The Planning Inspectorate

Appeal Decision

Site visit made on 20 March 2017

by David Richards BSocSci DipTP MRTPI

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

Decision date: 20 April 2017

Appeal Ref: APP/Q3305/W/16/3166097
Full Moon Inn, Lower Rudge, Frome, BA11 2QF

- 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 DTSJ Developments Ltd against the decision of Mendip District Council.
- The application Ref 2016/0180/FUL, dated 21 January 2016, was refused by notice dated 29 June 2016.
- The development proposed is change of use and alteration of self-catering holiday accommodation units and swimming pool to create 7 dwellinghouses (Class C3) and formation of a new access to the highway.

Decision

1. The appeal is allowed and planning permission is granted for change of use and alteration of self-catering holiday accommodation units and swimming pool to create 7 dwellinghouses (Class C3) and formation of a new access to the highway at the Full Moon Inn, Lower Rudge, Frome, BA11 2QF in accordance with the terms of the application, Ref 2016/0180/FUL, dated 21 January 2016, subject to the conditions set out in the attached schedule.

Main Issues

2. Before the application was determined by the local planning authority, a revised plan reducing the number of proposed accesses from two to one was accepted by the Council. I have amended the description of development used in the application form accordingly.

3. The main issues are the effect of the proposal on the pattern of development in Frome, having regard to the settlement hierarchy set out in the Development Plan, and the effect on the viability of the Full Moon Inn.

Planning Policy

4. The Local Plan (LP) is the Mendip District Local Plan Part 1: Strategy and Policies 2006 2019 (adopted 15 December 2014). Policy CP1 establishes a settlement hierarchy which directs growth to identified main settlements, primary and secondary settlements. Policy CP2 sets out the quantity of new housing required to meet the future needs of the District, most of which is directed to the main towns and villages. Policy CP4 allows for business expansion and diversification to sustain rural settlements, and the development of community infrastructure. The policy indicates that community and commercial premises will be safeguarded and Policy DP17 resists the loss of

community facilities, including pubs, unless there is no likelihood of a viable community use. It requires applicants to show evidence of efforts to improve viability, and to make the premises available for an alternative community use before any loss will be accepted on viability grounds.

5. Policy DP9 of the LP seeks to ensure that development proposals have the best possible accessibility by a choice of means of transport, that access arrangements are safe, and will not cause traffic problems. This reflects the Framework core planning principle of actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling, and focusing significant development in locations which are or can be made sustainable.

6. Paragraph 55 of the Framework advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities. *Isolated* (my italics) homes in the countryside should be avoided unless there are special circumstances which include where such development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets, and where the development would use redundant or disused buildings and lead to an enhancement of the immediate setting.

Reasons

7. The Full Moon Inn is a village pub business, currently trading in administration. It is a Grade II listed building and has been registered by the Council as an Asset of Community Value. The planning application relates to a group of three buildings to the south of the public house and car park. They are divided into 4 self-contained holiday letting units, housed in two buildings, with a third centrally located building which houses a swimming pool. Planning permission was granted for the construction of these buildings in March 2002 to provide additional ancillary letting accommodation to support the economic viability of the business. In September 2008 the Council approved the formation of two further holiday lets in the roof space above the swimming pool. That development was not implemented and the permission has now expired. Land to the east and west of the application site is open, rural land. Residential development in linear from extends along Rudge Hill, to the north of the site.

8. The planning application sought permission to change the use of the holiday lets to housing, including physical changes necessary to form 7 dwellings and make them suitable for permanent residential accommodation.

<u>Effect on the settlement pattern in Mendip District</u>

9. Rudge is a small linear settlement. It has few community facilities, the Full Moon Inn being of key importance in this respect. It is some distance from the nearest town or large village, and there is no regular public transport connecting it with the larger settlements in the vicinity where a variety of services and facilities can be accessed. The Appellant accepts that occupiers of the proposed dwellings would be dependant to a large extent on the use of the private car for employment and access to services.

10. The LP was adopted in 2014 and there is nothing in the evidence to suggest that anything short of full weight should be given to its policies. The settlement strategy guiding future development is set out in Policies CP1 and

CP2, from which it is clear that Rudge is not amongst those settlements identified as suitable for housing development. It is not a location that would satisfy the requirements of DP9 insofar as it seeks to ensure that development is located where it would have the best possible accessibility by a choice of means of transport.

11. Planning permission for the accommodation provided on the appeal site was originally granted to support the viability of the Full Moon Inn as a tourist enterprise and a boost to local economic activity. It is unlikely that permission for residential dwellings would have been granted at the time, for the same reasons that apply now, but diversification of an existing business was encouraged by policy at that time. That remains the case now under the provisions of Policy CP4.

12. The starting point for the determination of the appeal is Section 38(6) of the Town and Country Planning Act 1990 which requires that planning applications and appeals should be determined in accordance with the development plan unless material considerations indicate otherwise. While acknowledging the fact that the policies and provisions of a development plan may pull in different directions, reading the plan as a whole I conclude that the development would be in conflict with it, insofar as the plan does not identify a need for or encourage general market housing for sale in small settlements such as Rudge.

Effect on the viability of the Full Moon Inn

13. The Appellant states that the Full Moon Inn is in a financially critical condition as a result of which it is trading in administration. The objective of the official receiver is to turn the business around on behalf of the principal lender. In doing so they seek to retain the pub's presence in the village and safeguard the listed building it occupies. The reason stated for the financial problems is that the business is servicing a significant mortgage debt, in part because of borrowing associated with the construction of the holiday lets. The holiday lets have not performed well and place a substantial financial burden on cash flow. The Appellant argues that if this appeal is successful, the capital value generated by releasing the holiday lets for development will reduce the mortgage burden and improve financial viability of the core pub business, leaving it free to refocus on the pub, its food offer and a smaller number of retained letting rooms within the Inn.

14. In response, an operational assessment was carried out on behalf of Beckington Parish Council in February 2017, which the local planning authority has adopted as part of its case. In summary, the assessment finds that the location of the Full Moon Inn between Bath and Longleat attracts the tourist market, while its relative close proximity to local business parks has, in the past, made it popular as an accommodation choice for mid-week business persons visiting the area. It also has a range of facilities, including an 80 seat function room, to meet the demands of weddings, events and functions, which if marketed effectively would provide strong revenue support for the business. Other Inns in the area have expanded their accommodation in recent years, including a proposal for an additional 8 rooms at the Bell at Standerwick.

15. The assessment indicates that room costs typically equate to 15% - 25% of revenue, with approximately 80% as profit. This contrasts with food and beverage (F & B) costs equating to 50% - 60% of revenues, with approximately 45% as profit. Using the revenue figures given by the sales

agents and applying basic industry standard calculations, the greatest generation of profit potential at the Full Moon Inn is considered to be the letting accommodation now proposed for residential development, rather than the 5 rooms within the pub itself or the F & B operation. On this analysis the rooms now proposed for development generate almost 50% of the total profit of this business. The loss of these rooms and their associated profit generation, and also the significant consequent fall in F & B sales and profits, due to reduced levels of guests staying at the Inn would effectively weaken the business case in respect of financial viability for the pub as a stand-alone concern.

16. The assessment goes on to argue that revenue potential has been further undermined under administration management with room bookings, opening hours and food availability all seriously curtailed, and the significant costs of administration. The current marketing profile indicates that little serious attention has been given to the potential for increasing revenues by a vigorous targeted marketing campaign. In particular the swimming pool has been closed, the self-catering and disabled access accommodation has been withdrawn from bookings and the website has not been updated to include weddings and functions.

17. The administrators entered into an option agreement with the Appellants to pursue the current proposal for the development of the accommodation. The pub was remarketed at £452,000 and subsequently reduced to £395,000 without the benefit of the 4 holiday cottages/13 additional rooms and the indoor swimming pool. It remains unsold on this basis.

18. As regards marketing, the Parish Council submissions state that an offer of the full asking price for the business as a whole (£750,000) was received by the selling agents but not accepted. The Appellant disputes this, stating that 'the pub has been fully marketed by Colliers, with the business as a whole offered for sale in May 2014 (during Santander's control) and then the pub only in June 2015 (under Horizon). No acceptable deliverable offers were made and neither Colliers, nor the Administrators, have any record of a full asking price offer.' In the absence of any documentary support for the PCs position I cannot give any weight to this assertion.

19. I acknowledge that the accommodation appears to have been operated successfully for a number of years in support of the overall business before the business was sold to new owners who had no previous experience in the hotel business. The high level of debt servicing on the mortgage would certainly have impacted on the profitability of the business.

20. The PC assessment suggests that the debt burden would have been considerably reduced when Santander's interests were transferred to the administrators and that the business as a whole could now be made viable with vigorous marketing and promotion. It is argued that the accommodation provides 50% of the profit for the business. While I appreciate that the profit ratios attributed by the PC to the various parts of the business are based on industry standards, much of the analysis is conjectural, and no factual evidence relevant to the particular circumstances of the case has been provided to contradict the Appellant's assessment of viability.

21. The Appellant states that the accommodation in the three buildings now proposed for conversion do not make any contribution to the profits of the

business but rather are a considerable drain on finances. The Appellant's assessment of business viability show that the letting rooms are running at just below 40% occupancy December 2014 to January 2016, resulting in a loss of £60,000 per annum on this element of the business. Room occupancy would have to be in the region of 65 – 70% every week of the year in order to hit break even. This level of occupancy was only reached once in 14 months, during August 2015.

22. While some of the costs element attributable to the accommodation could reasonably be omitted from the Appellant's assessment (for example the swimming pool is closed, and therefore maintenance and staffing costs could be omitted from the assessment) I accept the evidence that fixed costs are high, and that with occupancy at 40% or thereabouts, the contribution of the rooms to the viability of the business is at present negative. Even with a significant improvement in occupancy it is unlikely to my mind that they would make anything more than a neutral contribution to overall viability.

23. I am mindful that since the business has been in administration, opening hours have been considerably reduced and the potential of the Inn to attract events and functions has not been pursued to the full, but there is no evidence that the business was deliberately placed in administration in order to pursue the development option. It may be regarded as an unfortunate sequence of events, but it appears to me that the Inn is unlikely to be made viable in current circumstances, and that closure would be made more likely on balance if the change of use of the accommodation is not permitted.

24. In conclusion, I find that the Inn is more likely to achieve viability if divested of the unmanageable debt liability, and sold at a realistic price to a new operator. This would allow it to continue in operation as the valuable community asset it undoubtedly is. In this respect the community asset would be preserved, in accordance with the objective of LP Policy DP17.

Other matters

25. A number of residents are concerned that allowing the appeal would bring about an increase in traffic on small rural roads, leading to concerns about highway safety. However, I note that the local highway authority did not object to the development on grounds of increased congestion or highway safety. While I accept that the access arrangement and the pattern of usage for 7 dwellings would be different, I do not consider that the increase in vehicle trips would be such that it would pose a risk to the safety of users.

26. Concern was also expressed that the existing buildings are out of keeping with the setting and the Grade II listed building. Whatever the merits of the design they are existing buildings which would remain substantially unchanged in appearance, and I do not consider that the proposed change of use and alterations would give rise to material harm to the character and appearance of Lower Rudge or the adjacent listed building. I note the Council previously approved the addition of first floor accommodation over the swimming pool, which although not implemented, would have had similar visual effects to what is now proposed.

