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## Appeal Decision

Site visit made on 9 June 2020

**by O S Woodward BA(Hons.) MA MRTPI**

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

**Decision date: 15 July 2020**

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**Appeal Ref: APP/K0425/W/20/3245292**

**Wendover Arms Hotel, Desborough Avenue, High Wycombe HP11 2SU**

- 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 S Dad of Buckingham Hotel Group Ltd against the decision of Buckinghamshire Council – Wycombe Area.
  - The application Ref 18/07547/FUL, dated 24 September 2018, was refused by notice dated 26 November 2019.
  - The development proposed is the change of use of the site to mixed use of C1 and C3 to incorporate a detached building comprising 6 x 2 bed apartments, associated bin/cycle store, car parking and landscaping.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant has made passing reference in their final comments to a claim for costs against the Council. However, no formal application for costs has been submitted at any stage in the appeal process.
3. The original decision was made by Wycombe District Council which, along with four other Councils, merged into a single Unitary Authority called Buckinghamshire Council on 1 April 2020. The name of the new local planning authority is Buckinghamshire Council – Wycombe Area.

### Main Issues

4. The main issues in this case are whether or not the proposal would:
  - provide suitable living conditions for future occupiers, with particular regard to outlook and light;
  - provide a safe and accessible development for future occupiers and visitors; and
  - affect the risk of flooding off-site.

### Reasons

#### *Living conditions*

5. The proposed building would be between the Wendover Arms Hotel and an existing residential property to the other side, 180 Desborough Avenue. Both buildings, in particular the hotel, would be close to the proposed building. In

order to prevent harmful overlooking between the existing and proposed properties, the proposal includes a number of obscure glazed windows. In particular, the only window to the 2<sup>nd</sup> bedroom of Flat 3 would be largely obscure glazed, up to 1.7m above the internal floor level. Although obscure glazing can allow for some light in and for some views out, this would be very restricted.

6. All four bedrooms to the two flats to the 2<sup>nd</sup> floor would only be served by rooflights, two to a room. The rooflights would be small and would be set fairly high up in the slope of the roof. In three of the bedrooms, one of the rooflights would additionally be obscure glazed. In the 2<sup>nd</sup> bedroom to Flat 5, both rooflights would be obscure glazed. This arrangement would not afford adequate views out from the bedrooms, and in the absence of any evidence to the contrary, it would appear very unlikely that sufficient light would be provided to the bedrooms as well. The fact they could be opened to allow for some views and ventilation does not mitigate this, because the views would be upwards, towards the sky, rather than outwards.
7. Bedrooms are important habitable rooms and it is not acceptable for them to be provided with such a restriction on light and outlook. The fact that the living rooms, and other bedroom to Flat 3, would have sufficient light and outlook does not mitigate this. Nor would a condition or other control to ensure that all glazing above 1.7m above the internal floor level be clear glazed, because this would still result in severely restricted outlook and light. The appellant advises that each flat would be in excess of the minimum size set out in the Nationally Described Space Standards. However, the size of the proposed flats would not mitigate the poor outlook and lack of light they would be afforded. It is also not relevant to compare the rooms to if they were being used as a hotel, because the use of the rooms before me to assess is as residential.
8. The appellant has referenced three recent planning permissions in support of the use of rooflights for bedrooms. All the rooms in all three permissions also had normal windows to a second elevation, apart from one bedroom to each of the 193-197 West Wycombe Road or 201 West Wycombe Road permissions. However, this bedroom in both permissions was lit by four rooflights on two elevations, none of which were obscure glazed. Therefore, none of these permissions were for a standard of accommodation the same as that proposed for the appeal.
9. The proposal would therefore not provide suitable living conditions for future occupiers with regard to outlook and light, contrary to Policy DM35 of the LP which, amongst other criteria, requires development to provide a level of amenity for future occupants appropriate to the proposed use. The development would also be contrary to the relevant parts of Paragraph 127 of the National Planning Policy Framework (the Framework) which requires, amongst other things, a high standard of amenity for future users.

