



Appeal Decision

Hearing Held on 18 August 2020

Site visit made on 20 August 2020

by A J Mageean BA (Hons) BPI PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 September 2020

Appeal Ref: APP/L2630/W/18/3214456

The Pelican, 136 Norwich Road, Tacolneston, NR16 1AL

- 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 and Mrs Maginn against the decision of South Norfolk District Council.
 - The application Ref 2018/0043 dated 5 January 2018, was refused by notice dated 20 April 2018.
 - The development proposed is subdivision of public house, retention of commercial element and creation of 1 no. attached dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal building is a Grade II listed building. The listed building consent application submitted alongside the planning application in this case was approved, subject to conditions (2018/0044). This related to works to split the public house and remove the external staircase, replace the first floor door on the southern elevation with a window, blocking up of the external ground floor door on the northern elevation and the installation of a new ground floor kitchen and wc. The Council was satisfied that these works could be undertaken without harm to the listed building, and I have no reason to take a different view.

Main Issues

3. The main issues in this case are:
 - Whether adequate evidence that the building cannot be practically or viably converted for employment use has been demonstrated;
 - Whether the proposal would provide adequate living conditions for the future occupants of the new dwelling, with particular reference to noise and disturbance;
 - The effect of the proposal on the provision of community facilities in the local area; and,

- Whether this is a suitable location for the development proposed, and whether there are any other relevant social, economic or environmental considerations in this case.

Reasons

Employment use

4. The Pelican Inn ('the Pelican') is located on the northern edge of the village of Tacolneston, outside the development boundary. I understand that a public house has operated on this site since at least the mid-19th Century, but that it closed to customers in September 2016. The Pelican has been in the appellants possession for the past 20 years. During the early 2000's the appellants substantially extended the building to accommodate a ground floor restaurant and upper floor bed and breakfast accommodation. Whilst initially there was commercial success, the appellants describe how the smoking ban and financial crash of 2007 and 2008 ultimately meant that the current configuration of the Pelican became unsustainable as a business.
5. The current proposal seeks to modify the building, effectively reducing the public house element to its earlier size, and introducing a dwelling into the extended area. Policy DM2.10 of the South Norfolk Local Plan Development Management Policies (LP) establishes a preference for the adaptation and re-use of existing buildings in the countryside for employment uses, in order to support the tourism industry and the local economy. Conversion of historic buildings for residential use will be supported where there is compelling evidence that the building cannot be practically or viably converted to employment uses.
6. LP Policy DM3.16 clarifies the evidence required in order to demonstrate a lack of future need, demand or economic viability for proposals involving the loss of local employment space. Specifically, this includes six months of marketing for the permitted and similar uses, using an appropriate agent; and confirmation that the property has been offered on a range of terms agreed to be reasonable on the advice of an independent qualified assessor.
7. The appellants have submitted evidence that the Pelican was marketed with two professional agencies between October 2014 and June/July 2017, a total of 30 months consecutively. The Public House was marketed initially with both freehold and leasehold options. Later on it was also marketed as a site suitable for C1 use (hotel, boarding or guest house), linked to a now expired approval for a rear extension. Whilst the property agencies involved specialise in public houses, inns, restaurants and hotels, and over 100 enquiries were made, no formal viewings took place, suggesting very little commercial interest.
8. It is clear from the evidence that the site was actively promoted in the relevant market areas throughout this time. I appreciate that the asking price was based on advice from professional agents. The appellants acknowledge that the asking price may have been too high, though suggest that potential buyers would still have made an approach if interested. However, this point is not supported by the email correspondence from one of the agents, which refers to the fact that the price tag may have been putting potential acquirers off.
9. I understand that the need for collaboration with the Council on the marketing approach was raised with the appellants at the pre-application stage, in order

to gain agreement that this was 'reasonable' by an independent qualified assessor. The onus was on the appellants to ensure that this happened: the fact that it did not significantly undermines the appellants case. Specifically, whilst the marketing period was extensive, as the terms offered were not confirmed as being reasonable, the requirements of Policy 3.16 1)b)ii) were not met. Whilst the appellants view is that the Pelican 'offer' was too small for larger investors and too large for independent owner operators, the failure to address marketing requirements means that this assessment carries little weight.

10. The current proposal seeks to secure a smaller public house, thereby potentially creating an opportunity for new operators to open the site and support local employment. In this respect the proposal appears to partially support the aspirations of Policy DM2.20. Nonetheless, the proposal does not present the compelling evidence required in support of conversion for residential use.
11. On this issue I conclude that adequate evidence that the building cannot be practically or viably converted for employment use has not been demonstrated. In this regard there is overall conflict with Policy DM2.20 which seeks to secure the re-use of redundant non-residential buildings for employment uses. I have also found that the specific marketing tests for the loss of local employment set out in Policy DM3.16 have not been met.

