The Planning Inspectorate

Appeal Decision

Site visit made on 25 August 2020

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 August 2020

Appeal Ref: APP/D3505/W/20/3248198
Queens Head, The Street, Erwarton, Ipswich IP9 1LN

- 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 Claire Niewiarowski against the decision of Babergh District Council.
- The application Ref DC/19/04823, dated 12 October 2019, was refused by notice dated 10 December 2019.
- The development proposed is the change of use from Public House class (A4) to residential class use (C3).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Changes to the Use Classes Order were introduced during the course of the appeal, with the effect being a transfer of Use Class A4 to a sui generis use class. Since the appeal relates to an application seeking a change of use (ie not via permitted development), the change of A4 to sui generis would not impact on the material considerations pertinent to this appeal.

Main Issues

3. The main issue for the appeal is whether or not there is sufficient justification for the conversion of the public house.

Reasons

4. Policy EM24 of the Babergh District Local Plan Alteration No 2 2006 (the Local Plan) does not specifically seek retention of community uses or buildings, nor does it exclude reuse of employment premises for other employment uses (ie offices, workshop). It simply seeks to prevent release of employment sites unless it can be demonstrated that retention for employment use has been fully explored, either via a previously agreed strategy for marketing or via proof that the premises are unsuitable or not viable for employment use. The appellant has sought to demonstrate the use of the Queens Head for employment purposes would be unviable.

5. I note that the viability assessment submitted by the appellant is focused on reinstating the Queens Head as a public house use only, with no consideration of alternatives. No evidence, including marketing reports or otherwise, has

been put forward to discount other 'appropriate' employment uses as is required in policy EM24, nor has there been reasons suggested as to why an alternate employment use (other than a public house) would be unviable.

6. The viability assessment makes a number of assumptions both in terms of calculating a valuation and with regards to what is required to bring the public house back into use in terms of inventory and equipment. There is limited reference as to how the public house used to trade when it was last open, and no evidence before me to substantiate the past or forecast trading figures, which themselves are acknowledged to be 'hypothetical' in nature.

7. The viability assessment suggests the building is in a state of poor repair, following a surface water flood, and that there are significant costs to be incurred in bringing the building back into effective use. I noted from my site visit that the exterior of the building was in good serviceable condition, retaining all its openings, with no immediately apparent sign of neglect. The car park, immediate grounds and signage were also in a kept condition. It was clear however that the ground floor had not been in use for some time, with furniture and other items of varying integrity stacked and stored throughout.

8. It is unclear whether the schedule of works within the viability assessment, from a single building contractor, are essential for the building to function or desirable extras (eg "alterations to electrics to suit new layout"). There are no indications the works would be appropriate to the fabric of the listed building, nor any assessment of the building's structural or physical state of repair to justify the level of works proposed. Similarly, there is no information as to whether alternate employment uses would require the same level of works or what the costs would be to restore the ground floor to a state suitable for residential purposes as proposed. I have no information regarding what renovations were carried out to the building pre-flood event or the extent of repairs undertaken following the flood to secure the building before the appellant concluded pursuing a business use was unviable.

9. I acknowledge that the Queens Head, apart from a few dwellings at the junction of Rats Hill, The Street and Ness Road, stands alone in a highly rural countryside setting where there are no public footpaths and the local road network cannot always accommodate two cars passing safely. Whilst this may make the appeal site unattractive for some businesses, and the demand for premises in this rural location may be limited, the National Planning Policy Framework (the Framework) recognises that sites to meet local community needs in rural areas may have to be found adjacent to or beyond existing settlements, even in areas where public transport may be poor.

10. Although my attention has been drawn to other public houses in the wider rural area, I have no information regarding their financial status, what each site offers nor the detailed planning circumstances of each case. I am cognisant that the Queens Head is not an Asset of Community Value, but this does not diminish its importance in serving the dispersed rural community of Erwarton.

11. In light of the above, I conclude that it has not been demonstrated that securing employment use of the building has been explored fully through the viability assessment. Therefore, insufficient justification has been provided to allow conversion of the public house, and the proposal is contrary to policy EM24 of the Local Plan as a result.

Other Matters

12. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Neither of the main parties has made a case regarding whether the proposed conversion would represent the optimum viable use of the heritage asset, or that residential use would be consistent with the building's conservation. Nonetheless, due to the conflict with policy EM24 of the Local Plan, it follows that it has not been demonstrated fully that employment use would be unviable and, as such, an optimum viable use has not been demonstrated either.

13. I acknowledge that the appellant sought to clarify 'in advance' a strategy to demonstrate the viability circumstances of the public house with the Council, in accordance with policy EM24, but were deferred straight to application. It is however incumbent on the appellant to ensure that the information they provide is robust and can demonstrate compliance with the terms of the policy, regardless of whether the Council use an independent assessor or not.

14. My attention is drawn to the fact the previous owner could not make a success of the business. Nonetheless, that owner sold the public house to the appellant and therefore did not have evidential burdens of planning policy to demonstrate.

15. It is only in recent times that the Covid-19 pandemic has influenced the availability and flow of trade. Given that, and the fact that the ground floor of the public house is not in a condition for immediate opening in any event, I apportion very little weight to this factor.

Conclusion

16. For the reasons given above, the appeal is dismissed.

David Wallis

INSPECTOR