
Appeal Decision

Hearing held on 16 November 2016

Site visit made on 16 November 2016

by Zoe Raygen Dip URP MRTPI

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

Decision date: 09 December 2016

Appeal Ref: APP/Y2003/W/16/3150479

27 A18 Trunk Road, Althorpe, Scunthorpe, Nth Lincs DN17 3HN

- 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 Martin Moat against the decision of North Lincolnshire Council.
 - The application Ref PA/2015/1499, dated 25 November 2015, was refused by notice dated 6 April 2016.
 - The development proposed is change of use from closed Public House to fully residential single dwelling C3.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Martin Moat against North Lincolnshire Council. This application is the subject of a separate Decision.

Background and Main Issue

3. A previous planning application to close the public sales area and dining room of 27 A18 Trunk Road (the Dolphin Public House) and use for personal use, including all gardens for private personal use was the subject of an appeal in 2014 (APP/Y2003/A/14/2215979). At that time the Inspector considered that insufficient evidence had been provided to enable a meaningful assessment of the pub's viability. Furthermore, options for the continuance of the operation of the pub had not been actively pursued or explored and it had not been proven that there was no longer a need for the building in any form of community use. Therefore the appeal was dismissed.
 4. The submitted plans show that the first floor of the property has been used for residential accommodation and this was not disputed at the hearing. I noted on my site visit that internal alterations had been carried out to the ground floor of the building, including the removal of the bar and seating to reflect the layout as indicated on the proposed ground floor plan 2015. Although new walls have been installed they have not been plastered. The appellant confirmed that the ground floor kitchen was currently being used as a kitchen even though the pub was no longer open. Reception room 2 had a seating area and there was a television on the wall. However, reception room 1 appeared to be more of a storage area. The Council confirmed at the hearing
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that planning permission was not required for internal alterations. My observations based on one moment in time are not sufficient to ascertain whether the proposed change of use has been implemented. Furthermore the Council has not stated that they consider the proposed change of use has occurred. I will determine the appeal on this basis.

5. The appellant submitted the application the subject of this appeal to try and overcome the previous lack of evidence identified in the previous appeal decision. As a result I consider that the main issues are:
 - i) Whether the proposed change of use would result in the permanent loss of a key local facility;
 - ii) Whether reasonable efforts have, or have not been made to maintain a viable business; and
 - iii) Whether the business has been marketed at the correct market value.

Reasons

Loss of key local facility

6. No 27 is a large detached building set in significant grounds. To the rear is a substantial detached garage. It is sited back from the A18 Trunk Road on the edge of the village of Althorpe. To the front boundary is a brick wall, a break in which provides vehicle access to the front parking area.
7. There was agreement within the statement of common ground that Policy CS22 of the North Lincolnshire Core Strategy 2011 (the Core Strategy) and saved Policy C2 of the North Lincolnshire Local Plan 2003 (the Local Plan) were relevant to the proposal. Policy CS22 resists the loss of community facilities, unless there is no longer a need for the building in any form of community uses, or there is an acceptable alternative means of meeting such a need. Policy C2 is permissive of proposals which would lead to the loss of key village services only where it can be demonstrated that these facilities are not economically viable and that options for their continuance have been fully explored and/or a replacement facility exists elsewhere in the local centre. I find these Policies to be broadly in accordance with paragraph 28 of the National Planning Policy Framework (the Framework) which requires that planning policies should support economic growth in rural areas and (amongst other things) promote the retention and development of local services and community facilities in villages such as public houses.
8. There was some dispute at the Hearing as to the value and importance of the public house to the local community. In this regard I note the appellants' contention that based on their personal experience, it was not well supported in terms of attendance, ultimately leading to its economic decline and closure; this in itself being self-evident of low community value.
9. The appellant submitted evidence of the level of usage by the local community of the pub in 2013 which indicated that in the previous 12 months only 14% of the population of the village had been to the pub. These figures were not disputed at the hearing. Nonetheless the local residents referred to their own experience of going to the pub and reported, poor service, unreliability of opening hours, poor food, not knowing when food would be served and an unwelcoming atmosphere. The appellant stated he had done all he could to

