



Appeal Decision

Hearing Held on 10 December 2019

Site visit made on 10 December 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2020

Appeal Ref: APP/Y2736/W/19/3223570

Royal Oak Inn, Church Street, Nunnington, North Yorkshire YO62 5US

- 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 Mrs Jill Greetham against the decision of Ryedale District Council.
 - The application Ref 18/00235/73A, dated 2 February 2018, was refused by notice dated 31 October 2018.
 - The development proposed is the change of use of public house/restaurant to private dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for the change of use of public house/restaurant to private dwelling at Royal Oak Inn, Church Street, Nunnington, North Yorkshire YO62 5US in accordance with the terms of the application, Ref 18/00235/73A, dated 2 February 2018 subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Block Plan (showing parking) and the proposed floor plan.
 - 2) The occupation of the dwelling hereby approved shall be limited to people (and their dependants) who:
 - Have permanently resided in the parish, or an adjoining parish (including those outside the District), for at least three years and are now in need of new accommodation, which cannot be met from the existing housing stock, or
 - Do not live in the parish but have a long standing connection to the local community, including a previous period of residence of over three years but have moved away in the past three years, or service men and women returning to the Parish after leaving military service; or
 - Are taking up full-time permanent employment in an already established business which has been located within the parish, or adjoining parish, for at least the previous three years; or
 - Have an essential need arising from age or infirmity to move to be near relatives who have been permanently resident within the District for at least the previous three years.

Application for costs

2. Prior to the hearing an application for costs was made by Mrs Jill Greetham against Ryedale District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issue is whether the proposal would result in the unacceptable loss of a community facility.

Reasons

4. Policy SP11 of The Ryedale Plan – Local Plan Strategy (2013) (LP) sets out that existing local community facilities that contribute to the vitality of towns and villages and the well-being of local communities will be protected from loss/redevelopment. The exceptions to this include situations where it can be demonstrated that there is no longer a need for the facility (or a suitable and accessible alternative exists) or that the facility is no longer economically viable.
5. As part of the consideration of the application by the Council, it commissioned an independent report¹ on the Royal Oak which examined both the need for the facility and its economic viability. The Fleurets report concluded that there are sufficient and better located premises that can cater for the community needs within Nunnington and the immediate area.
6. Notwithstanding that, the Council concluded that there is a continuing need for this facility in the locality and that there was no easily accessible alternative to serve the needs of the community of Nunnington. I am also conscious of the representations received relating to the needs of the community, and those views which were expressed at the hearing itself.
7. Within Nunnington there are other facilities which open during the daytime including The Old Yard², the village hall, and Nunnington Hall which is a National Trust property with a café. Whilst these provide some community facilities for Nunnington they do not provide a public house. Having said that, I acknowledge that there are 'pop up pub' events at the village hall from time to time.
8. In respect of public houses, there are several located in nearby villages including The Worsley Arms and The Hoveringham Inn (in Hoveringham approximately 2.5 miles away from Nunnington). Others within approximately 5 miles of Nunnington include The Star and The Pheasant Hotel at Harome, The Grapes at Slingsby, The Plough at Wombledon, and The Fairfax at Gilling. Whilst these venues offer different levels of facilities ranging from a traditional public house to a Michelin star restaurant, they do nevertheless provide a choice of venue for residents and visitors in the locality.
9. The National Planning Policy Framework (the Framework) recognises that in order to support a prosperous rural economy local services and facilities, such as public houses, should be retained. However, there is also a recognition that it may not be possible to provide or retain all community facilities in all villages.

¹ The Fleurets report dated 18 July 2018

² Previously known as Fryton Catering Coffee house

10. From the evidence before me, Nunnington has a population of 361 residents living in 171 households³ and is therefore a small village. It is also evident that such a population is insufficient to sustain a viable public house business on its own without attracting customers from outside of the village itself.
11. As part of the appeal representations, and at the hearing itself, reference has been made to the local darts team which previously used the Royal Oak as its base. Since the Royal Oak stopped opening on a Monday evening the darts team were forced to find alternative accommodation. As I understand it, the team is currently using the White Swan at Ampleforth which is around 6 miles away from Nunnington. Given the continued operation of the darts team, this provides an example that alternative facilities are available for the community of Nunnington, albeit in a location where travel by car is the likely mode of transport.
12. Whilst I have no doubt in my mind that local residents would very much like to have a public house within the village so that they can easily walk to it, to my mind, this does not provide a compelling justification of need which could not be serviced by alternative public houses in surrounding villages. It coming to that view I acknowledge that none of the venues brought to my attention are as convenient to the residents of Nunnington than the Royal Oak. However, that is not the test I have to consider the proposal against.
13. Taking all of the above into account, whilst there is a need for a public house facility, I consider that suitable and accessible alternatives exist in the surrounding area. Therefore, the proposal would not conflict with Policy SP11.
14. Turning to whether the Royal Oak could be an economically viable business, I have some concerns over the assumptions made in the Fleurets report and how they impact on the potential profitability of a well-run business. However, given my conclusions on the availability of suitable and accessible alternatives and the fact that Policy SP11 only requires compliance with one of the three arms of the 'Protection' section of the policy, there is no need for me to consider that aspect any further.
15. For the above reasons the development would accord with Policy SP11 of the LP in that it has been demonstrated that there are suitable and alternative public houses which exist in the surrounding area and therefore the loss of the Royal Oak as a public house would not unacceptably affect the well-being of the local community. It would also accord with the overarching aims of the Framework.

