
Appeal Decision

Hearing held on 22 March 2016 and 23 March 2016

Site visit made on 23 March 2016

by Roger Catchpole DipHort BSc(hons) PhD MCIEEM

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

Decision date: 11 May 2016

Appeal Ref: APP/A0665/W/15/3139409

The Centurion, 1 Oldfield Drive, Great Broughton, Chester CH3 5LN

- 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 Alistair Wood (Ideal Care Homes Ltd) against the decision of Cheshire West & Chester Council.
 - The application Ref 15/00239/FUL, dated 16 January 2015, was refused by notice dated 2 June 2015.
 - The development proposed is the demolition of an existing building and the erection of a 2 storey, 64 bed residential care home for older people.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was amended after it was determined in an attempt to overcome two of the Council's reasons for refusal. However, the appeal process should not be used to evolve a scheme and it is important that the facts before me are essentially the ones considered by the Council and other interested persons.
3. Whilst it is sometimes possible to take minor amendments into account, the ones that have been proposed in this particular instance represent a significant alteration of the scheme and the revisions should therefore form the basis of a fresh application. Consequently, this appeal will be determined according to the details that were submitted at the application stage and the amended scheme will not be considered.
4. Considering the main issues and all of the matters raised at the Hearing I consider the most relevant development plan policies to be CU 1, HO 15 and CF 3 of the Cheshire District Local Plan 2006 (LP) and ENV 6 and SOC 5 of the Cheshire West & Chester Council Local Plan Part One: Strategic Policies 2015 (SP).

Main Issues

5. The main issues, following consideration of all matters raised in the representations and at the Hearing, are the effect of the proposal on:
 - the cultural and social well being of the local community;
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- the living conditions of nearby residents with regard to outlook and privacy; and
- the character and appearance of the local area.

Reasons

6. The appeal site is situated in a residential area in close proximity to a local shopping centre and a number of other local services comprising Vicar's Cross United Reform Church, Great Broughton Library and Oldfield Primary School. These services are to the west of the appeal site which covers an area of approximately 0.4 ha. The site is currently occupied by a public house, The Centurion. Its frontage is set back and faces Oldfield Drive. Two entrances provide access from this road to parking areas on either side of the building. The proposal would involve the demolition of the public house and the construction of a purpose built 64-bed residential care facility with associated infrastructure. The facility would comprise a two storey building, set near the rear boundary of the plot, with an H-shaped footprint. The south-western elevation would face Oldfield Drive and extend across the majority of the appeal site.

Community well-being

7. The Centurion was purchased by Admiral Taverns in October 2014 as part of a larger acquisition of 111 premises from another pub company. A planning application, that forms the basis of this appeal, was submitted shortly after in January 2015. A sale was agreed with the appellant prior to determination which was conditional on securing planning permission. A licensee was present when the Centurion was acquired and he subsequently surrendered his tenancy after which point a management company was appointed, by the Admiral Taverns, to manage the Centurion until it ceased trading on the 25 January 2016.
8. Both the appellant and Admiral Taverns contend that the use of the premises as a public house is not viable and would remain so under a different occupier. It is alleged that the Centurion has been in a 'steady decline over a period of years'. The main evidence supporting this contention comprises two commissioned reports and a trading, profit and loss account that is based on a three month period immediately prior to the closure. It has also been suggested that a shorter tenancy agreement with a break clause and its subsequent surrender indicated a lack of viability. However, I find this to be an unsubstantiated speculative assertion as it involves the assumed intent of an individual.
9. The first report¹ was produced in April 2015, prior to purchase, and indicates that the licensee was breaking-even and that he was reliant on his pension for an income. The report also indicates a significant investment in the fabric of the building would be required owing to a backlog of repairs. It concludes that any income would be insufficient to support the estimated investment required to bring the property into full repair. As a result, an option to redevelop the site was favoured because it was assumed that the chances of finding a willing investor would be 'extremely unlikely'. However, this assumption was not tested through the open market and therefore not substantiated.

¹ Financial Viability Statement (April 2015). Centurion Public House, Oldfield Drive, Vicar's Cross, Chester. Admiral Taverns Ltd.

