
Appeal Decision

Site visit made on 20 June 2017

by Paul Singleton BSc (Hons) MA MRTPI

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

Decision date: 13 July 2017

Appeal Ref: APP/Z2830/W/17/3170758

Red Lion, 4 Watling Street East, Fosters Booth NN12 8LB

- 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 FMD (1) LLP against the decision of South Northamptonshire District Council.
 - The application Ref S/2016/2420/FUL, dated 19 September 2016, was refused by notice dated 15 November 2016.
 - The development proposed is demolition of public house and redevelopment of site to provide five detached houses with detached garages. Change of use from A4 to C3.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the refusal of planning permission a heritage assessment has been submitted. This has been considered by Northamptonshire County Council's Assistant Archaeology Adviser who, whilst stating that the retention of the building should be considered, no longer objects to its demolition on heritage grounds. In light of that changed position the Council has not pursued the fifth reason for refusal relating to the heritage significance of the building.
3. In relation to the second reason for refusal, which alleged the lack of a suitable ecological assessment, the Council has considered the detailed assessment submitted by the appellant and accepts its findings. Subject to the imposition of an appropriate condition in the event that permission is granted the Council does not seek to pursue this reason for refusal.
4. Discussions between the appellant and Highways England (HE) have resulted in an email from HE advising that its concerns regarding the proposed site access have been met. This agreement has enabled the Council to withdraw the third reason for refusal subject to appropriate conditions being attached to any planning permission granted.

Main Issues

1. In light of the above the main issues are:
 - (a) Whether the loss of the public house would have an unacceptable effect on the vitality of the village and its community; and
 - (b) The effect on the character and appearance of the village.
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Reasons

Vitality of the village and community

2. Saved Policy R4 of the South Northamptonshire Local Plan (Local Plan) states that the Council will oppose the loss of existing retail uses or public houses in rural areas and that planning permission for changes of use from retail will not be granted except where it is demonstrated that the use is not viable and has no realistic prospect of becoming viable.
3. The Local Plan, adopted in 1997, predates the National Planning Policy Framework (Framework) published in 2012. Section 8 of the Framework lists public houses as facilities which can play an important role in promoting healthy communities. Paragraph 70 states that planning decisions should guard against the unnecessary loss of “valued facilities and services”, particularly where this would reduce the community’s ability to meet its day to day needs. To the extent that Policy R4 gives blanket protection to public houses and retail uses in rural areas it is not fully consistent with the Framework and needs to be considered in the context of the more focused policy set out in paragraph 70.
4. The weight of local objection demonstrates that the Red Lion is regarded as a valued facility within Pattishall village, of which Fosters Booth forms a part. There is strong evidence that it was a well-used facility before its closure in 2015 and many representations refer to its having been a meeting place and focal point for community activities and events. Its listing as an Asset of Community Value (ACV) in March 2016 also gives an indication of the value that the community places on the Red Lion.
5. Many of the representations, including one from a party who was the landlord until 2012, refer to the Red Lion having operated successfully for very many years before it closed. The appellant’s states that trading levels were poor in the period immediately prior to the closure but a number of objectors comment that the premises were poorly managed in that period. It is also uncertain from the available evidence whether its occupation on a tenancy at will basis with very low rentals in the run up to the closure reflected a lack of viability or the letting preference of the previous owners.
6. I have no trading figures for a sufficiently long period prior to the closure of the public house to reach a firm conclusion as to how it had been affected by the widely acknowledged trading pressures on such premises, particularly in rural areas. The Viability Report prepared by Davies Coffey Lyons (DCL) in 2015 and the various updates seek to assess whether it would be viable to reopen the premises as a public house.
7. I agree with the Council that some of the assertions in the Viability Report appear not to be supported by firm evidence. For example, the statement that the site’s location on a busy main road renders it unsuitable as a community public house is not borne out by the strong evidence that the Red Lion was used in just that way for very many years. I also have reservations about DCL’s assertion that a food led operation would be unviable because drivers passing on the A5 would be unwilling to stop at such a facility. There are many examples of public houses and other outlets, including the adjacent

