The Planning Inspectorate

Appeal Decisions

Site visit made on 4 June 2019

by A Napier BA(Hons) MRTPI MIEMA CEnv

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

Decision date: 25 July 2019

Appeal A Ref: APP/H2265/W/18/3204021
The Plough Inn, Taylors Lane, Trottiscliffe, West Malling ME19 5DR

- 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 Ms D Carson against the decision of Tonbridge & Malling Borough Council.
- The application Ref TM/17/01522/FL, dated 2 June 2017, was refused by notice dated 14 December 2017.
- The development proposed is described as 'change of use from commercial to residential'.

Appeal B Ref: APP/H2265/Y/18/3204029
The Plough Inn, Taylors Lane, Trottiscliffe, West Malling ME19 5DR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Ms D Carson against the decision of Tonbridge & Malling Borough Council.
- The application Ref TM/17/01438/L, dated 25 May 2017, was refused by notice dated 14 December 2017.
- The works proposed are described as 'change of use from public house to residential'.

Decisions

1. Appeal A and Appeal B are dismissed.

Preliminary Matters

2. The descriptions of the proposal given on the planning and listed building application forms were those used in the headings above. Although the appeal forms state that these descriptions were not changed, the description of the proposal given on the planning appeal form is 'Change of use from A4 public house/managers flat to C3 two bed residential dwelling including new roof to single storey side extension' and on the listed building appeal form as 'New roof to single storey side extension and internal and external alterations to facilitate proposed change of use from public house to a dwelling house'. These descriptions follow those used by the Council in the decision notices on the applications and appear to me to be a more accurate description of the works proposed. I intend to consider the appeals accordingly.

Main Issues

3. The appeal property is a grade II listed building, which is located within the Trottiscliffe Conservation Area. These are designated heritage assets. In

addition, the site is situated within the North Downs Area of Outstanding Natural Beauty (AONB). I am mindful of my statutory duties in these respects.

4. The appeal proposal was screened in relation to The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (EIA) and the Secretary of State directed that the development proposed is not EIA development. There is nothing before me that would lead me to a different view in this regard.

5. The main issues in these appeals are:

Appeal A

- The effect of the proposal on the provision of local community facilities; and

Appeals A and B

- Whether the proposal would: preserve the listed building, any features of special architectural or historic interest that it possesses, or its setting; and preserve or enhance the character or appearance of the Conservation Area.

Reasons

Community facilities

6. The *Tonbridge and Malling Borough Council Core Strategy 2007* (CS) Policy CP26 states that proposals for the loss of premises currently or last used for the provision of community services or recreation, leisure or cultural facilities will only be permitted if, amongst other matters, an alternative facility of equivalent or better quality and scale to meet identified need is available, or it has been proved that for the foreseeable future there is likely to be an absence of need or adequate support for the facility. Paragraph 92 of the National Planning Policy Framework 2019 (NPPF) states that planning decisions should guard against the unnecessary loss of valued facilities and services.

7. The George Public House is located a short distance from the appeal property. The submissions indicate that this neighbouring pub is a busy and vibrant establishment, which is popular for meals and with people travelling from outside the village, which reflects my observations of the fairly busy car park during my weekday visit to the area.

8. Having regard to CS Policy CP26, I am satisfied that this neighbouring public house provides an alternative facility. Nonetheless, it is not a matter of contention that The George is not directly comparable to the appeal premises in terms of its size or the facilities available. Evidence has been provided that the popularity of the neighbouring pub is such that it is not always able to cater for local customers.

9. To this end, conflicting evidence has been provided about the continued need and support for the appeal premises. The representations made clearly show considerable local support for the retention of The Plough as a public house, to the extent that I consider it represents a valued facility. However, for the appellant, evidence has also been submitted that seeks to demonstrate that, despite the appellant's attempts to do so, the operation of a viable business from the premises is not achievable.

10. A number of representations have been made, including from the appellant and other interested parties, regarding the business model that was followed whilst the pub was open, including reference to breakfast opening times, restricted evening opening hours, the limited provision of food, and special events, such as music nights, that were run during this time. In addition, whilst there is some dispute about the delivery of leaflets, there is also clear evidence of the costs incurred by the appellant in advertising the business.

