



Appeal Decision

Site visit made on 31 January 2024

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 February 2024

Appeal Ref: APP/V4305/W/23/3319227

The Holt Hotel, 285 Warrington Road, Prescott, Knowsley, L35 5AD

- 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 Cordage Estates Limited against the decision of Knowsley Metropolitan Borough Council.
 - The application Ref 22/00060/FUL, dated 25 January 2022, was refused by notice dated 6 October 2022.
 - The development proposed is described as the "Erection of convenience store (Use Class E) with plant and bin store, retention of public house (Sui Generis) including replacement freezer store and relocated smoking shelter, relocation of beer garden following demolition of pub outbuildings, and reconfiguration of car park utilising an amended vehicular access from Holt Lane."
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a 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. No prejudice arises to any party as a result.
3. Following their decision on the appeal application, the Council has been provided with additional data including updated traffic surveys of the junctions of Warrington Road with Holt Lane, Whiston Hospital distribution assumptions and revised modelling. They are satisfied with this data, and as such, their third reason for refusal, around the currency of data, has fallen away.

Main Issues

4. The main issues are (i) the effect of the proposal on highway safety and convenience with specific regard to the amount of parking provided, (ii) whether or not the site can be appropriately accessed and serviced, and (iii) the effect of the proposal on the living conditions of occupiers of nearby properties with specific regard to noise and disturbance.

Reasons

5. The Holt is a pub on a relatively large site, in an urban area, surrounded by housing, close to a nursing home, a large hospital and on the junction of a well-used A-road (Warrington Road, the A57) and the smaller, but still well-used Holt Lane. At present, The Holt has a car park to the side and rear, accessed from Holt Lane, close to its signal-controlled junction with Warrington Road, with a beer garden running along the boundary with Warrington Road. Houses adjoin this car park and the end of the existing beer garden. Given the context to the site, parking pressure on surrounding streets is clearly high, and as such, controlled parking zones exist, limiting on-street parking in the area. Warrington Road serves the hospital and is subject to additional parking and waiting restrictions. Similarly, the context means that nearby houses are already subject to noise associated with the use of The Holt, its car park and beer garden, as well as traffic noise from the road, the junctions and the hospital.

Highway safety and convenience

6. At present, parking provision at The Holt does not meet the maximum amounts set out in local guidance referred to by the Council. However, as the appellant notes, this guidance sets out parking maxima not minima, so I give this comment little weight, but note third-party concerns over parking in the area.
7. The appellant has submitted evidence around the potential level of use of the convenience store car park, with justification provided to address concerns around staff parking and visit-length, as well as the difference between the simple number of spaces provided and the amount of parking per-hour those spaces could provide. I also note that a convenience store is just that, and as such, it is reasonable to assume that visits would be short and some of its customers would not arrive by car, particularly given the proximity of the site to the hospital, care home and the amount of nearby housing.
8. On that basis, I consider that the convenience store element of the proposal could provide sufficient parking for its needs, without causing detriment to highway safety and convenience in the surrounding area. I note the concerns of the Council around the short-term nature of visits having the potential to give rise to anti-social parking behaviour, but this would be a matter for enforcement. A car park management plan, in combination with the proposed private management and enforcement of parking on the site would assist in this.
9. Turning to the parking for The Holt itself, the appellant has submitted what they consider to be representative parking data for the current situation and sought to justify their proposed provision against it. In doing this, they, and I, note that local parking standards are maxima not minima, and that the effective trading area of The Holt would be reduced by the proposal. I also acknowledge that not all of the pub customers arrive at the site by car.
10. The data appears to show that the pub car park is being abused, and having visited the site and its surroundings, I can understand why that may be the case. Despite that, there does not currently appear to be any management of the car parking on the site, and it appears that the ANPR system, despite collecting data is not currently acting as a deterrent to non-customer parking.

