
Appeal Decision

Site visit made on 24 August 2020

by Vicki Hirst BA (Hons) PG Dip TP MA MRTPI

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

Decision date: 28th September 2020

Appeal Ref: APP/Y3940/W/20/3249816

Red Lion Public House, Ermin Street, Baydon, Wiltshire, SN8 2JP

- 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 Ms Julie Wyatt against the decision of Wiltshire Council.
 - The application Ref 19/11956/FUL, dated 4 December 2019, was refused by notice dated 11 February 2020.
 - The development proposed is a new 2 bedroom dwelling with parking located in the rear car park of the Red Lion.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. I have been provided with plans relating to alterations to the Red Lion public house. However, the development before me, and described in the application form, relates to the provision of a new dwelling in the car park of the public house and does not include such alterations. The Council determined the application on the basis that it related solely to the provision of the new dwelling and I have determined the appeal on the same basis.

Main Issues

3. The main issues are:
 - the effect of the development on the significance of the Red Lion public house and whether it would preserve or enhance the character or appearance of the Baydon Conservation Area¹; (the heritage assets)
 - the effect of the development on the character and appearance of the area;
 - the effect of the development on highway safety with particular regard to the provision of parking; and

¹ Paragraph 184 of the National Planning Policy Framework requires heritage assets (including those of local historic value) to be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life of existing and future generations. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

- the effect of the development on the vitality and viability of the adjacent community facility the Red Lion public house;

Reasons

Background

4. The appeal site is located within the settlement limits of Baydon within the Baydon Conservation Area (the Conservation Area) and the North Wessex Downs Area of Outstanding Natural Beauty (the AONB).
5. The Red Lion public house is situated in the centre of the village to the west of the junction of the streets Baydon Road and Aldbourne Road. It is largely surrounded by residential development with a post office located further to the west and the village green opposite. The public house is a two-storey building of traditional design.
6. The public house's car park is situated to the immediate west of the pub building and the proposal is for its sub-division to provide a detached, two storey dwelling. The gable end of the house would face Baydon Road and its external walls would be finished in render with brick quoins and saw tooth brick banding with a slate roof and orange red capping tile and powder coated aluminium windows.
7. One parking space would be provided to the south of the new dwelling with vehicular access through the public house's car park. Parking for the public house would be reconfigured within the remaining car park.

The Significance of the Heritage Assets

8. The Government's National Planning Policy Framework (the NPPF) defines heritage assets as a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority².
9. Whilst I have not been provided with a copy of the Conservation Area Statement, the Council states that it identifies the Red Lion public house as a notable historic building within the Conservation Area with the public house in its own right being a significant unlisted building. As such, the proposal has the potential to impact on two heritage assets, namely the undesignated Red Lion public house and the designated Conservation Area.
10. The NPPF states that applicants should describe the significance of any heritage assets affected in a proposal, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance³. The appellant has not provided any statement in relation to the significance of the heritage assets in this case or the potential impact of the proposal on their significance.
11. Nonetheless, the Council has provided evidence in relation to the heritage assets and I carried out a site visit where I observed the Conservation Area and the buildings within it. I am satisfied that despite the lack of any

² Glossary, National Planning Policy Framework, February 2019

³ Paragraph 189, National Planning Policy Framework, February 2019

statement in this respect from the appellant, I have sufficient evidence before me to reach a view on the impact of the proposal on the heritage assets.

12. The Council has advised that the Conservation Area statement finds the architectural character is much enhanced by the setting of notable buildings with the spaces between buildings being important to the character of the area. The use of the public house itself is also identified as contributing to such character through providing a focus for the community.
13. From my own observations on site, it is apparent that the significance of the Conservation Area lies with its vernacular architecture and village form and layout. I concur with the Council's statement that the spaces between the buildings contribute to this significance and from my own observations the appeal site is one such space. Furthermore, although the Red Lion public house is not a listed building, it is nonetheless a prominent building of historic vernacular design and occupies an important position in the centre of the village within the Conservation Area. Its setting is enhanced by its position opposite the village green and adjacent to the open parking area which emphasise its prominence.
14. As such I find the appeal site to be an important feature in contributing to the setting of the Red Lion public house and in defining the significance of the Conservation Area.

The effect of the proposed development on the heritage assets

15. The proposed development would be positioned at the western extremity of the public house's car park and on the boundary with a relatively new property, which is built in close proximity to the common boundary. The proposed dwelling would take up a considerable portion of the car park and would significantly reduce the feeling of openness adjacent to the public house and which I have found above is an important factor in both its setting and in defining the character and appearance of the Conservation Area. The loss of this openness would be harmful to the setting of the public house and the contribution it makes to the Conservation Area. Its loss would not preserve or enhance the wider Conservation Area.
16. In addition, both the public house and adjoining dwelling are orientated with the ridge line of the roof running parallel with the road. In contrast, the new dwelling would be situated with its gable end facing the highway. It would have a front elevation facing the street that is considerably narrower than those to each side and these factors, together with its tight alignment with the boundary would result in it appearing cramped and squeezed into the space available. This would be further emphasised by the access being taken through the adjacent car park to a car parking space situated to the rear of the property with parking for the public house being situated to the front of the new dwelling.
17. Whilst I noted on my site visit that there are a mixture of different designs and types of dwellings within the vicinity, in the main these reflect the local vernacular, scale and historic layout of the buildings and open spaces within the village. The scale, position and orientation of the proposed dwelling would be an alien feature in this context and would neither preserve or enhance the Conservation Area.

18. I note the Council's contention that the proposal would also result in the loss of the use of the public house as a community focal point and which would be harmful to the character of the Conservation Area. As set out above, changes to the public house (including any loss of its use as such) are not before me. I have concluded below that I am unable to reach a definitive view on whether the loss of the car park in itself would harm the vitality and viability of the public house. The effect of the proposal on its future and thus any associated loss of it as a focal point has not therefore been a determinative factor in my conclusions in respect of the effect of the proposal on the character of the Conservation Area.
19. Nonetheless, for the reasons I have given, I conclude that the proposal would not preserve or enhance the character or appearance of the Conservation Area. It would fail to preserve the setting of the important non-listed Red Lion public house and would reduce its significance and the contribution it makes to the Conservation Area. It would result in harm to the significance of both heritage assets. Having regard to the context of the test in the NPPF in relation to designated assets, I find the harm to the designated Conservation Area to be less than substantial.
20. As such, the NPPF states that where a proposal will lead to less than substantial harm to the significance of a designated asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use⁴.
21. I note that the Red Lion public house is registered as an Asset of Community Value (ACV) and has a five year community order imposed upon it. The appellant's case is that the erection of a dwelling would help the public house to survive the five year community order that has been served.
22. I note the public house is no longer operating. It would clearly be a public benefit for it to be in use as a community asset and the adopted Wiltshire Core Strategy policies (the Core Strategy) seek to retain such facilities⁵. However, whilst I have been provided with business accounts, I have not been provided with any viability appraisal, business plan or financial assessment setting out the details of how the proposal before me would fund the appellant's plans for the Red Lion or secure its future. Furthermore, it would appear from the appellant's evidence that the proposal is only intended to finance the public house for a temporary period whilst the community order is in place.
23. I also find the evidence before me to be somewhat ambiguous. It is stated in the appellant's final comments that the intention is to use fees from the sale of the building plot to convert the public house into a restaurant with a licensed facility. However, it is also stated in the Design and Access Statement and her statement of case and response to the objections, that the intention is to submit an application to convert the public house into flats with a bar area and toilets for the public. Her evidence also states that a new marketing strategy is being prepared to sell the property and I note that it has been marketed previously.
24. In view of the uncertainty regarding the appellant's plans for the public house, I am unable to conclude from the evidence before me that there is any

⁴ Paragraph 196, National Planning Policy Framework, February 2019

⁵ Core Policies 48 and 49, Wiltshire Core Strategy

focussed or clear intent to use the funding from the proposal for the public benefit of securing the future of the public house as a community facility. Furthermore, no legal agreement has been submitted to secure the use of the funds from the sale of the proposed dwelling/plot for investment into the public house.

25. The appellant also states that a number of ways to generate an income from the public house to keep it open have been tried without success. I note that bed and breakfast rooms were available prior to its closure but are contended not to have been successful. However, no further detail in this respect has been provided.
26. I acknowledge that the public house has been marketed in the past for some two and a half years but I have been provided with little information as to where and how the marketing was carried out. It is stated that there was no response (with the exception of an offer from the local community that was turned down). A robust marketing exercise would assist in establishing whether there is interest in the Red Lion either as a public house or other community asset without the contended need for further development.
27. Given the ambiguity in the evidence, the lack of any viability appraisal, clear business plan as to the future of the public house arising from the sale of the proposed dwelling/plot, and the lack of information regarding marketing, I am not persuaded that it has been demonstrated the proposed dwelling is the only way to secure the public benefit of bringing the public house back into use as a community asset. I conclude that the public benefit advanced by the appellant in this case does not outweigh the harm that I have identified would arise to the designated Conservation Area from the proposal before me. This harm would be further exacerbated by the harm I have identified would arise to the significance of the undesignated Red Lion public house.
28. As such the proposal would not meet the statutory requirements set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would not be in conformity with Core Policy 58 of the Core Strategy which requires, amongst other things, development to protect, conserve and where possible enhance the historic environment. It would also be in conflict with the requirements of the NPPF to give great weight to the conservation of heritage assets' conservation and for them to be conserved in a manner appropriate to their significance⁶.

Character and appearance

29. Core Policy 57 of the Core Strategy requires development to be of a high standard of design. It requires, amongst other things, development to enhance local distinctiveness by responding to the value of the natural and historic environment, and respond positively to the existing townscape and landscape features in terms of building layouts, built form, height, mass, scale, building line, plot size, elevational design, materials, streetscape and rooflines to integrate the building into its setting and be sympathetic to and conserve historic buildings.
30. For the reasons given above, namely the contrived nature of the proposed dwelling within a cramped plot, the loss of important open space between

⁶ Paragraphs 184 & 193, National Planning Policy Framework, February 2019

buildings and the orientation of the dwelling with its gable end to the street, the proposed development would fail to respond positively to the existing townscape. It would not enhance local distinctiveness and would not be sympathetic to the historic building, the Red Lion public house. As such I conclude that the development would be harmful to the character and appearance of the area and would not be in accord with Core Policy 57 of the Core Strategy.

31. The site is located within an AONB. The statutory purpose of the AONB designation is to conserve and enhance its natural beauty. I concur with the Council that given the relatively small nature of the proposal within the confines of the existing village there would not be any wider harm to the protected landscape in the AONB.

Highway Safety

32. Core Policy 61 of the Core Strategy requires development to be located and designed to reduce the need to travel particularly by private car. It requires proposals to be capable of being served by safe access to the highway network and which is also a requirement of Core Policy 57. Core Policy 64 requires, amongst other things, the provision of car parking for new residential development to be based on minimum parking standards. This may be reduced where there are significant urban design or heritage issues, where parking demand is likely to be low and where any parking overspill can be controlled.
33. The proposal involves the minor relocation of the existing access to facilitate space for access to the new dwelling's parking space and the reconfigured parking for the public house. The Council's concerns primarily relate to the parking provision and the associated risks to highway safety.
34. The Council states that its parking standards require two spaces for the new dwelling. It also states that a minimum of five spaces should be retained for use by the public house. It is evident that only one space is indicated for use by the new dwelling. Whilst the dwelling would be located within the village in a relatively sustainable location, it would fall short of the required standards and I have no evidence before me that demonstrates any justification for a reduction of these requirements. The lack of sufficient parking would have the potential to exacerbate parking on the highway.
35. I noted on my site visit that whilst there are no restrictions on parking on the highway, the section of road in the vicinity of the appeal site is in regular use for on street parking associated with the nearby post office and shop. This interferes with the free flow of traffic. The need for parking for the dwelling would add further pressure for parking in the highway in an already congested location.
36. In addition, the layout for parking for the new dwelling and the public house would result in a lack of turning space for those accessing the dwelling's parking space when the public house spaces are full. This would result in the potential for vehicles to reverse either into or out of the car park and over the pavement. Such movements would interfere with the free flow of traffic in the highway which, from my own observations, is a relatively busy road. Furthermore, visibility for such movements would be unacceptably restricted by the presence of other parked vehicles on the highway. I find the proposal

would provide an unacceptable arrangement for parking for the new dwelling that both falls short of the parking standards and would result in a risk to the safety of both highway and pavement users.

