



Appeal Decision

Site visit made on 15 October 2019

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Appeal Ref: APP/E2001/W/18/3218212

The George and Dragon, Main Road, Holmpton HU19 2QR

- 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 Charles Brokenbrow against the decision of East Riding of Yorkshire Council.
 - The application Ref: DC/18/02334/PLF/EASTSE (PP-07141275), dated 18 July 2018, was refused by notice dated 6 November 2018.
 - The development proposed is a change of use from public house (A4) to dwelling (C3).
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Decision

1. The appeal is dismissed.

Procedural matter

2. The planning application form describes the proposal as "a change of use for the existing 'The George and Dragon' public house to be converted into a dwellinghouse for the current owners". The description used by the Council on the decision notice succinctly and accurately sets out the proposed development and I note that the appellant has also used this on the appeal form. I have therefore also used this for the purposes of the appeal.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the provision of community facilities in the village.

Reasons

4. Policy C2 of the East Riding Local Plan Strategy Document 2016 (ERLPSD) seeks to maintain and improve access to a range of services and facilities in the East Riding, to meet the needs of residents and visitors. ERLPSD Policy S4 is supportive of development which helps maintain the vibrancy of villages and it expects development, amongst other matters, to take into account the need to support sustainable patterns of development. Holmpton is classed as a village for the purposes of Policy S4. Within villages, Policy S4 is permissive of small scale new housing; affordable housing for local people; new and/or enhanced local services and facilities; and proposals which would support economic development. Policy S1 of the ERLPSD reiterates the presumption in favour of sustainable development set out in the National Planning Policy Framework and that development proposals should comply with the policies in the plan unless material considerations indicate otherwise.

5. The appeal building is a substantial detached building with a further outbuilding separated from the main building by the access to a service yard. This outbuilding is conjoined to a neighbouring dwelling house that is in separate ownership to the appeal building. From the evidence, the appeal building presently comprises a public house with a bar, including a restaurant area, on the ground floor and managers accommodation on the first floor. It is stated that the public house ceased trading in December 2018.
6. ERLPSD Policy C2 sets out that the loss of a facility will only be supported where it meets one of the three criteria set out in part C of Policy C2. These are: it is proved the existing use and proposals for alternative community uses on the site are not economically viable, and there is insufficient demand to support them; the loss is part of a wider proposal to improve service provision in the locality; or existing facilities can adequately serve identified needs, in an equally accessible manner.
7. The supporting text to Policy C2 which, whilst not part of the policy itself sets out how the Policy will be implemented, states that, in addition to financial records and the ability to serve the surrounding catchment, an assessment should include whether the facility has been appropriately marketed as a going concern and, if so, for how long (one year is usually expected). The assessment would need to demonstrate that the existing use, and alternative proposals for community use on the site, are not economically viable. An independent professional valuation will be required where it is considered that the facility has been marketed at an unsuitable price.
8. In respect of the first criterion, the appellant has provided accounts for the single year in which he operated the public house which show that the business traded at a loss. I have also been provided with a copy of a letter from the previous owner of the public house which, whilst not supported by any accounts, sets out that prior to the appellant's acquisition of the building it had been difficult to operate the business profitably. This evidence indicates that there were potentially some difficulties in operating the business solely on the basis of a public house.
9. However, the appellant's evidence does not address the requirement of Policy C2 to demonstrate that alternative proposals have been considered. The appellant argues that it is at the appellant's discretion if they wish to engage in another business activity and the community's desire to look at alternative uses. However, the requirements of the Policy are clear that the loss of a community facility will only be permitted if it is demonstrated that proposals for alternative community uses on the site are not economically viable. Although the appellant suggests that given the proximity to other settlements to the appeal site it is unlikely that any alternative business would be supported in a manner to allow its long term growth, this has not been explored any further in the appeal submission.
10. The supporting text to Policy C2 suggests that one year is normally considered the appropriate marketing period for the facility in order to meet the requirements of the policy. The appellant has submitted a brief statement from the company marketing the property on his behalf which states that the property has been on the market since July 2017 and that it has been advertised on a number of property websites in addition to direct approaches to potential interested parties. It also sets out that there have been no viewings

or offers received. On this basis, the property had been marketed for one year at the time the planning application was submitted in July 2018.