10. The second report² was produced in February 2016, after the Centurion ceased trading, which indicates that the cost of immediate repairs would be £62,150 and that a complete refurbishment would cost £574,850. I acknowledge that this did not include potential flat roof repairs or refurbishment of the residential accommodation. Nevertheless, the lower end of this range is significantly less than the repair estimates of the first report. I observed during my site visit that the Centurion appeared to be in a reasonable condition and, whilst dated, it did not strike me as requiring a complete refurbishment. Moreover, the cost of immediate repairs is not prohibitive and could be met by a willing investor. As the fixtures and fittings remain in place it would be a small step to re-open the premises once the repairs are complete in order to generate a financial return. The key question is whether or not this would be sufficient to justify the investment.
11. The submitted accounts estimate the gross annual profit before rent would be around £17,849 and that the net annual profit to a licensee would be around £5,099. Admiral Taverns are of the opinion that the turnover of the Centurion would need to double in order to provide the required level of return on any future investment and a reasonable annual, net profit of around £15,000 for any potential licensee. Notwithstanding the repairs, it is clear to me that profitability will vary according to the tenancy agreement structure and the desired level of return of both the owner and the occupier.
12. In this particular instance I note that a tied tenancy agreement was in place and that profitability would have been greater had the Centurion been free of a tie despite the reduced rent. This is because the 'wet sales' of cold beverages would have increased the estimated gross annual profit by £18,000-£23,000, as established at the Hearing. Furthermore, as different business models are used by different pub companies this would further alter the estimated gross profit margin of the Centurion. Indeed, I note that three different companies had expressed an interest in purchasing it as a going concern. It was confirmed at the Hearing that one of these had approached Admiral Taverns in addition to four developers. Representatives of this company also visited the Centurion on two separate occasions. Despite this interest, it was not placed on the open market and the conditional sale was agreed with the appellant.
13. Consequently, the viability of the Centurion as a going concern was not market-tested and the assertions about its viability can only be narrowly related to one particular business model. Had it been offered for sale on the open market, the results of such an exercise would have provided a useful indication of viability given the lack of conclusive financial evidence to demonstrate substantial losses over a sufficiently long period. Consequently, this would not have been a 'wholly futile exercise' in my view. The fact that no wider marketing was undertaken is a further indication to me that the appellant has failed to make an adequate case concerning financial viability.
14. I now turn to the cultural and social viability of the Centurion. Its cultural and social value was clearly apparent from the number of interested persons who attended the Hearing and the existence of the Centurion Community Action Group (CCAG) which was formed in response to the proposed redevelopment. I note that it was the only community facility in the local area with a full drinks license and that it clearly provided a significant focal point for the local

² Condition and Option Appraisal Report (February 2016). The Centurion Public House, 1 Oldfield Drive, Chester. CBRE Ltd.

community. In addition to supporting various events such as christenings, weddings and funerals it was also used as a regular meeting place for a number of local groups and raised funds for charity. Furthermore, weekly quiz nights and the existence of pool and darts teams also contributed to the cohesiveness and wellbeing of the local community by bringing people together on a regular basis. The value of the Centurion was also expressed through a number of events which were jointly organised between the CCAG and the temporary pub manager. Whilst I accept that this did not result in any sustained increase in profit it nevertheless demonstrates the importance of this facility to the local community. This is also reflected in its listing as an Asset of Community Value under section 87 of the Localism Act 2011. Given the above, I am satisfied that the sense of community provided by the Centurion served an important cultural and social function.

15. The appellant is of the opinion that the local area is well-served by public houses and that a number of alternatives are readily accessible. The closest ones identified by the appellant were the Bridge Inn, approximately 0.5 miles away, and the Peacock, approximately 0.6 miles away. However, it was established at the Hearing that these distances are 'as the crow flies' and therefore not a realistic measure of pedestrian movement. One local resident helpfully pointed out at the Hearing that the shortest route on foot to the nearest pub, the Bridge, was approximately 0.7 miles and required a 30 minute walk from the Centurion. Clearly the degree of access to these establishments would vary but as figure 7 of the Design and Access Statement shows, most of the public houses are clustered to the southwest and are not within easy reach of the majority of the Vicar's Cross community, especially less able individuals. Moreover, it was established at the Hearing that they did not offer the same opportunities for community-based activities.
16. I accept that the care home would provide specialist dementia care for elderly residents and would conform to the minimum standards required by Government³. I also accept that not all of the locally available accommodation would meet these standards. Furthermore, the Council has accepted that there is a quantified need for this type of accommodation and that, within a market catchment area of 5.5 miles, there will be a shortfall of 227 places and 826 places across the Borough in 2016. However, the assessment on which these figures are based was published in April 2015 and more places have since become available through the delivery of other schemes at Heath Lane and Liverpool Road. This would reduce the estimated market catchment area shortfall to 72 places.
17. Whilst it was suggested that existing places were available in the majority of the 27 care homes within a 3 mile radius of the Centurion, this was not substantiated nor could the degree of similarity of these facilities with the proposed scheme be established at the Hearing. Furthermore, an absence of any reported shortfall to local Councillors cannot be taken as a positive indicator of the current situation. This is because the absence of a reported problem does not mean that it does not exist, merely that it hasn't been raised. Given the above and in the absence of any substantiated evidence to the contrary, I am satisfied that a need for the care home has been well established.

