

Appeal Decision

Hearing held on 12 November 2013

by David Smith BA(Hons) DMS MRTPI

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

Decision date: 12 December 2013

Appeal Ref: APP/X5210/A/13/2199667

Golden Lion, 88 Royal College Street, London, NW1 0TH

- 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 Norreys Barn Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref 2012/6655/P, dated 13 December 2012, was refused by notice dated 12 March 2013.
 - The development proposed is conversion of existing public house (Class A4 use) to 8 self-contained flats (Class C3 use) comprising 1 x 3-bedroom unit, 4 x 2-bedroom units and 3 x 1-bedroom units and associated alterations to the existing third floor dormer extension and extension of part of existing cellar to create new lightwell comprising glazed blocks plus metal grille enclosure at ground floor level at Pratt Street frontage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would lead to the loss of a community facility;
 - The effect of the proposed solar panels on the character and appearance of the building;
 - Whether the proposed flats would be adequate for future occupiers having regard to the needs of the less mobile, outlook, internal space and aspect; and
 - The effect of the proposed lightwell on the street scene, highway safety and pedestrian movement.

Preliminary Matters

3. A planning obligation signed by both parties was submitted before the hearing. This agreement contains provisions regarding car free housing, an energy efficiency and renewable energy plan, a sustainability plan and contributions towards education, highways and public open space. As a consequence and taking account of updated information on energy and sustainability, the Council confirmed that reasons for refusal 5-10 have been overcome.
4. The development plan includes the Core Strategy (CS) of 2010 and the Development Policies (DP). These prefixes are used in the relevant policies and

are relied upon to identify which document they are taken from. Furthermore, revised Camden Planning Guidance (CPG) was adopted in September 2013.

Reasons

Whether the proposal would lead to the loss of a community facility

5. Paragraph 10.6 of the DP refers to the important social role of traditional pubs but Policy DP10 and Policy CS7 are concerned with shops and are therefore not relevant. Policy CS10 nevertheless seeks to support community facilities and services generally and Policy DP15 establishes that their loss will be resisted unless a replacement facility is provided or the facility is no longer required in its current use. However, there is no specific reference to public houses and the policy follows a list in paragraph 15.2 which does not mention them.
6. Paragraph 15.7 of the DP nonetheless confirms that the loss of local pubs that serve a community role will be resisted unless alternative provision is available nearby or it can be demonstrated that the premises are no longer economically viable. This text follows on from further justification in support of community facilities that reflects the wording of Policy DP15 more closely. Consequently my reading of the DP is that pubs are in a category of their own and that the tests in paragraph 15.7 should be applied to determine whether there is compliance with the development plan or not. This means, for instance, that there is no expectation to provide a replacement facility in cases of this kind.
7. The provisions of paragraph 15.7 therefore give rise to 3 separate questions to be addressed in turn.

Is The Golden Lion a local pub that serves a community role?

8. In short, the answer to this question is 'yes'. Paragraph 70 of the National Planning Policy Framework refers to public houses as a community facility so that in principle they can fulfil this role. At The Golden Lion particular activities undertaken are the regular musical performances (including Irish folk nights); 2 pool and darts teams (both men and women) and meetings held by various private organisations. In addition, there are the less tangible aspects of pub life which allow people to meet and interact in a convivial and, by all accounts, safe atmosphere. In so doing, there is an opportunity for meetings between members of the community who might not otherwise come into contact with each other.
9. The importance of The Golden Lion was emphasised in the representations made both orally and in writing. It was described by the Ward Councillor as "vital" and others referred to its role in assisting charities and other social projects and their long-standing affinity with the establishment. The appellant questioned whether the status of the pub had been exaggerated as part of the campaign to save it but that is not the impression I gained. Moreover, it is apparent that it primarily serves a 'local' function as opposed to other premises nearby which cater for tourists and visitors. Although there is no disabled access the pub attracts a wide age range.
10. Public meetings are precluded by the terms of the lease but the first floor function room offers space for classes, clubs or meetings as specifically highlighted in the DP. The stairs to it are quite long and steep so it would not be suitable for some but nevertheless it has recently served as a useful meeting place for the pool league, residents association and War Memorial

association. Even if this area has been used for other purposes in the past it offers an ancillary community function and the private upper accommodation can be shut off. Irrespective of the application to register The Golden Lion as an Asset of Community Value it is a local pub that serves a community role.

Is alternative provision available nearby?