#### Access

10. The only entrance to the building would be from the front corner. The site slopes fairly steeply from the rear car park area towards the road and the entrance door would be set higher than the proposed visitor parking, bin storage area, and access from the street. The drawings provide contradictory information on what the level difference is, but it is potentially significant given the level differences I observed on site and the detail shown on the street

elevation drawing which shows a vehicle within the front driveway area much lower than the entrance to the building.

11. No detail is provided on the drawings of how this would be resolved and how access from the street, bin store and visitors parking to the building would be provided. I have given thought to if a condition could overcome this. However, due to the level differences and the relatively small area of landscaping to work within, it is not clear that pedestrian access from the street, bin store or visitors parking could be provided simultaneously with retaining adequate vehicular access and manoeuvring from the street to the bin stores and visitor parking.
12. Access to the cycle store would be alongside either side of the building, on what appears to be flat, or nearly flat, land. Access to the cycle store directly from the flats would therefore likely be acceptable. However, the same issues as with the entrance to the building apply when considering access down to the street. The Post Office planning permission referenced by the appellant in relation to cycle parking has a different relationship between cycle parking and entrance to the proposed buildings, and is a different site, with different site levels, and different relationships to neighbouring properties. This does not therefore provide precedent for the appeal proposal.
13. The proposed car park would be accessed via the hotel's existing car park to the rear, which is in turn accessed from Deeds Grove. Access from the car park to the building would involve a set of stairs and then a fairly narrow passageway in-between the proposed building and a boundary fence and the existing hotel to the other side. However, there would be fairly significant planting along most of the passageway making it more attractive, it would not be a particularly long route, it would provide direct and legible access to the car park area, and both the existing hotel and the proposed building are 3-storeys high and therefore would not be overly tall and overbearing. This access would therefore be acceptable.
14. There would be limited overlooking of the passageway to the side of the building because the only window directly overlooking this is to the hallway. I am also not persuaded that footfall would be particularly frequent along this passageway, as it would only be used by the occupants of the 6 proposed flats. However, the proposed flats would provide overlooking further to the rear and of the access stairs. Lighting of the passageway could be required by condition, which would increase the visibility of the passageway. The proposal would not therefore likely result in an unacceptable level of crime or the fear of crime, and safe access would likely be provided.
15. Overall, although the proposed access to the building directly from the car and cycle parking would be acceptable and safe, it has not been demonstrated that adequate access to the bin stores, cycle parking, visitors parking, the main entrance, and to the street could be simultaneously provided. The proposal would therefore be contrary to Policy DM35 of the LP which, amongst other criteria, requires high quality design. The works would be contrary to Chapter 12 and Paragraph 108 of the Framework which require, amongst other things, high quality design and that suitable access to the site can be achieved for all users. The works would also be contrary to the Council's Residential Design Guidance 2017, which, amongst other criteria, requires routes through developments to be logical, direct and easily understood.

### *Flooding*

16. A rainwater harvesting system is proposed, with a sufficiently sized attenuation tank to accommodate the water that would fall on the building. However, it is acknowledged by the appellant that if the building were not fully occupied then there may be overflow from the roofs, which would require a soakaway, the details of which have not been provided. Permeable paving is also proposed for surface water control for water that does not fall on the buildings.
17. The information provided by the appellant makes it clear that the rainwater harvesting would significantly control rainwater. However, there may still be some overflow, as well as water falling directly on the ground and not the buildings. In the absence of site specific ground investigations it is not possible to ascertain whether the proposed mitigation for this, the soakaway and permeable paving, would actually be feasible or adequate. Consequently, it has not been demonstrated that the proposal would make adequate provision to prevent the risk of flooding elsewhere. These elements cannot be controlled by condition, because the feasibility of the proposed mitigation has not been established.
18. The proposal therefore fails to comply with Policy DM39 of the LP which, amongst other criteria, requires that there is no material increase in run-off rates at the site boundary. I note that Paragraph 165 of the Framework does not apply to the appeal scheme because it is not a 'major development' as defined by the Framework. However, Paragraph 163 does apply, and states, amongst other criteria, that development should ensure that flood risk is not increased elsewhere. It has not been adequately demonstrated that the proposal would comply with this.

### **Conclusion**

19. For the reasons above, I conclude that the appeal be dismissed.

*O S Woodward*

INSPECTOR