



Appeal Decision

Site visit made on 23 July 2019

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date:

Appeal Ref: APP/V0510/W/19/3227331

85 High Street, Bottisham, Cambridgeshire CB25 9BA

- 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 Polly Howe against the decision of East Cambridgeshire District Council.
 - The application Ref 18/01631/FUL, dated 18 August 2018, was refused by notice dated 22 January 2019.
 - The development proposed is the change of use of part ground floor from restaurant into residential, forming one dwelling, including associated works to car park and amenity areas.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of part ground floor from restaurant into residential, forming one dwelling, including associated works to car park and amenity areas, at 85 High Street, Bottisham, Cambridgeshire CB25 9BA, in accordance with the terms of the application, Ref 18/01631/FUL, dated 18 August 2018, subject to the following conditions: -
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, P-4090-05, P-4090-06 and Proposed Site Plan.
 - 3) Prior to the erection of any fences or other means of enclosure within the site, details of their location, design and materials of construction shall be submitted to and approved in writing by the local planning authority. The fencing or other means of enclosure shall only be erected in accordance with the approved details and retained as such thereafter.

Application for costs

2. An application for costs was made by Ms Polly Howe against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Submitted Local Plan 2018 has been withdrawn and the policies referred to are not relevant to the determination of this appeal.

Main Issue

4. The effect of the proposed development on the availability of community facilities.

Reasons

5. The appeal relates to a restaurant occupying part of the ground floor of a building situated within a predominantly residential area. The remainder of the building is in residential use. Whilst the restaurant was closed at the time of my visit, I saw nothing to suggest that the business is not operational.
6. The Council acknowledges that restaurants are not identified in the list of 'Commercial Community Facilities' referenced in the supporting text of Policy COM3 of the East Cambridgeshire Local Plan Adopted April 2015 (the LP). There is no further advice or guidance in the policy as to what other uses might be considered as 'Commercial Community Facilities'. Similarly, Paragraphs 83(d) and 92(a) of the National Planning Policy Framework (the Framework), include the term 'such as' when listing local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship as community facilities. In light of this, it is a matter of professional judgement as to whether the restaurant use would constitute a 'Commercial Community Facility' as the definitions in local and national policy are not closed lists.
7. I have been referred to an appeal decision for a comparable development in Keyworth, Nottingham¹. Whilst the full circumstances behind that decision are not before me, there are key similarities between the two cases, namely the type of use that is referred and the application of national planning policy. Nonetheless, I have determined this appeal on its own individual merits.
8. The Council reasons that the restaurant should be considered a 'Commercial Community Facility' as it provides a social space with eating and drinking facilities to serve the community. They compare the use to a public house. I recognise that certain uses and venues are important for local communities to meet, socialise and interact. Although restaurants provide opportunities to meet and socialise, they do not fulfil this function as a public house may, as they tend to be arranged in a formal manner. Restaurants also do not provide access to services or facilities required for day-to-day living.
9. The restaurant use only appears to be in operation for lunch and dinner for part of the week. The public houses and restaurants available in the village and those nearby suggests that the area is well served by such facilities. A good range of other facilities in the village also ensures residents can meet many day-to-day needs. The restaurant is therefore not a unique facility and does not perform a critical function in terms of being a place where residents of the village and surrounding areas would come to meet.
10. The restaurant is not listed by the Council as an Asset of Community Value and the Council has not provided any evidence of community support to retain the restaurant. Bottisham Parish Council did not provide comment on the appealed application, they did respond to consultation for the withdrawn application², which was for identical proposals. Whilst the proposals would be emotive, in part due to its popularity, the Parish Council accepted that the use of the

¹ Ref APP/P3040/W/17/3186110

² Planning Application Ref 18/01174/FUL

building as a dwelling would be positive. These matters do not therefore add weight to the identification of the restaurant as a 'Commercial Community Facility' or the alleged importance of the use to the local community.

11. Whilst the list of community facilities is not exhaustive within either local or national planning policy, the evidence before does not demonstrate that the restaurant should be considered as a 'Commercial Community Facility', as it would not fit into any of the categories referred to in the policies. There is not therefore support from either development plan or national planning policies for the restaurant being considered a 'Commercial Community Facility'. Accordingly, I conclude that the proposals would not conflict with Policy COM3 of the LP, which seeks to ensure that 'Commercial Community Facilities' are not lost to other uses.

Other Matters

12. I agree with the Council that the proposals would preserve the character and appearance of the Bottisham Conservation Area and would not have a visual impact or harm the historical significance of the listed buildings nearby. There would therefore not be conflict with Policies ENV11 and ENV12 of the LP.

Conditions

13. It is necessary that the development shall be carried out in accordance with the proposed plans and elevations, in the interests of certainty. This will include the details of the parking within the site so there is no specific requirement for the condition suggested by the appellant.
14. It is necessary to agree the details of any fences or other means of enclosure to be erected within the site in the interests of the character and appearance of the Bottisham Conservation Area and the setting of nearby listed buildings.
15. There are no changes to the external appearance of the building so it would not be necessary to require details of external materials. Similarly, it would be excessive and unnecessarily restrictive to the personal choice of future occupants to control the hard and soft landscaping of the site, particularly as the site is already hard landscaped and other planting is in situ within the site. Furthermore, as the removal of Permitted Development rights is only to be used in exceptional circumstances, it would be unreasonable to restrict the future development of the dwelling in a manner to which other properties nearby are not.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Paul Thompson

INSPECTOR