

PLANNING APPEAL DECISION

Lead Officer: John Groves – Head of Nuclear, Energy & Planning

To inform Members of a recent appeal decision in respect of a site at Mirehouse AFC, Seathwaite Avenue, Mirehouse, Whitehaven.

Recommendation: That the decision be noted in the context of the Council's Local Plan Policies and also in relation to performance monitoring.

Resource Implications: Nil

1.0 SUPPORTING INFORMATION

1.1 Planning permission to change the use of part of the first floor into a bar area at Mirehouse AFC was refused on 21 June 2012 for the following reason:-

"The proposed bar area represents an inappropriate use for this first floor space within the building, giving rise to significant adverse affects on the amenity of the nearby residential properties in terms of noise and general disturbance, particularly in the evening and at weekends when the occupiers of these houses could reasonably expect some peaceful enjoyment of their properties, contrary to Policies DEV 6, HSG 25 and EMP 5 of the adopted Copeland Local Plan 2001-2016."

1.2 A subsequent appeal against the decision has been ALLOWED.

1.3 The Inspector considers that the addition of a bar or socialising area would be by no means an uncommon provision for sports clubs and facilities as an ancillary part of a clubhouse's facilities even in residential areas. Whilst it is not yet clear whether the proposed change of use would harm the living conditions of nearby residents through noise and disturbance, he considers that a temporary permission, for one year from the date of implementation, would allow monitoring to take place with a view to a permanent permission being granted if no harm is subsequently shown.

Contact Officer: Simon Blacker –Planning Officer

Background Papers: A copy of the Inspector's decision letter is appended.



Appeal Decision

Site visit made on 27 June 2013

by **M Seaton BSc (Hons) Dip TP MRTPI**

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

Decision date: 16 October 2013



Appeal Ref: APP/Z0923/A/12/2188062

Mirehouse AFC, Seathwaite Avenue, Whitehaven, Cumbria, CA28 9SW

- 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 Michelle Simpson (Mirehouse AFC) against the decision of Copeland Borough Council.
- The application Ref 4/12/2201/0F1, dated 15 March 2012, was refused by notice dated 21 June 2012.
- The development proposed is described as: "want to put a bar into the lounge room in the changing facilities. Change of use of part of first floor into bar area".

Decision

1. The appeal is allowed and planning permission is granted for a change of use of part of the first floor into a bar area at Mirehouse AFC, Seathwaite Avenue, Whitehaven, Cumbria, CA28 9SW in accordance with the application Ref 4/12/2201/0F1 dated 15 March 2012, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The proposed change of use hereby permitted shall be for a temporary period of one year from the date of implementation. At the end of that period the use shall cease unless a further planning permission is granted by the Local Planning Authority.
 - 3) The use hereby permitted shall not be open to customers outside the following times: 19:00 – 23:00 Monday to Friday, 13:00 – 24:00 Saturday, and 12:00 – 22:00 on Sundays.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Drawing No. 2006.167.02.

Procedural Matters

2. I have removed the reference to 'Changing Rooms' in the appellant's description of the postal address as it is an unnecessary addition in this respect.
3. The description of the proposal differs between the planning application form, and the Council's decision notice. The Council has simplified the description of development into a more straight-forward format and whilst there is no evidence before me that the amended description of development has been consulted on and agreed, I am satisfied that the amended version presented by the Council would be an accurate reflection of what is proposed, and that no

party would be disadvantaged as a result. I am therefore determining the appeal on the basis of the following:

"change of use of part of the first floor into a bar area"

Main Issue

4. The main issue in this instance is the effect of the proposed development on the living conditions of neighbouring residential properties, having regard to noise and disturbance.

Reasons

5. The appeal site is located within a predominantly residential area. The existing changing rooms are located close to existing residential properties and on the edge of playing fields and possess a parking area to the side and rear of the premises, with access available from both the front and the rear of the building. There are other non-residential buildings in the vicinity including a fitness centre, and towards the northern end of the playing fields a clubhouse and changing rooms for St. Benedicts Rugby Union Football Club (RUFC).
6. The addition of a bar or socialising area would be by no means an uncommon provision for sports clubs and facilities as an ancillary part of a clubhouse's facilities even in residential areas, and with suitable controls such a use would often be acceptable in principle. However, concerns have been raised by some local residents over the potential impact on living conditions from the operation of the bar by virtue of noise, disturbance and anti-social behaviour. I have noted that the appellant has provided various re-assurances over the intended operation and management of the premises and I am also mindful that no concerns over the proposed change of use have been expressed by Cumbria Police, or objections received from the Council's own Pollution Control/Environmental Health team. Furthermore, whilst the Council has expressed reservations over whether or not the use could be adequately controlled, there does not appear to be any significant supporting evidence of harm put forward by the Council. However, I accept the fact that there is a degree of uncertainty and that in such circumstances, and as with many proposals of this nature, it is only over a period of time that a true picture can be obtained of the impact of a use on its surroundings.
7. I am satisfied that the design of the building itself would provide reasonable mitigation for noise given that the proposed velux windows to the bar area would be limited to the northern side of the building facing the playing fields. I have also noted the undertaking given by the appellant over the principal means of access to the bar being from the rear of the building. However, following consultation with the Council and the appellant, I have come to the conclusion that the proposed change of use should initially be granted only for a trial period in order that the effect on nearby residents can be properly monitored. Furthermore, I have proposed revised hours of opening of the premises with an earlier finish on Sunday-Friday evenings, being mindful of the predominantly residential environment where the premises are located. Records of disturbance, or the lack of it, or other concerns can therefore be kept and used when that period ends to assess whether a permanent change of use may be allowed following a further planning application to the Council.
8. In reaching my decision, I have taken into account the observation of both the appellant and third parties in respect of the operation of similar facilities at St.

Benedict's RUFC, although I have not been provided with any detailed information or context regarding either the operation or the history of these premises. I have therefore based my decision solely on the planning merits of the appeal proposal.

9. My conclusion on the main issue is that it is not yet clear whether the proposed change of use would harm the living conditions of nearby residents through noise or disturbance, but that a temporary permission would allow monitoring to take place with a view to a permanent permission if no harm is subsequently shown. Consequently, the proposed development would be in accordance with saved Policies DEV6, HSG25, and EMP5 of the Copeland Local Plan 2001-2016 (2006), which seek to ensure that development would not result in a significant loss of amenity to surrounding property.

Other Matters

10. Third parties have raised a number of concerns in respect of the impact of the proposed development, these including the impact on parking in the area, the current use of the building, and the devaluation of nearby property. In respect of the impact on parking, I have noted that there is a good sized car park available to support the operation of the bar, and in any event the surrounding streets appeared to have more than sufficient capacity for any additional parking requirements. Furthermore, I have also noted that the Highway Authority has not objected to the proposed development on highway grounds, and therefore the Council has not raised any specific issue within the decision on this basis.
11. Concern has also been raised that part of the building has been used by a local contractor for storage and work purposes. Whilst I did not observe any evidence in support of the use of the building in such a manner at the time of the visit, this would not in any event be an issue that would be germane to my assessment of the appeal proposals. It is also suggested that the proposed development would cause a reduction in property values in the area although I have not seen any convincing evidence that this would be the case. In any event, my consideration should be limited to the impact on living conditions, rather than any consequent effect on property values

Conditions

12. In the absence of suggested conditions from the Council, I have proposed a number of conditions which I have considered in the light of Circular 11/95. In the interest of proper planning, conditions relating to timeliness and the identification of plans would be necessary. Furthermore, and for the reasons relating to impact on living conditions as summarised in the main issue, conditions restricting the hours of operation and providing for a temporary period of consent only would also be required.

Conclusion

13. For these reasons, and having had regard to all other matters raised and the conditions listed, I conclude that the appeal should be allowed.

M Seaton

INSPECTOR