
Appeal Decision

Site visit made on 13 September 2016

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 14th October 2016

Appeal Ref: APP/R2520/W/16/3150763

The Penny Farthing, Station Road, Timberland, Lincolnshire LN4 3SA

- 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 and Mrs Robert Pickles against the decision of North Kesteven District Council.
 - The application Ref 16/0087/FUL, dated 20 January 2016, was refused by notice dated 13 April 2016.
 - The development proposed is change of use from public house to residential with 2 new houses in the car park.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Council's statement and decision notice refers to Policy LP15 of the emerging Submission Draft Central Lincolnshire Local Plan (CLLP) (April 2016). The CLLP has been submitted for examination. However, as I am not aware of specific objections that may have been made nor the outcome of any examination in terms of an Inspector's report, accordingly it is at a stage that significantly limits the weight I can give to it as a material consideration.

Main Issue

3. The main issue is whether or not it has been adequately demonstrated that reasonable efforts have been made to find a purchaser, tenant or operator willing to continue the business or a business of a similar value to the local community.

Reasons

4. The Penny Farthing public house is a two storey building located in the village of Timberland. Residential properties are located to the west, north east and south. The public house car park is located immediately to the north of the main public house building with access off Station Road.
 5. Saved Policy R3 of the North Kesteven Local Plan 2007 (LP) states that planning permission will be granted for proposals that will result in the loss of retail, social or community facilities that serve the local community only if there are adequate alternative facilities locally, equivalent facilities have been or are to be provided elsewhere in the area, or the existing use is not viable in the longer term. The supporting narrative in paragraph 6.15 to Saved Policy R3 of
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the LP advises that where application for the change of use of such premises as public houses are received, the applicant will normally be expected to demonstrate that the business is no longer economically viable (and cannot be expected to return to viability in the foreseeable future) and that reasonable efforts have been made to find a purchaser, tenant or operator willing to continue the business (or a business of a similar value to the local community) without success. From the evidence provided, the Council are not questioning whether the business in its current form is no longer economically viable but whether there have been reasonable efforts to market the premises.

6. I find this policy to be broadly consistent with Paragraph 28 of the National Planning Policy Framework (the Framework) which encourages planning policies and decisions to plan positively for local community facilities that support the rural economy and as appropriate, to guard against the unnecessary loss of valued facilities and services. The Framework also expressly refers to public houses as community facilities. Paragraph 70 of the Framework encourages planning policies and decisions to plan positively for the provision and shared use of local community facilities, such as public houses, that enhance the sustainability of communities and to guard against the unnecessary loss of valued facilities and services.
7. The proposal would involve the change of use of public house premises into two dwellings and the construction of two additional detached dwellings on the car park. Allowing the change of use would permanently remove the last remaining pub from the village that has recently lost its shop/post office. The appellants however take the position that the pub is not a valued community asset as demonstrated by the lack of use by locals which has led to the downturn in trade in the last few years. This they consider is also down to a number of factors including changes in the drinking and eating habits of the customers, legislation and the smoking ban law.
8. The premises are currently vacant and have been so since September 2014. I have noted the restricted size of the premises and of the available trading area, the currently limited passing trade, the comments about the investment by the appellants in the public house in recent years and the likelihood of further expenditure required to re-introduce a public house use. I am also mindful that the Framework place emphasis upon ensuring viability and deliverability of development. I have had regard to the range of evidence submitted by the appellants including the Public House Viability Test carried out using the guidance provided by CAMRA. This is supported by more general background information regarding the economic plight of licenced premises in recent years.
9. The appellants state that the premises have been marketed since 2012. However, from the representation received there appears to have been little awareness on the part of the local community of the invitation for future interest in the pub, some doubts raised about whether or not the pub has been continually marketed during the period and also that prospective purchasers attempts to view the pub have been thwarted. The appellants have stated that they have continually marketed the premises as a public house. At the time of site visit, however, I saw no publicity to that effect displayed at the premises. I have not been supplied with any evidence or marketing particulars to clarify in more detail what enquiries have been received, the date the property was viewed and comments made by prospective purchasers.

10. The appellants have also stated that to date they have received one offer and only two people have been shown around the premises. The one offer received was made by a local resident and turned down by the appellants as being too low. The local resident has stated that they are still willing to enter into negotiations to buy the pub and from the other representations received from the parish council and local residents there maybe interest from other parties. Given the level of support received articulated through the appeal and the current interest in purchasing the pub, I consider at this stage that there is still potential opportunity for a more locally-inspired initiative to emerge. Further opportunity may also arise following the registration of the pub as an Asset of Community Value (ACV).
11. Whilst I note the appellants have stated alternative commercial uses have been explored, I have not been provided with information about these uses and what alternative operating models have been considered to ensure a continuation of use in accordance with Paragraph 70 of the Framework.
12. I have had regard to the availability of a number of other public houses in the surrounding area. Each public house has a different character and function, and whilst alternatives are available nearby, spatial proximity is not in itself a necessarily reliable guide to the value placed on public houses by local communities, or of the particular contribution to local areas. It is evident from the considerable number of representations made that the public house is highly valued by local residents and is seen as a contribution to the vitality of the village. The strength of local opinion is further evidenced by the fact that the Penny Farthing was registered as an ACV in June 2015.
13. For all of these reasons, I consider that reasonable efforts have not been made to find a purchaser, tenant or operator willing to continue the business (or a business of a similar value to the local community) to fulfil the requirements of Saved Policy R3 of the LP. Further, in terms of the Framework, I am not satisfied that the loss of a facility clearly valued by the community can be concluded to be 'necessary'.
14. I therefore conclude that the proposed development would involve the loss of a valued community facility which would be harmful to the surrounding community. The development would therefore conflict with Saved Policy R3 of the LP that, amongst other things, seeks to protect the loss of community facilities unless alternative provision is made or the existing use is not viable in the longer term. In addition, it would conflict with paragraphs 28 and 70 of the Framework that seek to plan positively for local community facilities that support the rural economy, enhance the sustainability of communities and to guard against the unnecessary loss of valued facilities and services.

Conclusion

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

David Troy

INSPECTOR