

Appeals Progress Report

1. Appeal Decisions

1.1 Appeal against refusal of planning permission 21/00947/FULPP for “alterations to front elevation and change of use of first and second floors to nightclub.” At **101 Victoria Road, Aldershot, GU11 1JE**. The Council refused planning permission on the 13th April 2022 for the following reason:

1. The proposed night club, given its hours of operation, provision of a outdoor terrace/ smoking area, potential for acoustic volume and vibrations, and its proximity to residential occupiers, would be likely to give rise to noise pollution that would result in adverse harm to the amenities of adjacent residential occupiers. No evidence has been provided to demonstrate that the proposal would not result in such harm. As a result, the development would be contrary to Policy DE10 of the Local Plan.

The Inspector noted that the application was first submitted without any supporting information on the likely impact of the development on its residential neighbours, and that it was over 3 months before a Noise Impact Assessment was submitted.

The Inspector noted that the Noise Impact Assessment recommendations required significant levels of mitigation in order to meet what they regarded to be an acceptable night-time noise level, and that no assessment was carried out on the effects of the proposed use of the terrace as a smoking area or on possible vibration through the structure into adjoining residential buildings; nor the prospect of windows being open on the adjoining residential properties at night and the resulting impact on internal living conditions.

- 1 The Inspector noted the appellants’ suggestion that conditions could be imposed to effect a change in the proposed hours of operation, use of the terrace for emergency access only, a management plan for controlling entrance and exit noise from the premises, and the offer to commission consultants to ‘explore alternative means of ventilation so that doors and windows can remain closed for acoustic performance, especially during warmer months’.

The Inspector concluded that such conditions would not suffice in protecting the amenities of adjacent residents and stated that it is for the appellant to properly address the implications of siting a potentially disruptive use in proximity to residential property. The Inspector was also not satisfied by the standard aimed for in the Noise Impact Assessment in terms of ‘Break Out Noise’. Taking a ‘precautionary approach’, the Inspector considered that the evidence supplied was insufficient to satisfy that the living conditions of

nearby residents would not be put at risk.

APPEAL DISMISSED

- 1.2 Appeal against refusal of planning permission 21/00545/FULPP for “Rear extensions and alterations to facilitate change of use of Public House with ancillary accommodation into 4 flats (2 x 1-bed and 2 x 2-bed) with associated amenity and bin and cycle storage areas” at **The White Lion Public House, 20 Lower Farnham Road, Aldershot GU12 4EA**. The Council refused planning permission at Planning Committee on 18 August 2022 for the following reasons:

The application has not been supported by sufficient evidence to demonstrate that there is no-longer term need for the public house. In this regard, the proposal conflicts with Policy LN8 of the Rushmoor Local Plan and the requirements of the adopted ‘Development Affecting Public Houses’ supplementary planning document.

1. The development would fail to provide sufficient on-site car parking to the detriment of the free flow and safety of the surrounding highway network the residential amenities of neighbouring properties and the living conditions of proposed occupiers contrary to Local Plan Policy IN2 and the adopted Car and Cycle Parking Standards SPD.
2. The proposal fails to address the likely significant impact of the development on the Thames Basin Heaths Special Protection Area as required by the Habitats Regulations in accordance with the Council’s Thames Basin Heaths special Protection Area Interim Avoidance and Mitigation Strategy, and is therefore contrary to Rushmoor Local Plan Policy NE1 and retained Policy NRM6 of the South East Plan.
3. The proposal fails to make adequate provision for the open space needs of future occupiers contrary to the requirements of Rushmoor Local Plan Policy DE6.

The Inspector agreed that the requirement to demonstrate that there was no longer term need for the public house has not been met by the applicants. The marketing report did not acknowledge that marketing was undertaken partly during the Covid-19 lockdown restrictions; there was insufficient evidence that the sale price was reasonable or appropriate and the evidence was deficient in demonstrating that the property had been advertised to a wide enough audience. Against these concerns, the Inspector did not consider that alternative public houses within a reasonable distance of the application site should be a factor in determining no longer term need. The Inspector acknowledged that there are wider economic and lifestyle trends that present as challenges to the running of small public houses but considered that this viability study did not, again, satisfactorily evidence that it was not viable.

The Inspector agreed that the proposal would result in significant harm to the integrity of the TBH SPA as there was no appropriate solution before them to secure mitigation.

The scheme does not propose any formal on-site parking. Having regard to the scale of the development, its proximity to day-to-day amenities (allowing for, in their opinion a reduction in the need for private vehicles), some limited availability of street parking observed near the application site on their visit, and a balanced consideration of the existing parking demand over the proposed residential use, the Inspector considered the parking generated could be accommodated on the nearby streets, without detriment to highway safety, free flow of traffic and occupant or neighbouring amenity.

APPEAL DISMISSED

2. Recommendation

2.1 It is recommended that the report be **NOTED**.

Tim Mills
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