
Appeal Decision

Site visit made on 24 July 2019

by Christina Downes BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 September 2019

Appeal Ref: APP/Z1510/W/19/3224461

The Compasses Inn, Compasses Road, Pattiswick, Bradwell, Essex CM77 8BG

- 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 and Mrs Clark against the decision of Braintree District Council.
 - The application Ref 18/01203/FUL, dated 29 June 2018, was refused by notice dated 9 January 2019.
 - The development proposed is change of use from public house (Use Class A4) to a venue for weddings and events (Use Class D1 and D2).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from public house (Use Class A4) to a venue for weddings and events (Use Class D1 and D2) at The Compasses Inn, Compasses Road, Pattiswick, in accordance with the terms of the application, Ref 18/01203/FUL, dated 29 June 2018, subject to the conditions set out in the schedule at the end of this decision.

Reasons

2. Pattiswick comprises a small rural hamlet fronting the eastern side of Compasses Road. There are a group of houses to the north of the appeal site whilst to the south is a small mobile home park. The nearest identified settlement is Bradwell, which is about 2 km to the south-west. The representations indicate that the change to the proposed use occurred in 2016.

The loss of a community facility

3. The National Planning Policy Framework (the Framework) seeks to promote social interaction and encourage the retention and development of accessible local services and community facilities in rural areas, including public houses. Saved policies RLP 128 and RLP 151 in the Braintree District Local Plan Review (LP) seek to resist the loss of key community facilities in rural areas unless they can be shown to be unviable and all options for their continuance has been explored. Policy CS 11 in the Council's Core Strategy (CS) has broadly similar provisions. Policy 3 in the Bradwell with Pattiswick Parish Neighbourhood Plan (NP) does not support the net loss of existing community facilities unless the proposal would provide demonstrable benefits that outweigh the harm created by the loss.

4. A public house is a facility that serves the local community as a place where people can meet to relax and socialise whereas a wedding and events venue is a private enterprise that does not direct itself specifically to the local community. In 2018 a nomination was made by Bradwell with Pattiswick Parish Council to list the appeal premises as an Asset of Community Value (ACV). In order for this to be successful there were statutory criteria that had to be met. In this case the nomination was made over two years after the public house had closed. However, it is clear from the Council's reasoning that this was insufficient reason to deter listing because what denoted the "recent past" is a matter of discretion and judgement. The main factor to be considered in this case was whether the use of the building as a public house furthered the social wellbeing or social interests of the local community and whether it was realistic to think that there could be a use that would do so within the next 5 years.
5. The Council considered that the previous use had not met these requirements because, due to its location, it had been previously run as a "gastro pub" that primarily drew its trade from a wide area. Furthermore, the Council observed that a period of 2 years and 3 months had elapsed before the nomination was made during which time the well-advertised wedding and events venue had been operating. The implication was that the loss to the local community in terms of social benefits had not been particularly acute. The Council asserts that the fact that The Compasses was not listed as an ACV has little importance because the criteria are stringent and the number of public houses so listed in the District is very low. I do not agree. The reasoning why the nomination was unsuccessful is as set out above. Clearly each nomination will be considered on its own merits but in this case the benefits to social wellbeing, which is also a clear requirement of planning policy, were not considered to be sufficient. This is a matter of considerable relevance.
6. A marketing exercise was not undertaken. However, from the information provided by the Appellants I am satisfied that the use as a public house, even with restaurant facilities, had not been viable. This does not seem to me surprising considering the relatively isolated location of the premises and the small number of potential patrons that could be described as local. Whilst an upmarket eating facility may attract clientele from further afield, the Appellants reasonably state that being fully booked for one or two days a week did not result in a viable business. For all of these reasons the lack of marketing is not determinative in this case and an alternative use is justified. I do not consider that there would be conflict with the LP and CS policies cited above. In terms of policy 3 in the NP it seems to me that in this case retaining the building through the introduction of an alternative viable use would represent a demonstrable benefit to outweigh the harm of the loss of the public house. I am therefore satisfied that the proposal would accord with policy 3.

Effect on living conditions

7. The use as a wedding and events venue has clearly provided a viable alternative use. However, there have been representations from nearby residents indicating that it has caused adverse impacts, particularly to Compasses Cottage, which immediately adjoins the northern site boundary. The evidence indicates that weddings and events take place between 2 and 5 times a week between May and October with up to 4 events per week in winter. The Appellants have stated that there is capacity for 120 guests. Events are said to attract 60-70 people with 50-70 arriving in the evening if it is a

wedding. I note that a maximum of 200 guests can be accommodated for a summer wedding but that this is said to be very rare.

8. Two noise reports were submitted with the planning application (the Phlorum Reports), which considered the music levels from the in-house system and the DJ music events and their likely effect at the northern boundary of the site. The conclusion was that no harmful impact would ensue if all windows and doors at the venue were kept closed. This could be controlled through a planning condition. A noise assessment was also submitted at appeal stage on behalf of the occupiers of Compasses Cottage (the Sharps Redmore Report). This expresses various concerns about the Phlorum Reports, including that the evening of the assessment was particularly windy and would have led to a higher level of background noise than may otherwise have been the case. The Sharps Redmore Report undertook a noise assessment during the Easter weekend when weddings were taking place. The noise environment was measured within the front garden of Compasses Cottage and it is clear that there was a significant difference in terms of the resulting noise levels in comparison with Easter Monday when there were no weddings. However, the Appellants indicated that at these events there were live bands playing and it is also not unreasonable to surmise that windows and doors were left open.
9. As the Phlorum Reports did not actually undertake an assessment during a wedding event there was no consideration of the noise from wedding guests outside the premises. The neighbouring occupiers point to loud conversations from groups of guests and rowdy anti-social behaviour. I can appreciate that this is a particular issue, especially late in the evening as guests are leaving at the end of the event. It should though be remembered that the premises were previously used as a public house and restaurant. Such uses can also, on occasion cause similar issues. This is a difficult matter to control, but it seems to me that good management by the proprietors could do much to alleviate this type of adverse impact. It is the responsibility of the proprietors to ensure that people behave in a manner that is respectful to nearby residents, especially later in the evening.
10. The Environmental Health Officer has not raised objections to the appeal proposal. He has pointed out that action can be taken under separate legislation to control a statutory noise nuisance and antisocial behaviour. He has also referred to the licence, which includes restrictions on opening hours, when music can be played and various limitations regarding the prevention of public nuisance. Whilst it is not necessary to duplicate these, planning conditions could be imposed to reduce the harm to the living conditions of nearby residential occupiers to an acceptable level. I consider these below.
11. For these reasons, I consider that the appeal scheme would be in accordance with policy RLP 90 in the LP, which seeks to ensure that there are not detrimental impacts on the amenity of residential occupiers. The Framework encourages sustainable growth and expansion of businesses in rural areas, which should be sensitive to its surroundings. For all of the above reasons I consider that this would be the case here.

Other matters

12. Concerns have been raised by local people about parking along Compasses Road, which is a relatively narrow lane. Whilst no doubt this does occur from time to time, the venue has a generous parking facility for some 45 vehicles.

The Council has confirmed that Essex County Council as Highway Authority has raised no objections. Furthermore, the use of the premises as an events and wedding venue would require a lower level of parking for its use than a public house. In the circumstances I do not consider that objections are justified on this ground.

Planning conditions

13. I have considered the planning conditions suggested by the Council and Parish Council, having regard to paragraphs 54 and 55 of the National Planning Policy Framework (the Framework) and the Planning Practice Guidance. I have changed some wording in the interests of precision and enforceability. For all of the reasons given above, conditions are necessary to ensure that adjoining residents are protected from unacceptable noise. The relevant windows and doors to be kept closed during music events are those on the western elevation and southern elevation. It is also appropriate to specify the area where music can be played and ensure that this does not happen outside the building.
14. The Council has suggested restricting the use within Class D2 of the Town and Country Planning (Use Classes) Order to a wedding venue. This seems reasonable, bearing in mind that other assembly and leisure uses under this Use Class could have unacceptable consequences that have not been assessed. Ensuring that the use stops at midnight is reasonable to limit any disturbance from guests leaving the premises at night. This is more restrictive than the licencing provision, but I consider that it would be appropriate in view of the proximity of the residential properties to the north and south.
15. The Appellants have stated that the capacity of the premises is 120 guests. Higher numbers are said to be very rare. It seems to me likely that a greater number of evening guests to a wedding event, for example, would increase the likelihood of noise later in the evening, especially within the outdoor spaces. There is therefore good reason for a restriction to be imposed in this case.
16. I note that the Appellants object to the Council's condition limiting temporary structures that provide food within the grounds of the venue. It has been contended that a pizza van was present when the premises were operating as a public house. However, this has been mentioned by local residents as a particular issue with the present use and the owners of Compasses Cottage have also raised concerns with regards to cooking smells from the pizza van when placed close to their boundary. Such external facilities not only result in adverse impacts of this nature but can also encourage guests to congregate in larger groups to eat and drink within the outdoor spaces. As I have said this type of noise is particularly difficult to control and seeking to ameliorate it in this way is a reasonable response.
17. I have taken account of all other matters raised in the representations but have found nothing to alter my conclusion that the appeal should succeed, subject to the conditions set out in the schedule below.

Christina Downes

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin no later than 3 years from the date of this decision.
2. Music shall only be played within the function room at the southern end of the building and in no other part of the premises or within the outdoor areas. Whilst music is being played, ground floor windows and doors shall remain closed on the southern and western elevations of the building.
3. Noise from the playing of music within the premises shall be at least 10 dB(A) below the background noise level when measured one metre from the external façade of 19 Compasses Road.
4. The maximum number of guests at a wedding or event shall be 120.
5. The use of the venue for weddings and events shall only take place between the hours of 1000 and 2400, Mondays to Sundays and not at any time on a public holiday.
6. The premises shall be used as a wedding venue and for no other purpose within Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).
7. No temporary structures or uses that provide for the cooking or consumption of food shall be erected or undertaken within the external parts of the site.

End of conditions 1-7