
Appeal Decision

Site visit made on 26 October 2016

by B Bowker Mplan MRTPI

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

Decision date: 21 November 2016

Appeal Ref: APP/P0019/W/16/3154901

128 The Cherry Tree, West Street, Oldland Common, South Gloucestershire BS30 9QR

- 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 HB Property Ltd against the decision of South Gloucestershire Council.
 - The application Ref PK16/0173/F, dated 14 January 2016, was refused by notice dated 13 June 2016.
 - The development proposed is refurbishment of an existing public house and extension to the rear with conversion to residential use.
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Decision

1. The appeal is allowed and planning permission is granted for the refurbishment of an existing public house and extension to the rear with conversion to residential use, at 128 The Cherry Tree, West Street, Oldland Common, South Gloucestershire BS30 9QR, in accordance with the terms of the application Ref PK16/0173/F, dated 14 January 2016, subject to the conditions in the attached schedule

Main Issues

2. The main issues are:
 - Whether the loss of the public house is acceptable in the light of local policies dealing with the loss of community facilities; and,
 - The effect of the proposal on the living conditions of future occupants, with particular regard to external amenity space and the provision of public open space in the locality.

Reasons

Loss of community facility

3. The appeal site comprises a property known as 'The Cherry Tree' which up until September 2015 was in use as a public house. Residential properties are to the north and south of the site. St Annes School and Oldland Pre School are to the site's east with shops and services along the High Street to the west. Policy CS23 of the South Gloucestershire Local Plan Core Strategy (CS) states that community infrastructure, such as local pubs, will be retained unless it can be demonstrated that the use has ceased and there is no longer a demand; or the facility is no longer fit for purpose; and suitable alternative provision is
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available within easy walking distance to the required standard. Saved Policy RT11 of the South Gloucestershire Local Plan (SGLP) has similar aims to CS Policy CS23 insofar as it relates to this matter.

4. Paragraph 10.84 of Policy CS23 notes that an easy walking distance is approximately 800 meters along suitable routes. Whilst the policy does not specify what methods are acceptable to demonstrate that there is no longer a demand for the community use, it does note that a reasonable amount of time should have elapsed to allow the opportunity for the use to re-establish. The Council refer to Policy PSP 34 of the emerging South Gloucestershire Policy Sites and Places Plan (PSPP) which requires a two year continuous marketing exercise to demonstrate that the community use is no longer viable. However, as the PSPP is at an early stage with additional public consultation required, it could be subject to change. Such circumstances limit the weight I can afford the PSPP.
5. The property has been marketed since July 2015, utilising the services of specialist licensed, leisure and commercial sector surveyors. The marketing exercise involved the use of press advertising, feature articles, a prominent sales board at the site, local, regional and national licensed trade operators, retailers, investors and developers. The marketing activity resulted in nine viewings, three of which resulted in offers for alternative uses of the site. Whilst the Council consider that the site could continue to operate as a public house, no evidence or substantive reasoning is provided to justify this stance or challenge the appellant's marketing exercise.
6. When in use, the public house was awarded Kingswood Pub of the Year and was popular with local residents. In addition, the site has good access to the nearby railway path and to public transport. I also understand that previous management issues have harmfully affected the viability of the public house use. However, the marketing exercise undertaken by the appellant has provided an opportunity for new management to acquire the site. Based on the evidence before me, I have no reason to disagree with the duration or the type of marketing exercise undertaken. Furthermore, I note that two pubs and the Oldland Village Club, which has two licensed bars, are all within 800 metres of the site.
7. Taking the above into account, the proposal has demonstrated that there is no longer a demand to use the premises as a public house and that there is suitable alternative provision within a walkable distance of the site. Consequently, the proposal would not harm the vitality of the local community.
8. Therefore, I conclude that the loss of the public house is acceptable in the light of local policies dealing with the loss of community facilities. Consequently, the proposal would meet the requirements of CS Policy CS23 and saved Policy RT11 of the SGLP which require community infrastructure, such as local pubs, to be retained unless the use has ceased, there is no longer a demand for such a use, and suitable alternative provision is available within easy walking distance to the required standard.

Amenity and open space

9. Two of the seven apartments would be served by private courtyards with remaining future occupants reliant on a shared outdoor amenity area located in the site's north west corner. Whilst saved Policy H5 of the SGLP requires

proposals to provide adequate amenity space, it does not prescribe minimum space standards. Emerging PSPP Policy PSP 43 seeks to prescribe amenity space standards, but as outlined in my reasoning above, I can afford the PSPP limited weight only.

10. I note that the decisions referred to by the appellant involve similar proposals with similar amenity space provision to that proposed. I attach some weight to these decisions in favour of the appeal proposal. Moreover, a number of public open spaces are within the vicinity of the site, some of which I was able to reach safely and conveniently on foot via public footpaths and pedestrian crossings. I consider the availability of public open space in the immediate vicinity would go some way to ensure that future occupants would have sufficient access to outdoor amenity space.
11. Therefore I conclude that the proposal would not have a harmful effect on the living conditions of future occupants, with particular regard to external amenity space and the provision of public open space in the locality. Consequently, the proposal would meet the requirements of saved SGLP Policy H5 and paragraph 17 bullet point 4 of the Framework. Combined, these policies require development to provide a good standard of external amenity space for future occupants.

Other matters

12. I note that the Council cannot currently demonstrate a 5 year housing land supply. However, as I have identified no harm in relation to the main issues above, I have not had to consider this matter any further.
13. Owing to the lack of objection from the Highway Authority, the previous comings and goings at the site and use of an existing access, dismissing the appeal on the grounds of highway safety and the vehicular parking proposed would not be justified. Similarly, the effects of noise and pollution from vehicles parking and manoeuvring at the site would be modest in scale and therefore would not have a harmful effect on neighbouring living conditions.
14. Concerns are also raised regarding the proposals effect on the privacy of pupils at St Annes School, Oldland Pre School and surrounding neighbours, including adjacent properties at School Road. However, I agree with the Council that the angled window design and separation distances involved would ensure the proposal would not have a harmful effect on the privacy of pupils and nearby neighbours.

Conditions

15. The conditions in the accompanying schedule are based on those suggested by the Council. Where necessary, I have amended the wording of the conditions in the interests of precision and clarity in order to comply with advice given in the Planning Practice Guidance.
16. I have imposed a condition specifying the relevant drawings as this provides certainty. Condition requiring parking and turning areas and vehicular crossover adjustment works to be completed prior to the occupation of the apartments are included for highway safety purposes.
17. To limit disturbance to surrounding neighbours, the Council's suggested condition relating to demolition and construction times is included. A prior to

development condition relating to landscape details is necessary to protect the character and appearance of the area.

Conclusion

18. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed subject to the attached schedule of conditions.

B Bowker
INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ZEB928/-P/010 Rev A Site Location Plan, ZEB928/P/006 Existing Elevations, ZEB928/P/005 Existing Elevations, ZEB928/P/003 Existing First Floor Plan, ZEB928/P/002 Existing Ground Floor Plan, ZEB928-P-103REVD Proposed First Floor Plans, ZEB928-P-105REVC Proposed Elevations, ZEB928-P-106REVD Proposed Elevations, ZEB928-P-102REVD Proposed Ground Floor, ZEB928-P-012REVE Proposed Site Plan, ZEB928-P-104REVE Proposed Roof Plan.
- 3) The apartments shall not be occupied until the access and parking arrangements have been completed in accordance with the approved drawings and that space shall thereafter be kept available for the parking of vehicles.
- 4) The apartments shall not be occupied until details of cycle storage for each apartment have been submitted to and approved writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of the apartment to which the provision relates and shall thereafter be kept available for the storage of cycles.
- 5) The apartments hereby permitted shall not be occupied until the existing vehicle crossover has been adjusted to provide a dropped kerb only at the point of access to the development.
- 6) Prior to the commencement of development a scheme of landscaping, which shall include details of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection during the course of the development; proposed planting (and times of planting); boundary treatments and areas of hard surfacing shall be submitted to the Local Planning Authority for approval. Development shall be carried out in accordance with the agreed details.
- 7) Demolition or construction works shall take place only between 08.00 – 18.00 hours on Mondays to Fridays and 08.00 – 13.00 hours Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays. Demolition or construction works shall, for the purpose of clarification of this condition include: the use of any plant or machinery (mechanical or other), the carrying out of any maintenance/cleaning work on any plant or machinery deliveries to the site and the movement of vehicles within the curtilage of site.