- Indian restaurant, that appear to trade very successfully on sites that front onto major routes and the site has ample space for drivers to park safely.
8. Because of the assumptions made, DCL's assessment of a net annual loss of around £45,000 may be too conservative but the Council has not had DCL's assessment independently reviewed or submitted its own viability report. An assessment, assuming a food and drink offer drawing some of its trade from through traffic, has been submitted by an interested party. It is in outline form and does not include labour costs or the costs of the drinks that would need to be sold to generate the assumed turnover.
 9. In their commentary on that appraisal DCL have added in these costs and conclude that the assumed business would make an operating loss before property costs, interest on finance, and depreciation of assets. However, there appears to be some inconsistency in that DCL accept the objector's estimate of £60,000 for overheads whereas their own Viability Report assessed overheads at £21,800. Also, DCL provide no detailed explanation as to the basis of their £50,000 estimate for labour costs including kitchen staff. Because these two figures are likely to have a significant bearing on the profitability of the operation I do not find DCL's commentary to be conclusive.
 10. The appellant's assertion that the marketing exercise has produced no serious enquiries from any party wishing to run the premises as a public house is contradicted by a number of objectors who state that at least two parties have expressed an interest in taking a lease for that purpose. There are also genuine concerns about the ease with which the marketing agent could be contacted and details of the property could be accessed via the internet. Hence, the marketing has not been sufficiently robust to provide a clear demonstration that there is no interest in reopening the premises as a public house with or without a food or other ancillary offer such as small shop.
 11. Accordingly, I find that the appellant has not clearly demonstrated that the reopening of the premises for a public house or related use is not a viable option. A grant of permission for the proposed development would result in the permanent loss of the public house and a consequential loss of vitality in the village and its community. The proposal conflicts with Local Plan Policy R4 for this reason. The appellant has not shown that there is no suitable alternative business use for the premises but that does not appear to be a requirement of Policy R4.
 12. Pattishall has two parish halls, an Indian restaurant and another small public house about a mile from the appeal site. However, many objectors report that the community has suffered a loss of vitality and cohesion as a result of the closure of the Red Lion and there is evidence that many of the social and community functions that it previously fulfilled have not been met since it closed. That closure does appear to have reduced the community's ability to meet its day to day needs for social and community interaction. The permanent loss of the opportunity to reopen the premises would, therefore, be contrary to paragraph 70 of the Framework.
 13. The listing of a property as an ACV is capable of being a material consideration in planning applications and appeals. However, whilst listing provides the community with the right to bid for the premises if the owner intends to dispose of them, it does not prevent a grant of planning permission for

redevelopment of the site. That listing is not, therefore, a reason for dismissing the appeal.

Character and appearance

14. There is a wide range of building styles and design within Fosters Booth and significant variation both in the alignment of the houses relative to the road and the degree to which they are set back from the highway. There is no clearly established vernacular or style that the proposed dwellings should be expected to follow. The width, height and external appearance of the dwellings would not be out of place given the existing degree of variation in the houses that front onto or are visible from the road. Four of the dwellings would be of almost identical design but a similar uniformity of appearance is reflected in a small number of the existing houses and cottages in the hamlet.
15. The semi-rural feel of the village is significantly reduced by the high volumes of traffic passing through it and I do not consider that the proposal would cause harm to the character and appearance of the area. There would be no conflict with Local Plan Policy G3, which seeks that development should be compatible with the existing local character, or EV 1 (i) and (iv), which state that proposals will be expected to pay particular attention to existing site characteristics and the appearance and treatment of the spaces between and around buildings.

Other matters

16. A number of objectors have raised concerns about the potential effects on highway safety. However, these matters have been carefully assessed by the Council and HE and I have no evidence that leads me to a different conclusion as to the acceptability of the revised access proposals.
17. The provision of 5 new houses would add to the supply and range of housing in the area and this potential benefit must be given some weight. However, this would not be sufficient to outweigh the considerable harm that would result from the permanent loss of the public house and the negative effect this would have on the vitality of the village and its community.

Conclusions

18. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should fail.

Paul Singleton

INSPECTOR