11. There are existing community centres in the wider locality and the London Irish Centre and the Saint Pancras Community Centre are around 800m away from the appeal site. There is limited information about the nature of the facilities available but, in theory, they could host the community events that take place at The Golden Lion. However, there is a world of difference between centres such as this and public houses. In particular, it was highlighted that they have no bars and no regular staff at night. Moreover, the ambience is likely to be completely different. Therefore these centres do not provide alternative provision to compensate for the loss of a local pub.
12. In general, it is reasonable to expect the number of public houses serving a community role to be greater in a densely populated part of London such as this. Public houses tend to have their own identity and the somewhat old-fashioned charm of The Golden Lion presumably appeals to those that go there. The evidence suggests that the premises are popular with and cherished by a good many people as offering something different. Of course, the way that the pub is run and the clientele it attracts could change and it is suggested that this is inevitable in order for The Golden Lion to be viable. However, in this respect, I have to deal with the current situation.
13. Although some have closed there are still a good many pubs remaining in Camden. However, those along the High Street are geared towards a different market. The Grand Union, for example, is said to cater for a younger crowd with loud music and a resident DJ. The Prince Albert is very close by along Royal College Street but has a restaurant on the first floor. Within a short distance to the east is The Constitution. This has many of the hallmarks of a 'local' with ales and beers, pool table, dartboard, jukebox, fruit and quiz machines. Food is served and it also has the benefit of a beer garden next to the canal. The lease has recently been renewed.
14. On the face of it, Golden Lion customers could patronise The Constitution if the former were to close as it is within easy walking distance. However, there is nothing to indicate that this alternative has a function room which is an important part of the community value of the existing premises. In other words, it would not replace the facilities currently found at the appeal site. The Prince Albert appears to be a more 'up-market' establishment. The Framework indicates that decisions should guard against the unnecessary loss of valued facilities and services but this is what would occur if the proposal went ahead.

Are the premises no longer economically viable for pub use?

15. A profit of over £9,000 was made in 2007/2008 and the publican observed that the situation was rosier before then. However, the business only made £55 in 2011/2012 and there was a loss the previous year. There are also dilapidation liabilities to attend to. Furthermore, the latest set of accounts show that only a small salary was taken and rents have not been formally reviewed since 2002. It was said that the rising cost of living and the smoking ban had made things more difficult.

16. At the hearing I was given evidence that The Golden Lion is not fit for purpose in a commercial sense. Relevant factors include the small trading area, the outdated WCs with no disabled facilities and the absence of a trade kitchen. Moreover, it is in a weak, secondary location and requires investment. The tenant complained that since 2011 the finances of the business have been hampered in various ways. However, whilst there is conflicting evidence about rent levels the barrelage sold between 2008 and 2011 fell by nearly a quarter. Judged by this measure the pub has been in decline since before 2011.
17. The landlord is keen to try other initiatives to boost trade but is inhibited by the current planning position. A large student development is under construction in St Pancras Way and the recently adopted Site Allocations Development Plan Document includes 3 other residential and related development sites nearby. These may come forward in the medium term but it is not clear whether they would positively affect the fortunes of The Golden Lion. On the other hand, the scale of change in the area gives added importance to the community of familiar and long-standing facilities.
18. Public houses are businesses and from a purely economic standpoint the prospects for The Golden Lion do not look particularly good. There was limited interest from the leisure industry prior to its sale in 2011. However, the fact is that the pub is still running and over £40,000 has been invested this year in improvements and renovations. In these circumstances it would seem strange to declare that the use is not viable. Furthermore, it was acknowledged that there is continual structural change in the industry and there may also be other ways of running the business that have not yet been explored.
19. At some point the view may be taken that The Golden Lion has no future. Based on past trends the portents are not good but from a 'glass half full' perspective this could change. Certainly the level of support received and articulated at the hearing makes me reluctant to say at this stage that the on-going venture is bound to fail. Hence I cannot conclude that the premises are no longer economically viable for pub use.

Other considerations

20. There are 'permitted development' rights to change from Use Class A4 (drinking establishments) to Use Classes A1 (shops), A2 (financial and professional services) and A3 (restaurants and cafes). However, there is no evidence that this would be likely to occur in the event that the appeal failed. Moreover, all of these uses would, to a degree, meet the day-to-day needs of the community albeit in a different way to The Golden Lion.
21. Planning permission was given for the conversion of a public house in Plender Street to 5 flats in November 2011. Although the decision pre-dated the Framework many of the considerations were similar to those in the appeal. In that case the first floor function room was said to be used only intermittently and local support was limited. In any event, that outcome does not have to be followed here. Indeed, given its physical proximity, the loss of that pub could reasonably be said to have increased the significance of The Golden Lion.
22. Both parties referred to appeal decisions that have dealt with the loss of public houses and I have taken them all into account. Those cited by the appellant preceded the Framework apart from the one at Eastbourne which was concerned with a change to Class A1 retail. Of the others, the premises in

Wolverhampton and Stroud were found to not be viable with other accessible facilities nearby whilst there were no policies supporting the retention of public houses in Southwark. They can therefore be differentiated from the proposal.

Conclusion on this issue

23. The Golden Lion is a local pub that serves a community role. If it were to be supplanted by the 8 proposed flats there would be no suitable alternative provision available nearby. Moreover, it has not been satisfactorily demonstrated that the premises are no longer economically viable for pub use. As a result there would be a loss of a community facility and there would be a conflict with the broad intentions of Policy CS10 and with the specific provisions of Policy DP15. These findings are not outweighed by any other considerations.

The effect of the proposed solar panels on the character and appearance of the building

24. The Golden Lion was largely rebuilt in the 1890s and has a striking and characterful exterior with an eclectic mix of architectural styles. It stands as a focal point on the corner of Royal College Street and Pratt Street. The building is included in a recent public consultation on Camden's Local List but, in any event, is agreed to be a non-designated heritage asset. Although the sustainability benefits expected by the Council could be achieved without the proposed panels they nevertheless form part of the proposal as submitted.
25. The principle ornate facades of the building are on the northern and western sides. In contrast the southern and eastern elevations where the panels would be located are much plainer. So whilst they would evidently be modern additions the panels would not detract from the intrinsic qualities of the public house. They would be ephemeral and inconsequential against the bold design of the building. Long views of the panels would be possible from the south but owing to the existing parapet they would be from some distance. They would be more apparent from the east but well contained within the roof slope in a position where they would not compete with the main attributes of the asset.
26. There are no objections in relation to the wider street scene owing to the mixed nature of the locality and the panels would not affect the setting of the Regents Canal Conservation Area. The Council seeks to find inconspicuous locations for renewable energy installations which would be achieved in this case. Indeed, the proposal would not have a detrimental effect on the significance of the heritage asset or harm the character and appearance of the building. Moreover, there would be no conflict with Policies CS14, DP24 and DP25 which together seek to promote high quality places and conserve heritage.

Whether the proposed flats would be adequate for future occupiers having regard to the needs of the less mobile, outlook, internal space and aspect

27. Policy DP6 is unequivocal in that all housing development should meet lifetime homes standards. However, paragraph 6.5 acknowledges that in some cases it will not be possible to meet every element. This is particularly likely to be the case in conversion schemes such as this. Indeed the Council has accepted that the criteria relating to stairs and window handle heights cannot be met. Nevertheless, I endorse the principle that the standards that can be achieved should be achieved especially where the internal works are all new.

28. Of the matters raised there is no scope to provide a shallow ramp within the site but the use of a step is accepted. There is insufficient clear space to the leading edge of some doors but the shortfall is minor and could be increased. The entry doors for Units 7 and 8 could be recessed slightly to provide an adequate landing. With changes to the internal layout the necessary WC facilities could be provided in Units 1 and 2 and the bathrooms should be dimensioned to ensure compliance. These changes could all be secured by a condition requiring a revised detailed layout and sections. In that scenario although it would not wholly comply with the strict wording of Policy D6 the development would meet the needs of the less mobile as far as it can. Providing adaptable accommodation in this way outweighs the policy conflict.
29. Unit 8 would have a floor area of 55 sq m which would be below the standard for a 2 bedroom unit of 61 sq m in The London Plan and CPG2. Although referred to as a minimum paragraph 4.14 of the CPG indicates that this should *normally* [my emphasis] be met or exceeded. In this case, the rooms are of good shape and proportion and there would be adequate circulation space. The flat would be useable without any practical drawbacks notwithstanding its slightly small size. Furthermore, it would contribute to the supply of 2-bedroom market units which are a priority according to Policy DP5.
30. The basement level bedrooms for Units 1 and 2 would have a very limited outlook towards the vertical wall of the lightwell. Outward views would also be restricted by the glazed blocks and metal grille. However, notwithstanding the recent changes to CPG2, outlook is not listed as one of the 4 key considerations for basement rooms. In particular, it has been established that daylight would be adequate having regard to recognised standards. Indeed, this type of arrangement is illustrated at Figure 4 of CPG4 and is similar to that permitted at Plender Street.
31. That said, the internal environment would not be ideal. However, the flats in question would be split over 2 floors so that the living rooms would be lit by windows at ground floor level. Bedrooms also generally need less of an outlook because of their primary use for sleeping. Whether the 3-bedroom unit would actually be occupied by a family is a matter of conjecture. On the other hand, the basement area forms a significant proportion of the overall floorspace of both flats. Nevertheless, my misgivings about this part of the proposal are assuaged by the fact that it does not transgress the detailed guidance in the CPG or recent decisions by the Council.
32. Four of the proposed units would be single aspect only and their windows north facing. Paragraph 4.23 of CPG2 expects that each dwelling should have at least one habitable room with a window facing within 30 degrees of south in order to make the most of solar gain through passive solar energy. This is clearly desirable but will be easier to achieve for new developments than for conversions when the orientation of the building is fixed. In any case, this minimum requirement is concerned with avoiding the unacceptable loss of daylight and/or sunlight and there is no criticism of the scheme on that score.
33. The Housing Supplementary Planning Guidance of The London Plan refers to the home as a place of retreat and emphasises the inherent benefits of openings on more than one side. The provision of dual aspect dwellings should be maximised where possible and north facing single aspect dwellings should be avoided. Although there is no definitive evidence both the Party Wall Act

and stringent Building Regulations are likely to limit the scope for windows on the southern and eastern sides because the building is or would be tight to those boundaries. It may, however, be feasible to have a third floor window in the east elevation if the solar panels were removed.

34. The Council's position is that a combination of the drawbacks referred to above would compromise the overall quality of the accommodation for future occupiers. However, I have found that the outstanding lifetime homes criteria could be addressed by condition; that Unit 8 would provide satisfactory living space; that the limited outlook from the basement bedrooms is not a compelling objection and that dual aspect units have been maximised with one exception. The Framework indicates that a good standard of amenity for future occupants should always be sought and, at the end of the day, the overall standard of the flats for future occupiers would be adequate.
35. As a result the proposal would not be contrary to Policy DP26 which is concerned with the impact of development on occupiers and specifically with criteria b) and h) which refer to outlook and providing an acceptable standard of accommodation. In turn, there would be no conflict with the wider provisions of Policies CS5 and CS6 regarding managing the impact of development and quality homes.

The effect of the proposed lightwell on the street scene, highway safety and pedestrian movement.

36. CPG4 anticipates the use of lightwells and of grilles above them provided that they sit flush with natural ground level and there is nothing in the development plan that precludes them. They have also recently been approved as part of the scheme in Plender Street. There can therefore be no objection in principle on the grounds that such installations would create potential difficulties in terms of long-term maintenance and the accumulation of rubbish. It can also be assumed that there is nothing inherently dangerous about walking across a suitably designed grille irrespective of the numbers that might do so.
37. The plans contain some discrepancies in terms of dimensions but it is intended that the proposed glass blocks and metal grille would be on private land. They would replace the existing tables and benches along Pratt Street and would improve the area available for pedestrians. The footway here is of reasonable width and so movement would not be hindered. Street clutter would be reduced and there is no evidence that highway safety would be affected. The precise finish and apertures of the grille (and confirmation that the lightwell would not project into the public highway) could be secured by condition.
38. As the lightwell would cause no harm the proposal would accord with the criteria for development connecting to the highway network in Policy DP21 and with the aim in Policy CS11 of promoting sustainable and efficient travel.

Other Matters

39. The planning obligation does not overcome the objection relating to the loss of a community facility. In view of this it is not necessary to assess it against the tests in the Community Infrastructure Levy Regulations and the Framework.
40. In the appeal at The Cross Keys in Kensington and Chelsea the Inspector found that continued use as a public house was an important part of its value and significance as a heritage asset (Ref: APP/K5600/A/12/2172342). The Golden

Lion has been used in this way for well over 100 years but, as indicated in the entry for consultation on the Local List, its significance mainly relates to its architectural and townscape value. If the building were to be used for other purposes its past history would not be eradicated. Therefore the proposed use would conserve the non-designated heritage asset in a manner appropriate to its significance. The other appeal decisions referred to by the Council, including The Cross Keys, also all involve sites within Conservation Areas.

Conclusions

41. There are no objections to the physical components of the conversion scheme including the solar panels and lightwells and living conditions for future occupiers would be adequate. More fundamentally there would be the loss of a community facility contrary to the development plan and this is the overriding consideration. Therefore, for the reasons given, the appeal should fail.

David Smith

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Ms C Aparcar	Apcar Smith Planning
Mr G Bunn	Fleurets
Mr A Sherman	Buildtech Building Surveyors
Mr S Knight	Code Consultancy
Mr S Kelly	Metropolis Green

FOR THE LONDON BOROUGH OF CAMDEN:

Mr J Markwell	Principal Planning Officer
Mr A Wito	Senior Planner - Conservation
Ms M Horn	Access Officer
Ms Z Trower	Transport Planner

INTERESTED PERSONS:

Mr D Murphy	
Ms D Ingram	Conservation Works UK Ltd
Cllr R Robinson	Ward Councillor
Mr S Pollard	Chair, Save The Golden Lion
Mr McDonald	
Mr S Grange	
Mr J Cantwell	
Mr H Conlon	
Dr Griffin	
Mr G Gauci	
Ms Hester	