
Appeal Decision

Site visit made on 17 October 2019

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th November 2019

Appeal Ref: APP/V0510/W/19/3234977

The Cherry Tree, 8 Duck Lane, Haddenham CB6 3UE

- 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 Punch Partnerships (PML) Limited against the decision of East Cambridgeshire District Council.
 - The application Ref 19/00791/FUL, dated 31 May 2019, was refused by notice dated 29 July 2019.
 - The development proposed is erection of 2 no. detached dwellings (use class C3) on land adjacent to the Cherry Tee, utilising existing access, with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Punch Partnerships (PML) Limited against East Cambridgeshire District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the viability of the former public house, The Cherry Tree;
 - the effect of the proposed development on parking arrangements and highway safety.

Reasons

Viability

4. The appeal site comprises a disused carpark, which was formerly associated with The Cherry Tree Public House, which has recently been re-opened as a café. I have not received confirmation that this use is lawful, albeit the Council have not raised any issue with the use within its evidence. Therefore, I have considered the appeal on the basis of the café being considered as a community use.

5. The site has been fenced off separately from The Cherry Tree and is not currently available for the purposes of off-street parking. However, having regard to the surfacing of the site and its overall size it could still be used for its original purpose.
6. The Cherry Tree does not have any parking provision within the site that has been retained and therefore all patrons and staff would be reliant on on-street parking, or accessing the site on foot. I have not been provided with details of how regular the bus service is which operates opposite the site, but this may also provide an alternative means of access to the café.
7. The sites last use was for commercial purposes as it was the car park associated with the former public house and the evidence before me indicates that the public house was sold separately from the car park. Whilst the public house has been retained as a community facility and is now operating as a café, the subdivision of the site has resulted in a severing of the community facility.
8. Policy COM3 of the East Cambridgeshire Local Plan 2015 (LP) requires that proposals leading to the loss of commercial community facilities, including sites last used for this purpose, will only be permitted where it can be demonstrated that the use is not financially viable and that efforts have been made to sell the property at a realistic price.
9. There is nothing before me to suggest that, since the time of sale of the public house in May 2019, the remainder of the site has been offered for sale as a community facility, as required by policy COM3 which requires all reasonable efforts to have been made to sell or let the property at a realistic price for at least 12 months.
10. Policy COM3 also requires any loss of community facilities, either commercial or non-commercial to be compensated by the provision of an equivalent or better replacement community facility and the appellant hasn't offered any alternatives to compensate for the loss of the car parking which I consider still forms a community facility, having regard to its former use, albeit it has been severed from The Cherry Tree.
11. I cannot conclude from the evidence before me that it is financially viable for The Cherry Tree to operate without a car park in the long term or that the community would not benefit from the provision of a car park to serve the wider needs of the community.
12. With the absence of substantive evidence to the contrary, I must conclude that proposed development would have a detrimental impact on the viability of the community facility, failing to provide appropriate evidence to demonstrate that the viability of the community facility will not be affected or that an alternative facility can be provided elsewhere to compensate for this loss, or that the severed site has been offered for sale or let for at least 12 months in conflict with policy COM3 of the LP which seeks to ensure the long term viability of community facilities to ensure their retention.

Parking and highway safety

13. As set out above the site was previously used as a car park in association with the former public house and formed a single planning unit. Whilst the

car park is now in separate ownership, this sub-division does not alter the planning status of the site and as such I consider it is necessary to have regard to the parking needs of the former public house. Policy COM8 of the LP requires adequate levels of parking to be provided, unless sites are accessible by non-car modes.

14. At the time of my visit there were a number of cars parked along Duck Lane, it was not possible to establish if these were all in connection with visits to the café, although I did witness some cars parking in Duck Lane and accessing the café during my visit.
15. There is a footpath of limited width extending from The Cherry Tree along the frontage of the site. Due to the presence of parked cars along Duck Lane and its narrow width it was not possible to walk along this footpath and therefore pedestrians are required to either cross the road to access the footpath on the opposite side of the road or walk along the highway.
16. I could also see evidence of cars having parked on the verge just beyond The Cherry Tree and therefore it was clear that there is demand for parking in the vicinity of the site. Whilst I recognise that this demand may not be generated by the café use, it does lead me to conclude that parking is at a premium within the locality.
17. The dwellings opposite the site are predominately served by their own private driveways and as a result there are a number of accesses onto Duck Lane, in proximity to the site, as well as a bus stop with shelter. There are also traffic calming measures outside of the appeal site, which indicate that there is a need to slow cars as they approach the corner and junction which is just beyond The Cherry Tree, where the road also narrows.
18. Class A3, A4 and A5 uses are required to provide 1 car space per 5m² of commercial floor space as well as 1 cycle space. There is no substantive evidence to suggest that alternative sustainable transport choices are available to negate the need to meet these standards in this location. The development of the site would result in the loss of the site for the purposes of parking and makes no alternative provision for the former public house as part of its proposal.
19. Consequently the proposal would increase the risk of on-street parking the area. Additional cars parking on-street would mean cars approaching the junction with Linden End having to pull over into the path of oncoming cars. This adds to my conclusions that a lack of off-street parking for the Cherry Tree would contribute to this situation, detrimental to highway safety. I also note that the consultation from the Highway Authority raised a concern about on-street parking and indicated that a recommendation of refusal would have been forthcoming if the Council was unable to seek amendments to the scheme to secure off-street parking.
20. Therefore, whilst the site is not currently available for car parking in association with The Cherry Tree, its original purpose was to provide parking for that use. On the basis of the evidence before me, I find the loss of parking would result in increased demand for on-street parking in an area where this is in limited supply and is detrimental to highway safety.

21. In conclusion, without any substantive evidence to the contrary, I find the proposed development would harm highway safety in the area, contrary to Policy COM7 and COM8 of the LP which seeks to ensure developments are capable of accommodating the level of traffic generated without detriment to the local highway network and that parking provision meets appropriate standards. It would also conflict with paragraph 109 of the National Planning Policy Framework (the Framework) which states that development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Conclusion and Planning Balance

22. It is not disputed that the Council is unable to demonstrate a deliverable 5 year supply of housing. Paragraph 11 of the Framework is engaged, whereby there is a presumption in favour of sustainable development and planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole.
23. The site is well located in terms of its proximity to services and is of a scale appropriate to the size of the existing village and as such lies within a sustainable location. The access and parking arrangements would be satisfactory and there is no evidence that local infrastructure would be unable to meet the needs of the development. In addition the development would result in the re-use of vacant land, which in its current form is visually unattractive.
24. The site would give rise to some economic benefits during the construction phase and beyond in supporting the services within the village and I consider that there would be modest social benefits arising from the contribution to the Council's housing supply, noting paragraph 64 of the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area.
25. I am required to determine the appeal in line with the relevant policies of the development plan, unless material considerations indicate otherwise. For the reasons given, the proposal would be contrary to the relevant policies of the development plan and whilst the absence of a five year housing land supply engages the presumption in favour of development, the combined social and economic benefits arising from the development, given the scale of development, would be modest, and would not outweigh the harm I have identified to highways and that arising from the unjustified loss of a community use. The proposal is not therefore sustainable development and therefore material considerations do not indicate that my decision should be taken other than in accordance with the development plan.
26. Thus, for the reasons given above I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR