



Appeal Decision

Hearing Held on 24 April 2018

Site visit made on 24 April 2018

by Rory Cridland LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 29th May 2018

Appeal Ref: APP/W0340/W/17/3185410

The White Hart Inn, Hamstead Marshall RG20 0HW

- 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 The White Hart Inn (Hamstead Marshall) Limited against the decision of West Berkshire Council.
 - The application Ref 17/00103/FULD, dated 11 January 2017, was refused by notice dated 30 March 2017.
 - The development proposed is change of use from public house to 4 No. dwellinghouses and associated external alterations, landscaping and car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal, the appellant submitted an amended plan (Ref: 150724/107 Rev C) ("the Amended Plan") which alters the design of Plot 1 so as to safeguard internal timber features on the ground floor. These revisions have been made in order to address some of the Council's stated concerns regarding heritage impacts. The Council accepts that these amendments are not material. Nevertheless, I have considered them under the principles established by the Courts in *Wheatcroft*¹. I am satisfied that they do not change the nature of the scheme to such a degree that to consider them would deprive those who should have been consulted on the change, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted together with the Amended Plan.
3. The Council's second and third reasons for refusal relate to the effect of the proposed development on heritage assets and ecology respectively. During the course of the appeal, the main parties agreed to conditions that would overcome the Council's concerns in respect of these matters. As a result, the Council has confirmed that it wishes to withdraw these reasons for refusal. I have no reason to disagree with the Council's approach in respect of this matter.

Main Issue

4. The main issue is whether or not the use of the appeal site as a public house is genuinely redundant.

¹ *Bernard Wheatcroft Ltd v Secretary of State for the Environment* (1982) JPL 37.

Reasons

5. The appeal site is situated in Hamstead Marshall, a small settlement located around 3 miles west of Newbury and within the North Wessex Downs Area of Outstanding Natural Beauty ("the AONB"). The site itself is around 0.22 hectares and comprises The White Hart Inn, a non-designated heritage asset which has operated as a public house for many years, together with a number of outbuildings, car parking area, beer garden and garage. The main building itself contains a ground floor bar and restaurant along with associated kitchens and services while on the first floor there is a three bedroom flat. In addition, there are a total of 9 ancillary letting rooms provided in two outbuildings to the north of the main building.
6. The proposal would involve the conversion of the main public house into two dwellings with a further two dwellings being converted from the outbuildings. The external alterations would be minimal and car parking would be provided for each plot.
7. The Development Plan (DP) for the area consists of the West Berkshire Core Strategy 2006- 2026² together with the West Berkshire Council Housing Site Allocations Development Plan Document³ (HSADPD) and the saved Policies of the West Berkshire Local Plan 1991 – 2006⁴. In general, the DP seeks to focus new housing in the rural service centres and service villages with the emphasis on meeting local needs. Furthermore, it restricts new housing in the countryside other than in a limited number of defined circumstances. These include those set out in Policy C4 of the HSADPD which applies to proposals involving the conversion of an existing redundant building in the countryside to residential use. It makes clear that, in order to benefit from this exception, the applicant must prove the building is genuinely redundant.
8. There is little guidance as to what is meant by genuine redundancy. Some assistance can be found in the supporting text which states that for a building to be redundant, it is important that the original use of the building for that purpose no longer exists. Furthermore, I have been referred to the Council's Supplementary Planning Guidance Note No 19⁵ ("the SPG"), which I accept provides some indication of the types of things that the Council will take into account. However, the main parties agree that, being based on policies which are no longer extant and which pre-date the introduction of the National Planning Policy Framework ("the Framework"), this document should be afforded only limited weight. I agree with that assessment and, as such, consider it provides only limited assistance. In the absence of any clear guidance as to how to go about assessing genuine redundancy, I give it its ordinary meaning of being no longer needed or useful (i.e. superfluous).
9. Accordingly, I consider the correct approach in assessing whether a building is genuinely redundant under Policy C4 is to take account of all of the circumstances and judge whether, taken together, they indicate that the property in question is no longer needed or useful. In the case of a public house, I consider these circumstances would include considerations of

² (adopted 2012).

