

Appeal Decision

Site visit made on 22 September 2016

by P Eggleton BSc(Hons) MRTPI

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

Decision date: 05 October 2016

Appeal Ref: APP/E2530/W/16/3153467

The Ermine Way, 71 Ermine Street, Ancaster, Lincolnshire NG32 3QJ

- 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 P Grey on behalf of Bickford Limited against the decision of South Kesteven District Council.
 - The application Ref S15/2506, dated 25 August 2015, was refused by notice dated 24 May 2016.
 - The development proposed is change of use of public house to two dwellings and erection of two dwellings to car park.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would support the principles of sustainable development; the effect on the living conditions of future residents with regard to the adequacy of the accommodation in relation to outlook, amenity space and privacy; the effect on the living conditions of neighbouring residents with regard to privacy; and the effect on highway safety.

Reasons

3. Although the description of development refers to two dwellings within the car park, the plans have been revised and they indicate the provision of a single detached dwelling. The proposal would therefore result in the provision of three residential properties and I have assessed it on that basis. The proposal would result in the loss of the potential of this building to be returned to a public house or other community use and the Council is concerned with regard to this loss and the impact of it on sustainability. Local residents have raised concerns with regard to the suitability of the proposed living accommodation, the effect on the neighbouring properties and the impact on highway safety. I have considered all of these matters.

Sustainability

4. The Core Strategy 2010 (CS) includes policies with regard to achieving sustainable development which rely, in part, on the identification of settlements where new development would support existing services. Policy SP2 identifies Ancaster as a Local Service Centre and offers support for proposals and
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- activities that protect, retain or enhance existing community assets. It advises that proposals that involve the loss of community facilities (including public houses) will not be supported and there will be a presumption against the change of use of existing retail, service and employment premises.
5. I find that the loss of the public house would conflict with CS Policy SP2. I find this to be consistent with section 3 and 8 of the *National Planning Policy Framework* which promotes the retention of public houses in villages and seeks to guard against the unnecessary loss of valued facilities and services. I therefore afford Policy SP2 full weight.
 6. Objective 7 of the Site Allocation and Policies Development Plan Document 2014 (DPD) seeks to retain and improve existing facilities. Section 5 refers to CS Policy SP2 and the Local Service Centres. It advises that the sustainability of these settlements could be undermined if services and facilities are lost or reduced. Consequently, the loss of shops and community facilities will not be supported unless there are alternative facilities (or they can be provided) to meet the local need at an equally accessible location.
 7. It is acknowledged within the DPD that there needs to be scope for changes of use where there is no longer a demand for the service or facility and it is no longer viable. Such proposals must be fully justified, demonstrating that all options for continued use have been fully explored and that retention would not be economically viable. They must also show that there is no reasonable prospect of the established use being retained, or resurrected, and that there is little evidence of public support for the retention of the facility.
 8. In the case of public houses, the supporting text explains that it must be demonstrated that all reasonable efforts have been made to sell or let (without restrictive covenant) the property as a public house and that it is not economically viable. The above requirements are reflected in DPD Policy SAP1.
 9. The appellant suggests that there are other facilities available and active in the village which would fulfil the role of the public house and satisfy the first part of the policy. I do not agree that the Sports and Social Club or Woodland Waters, although providing competition, offer the same facility as a public house. However, there is another public house within the village to the north. Residents suggest that this offers a different public house experience to the historic service offered by the Ermine Way. The supporting text to the policy does not appear to make such distinctions and as the other public house is open and in operation, it would appear to satisfy the first part of the policy.
 10. On reading the policy at face value, I agree that its second part, relating to the need to demonstrate that the use is no longer viable and there is no realistic prospect of the premise being re-used for alternative business or community facility uses, need not be triggered. Having satisfied one of the first two elements, the policy then requires that the proposal must also demonstrate that consideration has been given to the re-use of the premises for an alternative community business or facility and that effort has been made to try to secure such a re-use. Furthermore, consideration must also have been had for the potential impact closure may have on the village and its community, with regard to public use and support for both the existing and proposed use.

11. The supporting text to the policy sets out what it expects with regard to public support and other factors relevant to the final sections of the policy. Some support for the retention of the public house has been provided by a number of local residents and the Parish Council. The submissions do not demonstrate that the loss of the facility would have a significant impact on the current community or that there is overwhelming support for its retention. However, the supporting text at paragraph 5.1.6 suggests that it must be shown that there is little evidence of public support for the retention of the facility, which is not the case. There has been no support expressed for the proposed conversion.
12. The evidence from Brown & Co with regard to alternative uses, particularly given the range of facilities within the village, is compelling although it does not indicate that effort has been made to try to secure an alternative re-use. Local residents have argued that there is no reason why a successful public house could not be run from the property if it were operated in a way that was suited to the community needs. It is clear from an inspection of the building that it would be necessary to invest heavily in the premises before it could offer the type of services that local residents suggest would be in demand in the village.
13. Other than the statement from Brown & Co and the information in the planning statement, very limited marketing information has been provided and the evidence falls well short of what is anticipated by the second part of Policy SAP1. This is understandable given that the policy does not appear to require a demonstration that the facility is no longer viable in situations where there are other facilities in the same village. This has been accepted by the Council's officers both in this case and in a case referred to by the appellant, relating to the George and Dragon in Billingborough, which appears to have a number of similarities. Overall, I find that the proposal would satisfy the first part of DPD Policy SAP1 with regard to the existence of other facilities. Consideration has been given the alternative uses as part of these submissions but no evidence of efforts to secure them has been made. There has been some local support shown for the original use but it is limited.
14. I am not satisfied that the evidence fully addresses the third element of DPD Policy SAP1 but given the relatively limited support for the public house that has been demonstrated as part of this proposal, I find most of the policy requirements to be generally satisfied. I am mindful that the policy has been introduced and adopted after the publication of the CS and the *Framework*. Although the policy is directed at a full range of community services and facilities and is not specifically directed at public houses, it is clear from the supporting text that public houses were being considered when the policy was drafted.
15. I have concerns that the structure of the Policy SAP1 appears to accept the loss of public houses where there is other provision in a village. It includes a proviso that relates to the popularity of such a facility and a consideration of the impact on the community should it be lost but this does not refer back to the viability test. In practice, the impact on the community would clearly be difficult to assess if the premises had been closed or poorly run for an extended period. By circumventing the need for a viability test, I am not satisfied that the policy is consistent with the CS or the objectives of the *Framework*. The policy would also conflict with Objective 7 of the DPD unless it is the intention that any

settlement should have only one public house which I am not satisfied is the case.

