



## Appeal Decision

Site Visit made on 25 January 2021

**by Robert Walker BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 05 February 2021**

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**Appeal Ref: APP/F4410/W/20/3262669**

**Millstone Hotel, Westgate, Tickhill, Doncaster DN11 9NF**

- 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 L Nicholson (Bar 24 Ltd) against the decision of Doncaster Metropolitan Borough Council.
  - The application Ref 20/01481/FUL, dated 5 June 2020, was refused by notice dated 9 October 2020.
  - The development proposed is the change of use of former public house to ground floor retail and first floor residential including erection of extension following demolition of outbuildings).
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### Decision

1. The appeal is allowed and planning permission is granted for the change of use of former public house to ground floor retail and first floor residential including erection of extension following demolition of outbuildings at Millstone Hotel, Westgate, Tickhill, Doncaster DN11 9NF in accordance with the terms of the application, Ref 20/01481/FUL, dated 5 June 2020 subject to the conditions set out in the attached schedule.

### Applications for costs

2. An application for costs was made by Mr L Nicholson (Bar 24 Ltd) against Doncaster Metropolitan Borough Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a slightly different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application which accurately describes the proposal.
4. The appellant has provided a signed planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) (planning obligation). The planning obligation is concerned with ensuring that the proposed landscaping is undertaken prior to the commencement of the retail use. I shall return to the obligation later in my decision.
5. I have been referred to the emerging Doncaster Local Plan 2015-2035 Publication Version 2019 (ELP). Although I understand that the examination has been completed, I do not know the extent to which there are unresolved objections. Given the stage it is at, and in accordance with Paragraph 48 of the National Planning Policy Framework (the Framework), I give it limited weight.

## **Main Issues**

6. The main issues are:

- The effect of the proposed landscaping on the appearance of the development and street scene; and
- the effect of the proposal on highway and pedestrian safety.

## **Reasons**

### *Landscaping*

7. Although not cited in its reason for refusal, the Council refer me to the Doncaster Council Development Guidance and Requirements: Supplementary Planning Document (July 2015) (SPD). The proposed landscaping would provide less than 20% of the site curtilage to a "soft" landscape treatment and would incorporate trees with a smaller girth than sought by the SPD.
8. In this regard, there would be conflict with the expectations of the SPD. However, the wording of the SPD accepts that such expectations would not be achieved in all cases. Moreover, any conflict with the guidance is not in itself a planning harm nor does it necessarily equate to a breach of development plan policy.
9. The proposal would incorporate landscaping in small areas around the building. To the front, this would utilise existing features and would provide an attractive soft edge to the building. The location of the proposed hedge and spacing of trees around the periphery of the parking area would provide an attractive backdrop to the hardstanding.
10. The existing building is in a prominent position in the street scene and there is a large amount of hardstanding at present. The proposal would provide for an improvement on the existing landscaping at the site, complimenting the variety of trees within this part of the town. Whilst smaller in size than expected by the SPD there is no substantive evidence before me that the trees would not establish. In the context of this built up environment, I consider the extent, type and location of landscaping to be appropriate. Overall, this would, in my view, represent a high-quality environment.
11. I therefore find that the proposed landscaping would have a positive effect on the appearance of the development and street scene. The proposal would therefore accord with the provisions of the Framework. This stipulates at paragraph 127, amongst other things, that decisions should ensure that developments will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development.
12. Moreover, although I afford limited weight to Policy 49 of the ELP, I find no conflict with its requirements. Policy 49 stipulates, amongst other things, that development will be supported which protects landscape character, protects and enhances existing landscape features, and provides a high quality, comprehensive hard and soft landscape scheme.

### *Highway and pedestrian safety*

13. The proposed parking would be less than the maximum standards stipulated in the SPD. However, these are maximum standards and given the building's

location in walking distance from the town centre and residential properties I consider the amount of parking to be acceptable.