11. I understand that The Plough was purchased in January 2017, as a brewery disposal. It has been suggested that this followed several years of poor trading, although the extent of and reasons for this are disputed. Nonetheless, it is not contentious that, following refurbishment, the pub was re-opened towards the end of March 2017. Representations, which have not been disputed, indicate that the premises shut at the end of June 2017.

12. A profit and loss account to support the appeal proposal was submitted for the period from the end of January to the end of July 2017. However, the business was only trading for some four months of this period and I understand that, during this time, the pub was not open every day. In addition, the period concerned does not cover the busy Christmas period. To my mind, this provides only a very limited time to establish a business. Furthermore, I consider that the period of time concerned is of insufficient length to demonstrate robustly that the operation of the pub as a viable business would not be achievable.

13. I have also had regard to the representations that have referred to some of the expenditure included within the account, including the costs of refurbishment and installing a new kitchen. These are costs, it is suggested, that would normally be considered as start-up costs, to be spread over a longer period of time, and would not normally be expected to be met within the first few months of trading for a new business. I find these arguments to be persuasive. As a result, overall, I find that it has not been adequately demonstrated that the continued use of the building as a public house would not be viable.

14. I note the appellant's successful experience of running pubs elsewhere, the employment of an experienced manager and chef, and the details submitted regarding the Asset of Community Value process, including the negotiations regarding the potential sale of the premises, its value, the uplift clause and the other facilities that exist within the village. However, whilst I have had careful regard to these matters, they do not address the issues above or lead me to alter my findings in these regards.

15. Accordingly, on the evidence available to me, I conclude that the proposal would result in unacceptable harm to the local community, as it has not been adequately demonstrated that the loss of this valued community facility would be necessary. Whilst an alternative facility exists nearby, it has not been successfully demonstrated that this would meet the needs of the community, nor has it been proved that there would be inadequate support for the public house for the foreseeable future. The proposal would therefore be contrary to CS Policy CP26 and would not meet the aims of paragraph 92 of the NPPF.

Listed building and Conservation Area

16. The appeal site is located within the main part of the village, which is generally residential in character, with a mix of dwelling types, ages and designs. A range of local services and facilities exists within the settlement, including a second public house, The George. The Conservation Area covers much of the heart of the village, together with a separate area to the east. From the details available to me, I consider that its importance is mainly due to the number and variety of older and historic buildings it contains, the mix of uses within the village, and the largely informal pattern of development, including the spaces between and around buildings, together with trees, hedges and sizeable areas of open space.

17. From the evidence available to me, including the listing description, I consider the significance of the appeal property is largely drawn from its historic age, traditional fabric, architectural features, evolved form, its use as a public house and its setting, including its range of outbuildings and location within the heart of the village. In addition, due to its visually prominent location, appearance, historic interest and use, the appeal premises make a positive and valuable contribution to the character and appearance of the Conservation Area.

18. The building is timber framed and, whilst originally used as two cottages, the evidence provided indicates that it has been in use as a public house since the early part of the 19th century. At the time of my visit, the upper floor of the building was in use as a flat. The ground floor had clearly last been used as a public house, with a number of associated fixtures and fittings in place within the premises, as well as some furniture. The appeal proposal seeks to convert the premises to a wholly residential use. Some internal alterations would be made to the building to facilitate this change, with significant alterations to the roof of the building and its attached former outbuilding.

19. Having regard to the details provided and paragraphs 189 and 190 of the NPPF, I am not satisfied that the evidence before me is sufficient to demonstrate that the impact of the proposed alterations on the historic integrity and significance of the building has been adequately assessed. There is only very limited information about the proposed removal of the bar and the insertion of a partition wall, with no substantive details about the extent and type of works that would be required, including whether these works would affect the important timber frame of the building.

20. I have had careful regard to the appellant's description of the impact of the proposed conversion on the listed building as minimal and the Council's officer assessment that the works proposed would be small scale and not harmful to the integrity of the building. However, in the absence of a clear assessment of the effect of these works on the significance of the heritage asset, including sufficient detail regarding the extent and type of works proposed, I consider that there is a real risk that the effect of these alterations could result in unacceptable harm to the historic fabric and significance of the appeal building. In itself, this is sufficient to find against the proposal in respect of this issue.

21. In addition, very limited information has been provided about the proposed replacement of the roofs to the side elevation of the building. I note the Council's officer assessment that these roofs are later additions and, as such, the works proposed would not cause harm to the significance of the building. However, the supporting evidence for this assessment is limited.

22. The Council has suggested a condition, should I be minded to allow the appeals, that indicates that no exposure of the outbuilding roof has taken place and suggests that amendment to the scheme may be necessary if historic features deemed worthy of retention are found. However, having regard to the NPPF, I am not satisfied that the application of such a condition would obviate the need to carry out assessment at this stage of the development process.

23. Moreover, I consider that, as proposed, the condition would be unacceptably imprecise and would introduce an unreasonable element of uncertainty. It would therefore not meet the relevant tests for conditions in the Planning Practice Guidance and the NPPF. Such an approach would not, therefore, be appropriate or adequately address the harm identified above.

24. Notwithstanding the original use of the building, I have found above that its use as a public house contributes positively to the significance of the listed building and is important to the character of the Conservation Area. The proposed change of use of the building to a residential dwelling would materially alter the character of the property and detrimentally affect its contribution to the wider area.

25. Consequently, overall and for the reasons given, I conclude that the proposal would cause harm to the significance of the heritage assets. It would not preserve the listed building, its features, or the character of the Conservation Area. A number of policies form the development plan have been drawn to my attention in relation to the appeal. The proposal would be contrary to the CS Policy CP1, where it seeks to protect the historic environment.

26. I attach great importance and weight to the harm to the significance of the designated heritage assets. However, the proposal would not lead to the demolition of the listed building and would affect one site within a much larger Conservation Area. As such, I find this harm, whilst material, would be less than substantial. Paragraph 196 of the NPPF requires that, in the case of designated heritage assets, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

27. The proposal would result in an enlarged dwelling within a settlement that contains several existing services and facilities. The proposal would be likely to result in support for those facilities, both during development and following residential occupation. As such, the proposal would have some social and economic benefits. It is also reasonably likely to lead to a reduction in vehicular traffic visiting the premises, which would have some environmental benefits. Given the scale of development proposed and the current existence of the flat within the premises, I consider that these public benefits would be relatively modest. Nonetheless, given the general support within the NPPF in relation to such issues, I give them moderate weight.

28. Furthermore, the proposal would provide a viable use for the building as a whole, contributing to securing its retention in the long-term. However, having regard to both the nature of the building, its location and for the above reasons, I am not satisfied that the details before me adequately demonstrate that the conversion of the premises as proposed would be necessary to secure its long-term retention, or that the continued use of the building as a public house would be neither feasible nor viable. As a result, I find that it has not

been demonstrated that the use proposed, whilst viable, would be the optimum use for the building.

29. Paragraph 193 of the NPPF advises that great weight should be given to the conservation of a designated heritage asset in considering the impact of a proposal on its significance. Paragraphs 184 and 194 state that heritage assets are an irreplaceable resource and any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting) should require clear and convincing justification. In addition, paragraph 192 refers to the desirability of new development making a positive contribution to local character and distinctiveness. For the above reasons, I consider that the development would not make such a contribution and insufficient justification has been provided to support the works proposed.

30. For these reasons, I find that the public benefits of the proposal would not be sufficient to outweigh the harm identified to the significance of the heritage assets and the proposal would not meet the aims of paragraph 184 of the NPPF, to conserve heritage assets in a manner appropriate to their significance.

Other matters

31. In addition to the public benefits, I recognise that the proposal may also result in benefits for the appellant, including the creation of a larger and more flexible living space. However, I find that these benefits and the public benefits identified above, considered overall, would be significantly outweighed by the identified harm to the heritage assets and the local community. As a result, I find that the appeal proposal would not comply with the development plan as a whole.

32. It has not been suggested, nor do I consider from the evidence available to me, that the proposal would have a significant effect on the wider landscape. Consequently, I am satisfied that it would conserve the landscape and natural beauty of the AONB. Furthermore, there is nothing before me that would lead me to consider that the proposal would be harmful to the living conditions of neighbouring residential occupiers. However, the absence of harm in these respects does not address or outweigh the harm identified above.

33. Although I note that the appeal applications were originally recommended for approval by the Council's officer, the appeals are against the decision of the Council's Planning Committee to refuse the applications. In reaching my findings above, I have considered the appeals on their merits and in light of all representations made.

Conclusions

34. For the above reasons and having regard to all other matters raised, I conclude that the appeals should be dismissed.

A Napier

INSPECTOR