37. Furthermore, whilst five car parking spaces are shown on the plans for use by the public house, from my observations on site I am not satisfied that five could be provided. The space annotated as number four is severely restricted in width by the building itself, the front boundary wall and the public house sign. There is also a change in ground levels in this location. The use of this space would be convoluted and would also potentially result in manoeuvres across the pavement into the highway to the detriment of highway safety.
38. The limited amount of parking for the public house would have the potential to further add to on street parking in association with its use when open. Given the relatively busy nature of the road, its regular use for parking in association with the post office and shop and the potential for additional parking associated with the dwelling, I find any additional on street parking would further interfere with the free flow of traffic on the highway close to the junction with Aldbourne Road to the detriment of highway safety.
39. I conclude that the proposal would result in an unacceptable risk to highway safety. It would not be in accord with Core Policies 57, 61 and 64 of the Core Strategy.

Effect on the vitality and viability of the Red Lion Public House

40. Core Policy 48 of the Core Strategy states that community ownership and/or management of local facilities (including pubs) will be supported where appropriate to retain a local facility through, amongst other things, appropriately scaled enabling development where this is environmentally acceptable and justified through a supporting viability study, and where it can help maintain and enhance the community use, and where the facility may be protected from loss of its current use until such time as the community has a realistic opportunity to take control of the asset. Core Policy 49 relates to the protection of rural services and community facilities and states that the loss of a community service or facility will only be supported where it can be demonstrated that the site/building is no longer economically viable for an alternative community use.
41. As set out above, the proposal, the subject of this appeal, does not relate to the change of use of the public house and is not for my consideration. Nevertheless, it is relevant to my consideration of the proposal, the subject of this appeal, as to whether it would be appropriate development to help to maintain or support the public house as a viable local facility.
42. The considerations in relation to the public benefits of the proposal in relation to the heritage assets set out above are equally relevant in considering whether the proposal would be appropriate enabling development to secure the future viability of the local facility as a community asset. For the reasons given above, I am not satisfied that it has been demonstrated that the proposal is environmentally acceptable or justified through a supporting viability study. The evidence before me does not demonstrate that funds from the dwelling/plot would be used for securing the future of the premises as a community asset with the future plans for the public house being somewhat ambiguous. As such I am not satisfied that the proposal is appropriately scaled

enabling development to help maintain and enhance the community use until such time as the community has a realistic opportunity to take control of the asset.

43. I note the representations and the Council's view that the use of part of the car park for a new dwelling would further erode the facilities at the public house and its viability. Other than business accounts and anecdotal evidence that few local residents use the public house, I have not been provided with any viability appraisal of either the use of the Red Lion as a public house or for any other alternative community facility, nor any details of how much the public house relied on passing trade or those travelling by car. In contrast with the appellant's contention that the public house does not attract local trade, I note the sales particulars that have been provided suggest that the public house was popular with the local community and the letting bedrooms were also popular.
44. In the absence of fuller information pertaining to the viability and the trade that the premises relied on, I am unable to reach a determinative view on how the loss of the car park in itself would affect the viability of the public house. Notwithstanding, this does not alter my conclusion that in any event it has not been demonstrated that the proposal is justified to ensure the continuation of the public house as a local community facility.
45. I conclude that it has not been demonstrated that the proposal is justified to support and help maintain the adjacent community facility to ensure its future viability and vitality. As such it is not in accord with Core Policies 48 and 49 of the Core Strategy.

Conclusions

46. I have taken into account all other matters raised including third party support for additional infill development in a sustainable location within the village that would assist in meeting housing need. Such matters are important material considerations. However, in this case, I find the minor benefits arising from the provision of one additional dwelling to be clearly outweighed by the harm that I have identified.
47. I find no matters that outweigh my conclusions above. For the reasons above I dismiss the appeal.

VK Hirst

INSPECTOR