14. The Council's highways officer did not object to the proposals and there is no substantive evidence before me as to whether there is a problem with the capacity of existing on-street parking or carparks in the area. Mixed uses and activities are common features in towns and there is no firm evidence that the proposed mix would give rise to situations that would be to the detriment of highway or pedestrian safety.
15. Whilst there maybe occurrences where the car park would reach capacity, the proposed layout provides space for the turning and manoeuvring of vehicles. The presence of delivery vehicles would not be unexpected by consumers and given the likely speed of manoeuvring vehicles in the car park I do not consider that such manoeuvres would represent an unacceptable risk to pedestrian safety.
16. The potential for vehicles waiting to turn into the car park exists, as it does with the Public House use. Nonetheless, in such scenarios it would disrupt the free flow of traffic along the main road. In an edge of town centre location such as this, road users would be alert to the possibility of vehicles turning or exiting the site, along with other road users such as buses. Moreover, there is no evidence that this disruption to traffic would have the effect of causing inappropriate manoeuvres to the detriment of highway safety.
17. From the evidence before me, considering the previous Public House use, the proposed parking, turning space and access arrangements, in this location, I find that the proposal would not result in an adverse effect on highway or pedestrian safety.
18. The proposal would therefore comply with the requirements of Policy CS14 of the Council's Core Strategy (2012) (CS) and paragraph 109 of the Framework. These seek, amongst other things, that development does not have an unacceptable impact on road safety.

### **Other Matters**

19. The Council does not consider that the proposal would harm the special significance of the host building (a non-designated heritage asset), the Conservation Area or the setting of Tickhill Castle (a Scheduled Monument) or any other nearby listed building. Having regard to my statutory duties I have no reason to disagree with these findings. The proposal would adapt the existing building sympathetically, with its alterations and landscaping improving its appearance in the street scene.
20. Although outside of the Core Business Area (CBA) as defined in the Tickhill Neighbourhood Plan (NP), there are other non-residential uses nearby and the appeal site is within walking distance of the CBA. It would increase competition with other retail units in the town centre. However, considering the size of the retail space proposed, in the context of the triggers for impact assessments within the Framework, there is no evidence before me that the proposal would harm the vitality or viability of the town centre. Moreover, I have no reason to question the findings of the Council as to the availability of alternative sites. I do not therefore find conflict with the NP insofar as it relates to the protection of retail uses in the town centre.

21. The activity associated with the retail premises would generate some noise. However, considering the previous Public House use, the size of the retail premises and the location on a main through road, near the town centre, I do not consider that there would be significant harm to the general amenity of the area or living conditions of nearby residents with particular reference to noise, nuisance and disturbance.
22. There is no substantive evidence that the vehicle movements associated with the proposal would give rise to an impact on wildlife. Whilst the building is in a dilapidated condition, concerns regarding the actions of the appellant, are not matters that have a bearing on this appeal. Although there is support for alternative forms of development, I must assess the appeal on the basis of the proposal before me.

### **Planning Obligation and Conditions**

23. The planning obligation would ensure that the proposed landscaping which, in part, falls outside of the appellant's land ownership would be undertaken prior to the retail use commencing. Given my findings on the landscaping the provisions set out in the planning obligation are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. It would thus satisfy the tests within paragraph 56 of the Framework.
24. I have adapted the Council's suggested conditions where necessary, in the interests of precision and brevity. In addition to the standard time limit condition, I have imposed a condition specifying the relevant drawings and to require that the development is carried out in accordance with them as this provides certainty.
25. Conditions relating to materials, windows, signage, the shop front, railings, bin store and boundary treatments are appropriate in the interests of the appearance of the development in the CA.
26. Conditions relating to noise, hours of opening and deliveries are necessary in the interests of the living conditions of occupiers of nearby residential properties. Conditions relating to parking, delivery vehicles and the access details are necessary in the interests of highway and pedestrian safety. A condition regarding surface water drainage is necessary to ensure that the site is properly drained and serviced.

### **Conclusion**

27. In conclusion, I have found that the proposed landscaping would have a positive effect on the appearance of the development and street scene. I have also found that the proposal would not harm highway and pedestrian safety. The proposal would comply with the development plan when read as a whole.
28. For the reasons set out, and having considered all other matters raised, the appeal is allowed, subject to conditions.

