The Planning Inspectorate

Appeal Decision

Site visit made on 24 January 2017

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 01 March 2017

Appeal Ref: APP/X0415/W/16/3160984
Former Rose and Crown P.H., Cholesbury Lane, Hawridge, Chesham, BUCKS HP5 2UG

- 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 Stone against the decision of Chiltern District Council.
- The application Ref CH/2015/2208/FA, dated 18 November 2015, was refused by notice dated 16 September 2016.
- The development proposed is demolition of the Rose and Crown public house and re-development of the site to provide four dwellings with associated hardstanding, access and landscaping.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application as originally submitted to the Council proposed the erection of six dwellings on the site. However, it was amended prior to determination by the Council. The description of development set out above, reflects the amended scheme and is the description given on the Council's decision notice as reflected on the appellant's appeal form.

3. The appellant has submitted a signed and dated unilateral undertaking which commits to making various improvement works to the local primary school. This issue is considered later in my decision.

Main Issues

4. The main issues are:

   - Whether the proposal would be inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) and development plan policy;
   - The effect of the development on the character and appearance of the area and whether it would conserve and enhance the natural beauty of the Chilterns Area of Outstanding Natural Beauty (AONB);
   - The significance of the loss of the former public house in terms of its potential re-use as a community facility.

- If the development is inappropriate, whether the harm to the Green Belt by way of inappropriateness, and any other harm, would be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the development.

Reasons

Inappropriateness

5. The Framework establishes that new buildings within the Green Belt are inappropriate unless amongst other things it involves the limited infilling or partial or complete re-development of a previously developed site which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.

6. Saved Policy GB2 of the Chiltern District Local Plan 1997 (LP) sets out various criteria for determining whether development within the Green Belt would not be inappropriate. The various tests do not refer to the scenario of re-developing a previously developed site and the requirement, in so doing, of avoiding a greater impact on the openness of the Green Belt. This test, as set out in the Framework is germane to the appeal proposal. Accordingly, Saved Policy GB2 is not in keeping with the approach in the more up to date Framework to which I must give greater weight.

7. In terms of existing development, the site is broadly rectangular and comprises the disused public house with relatively extensive hardstanding areas to either side that would have been utilised for car parking in connection with the former use. From the information provided, it is undisputed by the parties that the floorspace of the proposed dwellings would markedly exceed that of the existing building, with an increase in excess of a third of the existing area. Furthermore the dwellings would be more than 1 metre taller.

8. The appellant, however, argues that it is important to take into account the existing hardstanding areas of the site which would be removed, when assessing the overall impact on the openness of the Green Belt. Whilst I acknowledge that car parking within the hardstanding areas of the site could be deemed to have some impact on openness, the occupation of these spaces with vehicles would be very transient in nature. Indeed, as a pub or other community facility, there may be significant periods of the day when the car park areas were free or substantially free of vehicles.

9. In addition, the limited height / volume of parked cars, means that they would appear less prominent in comparison to the tall and imposing form of the permanent built development that is proposed. I am also mindful that the Framework (paragraph 90) regards engineering operations, which would include car parking areas, as not inappropriate within the Green Belt provided they preserve openness and do not conflict with the purposes of including land there.

10. Drawing the above considerations together, removing the existing expanse of hardstanding within the site would, in my view, make an insignificant contribution to the openness of the Green Belt. Accordingly, the relative size of the existing and proposed buildings mean that the proposal would result in harm to the openness of the Green Belt in spatial terms. Whilst the proposed dwellings would be set further back into the site than the existing building, they

would nevertheless remain very prominent and would increase the presence of built development over a wider part of the site. I do not therefore concur with the appellant that the development would mitigate the impact on the openness of the Green Belt in visual terms. The proposal would therefore be inappropriate development which is, by definition, harmful to the Green Belt. In this regard it would be in conflict with the Framework and with Policy GB2 of the LP.

Character and Appearance

11. The site lies at the eastern end of Hawridge, a small hamlet, which comprises a relatively dispersed and informal arrangement of dwellings along Cholesbury Lane. The houses are generally large, vary in terms of architecture and are set back from the highway in spacious and well planted grounds. The maturity of planting is very effective at assimilating built development into the surrounding landscape. That mature landscaped setting more readily defines the character of the village than the built form itself, which accordingly tends to have a recessive quality.

12. The appeal site is next to the property known as The Laurels to the west, however beyond this there is a sizable distance to the next residential property along Cholesbury Lane. The proposed dwellings would comprise two pairs of semi-detached cottages which would be set back but prominent in relation to Cholesbury Lane. The dwellings would be aligned and would mirror one another in terms of appearance. Although the proposed development would be relatively limited in scale, it would result in a uniformity and symmetry of development, more suburban in character and at odds with the informal, recessive layout and individual design of dwellings in the wider area.

13. I conclude that in this respect the proposal would result in harm, albeit limited, to the character of the surrounding area and would fail to conserve and enhance the natural beauty of the AONB. It would therefore be in conflict with Policies GC1 and LSQ1 of the LP; Policy CS20 and CS22 of the Core Strategy for Chiltern District 2011 (CS) and the Framework which seek to secure a high standard of design and for development to conserve and enhance the special landscape character.

14. The Council has raised concern in terms of the loss of the public house as a non-designated heritage asset. It seems to me that the significance of the building lies in its simple form and appearance and its siting immediately adjacent to the highway. Notwithstanding this, I am not persuaded on the basis of the information provided that a compelling case has been made for the retention of the building purely based on its heritage value.

Loss of community facility

15. The Council seeks to retain strict control over the loss of community facilities. Saved Policy GB24 of the LP states that the Council will not allow the re-development of land last used for community purposes unless, amongst other things, it can be demonstrated that the facility is no longer required for any other community use in the area. Policy CS29 of the CS states that the Council will only permit the loss of community facilities in exceptional circumstances. These policies are consistent with the Framework, insofar as they seek to promote the retention of local services and community facilities in rural areas.

16. The appellant has made the point that the area does not have a defined community which could be served by the site. However, it was apparent from the public consultation exercise that there was significant support from the local community to retain the building as a public house, with a local resident bidding to purchase the site with a view to resurrecting its previous use. I understand that the purchase offer was reduced, in light of the anticipated cost of bringing the building back into operation, but that this was ultimately rejected by the landowner.

17. There is a dispute between the parties as to the level of investment that would reasonably be required to restore the business as a public house which, in the appellant's view has been considerably underestimated by the Council, partly on the basis that it has failed to recognise the distinction between simply re-opening the business and re-opening it successfully. There is further dispute between the main parties with regard to the potential turnover that could be achieved, even if the business were to reopen.

18. Notwithstanding this, whilst the statutory declaration, including accounts, provided by the last tenants of the public house prior to its closure, show the business to have been making a loss, this was in the context amongst other things of substantial and increasing rental commitments. Had the site been sold to the local resident and the public house use resurrected, it is unclear from the information before me as to what, if any, rental arrangements would have been put in place. It seems to me that this is a key variable that could significantly influence the future viability of a business. Drawing together the various conflicting evidence provided, even if only pre-closure turnover levels could be achieved I am not persuaded that a compelling case has been made that the appeal site could not be resurrected as a successful community use.

19. In coming to my decision, I have had regard to the recent appeal decisions relating to the site of the White Lion in St. Leonards[1]. The Inspector in that case found that even if the site could not be viably run as a public house such that an exception to policies seeking retention was warranted, saved policy GB24 also requires demonstration that the facility is no longer required for any other community use. No evidence was brought forward by the appellant in that case to demonstrate that the building was not required and it was found to be insufficient to rely on no particular shortfall in facilities being identified by the Council or other community group to satisfy the policy requirement.

20. Similarly in this case, despite referring to research undertaken into the possibility of future community use, the appellant has not set out the detail of this research including evidence that the building is not required, whilst citing that no suggestions have been forthcoming from the local community. I see no reason to take a different approach from my colleague in this regard, even if the viability of the future use of the site as a public house were in doubt.