³ National Minimum Standards for Care Homes for Older People. A statement of national minimum standards published by the Secretary of State for Health under section 23(1) of the Care Standards Act 2000. February 2003

18. I now turn to the issue of equivalence. Equivalence is an important consideration because saved policy CU 1 of the LP requires that the demolition of buildings last used for cultural or entertainment purposes are replaced by buildings of equal value. The reasoned justification for this policy is to safeguard buildings that make an important contribution to local communities. Whilst I accept that public houses are solely linked to an entertainment function in this justification, paragraphs 69 and 70 of the National Planning Policy Framework 2012 (the Framework) suggest that a broader interpretation is required. This is because it advises that in order to deliver the social, recreational and cultural facilities that a community needs, planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs. As it specifically includes public houses within the broader definition of community facilities this is a significant material consideration in this case.
19. It is clear from the evidence before me that there is an established local need for the public house and the care home. Benefits would be derived from both. A public house would provide opportunities for meetings between local people and help to maintain a strong and vibrant community whilst a care home would contribute to the mix of housing and help to maintain a wide choice of quality homes. Whilst I find that these considerations are equally weighted, they would not be equivalent because a public house would serve a wider cross-section of the local community whereas the care home would only benefit one particular group. I note the undisputed fact that 53% of the Great Broughton Parish population are aged between 18 and 65. Consequently, the majority of the local population would not benefit from the care home. Moreover, the scheme has no provision for facilities that would serve any of the community-based functions of the Centurion.
20. Given the above, I conclude that the proposal would cause significant harm to cultural and social well being of the local community and that the care home would not be of equal value. Consequently, it would be contrary to saved policy CU 1 of the LP and paragraph 7 of the Framework. Whilst saved policy CF 3 of the LP permits the loss of existing community facilities, when compensatory facilities of equivalent community benefit are provided, this is only when it is proven that there is no longer a need for the existing facility in the foreseeable future. As this has not been established to my satisfaction the proposal would also be contrary to saved policy CF 3 of the LP. Consequently, this aspect of the development would not be in accordance with the development plan or one of the core aims of the Great Broughton Parish Plan 2014 which is to maintain and increase the availability of indoor meeting places for social and recreation activities within the parish.

Living conditions

21. I observe from my site visit and the plans that two elevations of the proposed building would be in close proximity residential properties on George Close and Thackeray Drive. Bearing in mind the orientation of the habitable rooms and rear gardens of these properties I find that the massing and fenestration of the proposed development would have an overbearing and oppressive impact on outlook and lead to a significant loss of privacy. This impact would be most acute in relation to Nos. 3-4 George Close given the closely situated expanse of the south-eastern elevation with 10 overlooking habitable rooms.