11. It is not clear whether more than one direct approach was made to potential clients during that time, or since, and I observed when I visited the site that, at that time, there was no 'for sale' sign at the premises. The third party representations suggest that none has been displayed and this will have also limited the property's exposure to the market.
12. The Council have questioned whether the asking price for the premises was realistic and the supporting text to Policy C2 advises that an independent professional valuation will be required in such circumstances. Although the appellant would be aware from the Planning Officer's report that the Council has questioned whether the asking price was realistic, the appeal submission does not address this through a further independent professional valuation of the property.
13. In this context, whilst the requirement to market the property for a period of at least one year has been met, from the evidence, it is not clear how actively this has been pursued or whether the asking price for the property was a realistic one.
14. I note that planning permission was granted in 2014 for use of part of the building as a multipurpose community facility alongside shop, office and cafeteria use. This Council advise that this planning permission has now lapsed but there is no indication as to why this proposal was not pursued. Nonetheless it is indicative that the Council would support such a mixed use and there is some evidence in the form of representations from third parties that there is a willingness to support additional uses at the premises alongside the public house use. I am mindful of the appellant's evidence and the letter from the previous owner which indicate that this desire to retain the public house did not necessarily translate into regular custom whilst the pub was trading. Nevertheless, this, of itself, is not conclusive proof that any alternative use would not be viable.
15. Based on the evidence before me, I find that the requirements of the first criterion of Part C of Policy C2 have not been met, particularly in respect of demonstrating that alternative uses are not economically viable.
16. It is not in dispute that the appeal proposal does not form part of a wider proposal to improve service provision in the locality. In this respect the proposal does not engage the exception provided by criterion 2 of Policy C2.
17. With regard to criterion 3, I have noted that there are other public houses within a five mile radius of the appeal building and that there is a potential catchment population of less than 10,000. I also had the opportunity during my site visit to visit some of the nearby settlements and the town of Withernsea. Policy C2 requires that not only other existing facilities be available to meet identified needs but also that this can met be in an equally accessible manner. The closest public house identified by the appellant is over two miles from the appeal building and the majority of the others are in excess of three miles. There are very limited public transport opportunities in Holmpton and the nature of the narrow, unlit roads without continuous footways would be a deterrent to walking or cycling to access these. Whilst the journey time by car is not great, people visiting a public house may not wish to

drive and the evidence from third parties indicates that the use of taxi services in the area is both expensive and not always available. Although there are alternative facilities in the wider area, I do not find that these are equally accessible and, in this respect, the proposal would not meet the requirements of criterion 3 of Part C of Policy C2 .

18. The Council's planning policies set out in Policies S4 and C2 of the ERLPSD seek to maintain the vibrancy and vitality of villages and to ensure that local services are maintained or enhanced. In order to achieve this any loss of community facilities or services must be robustly justified. The appellant's evidence indicates that the operation of the premises as a public house serving food has had difficulty remaining profitable. The Council accept that there are challenges to operating a public house in rural areas with limited customer base and, due to the small scale of the settlements in the area and their dispersed nature, I would not disagree that this is the case. Nevertheless, on the basis of the evidence before me, I am not satisfied that the requirements of Policy C2, and in particular the requirements of Criterion 1 of Part C, are met by the appeal proposal and it has not been demonstrated that the existing use and proposals for alternative community uses on the site are not economically viable.
19. I therefore conclude that the proposed development would result in a loss of provision of community facilities in the village. It would not comply with the relevant requirements of Policies S4 and C2 of the ERLPSD.

Conclusion

20. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise. I have found that the proposal does not comply with the relevant requirements of Policies C4 and S2 of the ERLPSD. Whilst the proposal would potentially increase the housing supply in the area, there is no evidence that that Council cannot demonstrate a deliverable five year housing land supply or are not meeting their targets for housing delivery. In this context the provision of a single additional dwelling would not overcome the conflict with other policies in the development plan and no other material considerations have been identified that would justify granting planning permission for a proposal that conflicts with the development plan.
21. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR