



Appeal Decision

Site visit made on 15 July 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th August 2019

Appeal Ref: APP/G2245/W/19/3224333

Tally Ho, Main Road, Knockholt, TN14 7NT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr T Barnshaw against Sevenoaks District Council.
 - The application Ref 18/03116/FUL, is dated 29 October 2018.
 - The development proposed is described as change of use of public house to dwelling and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of public house to dwelling (C3) and associated works at Tally Ho, Main Road, Knockholt, TN14 7NT in accordance with the terms of the application Ref 18/03116/FUL, dated 29 October 2018, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans listed: Existing Site Plan; Proposed Site Plan; P.100; P.102A; P.103A; P.200A and SK101A.
 - 3) No gates providing vehicular access onto Main Road, or other means of enclosure adjacent to the front of the site with Main Road, shall be erected other than in accordance with details which shall first have been submitted to and approved in writing by the Council

Main Issue

2. The Council has set out its objection to the proposal, which is located in the Green Belt, on the basis that the appellant has failed to provide clear and robust evidence to show that the Public House cannot be operated in a viable way and its conversion to a dwelling would result in the loss of a local amenity, which would be contrary to guidance in the National Planning Policy Framework (2019)(the Framework). These matters have defined the main issues of this appeal.
3. The main issues are the effect of the development on:
 - whether it is inappropriate development in the Green Belt for the purposes of the Framework; and,

- whether it would result in the loss of a facility which serves the local community.

Reasons

Inappropriate development

4. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The Framework states that inappropriate development is harmful to the Green Belt and should not be approved except in very special circumstances.
5. The Council's policies L08 of the Local Development Framework Core Strategy (2011)(CS) states that the extent of the Green Belt will be preserved and further guidance is provided in the Development in the Green Belt Supplementary Guidance Document (2015)(SPD) and Policy GB7 of the Allocations and Development Management Plan (2015)(ADMP) relates to the re-use of a building within the Green Belt. These policies are consistent with the Framework.
6. The development proposed would result in the re-use of the public house and convert it to a single residential dwelling. The Council does not dispute that the proposed re-use of the public house, which is of a permanent and substantial construction, would not result in a materially larger building than that which exists and that it would have no impact on the openness of the Green Belt or harm the existing character of the area. On the basis of the evidence before me, I have no reason to disagree and therefore the development proposed would comply with the aforementioned Policy GB7 of ADMP, meet the exception set out in paragraph 146 d) of the Framework, and would not be inappropriate development in the Green Belt.

Loss of Facility

7. Based on my site visit observations, The Tally Ho Public House is located in an isolated rural location, with access directly from the Main Road. There are some other, scattered residential dwellings along the Main Road in the vicinity of the Tally Ho, but the general characteristic of the area further away from Knockholt village, is increasingly one of rural, open countryside.
8. There is no dispute that the appeal site is not listed within the settlement hierarchy listed in Policy L07(CS), the nearest rural settlement being Knockholt Pound, approximately 2.5kms away. Whilst the appeal site is within the Green Belt and therefore Policy L08 would apply, this does not set any tests relating to the loss of community facilities. Therefore, the Council states that paragraph 92 of the Framework, which seeks to promote healthy and safe communities, is the justification for applying the viability test in respect of the loss of community facilities or services in the rural areas set out in its Policy L07(CS).
9. The development proposed would result in the public house ceasing operations and the building converted to a single residential dwelling. The Council's Policy L07(CS) refers to development in the rural areas and states that the loss of facilities which serve the local community will be resisted wherever possible, setting out criteria which would need to be satisfied if this was to be an exception. The criteria on which to assess the exception is based on equivalent, replacement facilities being available to the population served

and evidence submitted to the Council that the service or facility is no longer financially viable.

