all that was required were final checks immediately prior to commencement of construction to ensure that no protected species had recently colonised the site. However, given the limited information currently available in relation to the appeal site, and notwithstanding the main parties' views, use of a pre-commencement condition would not be an appropriate course of action in this case.
20. The absence of sufficient information means that I cannot rule out potentially significant harm to protected species. As such, I conclude that the scheme would be contrary to Policy BIO1 of the BLP and guidance of the Biodiversity/Geological Conservation SPD, which seek to protect and improve existing habitats and protected species. Moreover, the proposal would be contrary to the Framework which states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.

Other Matters

21. The Council did not oppose the proposal on the basis of the effect on the character and appearance of the area. The proposal would make use of an

existing, prominent building which has lain vacant and derelict for several years and presently has a negative effect on the character and appearance of the area. Its refurbishment would therefore be a benefit of the scheme which attracts limited weight in its favour.

22. I acknowledge the concerns raised by interested parties in respect of parking issues in the local area, and I note that the forecourt is used informally for parking at present. On site, I saw on-street parking was available along the length of Doncaster Road, Hamilton Road and surrounding streets. It is not required of an applicant to address existing problems, but to manage the impact of the development itself. In this case, parking for 10 cars would be provided to the rear of the building, a provision which the local highway authority considers acceptable, and with which I see no reason to disagree. In addition, no objection was raised by the Council in respect of highway safety, following amendments to the parking layout to provide adequate manoeuvring space. On the evidence before me, I make no finding of harm in respect of parking or highway safety.

Conclusion

23. On the main issues, I find that the development would provide an acceptable housing mix and would not cause harm to the living conditions of neighbouring occupants. However, in the absence of comprehensive surveys and an agreed mitigation strategy, the scheme would be harmful to bats, a protected species, and would conflict with the development plan and the guidance of the Framework. This conflict attracts significant weight.
24. There would be limited social and environmental benefits arising from the re-use of the building and improvement to the character and appearance of the area, and modest economic benefits arising from spending by future residents and the creation of employment during the construction period. The addition of new dwellings to the housing stock would be a further benefit, though given the Council's stated ability to demonstrate a five year supply of deliverable housing land, which is not challenged by the appellant, and the number of documented dwellings permitted and under construction in Goldthorpe, these benefits would attract limited weight.
25. These other material considerations, taken together, would not be of such weight as to indicate that a decision should be taken other than in accordance with the development plan, taken as a whole.
26. I therefore conclude that the appeal should be dismissed.

K. Savage

INSPECTOR