³ (2017).

⁴ (2007).

⁵ West Berkshire Public Houses Supplementary Planning Guidance Note No 19 (2000).

community value, viability, and marketing and I consider each of these matters in turn below.

Community Value

10. Paragraph 70 of the Framework indicates that planning decisions should, amongst other things, 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.
11. The appellant accepts that The White Hart Inn is capable of being a community facility for the purposes of paragraph 70. However, they argue that its loss is justified in view of the fact that it is no longer economically viable and there is no appetite in the community to take it over. The Council, for their part, have argued that a well-run public house at the appeal site could still provide an important facility for the community and its catchment.
12. During the hearing, I heard from a number of local residents who gave details of the history of the pub as a village facility and its importance to community life. Furthermore, there is a considerable amount of correspondence from local residents providing examples of its use as a place in which to meet informally, hold more formal gatherings and socialise with other residents. While I acknowledge that these activities have ceased since its closure, it is clear that The White Hart Inn is still valued by the local community. This is evidenced by the significant levels of support for its retention as well as its status as an Asset of Community Value (ACV).
13. While I accept that there are other facilities locally that can meet some of these needs⁶, the ability of other sites to accommodate such needs provides only partial mitigation. It would still result in the loss of a valued community facility which clearly has a considerable amount of local support. I therefore conclude that The White Hart Inn is a valued community facility, the unnecessary loss of which should be guarded against.

Viability

14. The appellant has provided a Community Resource Analysis Report which includes an assessment of viability and concludes, amongst other things, that there is no reasonable prospect of the property becoming viable in the future. This is based on the fact that the business models operated by both the previous and current owners have failed, the former having resulted in a repossession and the latter having sustained significant losses over a number of years.
15. I accept that the assessment, prepared by experts who are familiar with the public house market, has been prepared in a professional manner. However, the Council's own report, prepared by the District Valuer, concludes that The White Hart Inn, operated on an owner operator basis by a Reasonably Efficient Operator, is economically viable and would return an operating profit of around £65,000 per annum. While I note the various points made by both of the main parties in respect of the other's assumptions, there are clearly numerous factors that can have a considerable effect on the outcome of an assessment of viability. As such, I find these assessments to be of only limited assistance.

⁶ including the church and village hall, the Organic Research centre as well as other public houses in the wider area.

16. However, it is clear that the location of the site has a number of advantages including being located within the AONB and close to a number of other sites which would draw visitors - including the nearby Dogs Trust Centre and Organic Research Centre. Similarly, being only a short drive from Newbury it would attract custom from both local residents as well as other visitors to the area. While I acknowledge that the time lapse since its closure would represent a challenge for anyone now wishing to re-establish the business, the previous accounts show a healthy level of turnover and it is clear that the reopening of the site as a public house has considerable support within the local community and indeed from further afield. This suggests that a future operator would benefit from some ready trade in the initial period following opening.
17. While I accept that the public house market is, in general, a difficult one to operate in and that this is even more so for rural pubs, I do not consider that the failure of the past two operators, operating very different models, is sufficient to demonstrate that the use site as a public house is no longer viable.

Marketing

18. Marketing of the site began in August 2015 on a leasehold basis with an initial guide price of £100,000 for goodwill, fixtures and fittings and an initial rent of £55,000 per annum. The premium was reduced in March 2016 to reflect the loss in value following its closure and to represent the value of the remaining fixtures and fittings. At the same time, the proposed rent was reduced to £35,000 in year one, £42,500 in year 2 and £50,000 in year three followed by a rent review every three years. Other terms remained flexible. More recently, the site has continued to be marketed on a leasehold basis with both terms and rental options open to negotiation. Despite this, there has been limited interest.
19. The Council agreed at the hearing that it has no specific concerns with the terms or extent of the marketing exercise undertaken by the appellant. Furthermore, it has agreed in the Statement of Common Ground that marketing the site as a leasehold offer was an acceptable basis against which to assess the application. However, it was clear from the discussions at the hearing that this approach was largely based on the wording of section 6 the SPG⁷. As I have made clear above, that document is now of some age and provides only limited assistance. While I note it states that marketing may be either by way of leasehold or freehold, the evidence indicates that since at least 2004, The White Hart Inn has been operated on an owner-operator basis. In such circumstances, in order to show that the use of the site as a public house is genuinely redundant, I consider it necessary for the appellant to demonstrate that there is no market interest in running it on a similar basis.
20. During the hearing, the appellant acknowledged that the site has not been marketed on a freehold basis. The reason given was that it was purchased to generate an income. Be that as it may, in the absence of any evidence that would demonstrate that there is no interest in running it as a public house on a freehold basis, I cannot be certain that its use is genuinely redundant.

Other Matters

21. I note that both parties agree that the residential use of the site would have no impact on the AONB and that any harm to the significance of the building as a

⁷ which indicates that marketing may be either by way of freehold or leasehold.

non-designated heritage asset can be guarded against by means of a condition. I have no reason to conclude otherwise. Nevertheless, a lack of harm in this respect does not weigh positively in favour of the proposal.

22. It is clear that the appellant has invested a considerable amount of money in updating and maintaining the property during their ownership. However, it is not the purpose of the planning system to seek to compensate an owner for their investment.
23. While I note the appellant's suggestion that it would be beneficial for residents to focus on a more limited number of public houses so as to ensure their continued survival, this does not provide any meaningful support in favour of the present proposal.
24. The appellant has referred to the New Homes Bonus that the proposal would generate. However, Planning Practice Guidance advises that it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority⁸. I therefore do not consider this to be a benefit and, as such, have not taken it into account in determining this appeal.

Planning Balance

25. I have found above that the evidence on marketing and viability is insufficient to demonstrate that The White Hart Inn is genuinely redundant as a public house. As such, the proposal would be in conflict with Policy C4 of the HSADPD. Furthermore, I have found that it is a community facility, the loss of which should be guarded against in accordance with the guidance set out in the Framework.
26. While I note the various benefits identified by the appellant including the economic and employment benefits during construction and those to the wider economy as well as its contribution to housing supply, even cumulatively these are modest and I afford them only moderate weight. On balance, I do not consider they are sufficient to indicate that a departure from the development plan would be justified in the present circumstances.

Conclusion

27. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Rory Cridland

INSPECTOR

⁸ Paragraph: 011 Reference ID: 21b-011-20140612.

APPEARANCES

FOR THE APPELLANT:

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|---|----------------------------------|
| Ms Stella Coulthurst | Appellant |
| Mr Aaron Smith BA (Hons) DipTP MRTPI | Fowler Architecture and Planning |
| Mr Malcolm Barber Dip Arb MRICS MCI Arb | Sturt and Co |
| Mr Richard Sturt MRICS MSc BSc (Hons) | Sturt and Co |

FOR THE COUNCIL:

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| Mr M Butler | Planning Officer |
| Mr G Kirk | Council Officer |
| Mr A Frank Ba (Hons) MRICS | District Valuer |

INTERESTED PARTIES:

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| Mr John Handy | Local Resident |
| Mr Anthony Stansfeld | Local Councillor |
| Ms Anne Budd | Local Resident |
| Ms Aromando | Local Resident |
| Mr A Croney | Local Resident |
| Mr Peter Evans | Local Resident |
| Ms A Bates | Local Resident |
| Mr J Tyzack | Local Resident |
| Mr M Maggs | Local Resident |
| Mr P Hemmingway | Local Resident |
| Mr Greenwood | Local Resident |

ADDITIONAL DOCUMENTS SUBMITTED AT THE HEARING

1. British Beer & Pub Association Guide to Running A Pub – A Guide to Cots for tied tenants and lessees July 2017.
2. Save the White Hart Group Appeal Presentation (Full Version) dated 24 April 2018 (EXB 2).
3. Statement of Ms Anne Budd (EXB 3).
4. Appeal Speech by Mrs Aromando (EXB 4).