21. Despite the continued operation of an alternative public house, The Full Moon, at the opposite end of Hawridge, this is some distance from the appeal site. Although there are few residents living in very close proximity to the site, the proposal would remove a potential community facility in a relatively remote area and in relation to which a robust case for the loss of such a facility has not been presented. In terms of sustainable travel, if the community use of the site could be restored, its rural location would be likely to mean a reliance on

[1] APP/X0415/C/15/3130705 & 3131920

private transport to get there. However I am not persuaded that this would be any worse than when the site was previously in use as a public house. I therefore conclude for the above reasons that the proposal would result in the unjustified loss of a community facility which would be in conflict with Policies GB24 of the LP, CS29 of the CS and the Framework.

22. The Council has raised concern that the proposal would result in the loss of an employment site. However I am not persuaded, on the basis of the information before me, that the relatively small scale of the proposal would prejudice the Council's objective of securing a long term portfolio of employment sites. Accordingly there would be no conflict with Policy CS16 of the CS in this regard.

Other considerations

23. I have found that the appeal scheme would comprise inappropriate development in the Green Belt. Such development should not be approved except in very special circumstances, which will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

24. The appellant has submitted a unilateral undertaking which commits to various works in connection with the Hawridge and Cholesbury Church of England School Internal Reconfiguration Project.

25. Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010 states that a planning obligation may only constitute a reason for granting planning permission for the development where it meets three tests. The tests, which are restated in paragraph 204 of the Framework are as follows:

- Necessary to make the development acceptable in planning terms;
- Directly related to the development; and
- Fairly and reasonably related in scale and kind to the development.

26. This gives rise to a number of concerns. Whilst residential development places increased pressure on education resources, the impact and therefore cost arising from this specific proposal has not been quantified in this case.

27. Given the small number of units proposed, the number of additional children requiring a school place as a result of this project is also likely to be very small. There has been no suggestion that there would be insufficient capacity within the local school to meet that need or that the need for the proposed works arises as a direct impact of the proposal.

28. Accordingly there is a lack of evidence that the works proposed would be directly related and proportionate to the proposed development. Therefore the various tests in the CIL regulations and Framework would not be met and the requirement for a planning obligation in relation to an education contribution would be unreasonable in this case. As such, I am unable to take its provisions into account. In any event, even if they were justified and the tests were met, the provision secured would not be a benefit of the appeal scheme. Rather it would mitigate harm. As such, it would not carry any positive weight in the overall balance.

29. I acknowledge that the proposal would add to the supply of dwellings in the locality in a time of housing need. However the number of additional units would be very small and I therefore give limited weight to this consideration.

30. The appellant has offered to set aside some of the land within the site as a nature improvement area. However this has not met with a positive response from the Council and Parish Council who consider there to be no need for such provision given the surrounding area is already rich in biodiversity. This was also apparent from my site visit and I consider that such provision would attract very limited positive weight. Similarly, in terms of proposed improvements to the footpath running through the site, I am not convinced from the information before me that this would attract more than very limited positive weight.

Overall Planning Balance and Conclusion

31. The Government attaches great importance to the protection of the Green Belt. For very special circumstances to exist, the harm to the Green Belt, and any other harm, must be clearly outweighed.

32. The scheme proposed would be inappropriate development which is, by definition, harmful to the Green Belt. Paragraph 88 of the Framework indicates that substantial weight should be given to any harm to the Green Belt. To be added to that harm is the harm to the character and appearance of the area and to the AONB and the loss of a community facility. Although the scheme would provide four dwellings at a time of need, the Government's Planning Practice Guidance advises that unmet housing need is unlikely to outweigh the harm to the Green Belt, and other harm, to constitute the very special circumstances justifying inappropriate development on a site within the Green Belt[2]. I have no reason to take a different approach in this case. To conclude, I consider that the factors in favour of the proposal fall well short of outweighing the identified harm in this case. As a consequence, the very special circumstances necessary to justify this development do not exist and thus, for the reasons given above, the appeal does not succeed.

Roy Merrett

INSPECTOR

[2] ID: 3-034-20141006