- make people welcome, advertised the opening and placed boards outside the property.
10. No 27, although closed, is the only public house within the village of Althorpe. I heard how the public valued the pub as a place to meet particularly for the older generation of the village and how it helped with social cohesion of the community within the rural area. A community group the Spirit of Althorpe Community Group (the SACG) has been established originally as a sub group of the Parish Council, and latterly as a separate unincorporated body following the original planning application for the change of use of No 27 to a dwelling. The group has 54 voting members and over 100 supporters out of a total of 314 people eligible to vote in Althorpe representing just over a third of the population of the village.
 11. Since the previous appeal No 27 has been designated as an Asset of Community Value (ACV), following an unsuccessful appeal by the appellant. The listing of a building as an ACV can be an indication of the value that the local community place on a property to further the social wellbeing or social interests of the local community. As a result of the listing two bids to buy the pub have been received from the SACG, both of which have been rejected by the appellant, but does, nevertheless demonstrate the commitment of the SACG. Keadby with Althorpe Parish Council also opposes the change of use and a significant number of objections were received to the planning application. I acknowledge that a substantial number of letters of support for the application were also received. However the majority of these were anonymous. The appellant has included a list of names of people within his statement who may or may not have submitted comments. As I have no certainty I can only give this support limited weight.
 12. Therefore, while I acknowledge the appellants' comments in respect of past attendance, for whatever reason, I also cannot disregard the substantial level of representations submitted from local residents and the Parish Council, together with the SACG opposing the proposed development and seeking to retain the public house.
 13. The village of Althorpe also has a village hall within which a number of events are held including quiz nights, village night and live bands. However it has limited space for about 70 people and has no outdoor space. Althorpe also has a Methodist Church but this continues to be used as a place of worship and therefore has little available communal space. There would also be no potential for the consumption of alcohol in either premise. These facilities would therefore not fully fulfil any need for a regular community meeting and socialising place for the village.
 14. The appellant refers to the Keadby and Althorpe Working Mans Club. Although this requires membership which may be a deterrent to some people, it is suggested that everyone is welcomed. The Club has also received a grant for £20,000 to improve its facilities. Furthermore, he refers to St Oswald Church Hall in Keadby as a potential alternative community facility. However I saw that both buildings were sited about 1 mile from Althorpe. The route from the village would be mainly along the main A18, such that for a significant number of its residents the two venues would not be within easy and convenient walking distance, particularly late at night. Given the distances to the nearest

other public houses and halls in the area, I am not convinced of the view held that the loss of No 27 to the community would be insignificant.

15. Allowing the change of use would permanently remove the last remaining pub within walking distance of Althorpe. Rural pubs are, however, important in terms of the social fabric of the community, a fact recognised by the Framework and they can also provide economic benefits to rural areas through the attraction of visitors. Taking into account that the retention of the pub has generated considerable support within the community and has been listed as an ACV, I consider that it can be deemed to be a key local facility. In arriving at this conclusion I am aware that the pub is presently closed and it cannot, therefore, be a current asset in practical terms, however, from the evidence before me I consider that it has been an asset in the past and has potential to be an asset in the future.
16. I am aware that the appellant is not obliged to sell the property. Nonetheless the SACG has stated that they are still willing to enter into negotiations to buy the pub. The SACG include in their submissions details of a community hub they would wish to run from the appeal premises, supported by a high number of local people. It would be run on a non-profit basis and they point to various examples of other communities that have created such hubs and a number of funding options available.
17. The appellant queries whether a group that only has £2800 in its funds over 2 years including £49 donation from local people could be considered a serious group capable of raising the money to purchase the pub. The SACG explained that they were considering a number of business models, but did not want to actively pursue these until a purchase price had been agreed. I also heard from the Ward Councillor who explained that there was an ongoing community fund of £170,000 per year due to the erection of a local wind farm. The fund still had 22 years to run. Mr Waltham representing the local MP also suggested that a community case worker would be available to give ongoing support.
18. The appellant points out that there is a café, village store/off licence and a separate village shop with a post office within the parish and therefore they would not be required in a community hub. However, I saw that the facilities the appellant refers to are located within the wider parish of Keadby with Althorpe and not within the village of Althorpe which has no such facilities. As a result the facilities the appellant refers to are not sited within a convenient walking distance of most of the residents of Althorpe. In comparison No 27 is sited within walking distance of Althorpe. I note that the speed limit on the trunk road has been reduced and pedestrian refuges installed to aid with crossing the road at the resident's request which would allow for safe access to No 27.
19. While I am aware that there is no guarantee that a community hub would be provided, given the level of support received articulated through the application and the current interest in purchasing the pub from a seemingly well organised body, I consider at this stage that there is still potential opportunity for a more locally-inspired initiative to emerge which would be supported by the Framework and Policy C2 of the Local Plan. It has not been proven therefore that there is no longer a need for the building in any form of community use.
20. I, therefore, conclude that the proposal would result in the permanent loss of a key local facility which would have a harmful effect on the social vitality of the

community. The proposal would, therefore, be contrary to Policy CS22 of the Core Strategy, saved Policy C2 of the Local Plan and paragraph 28 of the Framework.

