The Planning Inspectorate

Appeal Decision

Hearing Held on 30 July 2019
Site visit made on 30 July 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 October 2019

Appeal Ref: APP/Y9507/W/19/3229374
The Queens Hotel, High Street, Selborne, Alton GU34 3JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Guy Macklin of Derek Warwick Developments Ltd against the decision of South Downs National Park Authority.
- The application Ref SDNP/18/02564/FUL, dated 11 May 2018, was refused by notice dated 15 February 2019.
- The development proposed is conversion and alterations of the existing Queens building and barn to form 4 residential dwellings, including demolition of single storey structures, and the erection of 1 detached dwelling within the grounds, with associated parking and landscaping.

Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework), which was revised in July 2018, was subsequently updated on 19 February 2019. References to the Framework within this decision relate to the latest version published in 2019.

3. In July 2019, the South Downs Local Plan (LP) was adopted by the Authority. This document replaces the policies contained within the East Hampshire District Local Plan: Second Review (2006) and the East Hampshire District Local Plan: Joint Core Strategy (2014). Accordingly, I shall determine the appeal in accordance with the most up-to-date policies, on which the parties have had the opportunity to comment during the course of the appeal.

4. It has been suggested that the premises were converted to office use (Class A2) with the intention of converting the upper floors to residential accommodation, at a time when these types of works could be carried out using permitted development rights. The premises were stripped of a number of features and fittings associated with the use as a public house, after the building was purchased by the appellant. Whether or not the appellant intended to convert the property into offices there is no evidence before me to indicate that the premises were ever used for that purpose. I have not been presented with a certificate of lawful use to the effect that the premises were lawfully converted to an office or alternative use and that is not a matter for me to determine in the scope of this appeal. In view of that, I have determined the appeal on the basis that the proposals would involve the conversion of a public house and associated accommodation, as well as a barn, into 4 dwellings and

the erection of a further dwelling within the grounds, as described in the banner heading above.

5. At the Hearing, it was confirmed that the latest application to list the appeal building as an Asset of Community Value failed.

Main Issue

6. The appellant's Statement of Case questioned the inclusion of both LP Policies SD23 (Sustainable Tourism) and SD43 (New and Existing Community Facilities) within the stated reasons for refusal, and at the Hearing, the parties were therefore invited to provide comments in that particular regard. It was agreed that the rooms at first floor level were ancillary to the main public house use. Despite some overlap, both Policies SD23 and SD43 are therefore considered relevant as the appeal scheme would result in the loss of a public house, but also the associated tourist accommodation.

7. I therefore consider that the main issue is whether the proposal would be acceptable, having regard to the effect on the provision of local community facilities and tourist accommodation.

Reasons

8. The appeal building lies at the heart of Selborne, an attractive village located within the South Downs National Park. Local facilities include a shop/post office, a church, a village hall, a primary school. It also benefits from other attractions such as the Gilbert White's house and field study centre. The Queens is a long established public house, with letting rooms at first floor level, thus providing the only form of serviced accommodation within the village. The appeal site also comprises a car park, a barn and garden area situated to the rear of the Queens. The public house closed in 2016, and the premises remain currently vacant.

9. Based on the submitted evidence and the representations given at the Hearing, it is clear that a number of residents have expressed support for the appeal proposal. However, there is also no doubt that the Queens is still regarded as an important community facility, including in respect of the provision of tourist accommodation, by many local residents and representatives of the Parish Council. The strength of local opinion in favour of the retention of the public house use is further evidenced by the constitution of a community group known as 'Save the Queens'.

10. LP Policy SD43 seeks to prevent the loss of facilities that serve the local communities of the National Park, unless a robust marketing campaign of at least 24 months clearly demonstrates that there is no market demand for an existing use or an equivalent community use. The loss of community facilities is also considered permissible, where alternative community facilities are provided. These are however required to be accessible, inclusive and available, and of an equivalent or better quality to the lost facilities, without causing unreasonable reduction or shortfall in the local service provision.
LP Policy SD23 sets out similar marketing and viability requirements in respect of visitor accommodation. A marketing campaign of at least 12 months is required for this type of facility. Policies SD23 and SD43 are also supported by LP Appendix 3, which sets out details of the marketing requirements.

11. These policies reflect the main thrust of national planning policy, which encourages the retention and development of accessible local services and community facilities, as well as sustainable tourism, in order to support a prosperous rural economy. Additionally, the Visitor Accommodation Review published in December 2014[1] notably identifies clear prospects for future growth in the demand for all types of visitor accommodation in the National Park, as well as gaps in accommodation supply along the South Downs Way.

