



Appeal Decision

Hearing Held on 11 June 2019

Site visit made on 11 June 2019

by Steven Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2019

Appeal Ref: APP/X1118/W/18/3209716

The White Hart, Road from the White Hart to Beara Cross, Bratton Fleming, Devon, EX31 4SA;

- 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 Mr P. Milton against the decision of North Devon District Council.
 - The application Ref 64381, dated 12 January 2018, was refused by notice dated 21 June 2018.
 - The development proposed is described as "The erection of three dwellings together with refurbishment of the public house (amended description) at The White Hart, road from the White Hart to Beara Cross, Bratton Fleming, Barnstaple".
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the hearing it was confirmed that the description of development was amended, with agreement from the appellant, from that on the Application Form to the description used by the Council on its Notice of Decision. It was also included on the appellant's Appeal Form. Therefore, this is the description of development that has been used with this appeal decision.
3. Since the decision was made by the Council to refuse the planning application the Joint North Devon and Torridge Local Plan (2011-2031) (LP) has been adopted. Policies from this document were previously referred to in the Council's Decision Notice as emerging but are now adopted. Policies from the North Devon Local Plan which were referenced in the Council's Decision Notice but are now superseded and do not carry any weight.
4. Following the Hearing, it was clarified by the Appellant that the Council's reference to policy DM067 was a typographical error and should have read policy DM07. The appellant was made aware of this error and responded. As this was clearly a typographical error and policy DM07 was discussed at the Hearing, I have accepted this clarification and the appellant's response.

Main Issues

5. The main issues are:
 - The effect of the development on the character and appearance of the area, including the setting of the Grade II listed Church of St Peter.

- The effect of the proposal on the long-term viability of the public house known as The White Hart.
- The effect of the development on highway safety, including in relation to visibility at the access, parking provision and pedestrian accessibility.

Reasons

Character and Appearance (including the effect to the setting of a listed building)

6. The White Hart is a public house (albeit closed since circa 2012) and is an early 19th Century building which has been added to over time. The proposed houses would be to the rear of the building, with access onto the road to the north.
7. Two of the proposed houses would arise from the conversion and extension of the existing function/restaurant room and would be on the same approximate footprint, although these houses would be two storey whereas the building is single storey currently. The detached dwelling proposed would be positioned to replace an existing single storey building and also cover a portion on the existing garden. The proposed dwellings would therefore not cover a substantial amount of existing open space within the public house curtilage.
8. The converted and extended dwellings would be attached to the pub building with gardens fronting onto the road to the north of the site, whilst the detached dwelling would be stepped slight back from the rear of the pub building with a similar sited garden. There are larger houses in spacious plots in the area and proposed dwellings have been described as set within 'artificially restricted plots'. However, there is a variety of house types and plots, with some smaller dwellings in tight plots with small rear gardens as would be expected within the centre of a village. Taking into account the character and pattern of development in the area, the proposed houses would not appear cramped or represent a form of overdevelopment in this location.
9. The houses would be two storey, but the core buildings of the public house are also two storey. Set against this backdrop the houses would not appear overbearing or overly dominant in their surroundings. The ridge line of the proposed houses would be above that of the front section of the White Hart, but this is a consequence of the higher ground level towards the rear of the site, rather than the proposed houses being excessively tall. The dwellings themselves, as proposed, would not be overly tall as buildings within this setting, with other comparable two storey dwellings in close proximity such as those to the north of the site across the road.
10. The existing building on site has a variety of pitched roofs and gables of differing types and angles. The proposed houses incorporate pitched roofs which reflect those of the original core building of the public house and some later additions. The side elevation with gable of the proposed detached house would be clearly visible from the southwest (Station Road) but not to a degree that it would negatively detract from the character of the area, with other such gables to the side of houses also clearly visible and near to the edge of highways.
11. The proposed layout of the houses would create a cluster of buildings on the site, which is not dissimilar to the current arrangement. The proposal would not, therefore, result in a discordant or unbalanced arrangement.