Viability

21. The appellant has submitted a viability appraisal to demonstrate that the pub has not been viable since 2008. As trading accounts were not available for 2008 and 2009 then details of the supply of beer to the property were obtained. These were used to formulate reconstituted accounts, together with comparison with a similar main road food led public house operated by a hands on couple with at least five years experience in pub management. The figures show that such a business should generate a profit of £50,700 for the owners after servicing their overheads sufficient to provide a living wage.
22. The figures for 2008 show a profit of £30,200 with food takings accounting for about 55% of total income. By 2009 the business returns a loss of £21,550 with food takings reduced to 25% of total takings. The owner at this time declared himself bankrupt and the appellant suggests that this demonstrates the pub was not viable. However, the reason for the decline in sales and particularly food sales at this time is attributed by the SACG to the ill health of the owner which resulted in him being in a wheelchair. The owner declared himself bankrupt because of loans taken out through Punch Taverns.
23. It seems to me that after making a healthy profit in 2008 and, according to the SACG the pub having an excellent reputation that something significant must have happened to result in the rapid downturn of profits by 2009 to which I have been offered no other explanation than the ill health of the owner.
24. When the appellant purchased the property in 2011 it was derelict and had been empty for some time. It was his intention to convert the property to a family home but following requests from the community the pub reopened in December 2011, following an investment of about £140,000 by the appellant. I saw on site that this resulted in a wall for the front boundary, landscaping, hedging, a front patio area, laminated flooring, solar panels, smoke alarm and heating system. However, from my observations these alterations could be equally applied to a residential property. Indeed the way the gardens had been laid out and separated from the pub by a fence to the north would not be conducive to the successful operation of a public house and appeared residential in character.
25. The appellant also invested in cookers for the kitchen however these were not available when the pub first reopened. As a result food could not be served until sometime after its reopening. Furthermore, the appellant and the licensee both work full time and therefore were not able to be hands on operators during the day. Although originally open in the day, due to a lack of custom, opening hours were altered to 5-11pm within the week and Saturdays and all day on a Sunday when food was served.
26. The submitted details of trading profit and loss account for 2011/2012 show the pub made a loss during this time of £21,511. The appellant puts this down to the lack of custom from local people and the general decline of pubs nationally with continuing closures still at around 25 per week according to CAMRA (Campaign for Real Ale).

27. Irrespective of the precise reason for people not attending the pub, I am not convinced that the minimal opening hours operated by the appellant, together with the fact that food was only served on a Sunday would be a large incentive for people to visit the pub, especially as it had previously been food led. Furthermore, the comparison for viability is made with a road side food led pub, which the pub under the management of the appellant was not.
28. The business was effectively started from scratch and I consider it unlikely that it could turn a reasonable profit in a year. However, that does not mean that it would not be viable in the longer term. Although the appellant states a further loss was made in 2013 before the business was put into liquidation, no accounts have been provided for that period so it is not possible to assess any possible long term trends.
29. I note the appellant's reference to the previous history of the pub ownership. The pub was purchased by Punch Taverns after a successful operation of the business by the Moody family for 20 years. A year later a Hazel Thompson, residing at the pub declared herself bankrupt. While she may have been a tenant of the pub I have no evidence as to why she went bankrupt and what the operating circumstances were at that time. It is not, therefore, possible to draw any conclusions regarding viability on this basis.
30. It seems to me therefore that the public house has been successfully operated over lengthy periods of time, latterly as a food led business. I have not been persuaded by the limited accounts submitted, together with the restricted food offer made by the appellant, that the business could not be a commercial proposition in the future, particularly given its success in the past. Furthermore, the financial information relating to the Fair Maintainable Trade (FMT) from Punch Taverns indicates that they expect a reasonable profit could be achieved bearing in mind that the building also provides living accommodation.
31. Policy C2 states that the loss of key services will only be supported where it can be demonstrated that these facilities are not economically viable and that options for their continuance have been fully explored. In this regard I find from my own observations during my visit to the appeal site, that the building appears structurally sound and I have no evidence to the contrary.
32. That said, for public liability insurance and viability purposes I consider that any future operation of the public house would likely require some financial investment in refurbishment of the building to reinstate the bar and seating. However the cellar and its facilities were intact together with external access to the cellar. Overall however, the evidence before me does not lead me to conclude that the public house could not be viable in the future given appropriate financial investment together with an alternative business model and customer offer.
33. For the reasons above, I do not consider that it has been demonstrated that the public house business could not be economically viable. It would therefore be contrary to Policy C2 of the Local Plan.