10. The appellant submitted as evidence financial information for the periods prior to his purchase in 2016 and for subsequent accounting periods. The Council has stated that the evidence submitted are not audited accounts and, on that basis, do not provide sufficient information, nor are they clear or robust enough to assess viability.
11. However, I note that the unaudited financial statements have been prepared by Chartered Accountants in accordance with the provisions applicable to companies entitled to the small companies exemption.¹ On that basis the financial statements submitted provide professionally prepared, robust and clear information on which to assess of the viability of the Tally Ho. I also note the evidence based on the correspondence between the appellant and his Accountant² which provides further confirmation of the viability of the Tally Ho, which the Council has had a chance to comment on.
12. Further, I have had regard to the evidence submitted by the commercial agent appointed by the appellant to provide marketing advice on its future uses, including the sale or letting of the property as a public house or restaurant. This refers to the closure of a number of other nearby public houses due to lack of viability and the Campaign for Real Ale's (CAMRA) website information regarding the scale of public house closures in recent times. Moreover, the agent advises of the unlikely prospects for the Tally Ho to become a viable alternative commercial operation, and that a marketing exercise to re-let the property would be unsuccessful.
13. The Council has stated that an independent viability assessment by a company specialising in such uses should be undertaken to assess the effective and efficient operation of the premises as well as the financial implications. Even if the tests of Policy L07(CS) were justified by paragraph 92 of the Framework as the Council states, the evidence submitted to the Council provides an adequate basis on which to assess the viability of the Tally Ho. Further, I can see no reason or additional benefit in seeking further independent advice, on the basis that the policy would not provide either party with a clear pathway to implementing its outcome.
14. The Tally Ho, due to its location, has a very limited catchment and whilst the Council and third-party interests state that it has previously been of benefit to the local community, this would not be borne out by the lack of patronage demonstrated in the financial statements for a number of years. Moreover, the local community would still have the benefit of two other public houses, one of which is a designated Asset of Community Value, more conveniently located to the village and would therefore provide suitable replacement facilities, which satisfies the second criteria of Policy L07(CS), if they were being applied.
15. On the basis of the evidence before me, the appellant has submitted sufficient and robust information to demonstrate that the Tally Ho is not a viable concern. Further, the appellant has sought professional advice to assess the current and future viability of the Tally Ho and the professional advice

¹ Companies Act 2006

² Email correspondence 15 February 2019

submitted as evidence, demonstrates that there are no real prospects for its continued use as a viable public house.

16. I conclude that the development proposed to convert the Tally Ho from a public house to a single dwelling would not be contrary to Policy L07 of the CS or the Framework, which when read together seek to resist the loss of facilities to the local community, unless there is evidence to demonstrate the facility is not viable to continue.

Other Matters

17. I have had regard to the representations made by third party interests including the removal of permitted development rights if the appeal was allowed; the use of the attached field for use by walkers; comments from a previous owner; the motive of the appellant; the uncertain opening hours; the loss of the post box; the lack of street lighting on the road and the support for the Tally Ho to continue to operate as a public house and become an Asset of Community Value. I have also had regard to the support from an interested party to the proposals. Whilst, I have taken these and all other matters raised by interested parties into consideration, they have not altered my decision.
18. I also note that the Council has raised no concerns in respect of impact of the development proposed on the living conditions of neighbouring properties and states that the activity associated with the proposed residential use would have less impact on the highway than its use as a public house.
19. I note that the Council has brought to my attention, a previous appeal for the site, which I have had regard to, but as it relates to a significantly different proposal for development and as each case must be judged on its merits it has not altered my decision.

Conditions

20. The Council has proposed a number of conditions which I have assessed against the advice in the Planning Practice Guidance and for the purposes of brevity or clarity have amended as appropriate.
21. Condition 1 is the standard condition which limits the lifespan of the planning permission. It is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty. Condition 3 is necessary in the interests of highway safety and the visual amenity of the locality.

Conclusions

22. For the reasons set out above, the appeal is allowed.

Paul Wookey

INSPECTOR