Living conditions

12. The recently redeveloped area would become a three bedroomed dwelling attached to the public house. In these circumstances the principle of permitting residential use directly adjoining a facility aimed at encouraging social gatherings must be carefully considered.
13. The Premises Licence allows the playing of recorded music indoors until midnight during the week and 1.30am on Saturdays and Sundays. The sale of alcohol is also permitted during these times. The Licence restrictions include the fact that live music is not allowed, and that doors and windows must be kept closed during any amplified music or speech. Notices requesting that customers leave quietly are also to be displayed, and external lighting must not be intrusive. These restrictions help to manage and mitigate the potential for significant noise and disturbance.
14. Nonetheless, the activity associated with public houses, even quiet country pubs, is characterised by elevated noise levels both inside and outside the premises, as well as the regular comings and goings of vehicles late into the night, at what are generally considered to be anti-social hours. The direct connection of the dwelling to the public house indicates a discord with the principle of creating a high standard of amenity for future occupiers. Whilst the proposal seeks to revert the Pelican to its pre 2004 size, thereby reducing its capacity and capability for general noise and disturbance, in essence the conflict would remain, and this would be in a more concentrated area. In this fundamental sense I cannot agree that the proposal would be comparable to the creation of a pair of semi-detached properties.
15. I appreciate the fact that the built area that would accommodate the dwelling was completed in 2004 and as such has high levels of insulation in walls, floors and the roof space, offering some level of acoustic insulation. This could

perhaps be enhanced with further measures. Whilst a condition has been suggested, there is no detail before me on how or whether a significant improvement could be achieved.

16. Looking at the proposal in a little more detail, some elements, such as the fact that the food preparation area would adjoin the utility area for the dwelling, would be of lesser concern. However, the proximity of the snug to the dwelling's living room area suggests the possibility of noise disturbance. At first floor level the only adjoining element would be between bedroom accommodation in the public house and bedroom 1 of the dwelling. However, the fact that the only window to bedroom 1 would be located close to the shared boundary with the public house beer garden would be a concern, particularly in summer evenings when dwelling windows are likely to be open and the modestly sized beer garden would be popular with customers.
17. The beer cellar, and its associated deliveries, are on the western part of the site, away from the proposed dwelling, and therefore unlikely to cause any additional disturbance.
18. The presence of the public house, with its currently extensive garden area, has not generated complaints from the occupiers of the Norwich Road properties whose rear gardens adjoin its western side. However, these dwellings are set back some distance from the Pelican and its garden. Whilst rear bedrooms face the side of the garden, the degree of separation means that these circumstances are not directly comparable to the present case. I understand that the subdivision of No 128 Norwich Road to create two dwellings was allowed in 1999. However, not only are these properties located at the southern end of this terrace some distance from the Pelican, but the current question of the compatibility of directly adjoining uses would not have been at issue.
19. There are numerous historic examples of public houses adjoining dwellings, particularly within the built-up areas of towns and cities. In this regard the local examples referred to by the appellants are not unusual. However, this is not in itself an indication that these arrangements create the standards of living for residential occupiers required by contemporary planning standards. Furthermore, no matter how well managed the public house, it would be unrealistic to expect future operators to prioritise residential amenity over the viability of the business operation.
20. On this issue I conclude that the proposal would not provide adequate living conditions for the future occupants of the new dwelling, with particular reference to noise and disturbance. There would be conflict with LP Policy DM3.13 which requires that particular regard is paid to avoiding the introduction of incompatible neighbouring uses in terms of nuisances such as noise. This requirement resonates with the National Planning Policy Framework (the Framework) requirement that development ensures a high standard of amenity for existing and future users.

Community facilities

21. Tacolneston is a moderately sized village with a primary school, a church and a limited range of shops and other services. At its southern end the Jolly Farmers Restaurant and Bar is a family orientated business whose primary focus is providing reasonably priced meals to eat in or take away. At the

northern end of the village, a short distance from the Pelican, is the Woodlands Club, a long-established private members licensed premises, which clearly advertises the fact that new members are welcome. Whilst the Woodlands Club does not provide food or accommodation, and its location in what appears to be a single storey prefabricated building means that it does not have the feel of a traditional drinking establishment, it appears to be popular locally.