12. The appeal premises were first marketed from January 2015. The estate agent explained at the hearing that Punch Taverns made the decision to sell the premises because they were under-performing. The site was then acquired by the appellant in June 2015 for £800,000. The submitted evidence indicates that this Market Value figure, which includes undeveloped land to the rear of the appeal building, implicitly includes hope value and does not necessarily reflect its value as a public house[2].

13. The property was put back on the market in January 2016 for sale/rent for commercial use by a variety of means, including sales particulars, 'All Enquiries' board, and advertising on property websites. Additionally, the appeal premises were included within a list of properties that were sent out to the estate agent's mailing list. The lack of guide price/rent was justified by the appellant to encourage maximum interest in the property and not to deter prospective purchasers from coming forward and offering. The Marketing Report prepared by Savills and updated in April 2019 advises that the premises were still being marketed up to that point.

14. It is clear that the premises have been marketed for a period exceeding 24 months and would therefore comply with these particular requirements of Policies SD43 and SD23. It is argued that the trading history and lack of interest during the marketing campaign show that the business is unable to provide an operator with a viable and sustainable return. I have had regard to the evidence submitted by the appellant, which includes general background information in respect of the economic difficulties experienced by licensed premises in recent years, thus prompting the closure of a high number of public houses. However, this does not appear to be supported by substantive evidence in the form of trading or accounting information for the appeal premises which, I am told, were not available. Yet, I note that according to the Sales Particulars prepared by David Coffer Lyons, the financial details for the business were indicated to be available on request.

15. All fittings and fixtures, as well as a number of internal walls, were stripped out in March 2016[3] and therefore, significant expenditure would be required to re-instate the premises in full working order. Whatever the appellant's motives were for carrying out those works, the value of the premises should reflect its present state and the significant costs that would be incurred to reinstate features that have been stripped out. Despite the deteriorated state of the premises, two offers to purchase the freehold were received, which the appellant declined, as they were not reflective of market value. However, having regard to the price paid for the appeal premises in working condition, with additional land to the rear, and the correspondence between the estate

[1] This document informed the preparation of the now adopted South Downs Local Plan.
[2] David Coffer Lyons – General Advice as to Viability (Dated 31 August 2018).
[3] Savills Sales Particulars.

agent and prospective purchasers, the selling price sought by the appellant did not appear to be reflective of the current condition of the building.

16. It is of note that the different parts of the site appear to have been marketed separately. Prospective purchasers were notably offered the public house without the car park element. This is however contrary to the requirements set within LP Appendix 3, which states that the marketing exercise should reflect the existing use of the premises or business in its entirety, and not to parts of it.

17. There is a diverse range of professional opinions about whether the use as a public house can still be viable, notably by reason of the costs required to enable the premises to function as such. Although the property was marketed by a company experienced in selling public houses, and whilst I understand that prices may have varied depending on what was being offered, there is nevertheless little evidence before me to explain how the various prices quoted to prospective purchasers were arrived at. Furthermore, whilst estimates of the cost of refurbishing the building have been provided, no substantive evidence has been presented to demonstrate how those costings were derived.

18. It cannot be concluded that the use of the appeal premises as a public house is no longer viable, simply because the appellant has been unable to sell the site, for a price which does not appear to reflect the condition of the building. To use the terms of the Vail Williams[4] report commissioned by the Authority, the marketing process was therefore 'somewhat flawed' and, having regard to the requirements of LP Policies SD43 and SD23, can not be considered as robust.

19. I am mindful that the appeal building lies within a relatively small village, where passing trade may be limited, but this is not an unusual context, which applies to many public houses across the country located within a rural setting. These are often used not just by local residents but also benefit from a larger catchment due to the proximity of other villages, and can be supported by tourists.

20. As mentioned above, I note that there is another public house within proximity to the appeal site, known as the Selborne Arms. However, public houses do not necessarily have to be restricted in number to enhance their viability, as this would otherwise prevent competition and complementarity. Spatial proximity should not be regarded in itself as a reliable indicator of the value placed on public houses by local communities. When the Queens was still operating, both establishments catered for different needs and therefore complemented each other. The presented evidence and my own observations therefore lead me to conclude that the facilities offered by the Selborne Arms are not of an equivalent or better quality to those that would be lost as a result of the proposal.

21. For the foregoing reasons, I conclude that the proposal would not be acceptable, having regard to local and national planning policies in respect of community facilities and sustainable rural tourism. The appeal scheme would result in the loss of a valued community facility and associated visitor accommodation, which would be harmful to the surrounding community and would not be outweighed by the provision of five additional dwellings. The

[4] Viability Consultancy Report dated 22 November 2018.

appeal scheme would therefore conflict with LP Policies SD23 and SD43, as well as the Framework.

