
Appeal Decision

Site visit made on 15 November 2016

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 1 December 2016

Appeal Ref: APP/E0915/W/16/3153439

The Old Centurion, 1 Brampton Road, Walton, Cumbria CA8 2DH

- 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 Austen Davies against the decision of Carlisle City Council.
 - The application Ref 16/0167, dated 25 February 2016, was refused by notice dated 27 April 2016.
 - The development proposed is change of use of public house (A4 use) with first floor letting rooms and ancillary residential accommodation to cafeteria/restaurant (A3 use) with first floor ancillary residential accommodation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council's decision notice refers to the Carlisle District Local Plan for the period 2001-2016. That Plan no longer forms part of the development plan for the area, having been superseded by the Carlisle District Local Plan 2015-2030 (Local Plan) which was adopted by the Council on the 8 November 2016.

Main Issue

3. The main issue in the appeal is whether the proposal would result in the loss of a valued and valuable community facility.

Reasons

4. Local Plan Policy CM3 states that proposals which involve the loss of valued community facilities, such as public houses, which are of value to the community will only be permitted where it can be demonstrated that:
 1. *Its current use is no longer viable or there is adequate alternative provision in the locality to serve the local community;*
 2. *All options for their continuance have been fully explored, including any scope for alternative community uses; and*
 3. *Any asset listed on a Community Asset Register has satisfied the requirements under this obligation.*

The structure and wording of the policy indicate that all three clauses must be satisfied for a proposal to be in compliance with Policy CM3.

5. Policy CM3 is consistent with paragraph 28 of the National Planning Policy Framework (Framework), which states that local plans should promote the retention and development of local services and community facilities such as public houses in villages, and with the paragraph 70 requirement that planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs. The Written Ministerial Statement of January 2015 notes the important role that pubs play in local communities by providing local hubs that strengthen community relationships and encourage wider social interaction.
6. The strength of local objection to the proposal, and the concerns of many of the objectors as to the manner in which The Centurion was closed, together provide clear evidence that the public house is regarded as a valued community facility. This is also evidenced by the successful application, in 2013, to have the public house registered as an Asset of Community Value. Many of the local objections also confirm the value of the facility to the local community with these variously referring to it as:
 - the focal point and the 'heart and soul' of the local community;
 - an informal and warm setting for meeting friends and for social interaction;
 - a focus for team and other recreational activities; and
 - having been used as a venue for family and other celebrations, club socials and for a range of fund raising and other events.
7. As a valued community facility and one that, prior to its closure, provided considerable value to the local community in Walton, The Centurion is very much the type of local facility that Policy CM3 seeks to safeguard, even if it is not currently fulfilling those roles.
8. The appeal statement advises that, in early 2011, the appellant considered the public house no longer to be viable and sought to diversify the business. No information has been given as to what that diversification involved and very little time appears to have been allowed for assessing its effects since, by September of that year, the premises had closed and the licence had been surrendered. The appellant contends that the need to stop using the former guest rooms for health and safety reasons had a significant effect on the viability of the public house. However, on the evidence set out in the Council's Restriction Notice, the works required to render that accommodation safe for use were relatively modest in their scope. No efforts to carry out those works appear to have been made in the 2 years between the service of that notice and the closure of the public house.
9. Given his assertion that non-viability was the reason for closing the public house it is surprising that the appellant is unable to produce any accounts for the last few years of its operation or any other evidence as to any financial losses incurred. The absence of such information means that the appellant's claim can be regarded as little more than an unsubstantiated assertion. It also leaves me with no evidence to contradict the third party representations that, prior to its closure, the Centurion was a busy local pub and restaurant that was well used by locals and tourists alike. Hence, it has not been

demonstrated that the current use is no longer viable. Compliance with Clause 1 of Policy CM3 could, however, also be satisfied by evidence of adequate alternative provision in the locality to serve the local community.

10. There is no other public house in Walton and those in Brampton are too far away to be easily accessible to the local community. The policy does provide for consideration as to whether some other form of provision could meet the community needs that the public house formerly met or might be expected to meet. This need not be a like-for-like replacement but Policy CM3 does require that the alternative provision should be adequate to serve the local community; that test is consistent with the Framework requirement (paragraph 70) that consideration be given to whether the loss of a valued facility would reduce the community's ability to meet its day to day needs.
11. Existing alternative provision is very limited both in its scope and its capacity. The Village Hall is suitable for meetings and social events but its main hall is of a relatively small size to serve the community's needs. The Reading Room café is seemingly used by some villagers as a place to meet and chat but, again is of very small size and would provide very limited capacity for larger or more formal gatherings and events or for the range of recreational activities that might reasonably be expected to take place in a public house. Its limited opening hours (10.00 to 17.00 on 5 days of the week) would not meet the community's needs for social interaction, activities and events in the evening when the majority of those living in the village are likely to be free and to wish to participate in such activities.
12. The seasonal opening of Florries Café and Bunkhouse, and its location directly adjoining the Hadrian's Wall long distance path, suggest that it is targeted at the tourist market rather than at local users. Because of this, and due to its modest size, this outlet would also be unable to make a meaningful contribution to meeting the community's day to day needs for social interaction and recreation.
13. I saw on my site visit that the bar, bar furniture and fittings have all been removed from the main bar area of the appeal premises and that this area is now used as a main lounge and living space. In the appeal proposal this room is to be used as the main 'cafeteria lounge area' but no internal alterations are proposed. The appellant's Business Resume indicates that maximum use would be made of the existing sofas and soft chairs and that there would be very few tables and chairs of the type that might normally be found in a café or restaurant. The proposed cafeteria/restaurant would offer a limited menu, particularly in respect of hot food, and only soft drinks, teas and coffees would be served. Together with the 'country house' style furnishings proposed this would create a very different ambiance to that of a traditional village inn or public house.
14. The layout and style of the furniture proposed by the appellant would act as a significant constraint on the numbers and size of groups that could comfortably be accommodated and would not readily enable the use of the facility for the various games and other recreational activities normally provided by a village pub. The use of the premises as a café during the daytime would provide for no greater social interaction than is already provided for by the existing cafés and the limited additional opening hours on

weekdays would be unlikely to make any material difference in this respect. Extended opening is envisaged on Saturdays and Sundays. However, the likely increased emphasis on restaurant meals at these times would make for a relatively formal atmosphere that would not be conducive to the informal social interaction or larger gatherings and celebrations that would commonly take place in a public house. The proposal not to sell alcohol would also mean that many who might otherwise wish to use the facility for family or other celebrations would be unlikely to do so.

15. I accept that a café/restaurant is a community facility that could provide for social interaction. However, the relevant policy tests are whether the alternative provision would be adequate to meet the relevant needs and whether the proposal would result in a reduction in the community's ability to meet its needs for social interaction and recreation. In my judgement, the proposed use would make only a very limited contribution to meeting the community's needs and the permanent loss of the public house would have a significant adverse effect in terms of reducing the community's ability to meet its everyday needs in this regard. The proposal would, therefore, conflict with the first part of Policy CM3.
16. The appellant's contention that, together with the previous application for a Certificate of Lawfulness for use as a café/restaurant, the appeal proposal demonstrates his efforts to explore all options for the continuance of the public house is rejected. The evidence clearly shows that this proposal was formulated only after the appellant had made unauthorised changes to the use of the building and sought, retrospectively, to regularise those changes by means of a planning application and appeals against the Council's enforcement notices. Together with the demolition and building alterations that have been carried out these actions suggest that the appellant's efforts have largely been directed at securing an entirely different outcome.
17. CAMRA points to the Drovers Arms at Monkhill as an example of how a public house offering traditional pub food and drink can flourish and I observed that that public house appears to be a successful operation, notwithstanding its location in a much smaller settlement and a little way off the long distance path. Given that Walton is directly on the route of the Hadrian's Wall Way and that a large number (reportedly around 10,000) tourists pass through the village each year, there would seem to be a realistic opportunity for The Centurion to be reopened as a viable business which capitalises on that market and local demand from within Walton and other nearby communities.
18. At no time has the opportunity for continuance of the public house operation been explored since the building has never been placed on the market as a going concern. Rather, the appellant's actions, in surrendering the licence, carrying out demolition works, and removing the bar, kitchen facilities and all external signs of the building's authorised use, strongly suggest that he has never had any desire or intention to explore such an opportunity. Whilst Clause 2 of the policy makes reference to the scope for possible alternative community uses of the building, its primary requirement is that all options for the continuance of the existing community facility have been fully explored. That requirement has manifestly not been met in this case.

19. Clause 3 of Policy CM3 requires that the obligations placed upon the appellant by reason of the building's listing as an ACV should be met. In essence those obligations require only for the Council to be notified of any intention to dispose of the property and for that disposal to be deferred until the requirements in respect of the Community Right to Bid have been complied with. As no disposal has been carried out or planned no breach of that clause would occur. The community group that sought the ACV registration may not, as yet, have made any offer to acquire the building but that registration and the related obligations will remain in force until 2018.
20. For these reasons, I find that the proposal would result in the loss of a valued and valuable community facility and that it is contrary to Local Plan Policy CM3 and to its central objective of safeguarding such facilities. It would also conflict with the policies in paragraphs 28 and 70 of the Framework.

Other Matters

21. I note the appellant's comments about the Government's purpose in separating out Class A3 and A4 uses but do not consider that to be relevant to the central issue in the appeal. The subsequent changes to permitted development rights clearly demonstrate the Government's commitment to enabling the protection of community facilities such as public houses. I am not persuaded that the small risk of some noise and disturbance emanating from the public house use is a reason that the village should permanently be deprived of such an important community facility.
22. The appellant suggests that the proposed use would be little different to the situation that might occur if he were re-open the public house but refuse to sell alcohol is rather curious. However, I have no information to suggest that represents a realistic fallback position which can be given any weight. Neither can I give weight to the contention that the operation of a public house is extremely onerous when it is clear that a great many people successfully perform that role to their own benefit and that of the local community.

Conclusion

23. For the reasons set out above I conclude that the proposal would result in the loss of a valued and valuable community facility and would conflict with the relevant policies in the Local Plan and the Framework. No material considerations have been put forward that would justify a decision contrary to the provisions of the development plan and I, therefore, conclude that the appeal should fail.

Paul Singleton

INSPECTOR