16. This is a relatively large settlement and given the other services that have established and are being expanded or developed, it would appear to be at odds with the objectives of the development plan and the *Framework* not to support this existing, albeit closed, facility, particularly given its central and important position within the village. Given these circumstances, although Policy SAP1 forms part of the development plan, given the lack of consistency with the *Framework*, in accordance with paragraph 215, the weight I afford it is reduced.
17. The proposal would result in the provision of three new residential properties at the heart of the village. These would utilise the existing building and make effective use of the carpark to the rear. The new residents would help to support the remaining village facilities. The conversion and construction works would result in significant investment and maintain a building that makes a positive contribution to the character and appearance of the village. Given the status of this settlement, the site represents a relatively sustainable location for new housing development. The proposal therefore gains support from CS Policies H1 and SP1 in relation to housing provision and the spatial strategy. The support for the retained facilities also gains some support from Policy SP2. These are matters that provide considerable weight in favour of the proposal.
18. With regard to sustainability, there are clearly two conflicting elements. The proposal would result in an efficient and effective use of previously developed land in a sustainable location. This would provide economic, social and environmental benefits with regard to housing provision; investment in and maintenance of the building; and the support for facilities within the village. However, the loss of a facility goes some way to undermine the sustainability of this community, particularly when there is significant evidence of new housing development having taken place which is likely to increase the demand for services.
19. Overall, I find that although DPD SAP1 offers some support, this is outweighed by the conflict with CS Policy SP2. The acceptability of the principle of the development with regard to sustainability objectives is finely balanced but I find there to be greater weight against the proposal.

Living conditions and highway safety

20. The main element of the conversion would result in a six-bedroom house. This would have no private amenity space. Whilst I appreciate that the Council have no policy standards in this regard, this would result in extremely poor living conditions for residents of a property of this size. The kitchen/dining room would also have a relatively constrained outlook with windows facing the high boundary fence across the driveway. As the drive would serve pedestrian movements from the rear, there would be significant implications with regard to privacy.
21. The rear conversion would have some outside space accessed from the dining and sitting rooms although this would be of very limited size and would not be private. The outlook from the ground floor rooms would also be limited and privacy could not be secured. The bin collection point would be adjacent to the

small amenity area, immediately outside the sitting room window. Overall, neither of the units would be of a high quality but the development of a six-bedroom property without private amenity space would represent particularly poor design. The conversion element of the proposal would therefore conflict with the objectives of the *Framework* to achieve high quality homes, good quality design and a good standard of amenity for future occupants.

22. The detached house to the rear would have a relatively poor outlook from the rear facing ground floor rooms given the limited distance to the high garage walls and roofs close to the boundary. The rear first floor rooms would offer views towards the adjacent properties but this would not unacceptably reduce privacy in those houses or their gardens. Bedroom 1 would allow views over the garden boundary of 73 Ermine Street. Whilst the dwelling is a significant distance away, privacy would be reduced in the rear garden of that property. The plans show the first floor window about 6 metres from that boundary and I find such a relationship to be unacceptable and unnecessary.
23. Six parking spaces are proposed for the three units. I am satisfied that this would be sufficient to prevent unacceptable harm to highway safety as a result of any potential increase in on-street parking. Space P1 would not be a positive feature with regard to the appearance of the site overall. At least one of the spaces to the rear would need to serve the six-bedroom house at the front and access to it would decrease privacy levels within the middle unit.
24. Overall, although I appreciate that the site and buildings as currently laid out result in constraints with regard to development opportunities, I find the arrangements proposed, particularly with regard to the lack of private amenity space for such a large dwelling and the limited outlook and privacy of some of the main rooms, to represent poor design. These details do not support sustainable development and conflict with the design and amenity expectations of the *Framework*.

Other Matters

25. I have had regard to the information provided with regard to the George and Dragon conversion. The approach by the Council in that case and the views of the officers with regard to both cases, provide weight in favour of this proposal. I have had regard to the evidence with regard to the economic climate and trends within the pub industry. I have also fully taken into account all the views expressed by Brown & Co in their submission. I have also considered the condition of the property and the harm that results from its vacant state.

Conclusions

26. Whilst there is policy support for new housing, this is not intended to be at the expense of existing facilities. The loss of the public house, although not fully demonstrated, would not generally conflict with the requirements of DPD Policy SAP1 but it would conflict with CS Policy SP2. The shortcomings in relation to the quality of the proposed units and the resultant harm to the living conditions of future residents with regard to the adequacy of the amenity space in particular, weigh against the proposal. These matters ensure that the development cannot be considered as sustainable development with regard to the *Framework*.

27. Whilst I have found the principle of the change of use to be finely balanced, the shortcomings of the design and the impact on future and existing residents, provide further weight against the proposal. Overall, the proposal would conflict with the sustainability objectives of the development plan and those of the *Framework*. I have considered all the matters put forward by the appellant and the views of the Council's officers but they are insufficient to outweigh my concerns. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR