
Appeal Decision

Site visit made on 19 April 2017

by Simon N Hand MA

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

Decision date: 2 May 2017

Appeal Ref: APP/Q3115/C/16/3164488

The Rose and Crown Public House, 56 New Street, Henley-on-Thames, Oxfordshire, RG9 2BT

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by W H Brakspear & Sons against an enforcement notice issued by South Oxfordshire District Council.
 - The enforcement notice was issued on 25 October 2016.
 - The breach of planning control as alleged in the notice is without planning permission the material change of use of the land from use as a public house to residential use.
 - The requirements of the notice are cease using the land for residential use
 - The period for compliance with the requirements is 9 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land and buildings at The Rose and Crown Public House, 56 New Street, Henley-on-Thames, Oxfordshire, RG9 2BT, as shown on the plan attached to the notice, for residential use.

The Appeal on Ground (a)

2. The Rose and Crown was a listed pub standing on New Street, towards the bottom of the street where it meets the river. In 2014 a planning application was made to convert the pub into a dwelling. Officers recommended approval but it was refused by the planning committee. A subsequent appeal¹ was also refused. An associated listed building application was granted, and the Council have no objection on listed building grounds to the conversion to a dwelling.
3. Since those decisions the owners have begun using the property as an HMO for brewery employees, such a material change of use requires planning permission hence the issue of the notice.

Policies and Issues

4. The Council have two reasons for issuing the notice, firstly the impact on the vitality and viability of Henley town centre and secondly on the character and

¹ APP/Q3115/A/14/2222161 – issued 29 October 2014

appearance of the conservation area. These essentially mirror the reasons for refusal given for the 2014 application and the main issues in the Inspector's decision. The ground (a) is therefore a re-run of the October 2014 appeal decision some 2½ years later.

5. The Inspector found the pub was not an essential community facility and this seems to be accepted by the Council, hence policy CF1 of the South Oxfordshire Local Plan 2011 is no longer relevant. Policies for the protection of vitality and viability of the town centre include CST1 of the local plan and CSHEN1 of the South Oxfordshire Core Strategy 2012. CST1 is a general policy that serves to protect and enhance the vitality and viability of town centres in the District and CSHEN1 seeks to strengthen the commercial aspect of Henley town centre. Policy TCE1 of the Joint Henley and Harpsden Neighbourhood Development Plan is also mentioned, but this deals with proposals for new commercial development and so is not relevant, however the Neighbourhood Plan seeks overall to maintain the vitality and viability of Henley town centre in accord with CSHEN1.
6. The site lies within the town centre and the Henley conservation area and policies CON7 of the local plan and CSEN3 of the Core Strategy seek to preserve or enhance the character and appearance of the conservation area.
7. The main issues are therefore whether the loss of the public house would harm the vitality and viability of the town centre and the character and appearance of the conservation area.

Vitality and Viability of the Town Centre

8. It is clear from the decision letter that the previous Inspector was convinced by the figures supporting CSHEN1 that extra floorspace was needed to support the town centre. She says "these are figures based on a study updated in 2010. These figures were published after the initial impact of the recession and I accept that they may need updating. However, I have no other evidence before me that would dispute the general assumption that more space would be needed".
9. I have now been provided with an updated version of the same report, the GVA Grimley Leisure Needs Assessment, which was produced to support the emerging local plan. This presents a rosy picture of the town centre and points out it has a thriving and vibrant drinking and eating culture which is well catered for by chains and independents and this makes an important contribution to its overall vitality and viability. The recommendations for Henley are to provide for a much smaller amount of retail floorspace than was previously thought necessary and no recommendation is made for a specific increase in food and drink floorspace. I accept the emerging local plan is at an early stage and carries little weight, but the Leisure Needs Assessment is an up to date survey of the latest trends and needs for Henley and so is an important piece of evidence.
10. The Council argue that because the town centre is buoyant, there is bound to be a strong demand for the pub to reopen, or for a different operator to take it over. I agree with the appellant that this need not necessarily be the case. The previous Inspector was faced with a situation where the local plan was based on figures suggesting considerable growth in town centre uses was required and in that case the loss of a pub would not support the policy to

identify additional leisure use floorspace. It now seems there is a less pressing need to expand the leisure uses in the town centre which reduces the weight I shall give to CSHEN1.

11. I also agree with the appellant that within the overall picture of buoyancy the specific viability of any individual premises needs to be considered. The appellant's viability report is the only evidence I have on the viability of the premises and this concludes it is not viable as a pub or other restaurant/ café use due to its location and the physical constraints of the property. Similar issues affect its conversion to retail or office space, particularly as it is a listed building.
12. Having visited the site I can appreciate the problems. It is a narrow building entered through a covered side entrance that would presumably once have allowed access by carts to the rear of the premises but is now partially filled in with an indoor seating area. There is a small front room and a back bar, which even with the seating area referred to above is very small. There is a tiny kitchen to the rear and courtyard area with seating. This was partially sunny at the time of my site visit (11:30am), but with enclosing walls would have only a short period of warmth during the middle of the day. It was not surprising to me that given the strong growth in pub and restaurant uses in the town centre, this particular one failed to thrive, and has been closed since 2013.
13. It is also located outside the main centre of activities for the town. New Street runs between Bell Street and the river. Bell Street is busy with shops and eating places as well as a large pub, the Bull, close to the junction with New Street. On that junction there is a scatter of retail uses, but it effectively marks the end of the town centre, with little beyond the junction with New Street to attract the visitor. New Street is predominately residential, with no retail or leisure uses beyond those close to the junction with Bell Street. The river frontage has some commercial activity, but for the public it is a dead end at the junction with New Street, so there is nowhere to go beyond it. I would agree with the viability report that there is therefore likely to be very little passing traffic down New Street which would not make the site of the pub attractive commercially. This was obvious on my site visit as the street was very quiet, although the town as a whole was very busy on a sunny Wednesday lunchtime.
14. The appellant has provided a number of other decisions by the Council where a change of use from a retail or leisure use to a dwelling has been allowed, since the issue of the Inspector's decision. Although each decision has to be taken on its merits, these tend to show that the loss of small units on the edge of the main centre, particularly when in predominantly residential locations is acceptable, including another pub, the Horse and Groom, in New Street.
15. Only one decision refers to a marketing exercise, and that was for the loss of a restaurant in the Market Place, which failed to attract a buyer as a going concern and was allowed to be converted to a dwelling. There is no requirement in policy for applicants to market their properties before making an application, but I can see this would be a good idea in a sensitive location such as the Market Place, but I do not think the lack of a marketing exercise counts against the appeal site.
16. I also note the pub has been closed since 2013, during the period when the Leisure Needs Assessment was being compiled which concluded on the good

health of the town centre. It is difficult to see how the loss of this small and relatively peripheral building can have any effect on the vitality and viability of the town centre at all. It would therefore not be contrary to CST1 or to the general thrust of CSHEN1 which seek to protect and enhance vitality and viability.

Character and Appearance of the Conservation Area

17. The previous inspector considered the historic character of the town centre “stems not only from its substantial collection of historic buildings and its traditional streetscape, but also from its vibrant market town character, with diverse uses and activities in its streets and along the river front”. I have no reason to disagree with this. However, given my consideration of the first issue above it follows that I do not consider the loss of the commercial use would harm that character, as in my view it does not contribute to the vitality and viability of the town. New Street, although it remains a very attractive street lined by historic buildings, is clearly not now a part of the vibrant market town character. The use of the building as a dwelling would therefore preserve the character and appearance of the conservation area and so be in accord with policies CON7 and CSEN3.

Conclusion

18. I consider the continued use of the building for residential purposes would not harm the vitality and viability of Henley town centre and would preserve the character and appearance of the conservation area. I have been referred to the fact that South Oxfordshire does not have a 5 year supply of housing but as I consider the development is in accord with the development plan I do not need to consider that further. Nor do I need to consider the ground (g) appeal.
19. I shall quash the notice and grant planning permission for the matters alleged. No conditions have been suggested, but any works to the building that might be contemplated may well still need listed building consent and possibly planning permission as this decision allows only the material change of use as alleged.

Simon Hand

Inspector