*Robert Walker*

INSPECTOR

### Schedule of 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: Dwg Nos: 1990-ZY-008 Rev C; 1990-ZY-005 Rev C; 1990-003 Rev D; 1990-MJ-008 Rev C; and 1097-MST 01 Rev C.
3. The retail premises shall only be open for customers between the following hours: 0700 hours to 2200 hours Mondays to Sundays inclusive.
4. No deliveries shall be made to the site, and no delivery vehicles shall enter the site (whether laden or unladen), before the hours of 0700 or after 2000 Monday to Saturday, and 0900 to 1600 on Sundays and Public Holidays.
5. The rating level of sound emitted from any fixed plant associated with the development shall not exceed background sound levels by more than 5dB(A) between the hours of 0700-2300 (taken as a 15 minute LA90 at the boundary of nearest sound sensitive premises) and shall not exceed the background sound level between 2300-0700 (taken as a 15 minute LA90 at the boundary of nearest sound sensitive premises). All measurements shall be made in accordance with the methodology of BS4142 (2014) (Methods for rating and assessing industrial and commercial sound) and/or its subsequent amendments).

Where access to the boundary of the nearest sound sensitive property is not possible, measurements shall be undertaken at an appropriate location and corrected to establish the noise levels at the nearest sound sensitive property.

Any deviations from the LA90 time interval stipulated above shall be agreed in writing with the local planning authority.

6. The roof of the new storeroom hereby approved shall be clad in red clay plain tiles and any render panels and timber cladding shall match the colour and finish of the existing main building. Prior to the implementation of the relevant site works samples or details of the brick to be used in the construction of the walls, and details of the design and configuration of the mock timber beams, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
7. Any infilled openings, as shown on Dwg: 1990-ZY-005 Rev C, shall be constructed with reused bricks from demolished sections of the existing building. Where this is not possible, details of the brick to be used in the infilled openings shall be submitted to and approved in writing by the local planning authority prior to the implementation of such works. The development shall be carried out in accordance with the approved details.
8. Full details of the design, construction and finish of any new windows shall be submitted to and approved in writing by the local planning authority before the commencement of the relevant site works. Development shall be carried out in accordance with the approved details. All windows, including

existing retained windows as shown on Dwg: 1990-ZY-005 Rev C, shall thereafter be retained.

9. Prior to the commencement of the retail use hereby permitted, full details of the treatment of the back of the ground floor windows or window bays (including any measures for security if needed) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out and thereafter retained in accordance with the approved details prior to the commencement of the retail use.
10. Prior to the installation of the shop front, and notwithstanding its appearance on the elevation drawing, full details of the design, colour and appearance of the shop front to be installed on the west gable (including any lighting elements and any measures for security if needed) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out and thereafter retained in accordance with the approved details.
11. Any signage for the retail use of the building shall be located on the fascia of the shop front hereby approved and elsewhere only on the existing signage locations in accordance with the approved elevation drawing. Prior to the implementation of the relevant site works full details of the new signage (including any lighting elements, if required) shall be submitted to and approved in writing by the local planning authority. Development shall be carried out and maintained in accordance with the approved details.
12. The spears or rails of the new gate to Lindrick shall match that of the adjacent railings.
13. The fencing and hedge, as shown on Dwg 1097-MST 01 Rev C shall be retained for the lifetime of the development.
14. Prior to the commencement of the uses hereby approved the bin store area granted in the location shown on the approved plan shall be enclosed, and prior to the installation of the bin store enclosure details of its height, design, materials, and finish shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and thereafter retained in accordance with the approved details.
15. Prior to the commencement of the uses hereby approved, that part of the site to be used by vehicles shall be drained, surfaced and marked out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The parking area shall not be used otherwise than for the parking of private motor vehicles belonging to the occupants of, and visitors to, the development hereby approved.
16. Prior to the commencement of the relevant works, detailed engineering drawings for the amended site access and crossing over the footpath/verge shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
17. No vehicle in excess of 10m in length shall service the site.

**End of Schedule**