Other matters

16. I have also had regard to the representations made in support and against the proposal. Specifically, the price in which the premises had been marketed for together with the offer to purchase the premises so that it could be used as a public house. My attention has also been drawn to other appeal decisions⁴ including ones from the Forest of Dean and Hampshire Districts.
17. However, the fact that the property had been marketed for a price which appeared to be way in excess of the value of the business does not alter my

³ From the 2011 Census data

⁴ References APP/P1615/W/18/3198223 and APP/H1705/W/18/3204499

conclusion above. Similarly, the offer to purchase the premises is away from the heart of the planning merits of this particular case.

18. Turning to the other appeal decisions which have been brought to my attention, I am not aware of the full circumstances of these cases nor how they relate to the circumstances of the current appeal proposal. Moreover, each application must be determined on its own individual merits.
19. In addition to the above, the Royal Oak is a Grade II Listed Building (as are the outbuildings) and is located within the Nunnington Conservation Area.
20. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of these listed buildings and the desirability of preserving the character or appearance of the Conservation Area. The Council have not identified any harm to any of these buildings as a result of the change of use. Similarly, the Council consider that the change of use has not had any impact to the character or appearance of the Conservation Area.
21. Taking the above into account I also consider that the proposal would preserve the Listed Buildings and the Conservation Area and it would therefore accord with the heritage aims of the Development Plan and the Framework.

Conditions

22. The Council has suggested two planning conditions that it considers would be appropriate in the event that I allow the appeal. This includes a condition relating to the plans of the development and a local needs occupancy condition. I have considered these in light of the Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
23. Given that the development has already been carried out, it is not necessary to include a standard time limit condition. For the reason of certainty, it is necessary to include the condition relating to the approved plans.
24. Turning to the suggested occupancy condition, this is on the basis that the proposal would create a new dwelling, which is a matter which the appellant disputes.
25. It is common ground between the main parties that the appeal premise is one planning unit and that the ground floor was occupied by the public house and that the first floor was used as residential and office accommodation. The Council suggest that the residential accommodation was ancillary to the public house use whilst the appellant suggests that the premise could be classified as a mixed-use premises.
26. From details submitted with the application and the appeal, and from what I saw at my site visit, the stairs down from the first floor came out into part of the ground floor which formed part of the publicly accessible area of the public house. Given that no kitchen facilities exist on the first floor, the occupiers of the first floor accommodation would have to use the commercial kitchen area or what I observed to be a further kitchen area beyond the commercial kitchen (which was shown to be a utility area on older plans and described as a store room/food preparation room in the Building Survey report from 2014).

27. From the limited evidence before me, to my mind, the occupiers of the first-floor accommodation would have been heavily reliant on the kitchen area of the public house and that to gain access to it would have involved passage through a public area of the public house. To me, that suggests that the residential accommodation was subservient to the public house use.
28. Taking this into account, and in the absence of any convincing evidence to the contrary, my view is that the principle use of the building was as a public house and the residential accommodation associated with it was ancillary to this principal use.
29. At the hearing, the Appellant agreed that should that be my judgement, then it the provisions of Policies SP2 and SP21 would come into play as the proposal would result in the creation of an independent dwelling (as opposed to residential accommodation ancillary to the main use of the premises as a public house).
30. In considering the objectives of these Policies, I consider that a local occupancy condition is necessary to make the development acceptable in planning terms. I also note that the Council have set out that the Appellant would comply with the occupancy restrictions which the suggested condition would impose and therefore there would not be any implications for the appellants' human rights.

Conclusion

31. Taking all matters into consideration, I conclude that the appeal should be allowed.

Chris Forrett

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

David Hardy	Solicitor
Steve Barker	Prism Planning
Jonathan Helm	Prism Planning
Jon Heald	Everard Cole
Jill Greetham	Appellant

FOR THE LOCAL PLANNING AUTHORITY

Rachel Balmer	Senior Planning Officer
Michael Hughes	MJD Hughes Ltd

INTERESTED PARTIES:

Stephen Jack

Richard Murray Wells

Ian Barraclough

Helen Barraclough

Rosemarie Jack

Paula Craddock

C. D. Mackereth

Helen Cooke

Chris Cooke

Sue Elphinstone

John Elphinstone

Martyn Thompson

John Paul

Roger Hammon

Clifford Foxton

John Tate

Enid Mutcalfe

K Mutcalfe

DOCUMENTS submitted at the Hearing

1. Appendix DCS3 of the Fleurets report.