Balancing exercise and conclusion

27. The proposed change of use to provide permanent residential dwellings would conflict with the development plan insofar as it would occur within a settlement which is not included in the settlement hierarchy for growth. Having said that it is within an existing small settlement and would represent the use and conversion of existing buildings in substantially unchanged form, and would boost the supply of housing in Mendip District in accordance with the provisions of the Framework, albeit in a small way. I do not consider that there would be any harm to the character and appearance of the settlement or the setting of nearby listed buildings.

28. I have concluded on balance that allowing the appeal would allow the best chance of retaining the Full Moon Inn as a community asset, and this is a material consideration to which I attach substantial importance. In this respect it would accord with the objective of Policy DP17 of the LP. In the particular circumstances of the case I conclude that the benefit of retaining the Full Moon as a Community Asset clearly and demonstrably outweighs the conflict with the Development Plan, and that accordingly permission should be granted.

Conditions

29. The Council suggested a number of conditions in the event of the appeal being allowed. Where necessary I have made minor amendments to the conditions in the interests of precision and clarity. In addition to a time limit, a condition specifying the plans is necessary to define the permission and in the interests of proper planning. A condition removing permitted development rights for extensions and alterations is necessary to protect the character and appearance of the area and the setting of the grade II listed building. A landscaping condition is needed to secure a satisfactory appearance to the development. A noise condition will ensure satisfactory living conditions for the occupiers of the southern building adjoining the car park. Conditions addressing provision for car and bicycle parking and access and visibility, are needed to ensure satisfactory provision and in the interests of highway safety.

David Richards

INSPECTOR

APP/Q3305/W/16/3166097

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 approved shall be carried out in accordance with drawing numbers MPS-259-01 Site Location Plan; 2048 01, 02, 03, 04, 05, 06 Rev. B, 07, 08, 09, 10 and 11.

3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification) no extension or enlargement (including additions or alterations to the roof/s) of the dwellings hereby approved shall be carried out.

4) The development hereby permitted shall not be occupied until a hard and soft landscape scheme has been first submitted to and approved in writing by the local planning authority. The scheme shall include details of the size, species and positions for new trees and plants, boundary treatments, surfacing materials (including roadways, drives, patios and paths) and any retained planting. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has been previously approved, or with other trees or plants of a species and size that have first been approved in writing by the local planning authority.

5) The development hereby permitted shall not commence until a scheme for protecting south facing bedroom windows, within South Cottages, from noise associated with the use of the car park noise at the adjacent public house has been submitted to and approved by the local planning authority. The scheme shall provide details of advanced acoustic double glazing and room ventilation as recommended in the Anderson Mitchell Noise Assessment (dated 17 May 2016). Any works which form part of the scheme approved by the local planning authority shall be completed before any permitted dwelling is occupied unless an alternative period is agreed in writing by the authority.

6) No part of the development hereby approved shall be brought into use or occupied unless it is served with turning areas and parking in accordance with the details shown on drawing 2048/06 rev B. The turning and parking spaces shall thereafter not be used other than for purposes identified on the plan and shall thereafter be permanently retained, kept free from obstruction and not used for any other purpose.

7) No part of the development hereby approved shall be brought into use or occupied unless provision has been made for the parking of bicycles in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. The approved provision of parking for bicycles shall thereafter be permanently retained, and not used other than for the parking of bicycles.

8) The gradient of the proposed access shall not be steeper than 1 in 10. On commencement of the development the proposed new access shall be

formed in accordance with details shown on the submitted plan, drawing number 2048/06 Rev B, and shall be surfaced to at least base course before any other acts of development take place on site. Thereafter it shall be used as the sole access to the development. The access shall be completed in accordance with the approved plan before the occupation of the seventh dwelling hereby permitted, and maintained as completed at all times.

9) There shall be no obstruction to visibility greater than 300 millimetres above adjoining road level in advance of lines drawn 2.4 metres back from the carriageway edge 43 metres either side of the access. Such visibility shall be fully provided before the development hereby permitted is occupied and shall thereafter be retained at all times.