Marketing

34. Following the closure of the Dolphin public house, the property was initially put on the market through CBRE for a price of £380,000 in August 2014. The

Council are concerned that this price was too high and appeared to be contrary to advice from the appellant's agent who suggested a marketing price of around £300,000. Nevertheless, the asking price of the property was reduced from £380,000 to £295,000 in March 2015 following little interest from the market. A total of three offers were received (a fourth was withdrawn) one from a private individual of £200,000 and two from SACG for £95,000 and £160,000 all of which were rejected with no discussion. The property continues to be marketed at the reduced price, although evidence from SACG shows that the website advertisement currently has No 27 priced at £350,000. The appellant has no explanation for this.

35. From my observations on site it was apparent that significant work would need to be carried out to ensure that the property was in an adequate condition to reopen as a public house. The cellar seemed fully equipped, together with smoke alarm and heating system. Nevertheless the bar and all associated equipment together with internal seating had been removed. The pub area would also require redecoration.
36. The appellant states the bar was removed following a visit from the Council's Food and Safety Officer when it was found to have wood worm. However, the letter from the Council dated 19 October 2012 states that the perished area of the bar required replacing. I saw the bar is being stored outside the premises and observed areas where it had perished but was not shown any obvious areas of woodworm.
37. Work would also be required to separate the first floor living accommodation from the pub. The state of the pub and lack of basic fixtures and fittings would, in my mind, be a deterrent to potential purchasers.
38. There was dispute at the hearing as to the cost of required works to the pub. SOCG estimated the works at about £65,000 whereas the Council's surveyor put the costs as a minimum of £50,000. The appellant suggested he could install a new bar for around £1500 -£2000 and supplied two quotes in this respect. I am aware though from my observations that more works would be required than a new bar.
39. SOCG made their estimate based on the findings of their appointed surveyor. It was confirmed at the hearing that the surveyor is related to a member of SOCG, however he is a member of a professional institution and therefore bound by a professional code of conduct. I therefore have no reason to doubt the contents of his report. The report also contains photographs taken at the time of the survey in September 2014. From my observations the photographs reflect the current state of the property apart from the installation of new kitchen cabinets.
40. While the estimate of the Council's surveyor is made on the basis of photographs of the interior only, the similarity of his estimate to that of the SOCG surveyor, together with my observations of the internal areas of the property leads me to conclude that an amount of £50,000 - £65,000 would not be an unreasonable amount to ensure that the pub was in a satisfactory condition to reopen.
41. Bearing the costs of refurbishment in mind the Council's professional agent considers that £125,000 - £150,000 would be a realistic value of the property. The SOA's surveyor puts the figure closer to £95,000. I am aware that the

latter valuation was made in 2014 and the Council's surveyor states that property values within North Lincolnshire have shown signs of improvement over the last two years. He also makes reference to other public houses within the areas that have sold in 2016 ranging from sale prices of between £100,000 and £240,000. One of these was a popular and successful pub in a central village location of a similar floor space as the Dolphin PH which sold for £240,000 with a guide price of £295,000. Another was sold as a going concern for £200,000 but had an asking price of £300,000. While I am not aware of whether these pubs are directly comparable to No 27, they do demonstrate that there is a considerable difference between asking price and sale price within the local area.

42. It was confirmed at the hearing that the Council's surveyor had only valued the property and not included the gardens to the side or the large area of open space to the rear which formed part of the site the CBRE had valued at £295,000. However, the Council confirmed that this land had limited development potential as it was outside the development boundary of the village of Althorpe as defined in the development limit. The Council surveyor suggested such land would be valued at about £10,000 per acre and this figure was not disputed. As the entire site is about 1.8 acres then this would add little to the overall value.
43. The Council's surveyor confirmed that he had used the floor space of 120m² as taken from the supplied plans and the records available at the Valuation Office Agency. The appellant stated that it was actually 90.2m² and therefore the survey having also been only undertaken from the exterior was of little value. However the Council's surveyor confirmed that the smaller floor space would make little difference to his valuation.
44. The appellant referred to a number of pubs in the surrounding area that are for sale including the Ironstone in Gunness (£275,000), The Jolly in Gunness (£275,000) Class 6 in Scunthorpe (£495,000) all of which are of a similar size to the Dolphin but with no land. Furthermore the smaller Dog and Gun at Owston Ferry is advertised at £220,000. However I cannot be sure that these pubs are in a similar condition as No 27 particularly with regard to its internal fixtures and fittings. Moreover, the evidence from the Council confirms that the marketing price has not been achieved on a number of surrounding pubs.
45. Drawing all the evidence together regarding the price therefore I am of the opinion that bearing in mind the level of work required to bring the building back to a standard to be opened as a pub then the marketing price has been too high. This is exacerbated by the current price of £350,000 which is being displayed on the website.
46. To conclude therefore, it has not been sufficiently demonstrated that the price which the property has been marketed at is realistic and appropriate. The proposal is therefore contrary to Policy C2 of the Local Plan.

Other matters

47. The appellant drew my attention to three appeal decisions in support of his case which he considers to have similar characteristics to the proposals before me now. The Inspector found in APP/Y5420/W/14/3001921 that the community had access to other surrounding pubs either by foot or a short bus ride away to meet their day to day needs. Furthermore, the Council did not

have any policy relating to the examination of future viability. In APP/V0728/W/15/3095240 the Inspector found that no local groups or organisations were willing to take over the enterprise as a community facility. In addition he found that the community had good access to other facilities for private parties and functions. Finally in APP/J3015/W/15/3133491 the Inspector also found that the local residents had convenient access to nearby public houses.

48. I am therefore satisfied that there are sufficient differences between the three appeal decisions and the proposal before me to enable me to reach a different conclusion.
49. The appellant also refers to a plot of land, 6 acres in size, for sale nearby for £1.5 million. He therefore considered it reasonable that his site should be on the market for £295,000. However, the sale of a pub and a plot of land are not directly comparable.
50. My attention was also drawn to the demolition of the Desert Rat public house to facilitate the erection of 22 houses where the nearest public house for the community would be about 1 mile away, a similar situation to No 27. However, the Council advised that when considering that application the significant urban regeneration benefits of the scheme outweighed the limited harm. Moreover the scheme included a replacement community facility. In any case I have determined the appeal based on its own merits.

Overall Planning Balance and Conclusion

51. I have found that No 27 can be deemed to be a key local facility as a public house. I have also found that whilst the marketing exercise has been extensive, it has not been demonstrated that the property has been marketed at a realistic price. Furthermore, I do not consider that, it has been clearly demonstrated that the pub cannot become a viable business in the future. Consequently, there is direct conflict with Policies CS22 of the Core Strategy, Policy C2 of the Local Plan and paragraph 28 of the Framework. Whilst the proposal would have some benefit in terms of providing residential accommodation that would not be tied to the public house, this limited benefit would not outweigh the significant harm which I have identified. For the reasons stated above and taking into account all other considerations I, therefore, dismiss the appeal.

Zoe Raygen

PLANNING INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Moat	Appellant
Julie Maycock	Appellant's friend
Stella Harrison	Licensee
Andrew Jones	Appellant's friend

FOR THE LOCAL PLANNING AUTHORITY:

James Roberts	Senior Planning Officer
Steve Bratten	Senior Surveyor District Valuers Office

INTERESTED THIRD PARTIES

Karl Fenney	Spirit of Althorpe Community Group
Patrick Hornsby	Spirit of Althorpe Community Group
Hilary Hornsby	Spirit of Althorpe Community Group
Graham Busby	Spirit of Althorpe Community Group
Lisa Murray	Spirit of Althorpe Community Group
Frank Kirk	Spirit of Althorpe Community Group
Ian Murray	Spirit of Althorpe Community Group
Councillor Briggs	Ward Councillor Axholme North
Mr Rob Waltham	Representing Andrew Percy MP

DOCUMENTS

- 1 – Council letter advising interested parties of hearing dated 24 October 2016.
- 2 – Appellant's response to Council and Spirit of Althorpe Community Group comments and valuation report
- 3 – Spirit of Althorpe Community Group response to appellant's viability report

DOCUMENTS SUBMITTED AFTER THE HEARING

- 1- Copy of extract from Local Plan showing development boundary of Althorpe
- 2- Plan showing location of 6 acres of land for sale