Other Matters

22. The site forms part of the Selborne Conservation Area and is located within proximity to a number of Listed Buildings. The Authority accept that the proposal would ensure the retention of the building, and consider that the effect of the proposal on these designated heritage assets would be acceptable. Based on the evidence before me, I concur with this view and conclude that the proposal would not fail to preserve or enhance the character or appearance of the Selborne Conservation Area or cause harm to the setting of nearby Listed Buildings.

23. The appeal site lies within the South Downs National Park (SDNP). Paragraph 172 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. As the proposal relates to a site located within the built envelope of Selborne, I consider that the proposal would preserve the landscape and scenic beauty of the SDNP.

24. LP Policy SD28 requires 1 affordable home for a development of 5 dwellings, though, exceptionally, at the discretion of the Local Planning Authority, financial contributions towards affordable housing may be considered acceptable. As per the Statement of Common Ground dated 12 July 2019, it was agreed that subject to the receipt of a satisfactory Unilateral Undertaking, the appeal scheme would be in compliance with Policy SD28.

25. At the Hearing, the appellant submitted a signed Unilateral Undertaking dated 30 July 2019, pursuant to Section 106 of the Town and Country Planning Act 1990. This contains an obligation to pay a financial contribution of £16,784.60 towards the provision of off-site affordable housing. Subject to this contribution, I am satisfied that the proposal would meet the requirements of Policy SD28.

26. Various concerns have been raised by interested parties, including reservations regarding the effect of the proposal on highway safety, which I have noted. However, the Local Highway Authority did not raise any objection to the appeal scheme, subject to the provision of visibility splays and parking spaces for the new dwellings, and there are no reasons for me to take a different view.

27. The site lies approximately 4km from the Wealden Heaths Phase II Special Protection Area (SPA). In accordance with LP Policy SD10, developments resulting in a net increase in residential units within 5km of the SPA will be required to submit a screening opinion to the Authority for a project-specific Habitat Regulations Assessment (HRA) which, in consultation with Natural England, will determine whether the proposal would result in a likely significant effect on the integrity of the statutory designated site.

28. The Habitat Regulations Assessment Screening, prepared by Eclipse Ecology[5] concludes that the proposed development is unlikely to have a significant effect on the Wealden Heath Phase II SPA, either alone or in combination with any other plans or projects. However, the Screening report only reaches this

[5] Dated 3 September 2018.

conclusion on the assumption that the impact resulting from the development of allocated site(s) should be informed by a project-level HRA, through which appropriate mitigation could be considered. No information is before me in relation to other allocated sites and I cannot confidently rule out the possibility that impacts may arise in combination with other planned development. On this basis, and applying a precautionary principle, the necessity to carry out an Appropriate Assessment for the appeal scheme could not be ruled out.

29. As I am dismissing this appeal on other substantive grounds, this is not a matter which needs to be considered further here. However, had the development been considered acceptable in all other respects, I would have sought to explore the necessity for undertaking an Appropriate Assessment, to ensure the proposal's compliance with Habitats Regulations, in light of the *People over Wind*[6] decision by the Court of Justice of the European Union.

Conclusion

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

S Edwards

INSPECTOR

[6] People over Wind, Peter Sweetman v Coillte Teoranta, Case C-323/17.

APPEARANCES

FOR THE APPELLANT:

Guy Macklin	Derek Warwick Developments
Scott Stemp	Counsel, No 5 Chambers
Robin Henderson MRTPI	Associate Director, Savills Planning
Jim Beavan	Senior Planner, Savills Planning
Adam Bullas	Director Licensed Leisure, Savills
Trevor Watson	Executive Director, Davis Coffer Lyons

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Wiltshire	Development Management Team Leader, East Hampshire District Council, on behalf of South Downs National Park Authority

INTERESTED PERSONS:

Minette Palmer	Parish Councillor, Selborne Parish Council
Anthony Davis	Pubs Protection Officer, East Hants, Campaign for Real Ale (CAMRA)
Caroline Rye	Save the Queens
Andrew Gibson	Prospective purchaser
Wendy Megeney	Local Resident
John Walsha	Local Resident
David Ashcroft	Ward Councillor, Selborne
Simon Bennett	Local Resident
Hayley Carter	Selborne Arms
Guy Masson	Local Resident
Nigel Palmer	Local Resident
Judy Thompson	Local Resident
Ronald Davidson Houston	Local Resident
Roderick James	Local Resident
Charlotte Robbins	Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

1 Section 106 Unilateral Undertaking
2 Letter from Mr Robert Frost, dated 26 July 2019, submitted by Minette Palmer
3 Letter from Sir Adrian Montague CBE, dated 29 July 2019, submitted by Minette Palmer
4 Petition submitted by Wendy Megeney