22. I acknowledge that the tall deciduous hedge at the rear of the appeal site would provide some screening during the summer months. However, this would be much reduced during the winter, as I observed during my site visit. Whilst this could be improved through additional planting, any such boundary treatment is impermanent and cannot be relied upon to mitigate the detrimental impact of a permanent structure. This is because it could be removed at any time and may die from natural causes.
23. The appellant is of the opinion that the extent of overlooking would be no more than would be expected in normal, high density housing and that the impact on outlook would be akin to the construction of a 'small terrace'. However, these properties are not part of a high-density housing development and the institutional nature of the building is such that neighbouring residents would be confronted with a much greater extent of fenestration in comparison to a typical residential terrace.
24. The main impact on the residents of Thackeray Drive would arise from material changes in outlook rather than from a loss of privacy. I note the extensively fenestrated first floor lounge and dining area of the south-eastern elevation but find that the separation distance would be sufficient to prevent any significant overlooking of the habitable rooms and gardens of these dwellings. Despite the articulation of this elevation and the achievement of minimum separation distances, the raised ridge of the central roof section and the overall massing of the building would nevertheless lead to a significant and oppressive change in outlook.
25. Given the above, I conclude that the proposal would cause significant harm to the living conditions of nearby residents with regard to outlook and privacy contrary to saved policy HO 15 of the LP and policy SOC 5 of the SP that seek, among other things, to ensure that elderly persons' homes will not harm the living conditions of adjoining residents and that all development avoids adverse impacts on residential amenity. In these respects, the proposal would also be inconsistent with paragraph 17 of the Framework which seeks, among other things, to ensure that decision-taking leads to a good standard of amenity for all existing and future occupants of land and buildings. Consequently, this aspect of the development would not be in accordance with the development plan.

Character & appearance

26. I observed from my site visit that the shopping centre dominates the street scene of Green Lane and the junction of Oldfield Drive and that the proposed building would only be glimpsed through the gap between the centre and the church, along Oldfield Drive. Consequently, the main visual impact would be related to public views from Oldfield Drive and the predominantly private views from Thackeray Drive. I observed that the massing, materials and architecture of the surrounding properties is varied and that the height of the eaves on the proposed building would be comparable to the properties on George Close. I also observed that the ridge height would be approximately 1.5 m higher than the existing two storey element of the Centurion.
27. Despite the fact that the ground rises towards the appeal site from the shopping centre, the proposed building would not dominate the street scene of Oldfield Drive. This is primarily because the positioning of the building towards the rear of the appeal site would help maintain openness and avoid over-

dominance. Although the modified standard design would have an institutional quality, the individual design elements would not be jarring bearing in mind the lack of architectural consistency of the wider area. Furthermore, the massing of the proposed building would not be incongruent given the bulk of the adjacent centre. In this respect it would have an appropriate transitional quality.

28. Given the above, I conclude that the proposal would not cause significant harm to the character and appearance of the local area and that it would therefore be consistent with saved policy HO 15 of the LP and policy ENV 6 of the SP which seek, among other things, to ensure that elderly persons' homes do not have a detrimental effect on the established character of an area and that all development respects local character. Consequently, this aspect of the development would be in accord with the development plan.

Other Matters

29. In addition to the main issues of this appeal some consideration was given highway safety and protected species issues during the course of the Hearing. However, as I have dismissed the appeal for other reasons, these matters were not determinative.
30. The appellant has highlighted the sustainable location and the more effective use of previously developed land that would result from the proposed development. However, neither of these considerations would outweigh the harm that I have identified.

Conclusion

31. For the above reasons and having regard to all other matters raised I conclude that, on balance, the appeal should be dismissed.

Roger Catchpole

INSPECTOR

APPEARANCES

For the Council

Ms B Brown	Senior Planning Officer
Mr N Edwards	Investment & Development Officer
Mr M Orgill	Planning Officer
Mr R Charnley	Planning Officer

For the Appellant

Mr A Wood MA DipTP MRTPI	LNT Planning Manager
Ms J Sutcliffe	LNT Planner
Mr N Barnes	Admiral Taverns Area Manager
Mr A Clifford	Admiral Taverns Property Construction Director

Other Parties

Mr B Hindhaugh BSc PGCert(TEP) FIHE MIHT MIOEE	Centurion Community Action Group (CCAG)
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Ms N Jones	CCAG
Ms P Hall	Local Councillor
Mr C Smith	Campaign for Real Ale (CAMRA)
Mr A Pannell	Local Councillor
Mr K Board	Local Councillor
Mr A Green	Local Resident
Rt Hon Chris Matheson MP	Local Member of Parliament
Mr J Quinn	Local Resident
Mr S Murphy	Local Resident
Mr T Jones	CCAG
Ms C Powell	Local Resident
Mr K Porter	CAMRA
Ms J Evans	Local Resident
Mr R Powis	Local Resident
Mr K Scargill	Great Broughton Parish Council
Mrs J Jones	Local Resident
Mr I Cooke	Local Resident
Mrs S Bratley	Local Resident

Submitted Documents

S1	Revised planning conditions
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