The Planning Inspectorate

Appeal Decision

Site visit made on 7 July 2020

by D.R McCreery MA BA (Hons) MRTPI

An Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 August 2020

Appeal Ref: APP/L3625/W/20/3244966
Three Horseshoes Inn Public House, Ironsbottom, Sidlow RH2 8PT

- 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 Pamela Ridge against the decision of Reigate & Banstead Borough Council.
- The application Ref 19/00673/CU, dated 3 April 2019, was refused by notice dated 19 July 2019.
- The development proposed is change of use from A4 public house to C3 residential.

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mrs Pamela Ridge against Reigate and Banstead Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. The Council considered the original planning application against the policies in the Reigate and Banstead Local Plan (2005) which have now been superseded following the adoption of the Reigate and Banstead Development Management Plan (the Development Management Plan) in September 2019. As decisions on appeals are made against the local plan that is in force at the time that the appeal is decided, I have considered the proposed development against the policies in the Development Management Plan as necessary.

Main Issue

4. The main issue is the effect of the proposed development on the surrounding area in terms of whether the appeal property should continue to be available for community use.

Reasons

5. The appeal site comprises a two storey building and associated gardens and surfaced car park area. It is at the end of a group of dwellings that front the road known as Ironsbottom. The Public House is indicated as having ceased trading in 2019.

6. The Development Management Plan sets out a policy approach to considering proposals that involve community facilities. Of particular relevance to this appeal is Policy INF2.

7. Policy INF2 resists the loss of existing community facilities (including public houses) unless it is demonstrated that the loss would not have an adverse impact on the surrounding community. This is subject to additional requirements around marketing and demonstrating that the loss would not result in a shortfall in local provision. The policy aims to strike a balance between protecting existing provision of community facilities whilst accepting that in some cases a lack of demand may make it unviable to retain them.

8. I am also mindful of policy contained in paragraph 92 of the National Planning Policy Framework, which encourages local planning authorities to plan positively for the provision of community facilities such as public houses and guard against their unnecessary loss.

9. The challenging trading environment for public houses in general and the nature of the local market as set out by the Appellant is acknowledged. As are the initiatives, efforts, and investment made by the Appellant to try to make a success of the Three Horseshoes. Notwithstanding the contrasting views of interested parties, I have little firm evidence to suggest that the efforts made by the Appellant have not been genuine.

10. The Appellant's Viability Appraisal and associated documents point towards losses and low levels of profit dating back to 2007, with financial performance falling further following the Appellant taking over the running of the Public House again in 2015.

11. Notwithstanding the submissions put forward by interested parties, the evidence before me points to an existing business that is not currently viable. Although the reasoning behind this is not fully established, the Appellant demonstrates to some degree that the location and market conditions may have been a factor.

12. Nevertheless, the information on viability of the current business does not fully address whether a future occupier could operate a viable business from the premises, either as a public house or an alternative community facility.

13. As part of establishing the market demand for future occupiers, Annex 3 of the Development Management Plan sets out further details of the marketing requirements relevant to Policy INF2. The site was marketed by a commercial agent between 2017 and 2018 for a period that exceeds the 6 months required in Policy INF2. I find the extent of the marketing undertaken to be generally appropriate, however the evidence lacks copies of the full details of how the site was marketed to allow verification that advertisements were consistent with what is indicated in Annex 3.

14. The asking price for the business is acknowledged in the Appellant's evidence as being aspirational. It may be the case that an asking price is not understood by most potential buyers to be the minimum selling price and that room for negotiation is possible. Notwithstanding this, the asking price is a basic piece of information that most would use to judge the starting point for such negotiations.

15. The price would also naturally be judged for competitiveness against others in the same locality. Therefore, the asking price is logically a factor that would affect the level of interest in the business.

16. The marketing requirements in Annex 3 set out that at least 3 professional valuations should be provided to confirm that an asking price is reasonable. I accept that Annex 3 was not fully adopted policy at the time of the planning application. However, providing multiple valuations in this way or doing something similar would have been a reasonable measure for the Appellant to follow in order to verify the fairness of the asking price. I see little in the evidence that justifies why the asking price was set at the chosen level and whether this was competitive. Reference to the insurance valuation does not in itself provide sufficient justification.

17. In the absence of such verification and, carefully considering the Appellants points on this matter, the evidence available does not confirm that the asking price was competitive and therefore that the marketing undertaken was a reasonable attempt to sell the business either for its existing community use or as another community facility as required under Policy INF2.

18. It does not follow that marketing the property for longer than the 6 months required would mitigate adequately for the aspirational nature of the asking price. An uncompetitive price is likely to attract limited interest, regardless of the length of time it is marketed for.

19. Some of the opinions from interested parties indicate a strength of feeling about the loss of the public house and its role as a community facility that would not be replaced in the immediate area. Similarly, I also acknowledge the letters of support for the proposal that highlight the challenges that the business has faced.

20. I note that the site has been listed as an Asset of Community Value (ACV), which is currently being contested by the Appellant. The Appellant correctly acknowledges that this appeal is not the correct forum for considering that dispute and I have no evidence to suggest the ACV listing is not still in place.

21. I note that the ACV was confirmed in April 2019, after the period during which the Appellant states the site was actively marketed as being for sale. As such, I do not agree that the lack of offers to date is a particularly strong indicator of the community appetite to purchase the site. Notwithstanding this, the primary purpose of the listing is to give community interest groups an opportunity to bid for the site if the owner wants to dispose of it, which is subject to a separate process and beyond this appeal. As such, beyond indicating a level of community interest in the site, I do not attach significant weight to the presence of the ACV in this instance.

22. The appeal decisions cited by the Appellant are noted. These examples include decisions in different areas and all the cases were considered on their own merits and on the basis of the evidence provided. As such, the examples are limited in their ability to provide direct comparison to the appeal proposal. Nevertheless, they confirm the general principle that alternative provision elsewhere is capable of being a consideration. This is also recognised within the wording of Policy INF2 at 1(b) in relation to shortfalls in local provision.

23. The Appellant's evidence regarding alternative provision is acknowledged and appears comprehensive in terms of setting out other public houses in the area. Whilst I give the presence of alternative provision some weight, the views of interested parties about the importance of the public house to the local community is also relevant in this regard. I accept that the local demand may be more limited and that businesses in rural areas in particular can struggle in terms of footfall. However, given the deficiencies in the marketing exercise discussed above, I cannot conclude that there is not the demand for a future occupier to run the premises as a community facility or that such use would not be viable. As such, the presence of alternatives does not in itself outweigh the concerns set out above about the adequacy of the marketing exercise that has been undertaken.

24. For the reasons set out above, I conclude that the proposed development fails to demonstrate that the loss of the public house would not have an adverse impact on the surrounding community leading to loss of provision and that reasonable attempts at selling the premises have been undertaken. Consequently, I find conflict with Policy INF2 of the Development Management Plan which seeks to resist the loss of community facilities (which includes public houses).

25. The decision notice makes reference to Policy CS4 of the Reigate and Banstead Core Strategy which concerns valued townscapes and the historic environment. As the relevance of this policy is unclear, including from the Council's evidence, I have given it little weight in this decision.

Other Matters

26. The comments received from other interested parties, both in objection and support of the scheme, are noted. The substantive comments relating to the main issue and the reasons for refusal are covered elsewhere in this decision. Other comments do not change my findings on the main issue.

Conclusion

27. For the above reasons the appeal is dismissed.

D.R. McCreery

INSPECTOR