12. The site is also close to the church yard boundary of the Grade II listed Church of St Peter, which is to the northwest of the site. This is an important historical building and a focal point of the village and its development, with an extensive graveyard surrounding the Church itself.
13. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) is relevant to this appeal. It states: *"In considering whether to grant planning permission [or permission in principle] for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses"*.
14. The National Planning Policy Framework (the Framework) also advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
15. The site is within the setting of the Church, with the White Hart one of many buildings that surround the boundaries of this listed building. There would be views of the site from the Church, especially from the tower, and vice versa, although the proposed dwellings would not form part of a particularly important aspect of the setting, such as the approach to the main entrance of the Church. However, there is a substantial distance between the Church buildings and the site of the proposed houses. Furthermore, the proposed dwellings would be partially obscured from view, such as from an intervening house set along the side of Station Road and existing landscaping.
16. The proposed houses would be two storey and more visible than the existing single storey structures that are to be replaced. However, given the setting of this Church, which includes a mix of primarily single and two storey buildings, these proposed two storey houses would not have an adverse effect. The new dwellings would not occupy much of the existing garden area of the public house, which is separated also from the curtilage of the Church by Station Road. The proposed houses would also have some external open space around the buildings. Furthermore, I do not regard the size or gable of the proposed detached house as having any overbearing impact to the setting of the Church given the separation distance and this dwelling being seen against the backdrop of a two storey public house with existing pitched roofs and gable ends.
17. Therefore, the proposal does alter the setting of the listed Church to some extent, but it does so in a way that respects its significance and heritage and preserves this setting rather than resulting in harm.
18. On these matters the proposal is in accordance with policies DM04, BRF, DM07 and DM23 of the adopted LP. These policies seek to, amongst other things, require development not to harm the setting or character of Bratton Fleming, be of an appropriate design which reinforces key characteristics of the area. The proposal is also in accordance with the Framework on these matters, including preservation of heritage assets and their setting.

Viability of public house

19. As mentioned above, the White Hart has been closed since about 2012. Since the appellant bought the property in 2014 it has not been reopened. It is currently in a poor state of repair, which I saw examples of on my site visit, which included an internal inspection.
20. The White Hart has been recognised as an Asset of Community Value under the Localism Act 2011. It is clear from this and the support shown in correspondence from community members that this is a facility which they wish to see re-opened and in use. This is a relatively large village with no other public house. There is the Sports and Social Club, but this is a membership based facility which differs from a public house. This club does not mean that a centrally positioned public house would not be an important community facility and asset within Bratton Fleming. In this regard, the Framework requires that in rural areas planning decisions should enable the retention of local services and community facilities such as public houses. (Para. 83)
21. The White Hart has had a series of owners and its closure in 2012 is an indication that there was some issue with the business side of running this public house. The appellant states that the White Hart is currently unviable and has highlighted its recent history and the closures, together with some other evidence of this, such as considering running costs against the local population numbers.
22. However, this has been a public house for a long time before its closure in 2012 and there is no substantive evidence to show that the White Hart was simply not viable as a business when it was in operation. Furthermore, there are other public houses in the wider area, some of which are in more remote locations than this, which are still running. The White Hart is situated within a relatively large village for the area and would be within walking distance for many within the community.
23. I recognise that for the public house to survive as a viable business it would have to be supported by the community in terms of providing regular customers. I am also, though, aware that this is an area which attracts tourists who may also be looking for a public house for food and drink. Therefore, it is not just the local community that are potential customers for the White Hart. As the public house has not been open since 2012 there is no substantive evidence of the White Hart's business performance in the current market or the potential contribution from tourists.
24. Notwithstanding the above, I am aware that the reopening of the public house would need a substantial capital investment. A list and total of costs anticipated has been submitted by the appellant. The Council suggests these costs are inflated, but I have no detailed evidence of where and by how much these costs may be inflated by. These costs may not be completely accurate, but they are an estimate and there is no reason to doubt that a substantial amount would be needed to refurbish and bring the White Hart up to current required standards for licencing or building regulations, for example.
25. The proposal consists of three houses which the appellant describes as an enabling development. The proposal is not to close the White Hart permanently, but to reduce it in size to its core bar area, where there would be an integrated food and drink service, with the appellant giving examples of