11. I turn now to the adequacy of the data submitted by the appellant. Whilst I accept that it is entirely normal to apply the 85th centile approach to traffic speeds, I remain unconvinced by its application to the parking data and proposals before me. Although the appellant suggests that it is a commonly accepted statistical tool for smoothing out datasets to exclude outliers, the data presented and analysed in the evidence before me is not so large that I consider it to be a sufficiently reliable basis for the decision I must take. Nor am I wholly convinced that the widely accepted use of the 85th centile approach for measuring and quantifying traffic speeds means it is directly applicable to or relevant to the assessment of the availability of a finite, discrete resource, that is, parking spaces.
12. The appellant has sought to present July as a robust worst-case scenario, representing times when the (to be reduced) beer garden is most likely to be in use and demand for parking at its highest. It is suggested that of 3190 records for the month, the average parking demand is 11 spaces, and this would be met by the proposed 12 spaces. The 85th centile analysis of that same data produces a maximum demand of 15 spaces. The evidence goes on to explain that capacity would be exceeded by approximately two vehicles for one hour on a Friday and a Saturday.
13. Whilst this data shows that for most of the time in the week, the proposed car park could accommodate likely demand, I am simply not convinced that the data discussed, nor the use of data from only a single month, is a robust basis for the assessment provided and conclusions reached to necessarily be relevant longer time periods or wholly representative. I am also unable to accept that there is a simple, linear relationship between the size of the beer garden and the amount of parking needed, without clearer evidence to support and quantify such a claim.
14. I have considered carefully whether or not the conditions suggested by the Council and the appellant could overcome my concerns, particularly in light of the requirement in the National Planning Policy Framework (the Framework) to consider whether otherwise unacceptable development could be made acceptable through the use of conditions. Whilst I accept that a Car Park Management Plan could be effective, and I have seen the examples the appellant directed me towards, they cannot make up for any deficiency in the amount of parking which might be provided. Given therefore my concerns over the suitability of the car parking data provided, and the assumptions made as a result of it, a condition would not be suitable or sufficient, nor would it meet the tests in the Framework or Planning Practice Guidance.
15. Whilst I therefore find that the amount of parking provided for the convenience store would likely be sufficient, I cannot be sure that the parking proposed for The Holt would be. As such, I consider that the proposal would be likely to cause an increase in anti-social or unauthorised on-street parking in the surrounding area, with the attendant highway safety risks and inconvenience that would result.

16. I note the proximity of the hospital multi-storey car-park, but as the appellant suggests that the appeal site is already a more attractive parking proposition for users of the hospital, I cannot reasonably see that it would offer an attractive alternative were the car park at The Holt to be full. Although there are on-street parking controls in place, given the level of third-party engagement on this point, the objections of the Council, and my concerns over the adequacy of the data used to demonstrate the parking need at The Holt, I find that I cannot be certain that the proposal would not cause harm.
17. As such, the proposal would conflict with Policies CS2, CS7 and CS19 of the Knowsley Local Plan Core Strategy, January 2016 (the Core Strategy), and Saved Policy H5 of the Knowsley Replacement Unitary Development Plan, adopted June 2006 (the UDP). These seek, amongst other things, to ensure that development mitigates against any negative impacts that may arise from it, complies with relevant transport standards and requirements, ensures safe and secure means of travel, and that new development in primarily residential areas does not have any unacceptable effects on amenity.

Access and servicing

18. Despite the concerns of third-parties and the Council around the access and servicing requirements for the site, the appellant has demonstrated that a rigid delivery vehicle can safely and suitably access the site and the delivery bay within it. This evidence takes account of the particular layout of the stop-lines, traffic signals, markings, other accesses and parking areas around the site.
19. I accept that there is evidence of articulated lorries making deliveries to the site in the past, and indeed, using the footway to do so. However, it is not unusual for constrained sites, either for pubs or convenience stores to be serviced by smaller, rigid vehicles, nor is it unusual to control this (and the timing of deliveries) through the use of conditions, as proposed here. The inappropriate and anti-social use of the footway for deliveries would be mitigated against somewhat by the proposed alterations to the layout of The Holt, and is in any case, as an existing issue, a matter for highways enforcement.
20. I therefore find that the site can be appropriately accessed and serviced, and as such, would comply with Policies CS2, CS7, CS19 of the Core Strategy, and Saved Policy H5 of the UDP. These seek, amongst other things, to ensure that development mitigates against any negative impacts that may arise from it, complies with relevant transport standards and requirements, ensures safe and secure means of access, and that new development in primarily residential areas does not have any unacceptable effects on amenity.

Noise and disturbance

21. From my visit to the site and its surroundings it was plain that along the Warrington Road frontage, and to a lesser degree, along Holt Lane and the streets off it, that traffic noise was a constant background sound. The signal-controlled junction appears to intensify the traffic noise, and ambulances sounding sirens to clear the junction also pass by the site fairly regularly. This characterisation is consistent with that of the appellant in their evidence.

