
Appeal Decision

Site visit made on 12 April 2017

by David Walker MA MRTPI

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

Decision date: 5th June 2017

Appeal Ref: APP/R3325/W/16/3164977

**Gainsborough Arms, 74 Gainsborough Road, Milborne Port,
Somerset DT9 5BB**

- 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 NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited against the decision of South Somerset District Council.
 - The application Ref 15/00232/FUL, dated 15 January 2015, was refused by notice dated 30 September 2016.
 - The development proposed is demolition of existing class A4 public house and redevelopment of site to provide a class A1 convenience store including ATM with dedicated external servicing, refuse and plant area, associated car parking, access and landscaping (as appropriate).
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by NewRiver Trustee 7 Limited and NewRiver Trustee 8 Limited against South Somerset District Council. This application is the subject of a separate Decision.

Preliminary Matter

3. Amended plans and a viability report addendum were submitted with the appeal. They have not been subject to consultation. As I am satisfied that the changes proposed are minor and would not prejudice the interests of parties I have had regard to them in my determination of the appeal.

Main Issue

4. The main issue in the appeal is whether the proposal would result in the loss of a community facility.

Reasons

5. The Gainsborough Arms is a small pub located at the edge of the village some distance from the existing centre at High Street. Disposed of by the brewery in 2013 it has been operating under short tenancy landlords with subsidy from the current owners, although this last point is disputed by interested parties.
 6. The proposal would redevelop the whole site to form a new convenience store. At around 310 sqm of gross retail floorspace it would expand the range and
-

choice of shopping facilities in the village over that offered by the existing small shop in the village, which would close. It is predicted that some 20 jobs would be created, although there is no estimate of the numbers of jobs that would be lost through the pub's closure or by the relocation of the existing shop.

7. There would evidently be the replacement of one community facility with another. However, the loss of the pub would reduce opportunities for social interactions in the community that would not be replaced by a shop. It could be harmful to the wellbeing of those accustomed to meeting at the premises. While there is no statutory or policy-based quota for village pubs, the loss may not necessarily be compensated by alternative provision elsewhere. Of the examples of alternatives provided to me, the sports clubs have restricted hours and membership requirements that could limit accessibility, and the Tippling Philosopher pub at High Street is located beyond the 500m reasonable walking distance identified by the appellants.
8. Although the viability assessment has found the pub to be uneconomic it has reached this conclusion on the basis of a desktop appraisal drawing from limited information including that surrounding the closure of the Queen's Head pub nearby. There has been no market testing to establish a reliable picture of demand and potential value. While it is submitted for the appellants that there is no requirement within the National Planning Policy Framework (the Framework) for estimating demand, it is agreed amongst the parties that the relevant part of the development plan is Policy EP15 of the South Somerset Local Plan 2015 (the Local Plan). This policy relates to the provision and protection of local shops, community facilities and services.
9. Under Policy EP15 all reasonable efforts are to be taken to secure suitable alternative business or community re-use or social enterprise for a period of 18 months or as agreed with the Council. I do not find conflict in this approach with that taken at paragraph 70 of the Framework and which seeks to deliver the social, recreational and cultural facilities and services the community needs. The supporting justification for Policy EP15 further explains that the suitability of the use is to be explored with the community and based on evidence of need.
10. It is conceivable therefore that not all community-type uses would best serve the particular needs of the residents of Milborne Port. In this regard it is significant that the pub has been placed on the register of Assets of Community Value. This is intended to give communities the opportunity to bid for such an asset before it is sold for alternative uses. Despite the clear evidence of demand from the many interested parties who have objected to the planned closure and redevelopment, no such opportunity has been afforded to the community.
11. For the proposal to accord with Policy EP15 of the Local Plan it would have to demonstrate that it is a *suitable* alternative use. In order to have fully considered the need and viability of suitable uses in the community the test period referred to in the policy would have to be exhausted. In the absence of such a test the viability assessment cannot reasonably conclude that the retail use proposed amounts to a suitable alternative use under the Local Plan.
12. Therefore, while I acknowledge the lack of technical objections to the proposal, and some limited support, I conclude that it would result in the harmful loss of

a community facility leading to conflict with Policy EP15 of the Local Plan and paragraph 70 of the Framework.

Conclusion

13. For the reasons given above I conclude that the appeal should be dismissed.

David Walker

INSPECTOR