other similar public houses in the area. This would also be a necessary consequence of the residential development on the site, which would see the existing rear single storey restaurant/function room replaced with two houses. Also, the public house garden to the rear would be the site of another dwelling. It is the loss of these aspects of the public house which could have a significant effect on the viability of the public house in the future.

26. Notwithstanding the works required to refurbish the building, the appellant has already stated that the White Hart in its existing form is unviable as a business. However, it is not clearly demonstrated how the White Hart with function room and beer garden is unviable, whereas without these features the business would be viable.
27. The White Hart garden would be an asset to the public house, especially in times of good weather and does not appear to be overly shaded. I accept that in this part of England there are many days where a beer garden would not be utilised due to inclement weather, but this is not always the case and such outdoor space is common for rural public houses and can be popular. There is little reason to believe that keeping the beer garden would be a financial strain on the business. Access from the building through to the garden, which is on a higher level, may need to be improved, but this should not be insurmountable as an issue and I have no substantive evidence that this would be excessively expensive. There is also good access to the garden from the carpark area.
28. The function room or restaurant would be likely to result in need for more staff and associated cost, but it could be another revenue stream, given evidence of various functions taking place here in the past, for example. I have no substantive evidence that this feature of the public house would necessarily cost more to run than it would make as a source of potential revenue as a function room, for example.
29. As such, the argument that the White Hart would only be viable if the function/restaurant room were to be removed from use is not satisfactorily demonstrated. Given this, I regard these features as potentially important aspects of the White Hart which would enhance its viability in the future for it to continue as a community asset of considerable value.
30. Furthermore, the use of a condition, as recommended by the appellant, to ensure that the White Hart would be opened before the sale of any of the new proposed houses is not a suitable mechanism for securing such an outcome. If for whatever reason the public house did not open, at least one of the dwellings would likely have already been built. This scenario would be detrimental to the prospects of the public house and its long term viability. It is also uncertain as to how such a condition would be worded to ensure the White Hart would remain open and what would be the consequence if it were to close again soon after opening. For these reasons I do not regard a condition as a suitable mechanism to ensure the enabling development as proposed. A legal agreement was discussed at the Hearing, but there is no such agreement before me to address this matter.
31. In any case, whilst the dwellings could raise the funds needed to refurbish the public house, it is my view that this development would actually diminish the long term viability and prospects of the White Hart being a successful business that would benefit the community in the long term. I recognise that no alternative financial plan has been put forward for the refurbishment of the

White Hart, but this is not a persuasive argument for this development which would see the loss of some of the assets of the public house and therefore potentially harm its prospects. There could also be another solution to this issue, even if there is not one apparent at this time.

32. Overall, it has not been demonstrated sufficiently that the existing public house is unviable and that the loss of the function/restaurant room and beer garden are necessary to make the White Hart viable again. The loss of these features would, to my mind, diminish the prospects of the public house re-opening as a viable business prospect and important community asset. Furthermore, whilst I acknowledge the significant capital investment needed to refurbish the White Hart there is no suitable mechanism in place to ensure the development of the proposed dwellings would lead to its refurbishment and re-opening for the long term.
33. Therefore, the proposal is contrary to policy ST22 of the adopted LP, which requires, among other things, development to support community services and facilities. The proposal is also contrary to the Framework with regards to retention of community facilities as part of a prosperous rural economy, such as public houses in rural areas.

Highway Matters

34. The parking area for the proposed three houses with what would remain of the White Hart would be as existing, which is an area to the side of the main buildings. There are no parking spaces set out currently, but the proposed plan shows 11 spaces with access (as existing) to the narrow road to the north.
35. Whilst the development would introduce three new houses, they would not have allocated parking spaces, as confirmed at the Hearing. The houses would be likely to result in some of these 11 spaces being used by occupants of these dwellings. However, this has to be considered against the current circumstance, where there is a public house with attached function room/restaurant area which could result in high numbers of customers at certain times, such as evenings and weekends. In this regard, the proposed dwellings as part of the overall development, also reducing the size of the White Hart, would be unlikely to have any significant increase in parking requiring over the existing public house use. It is also unclear as to the level of shortfall that the Council considers is the case with the proposed development, taking into account the accessibility of the site, set within the village centre for example.
36. As described above, the access onto the road from the car park area is as existing, which serves the public house. Whilst the public house is closed it still retains this use and could be re-opened at any time. It is not clear exactly the extent of the visibility whilst exiting the carpark onto the road in a vehicle, but this is a narrow road and unlikely, from what I saw on site, to have a high average speed. I also have no substantive evidence before me that the existing access has proved a danger to highway safety, with no previous record of incidents when the public house was open and the access in use.
37. Two of the proposed houses have pedestrian access points to connect with the road to the north, which has no pedestrian footpath on this side of the road. Whilst I recognise that this is not ideal it is also not uncommon for the older core areas of rural villages to be without footpaths. Indeed, I saw multiple

other dwellings in the village with no footpath to the front of the properties. I also have no records that this has resulted in highway safety incidents in the past.

38. I recognise that with the previous appeal on the site that the Inspector found harm to highway safety due to a lack of pedestrian access, but this was to the front of the White Hart, which appears a busier and wider road, and related to the customers of the public house itself. Therefore, the circumstances are different from this appeal proposal and the issue of pedestrian safety and access.
39. The dwellings would generate some additional traffic for the village, but I have no detailed evidence to show this is likely to be to a significant degree. I also have no substantive evidence that traffic congestion is a particular problem for the village's highway network.
40. There could be some disturbance to the highway through the course of construction, but as explained in the Hearing this could be addressed through use of the car park area, thereby avoiding significant obstruction to the adjacent roads.
41. Overall, from the evidence provided, I do not regard the proposed development is likely to have an unacceptable impact on highway safety or have residual cumulative impacts to the highway network that would be severe. The proposal is therefore in accordance with policies DM05 and DM06 of the adopted LP. These policies include requirements for development to ensure well designed and safe vehicular access and egress, together with appropriate levels of parking provision.

Conclusions

42. The Framework seeks to increase the supply of housing and I recognise that these houses would provide towards the local supply of dwellings. Furthermore, I have found that the proposal would not result in harm to highway safety, the setting of the listed Church or the wider character and appearance of the area. However, the harm that I have found in respect to the diminishing prospects of the public house having a viable future as an important community asset as a result of this development is significant and is a compelling reason to dismiss the appeal. For the reasons given above, I conclude that the proposal would conflict with the development plan as a whole and that the appeal should be dismissed.

Steven Rennie

INSPECTOR

APPEARANCES:

FOR THE APPELLANT:

Mr Philip Milton	Appellant
Mr Alan Philips	Architect

FOR THE LOCAL PLANNING AUTHORITY

Deborah Butler	Senior Planning Officer
Sarah May	Senior Planning Officer

INTERESTED PARTIES (those who spoke at the Hearing)

Trevor Hilton	Local Resident
Allison Bell MRTPI	Local Resident
Laurie Scott	Local Resident
Councillor Malcom Prowse	
Peter Laurie	Local Resident
Sue Maxfield	Local Resident
Liz Birch	Local Resident

DOCUMENTS SUBMITTED DURING THE HEARING

Document submitted by Appellant entitled: *The White Hart Bratton Fleming – Planning Application 64381 – Do you want your pub back?*