22. The appeal is accompanied by a Technical Note Relating to Noise, dated March 2023. In that, the appellant explains their noise evidence; with an initial Noise Assessment undertaken in January 2020, followed by an additional Noise Assessment undertaken in September 2020. That later assessment was reviewed and resubmitted in November 2021. The 2023 Technical Note claims that the second assessment is robust and remains an appropriate basis to assess likely noise implications of the proposal, as lockdown had been lifted, traffic was back to normal for the location, and the 'Eat Out to Help Out' incentive scheme was in operation. Whilst I do not dispute those factors, I am not wholly convinced that traffic levels would have returned to normal by that time, nor am I convinced that external levels of noise relating to activity at The Holt would necessarily have been truly representative, given the extremely unusual circumstances at that time.
23. I also note that the Noise Assessments were not specifically commissioned to consider noise associated with the use of the beer garden, rather, the purpose of each was to "show the possible adverse impact the proposed plant, deliveries & vehicle movements will have on the residential dwellings located in close proximity to the proposed scheme". Consideration of the beer garden effects was only set out in the latest Technical Note, and did not take into account any new data.
24. In this, I note that deliveries, and in particular the movement of roll-cages, the sound of which can be strident would take place within the centre of the site have been specifically considered. Although the appellant suggests that noise arising from deliveries would be screened by the buildings and the delivery vehicle, there is a door directly accessing the rear of the shop (the "BOH" area), the use of which would require goods to be pushed along block paving running the length of the convenience store. The bin store is also proposed next to the site boundary, and noise associated with its use would likely be irregular and abrupt, could happen at any time and could reasonably lead to further disturbance.
25. I accept that shop noises are daily events which could already take place close to the dwellings around the site, essentially noise associated with the current use of The Holt and its car park. However, that noise is currently largely limited to the opening hours of The Holt, whereas the convenience store would have longer opening hours, starting from relatively early in the morning.
26. I also accept that the majority of noise sources listed in the reason for refusal (deliveries, bin collections, tannoy systems, car parking and reversing, car doors closing) are single events, rather than a consistently elevated level of noise. However, to my mind that has the potential to increase the level of disturbance that the noise creates, with those noises occurring unpredictably throughout a relatively long period, rather than reducing the overall effect as the average level of noise is not significantly elevated.

27. The Council has not received noise complaints in relation to The Holt, but a lack of complaints about the pub and its current beer garden does not to my mind mean that the same would apply for the relocated beer garden. Indeed, third-party comments to both the application and the appeal suggest that noise is a concern for local residents. Whilst I note the current beer garden immediately adjoins a residential property, that property also faces onto the Warrington Road. As such, the existing noise environment and the consequent relationship between the current beer garden, adjoining houses and the Warrington Road is very different to that of the proposed beer garden, the closest houses, and the much quieter Holt Lane. Given these significant differences and noting that the noise evidence was not originally commissioned to address this noise, I do not consider that the proposal is so closely related to the existing situation that there would be no real difference in its effects.
28. There is in the third-party representations, both to the application and the appeal a real concern over increased noise and disturbance arising from the proposed convenience store, the rearranged parking area, the relocated beer garden, and indeed the amount of parking as discussed above. In combination with my concerns over the age of the noise data, the pandemic situation at the time of the noise survey and its limited original scope, I do not consider that the current noise evidence is sufficiently robust for me to find that living conditions would not be harmed by the proposal.
29. In this decision, I do not seek to suggest that a proposal such as this could only be acceptable if no additional noise were to be heard, particularly in light of the nature of the site and its surroundings at present. However, it is an issue of the currency and robustness of the evidence provided to support the proposals and address the legitimate concerns of the Council and the surrounding residents.
30. Taking all of that together, I am not satisfied that the evidence on noise effects is sufficient for me to know, to the level of certainty required by the development plan policies, and indeed, national policy in the Framework, that the proposal would not cause harm to the living conditions of existing residents with specific regard to noise and disturbance.
31. I have considered whether or not the imposition of conditions, suggested by both the Council and appellant could provide me with sufficient certainty on the effects of the proposal to overcome the potential harm I have found. Given my concerns relate to the fundamental data and assumptions on which the proposal is founded, I do not consider that it could necessarily be made acceptable through the use of conditions.
32. The proposal would therefore conflict with Policies CS2 and CS19 of the Core Strategy, as well as Saved Policies H5 and ENV2 of the UDP, which seek to mitigate negative impacts of development, maintain high standards of amenity and avoid undue noise and disturbance. It would also conflict with national policy in the Framework which seeks to create beautiful, well-designed places with a high standard of amenity for existing and future users.

Conclusion

33. Both the Council and the appellant set out that Saved Policy H5 of the UDP allows for development, such as this, in predominantly residential areas where the use is appropriate and there is no unacceptable impact on amenity. I do not depart from this position. However, as set out in my reasoning above, I have not been able to find that there is no such impact having regard to the parking data, sufficiency of the noise evidence and the conclusions drawn from them.
34. I therefore find that the proposal conflicts with the development plan, and there are no material considerations of such weight to indicate that a decision be taken other than in accordance with it.
35. The appeal should therefore be dismissed.

S Dean

INSPECTOR