22. The Pelican was nominated as an Asset of Community Value (ACV) by CAMRA in 2016, along with around 100 other public houses in South Norfolk. I understand that it was recognised as providing a community facility of great value. As a traditional drinking establishment the Pelican has offered a somewhat different social experience to that provided by the Jolly Farmer and the Woodlands Club. However, the Pelican has been closed for almost four years and I understand that the ACV designation will lapse in September 2021.
23. The proposal would involve the loss of the main restaurant area and therefore the capacity for the provision of food. The sales particulars refer to 50% of sales having come from food, suggesting this element was of importance to the commercial viability of the business. Whilst I understand that 30 covers could still be provided for food, details of how this would compare to the previous offer are not before me. More generally, whilst over half the floor area would be commercial floorspace and it may be that smaller owner operated sites would have lower costs, in this case there is very little business planning evidence before me. The fact that many of the UK's pubs are small, owner operated and independent freehouses does not in itself support the viability of the current proposal.
24. The presence of a dwelling directly adjoining the public house could impact on any future management plans for the business. Following on from the previous main issue, it is possible that efforts to ensure that noise and disturbance for residential occupiers is kept to a minimum would mean that future plans to support the viability of the business enterprise would be closely scrutinised and ultimately restricted. As such, the presence of the dwelling and associated restrictions could be off putting to future potential operators.
25. Policy DM3.16 seeks to promote and retain local community facilities, including buildings last in use as public houses. However, the evidence relating to viability matters and the future of the Pelican even in a reduced form is somewhat sketchy. Therefore, whilst returning the Pelican to its original size may not be unreasonable in principle, the evidence before me does not give confidence that the proposal could viably support its re-opening.
26. Be that as it may, Policy DM3.16 states that a change of use will only be permitted where it can be demonstrated that adequate other facilities exist within a reasonable distance to meet local needs. Taking the dictionary definition of 'adequate', this generally means satisfactory or acceptable in quality or quantity. In this regard the community of Tacolneston is reasonably well served by social drinking establishments. The Pelican has provided an historic and unique facility which is not reflected in other local facilities. This led to its designation as an ACV. Nonetheless in the context of 'adequate' other local facilities, its absence in basic terms may not be significant, noting also that the Joint Core Strategy for Broadland, Norwich and South Norfolk (JCS) Policy 15 does not regard public houses to be the most important services for service villages.

27. I conclude that there would not be conflict with Policy DM3.16, and therefore that the appeal proposal would not have a harmful effect on the provision of community facilities in the local area. The lack of conflict in this regard is a neutral factor in this decision.

Location and other considerations

28. The site is located a short distance outside the village development boundary, and is within the 30mph zone. However, I was able to see that the area north of Hall Road has a more spacious and verdant character than the main built up area of the village, befitting its status as a conservation area, as well as providing the setting for several listed buildings. In such locations Policy DM1.3 sets out that 'development' will only be allowed where proposals demonstrate overriding benefits in terms of economic, social and environmental dimensions.
29. The proposal would provide a new family home. Whilst at the time the planning application was determined the Council was unable to demonstrate a five year supply of housing land, the publication of the Interim Greater Norwich Area Housing Land Supply Assessment in 2018 has established that an adequate supply is in place. As I must make my assessment on the basis of the situation existing at the present time, the so called 'tilted balance' in favour of granting planning permission does not apply. As such the weight attached to the provision of one additional housing unit would be modest.
30. I have considered the fact that the proposal would seek to secure the future of a listed building, which in terms of its original function has lain vacant and deteriorating for almost 4 years. In this regard the appellants suggest that the proposal would represent its optimum viable use. The active use and therefore conservation of the whole building would also be of benefit to its setting within the Tacolneston Conservation Area, and would support the statutory duty to give special attention to conserving or enhancing the character or appearance of conservation areas. Nonetheless, I have found that the evidence relating to viability does not demonstrate that the original part of the building would be brought back into its former use, and I therefore attach limited weight to this point.
31. The economic benefits associated with a new operator taking on the site could support the aspirations of JCS Policy 5 in relation to rural economic growth. However, such consideration must similarly be tempered by the lack of substantive viability evidence.
32. Other suggested benefits referred to include an improvement in biodiversity as a result of the creation of a private garden. As there would be very modest net gains in this regard very limited weight can be attached to this point.
33. Even when taken together, the potential benefits identified would not amount to overriding considerations which would suggest that the restrictions associated with controlling development in the countryside should be set aside. As such there would be conflict with Policy DM 1.3.
34. I recognise that the particular circumstances of the appellants have driven the current proposals. Whilst I have sympathy with their financial situation, such personal considerations rarely outweigh wider land use planning matters. This

is because such circumstances do change over time, whilst the development remains long after they cease to be relevant.

35. The current scheme may seem sensible in terms of securing a possible home for the appellants and re-establishing the original public house unit for another operator. However, for the reasons I have described, there are fundamental issues with the scheme before me, not least in terms of the incompatibility of residential and public house use for the future occupiers of the dwelling.
36. Furthermore, I am not persuaded that this is the only viable option for the future of this building. Whilst it is clear that a comprehensive site solution is required, from the evidence before me it appears that a limited range of possible options have been considered.

Conclusion

37. Summing up, the evidence does not demonstrate that the building cannot practically or viably be converted for employment use, or that the conversion of part of the building to a dwelling would create satisfactory living conditions for the future occupiers of the building. Furthermore, there are no overriding considerations which would suggest that the development should be permitted.
38. I therefore conclude that the appeal proposal is in conflict with the development plan taken as a whole, and that this conflict is not outweighed by material considerations. Therefore, the appeal is dismissed.

AJ Mageean

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Dr Ellis Maginn

FOR THE LOCAL PLANNING AUTHORITY:

Mr Chris Raine

INTERESTED PERSONS:

Cllr Barry Duffin