
Appeal Decision

Site visit made on 11 August 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2020

Appeal Ref: APP/E2734/W/20/3252958

Masons Arms, Hopperton, Knaresborough, North Yorkshire HG5 8NX

- 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 Miss Kimberley Gillespie against the decision of Harrogate Borough Council.
 - The application Ref 19/05125/COU, dated 11 December 2019, was refused by notice dated 9 March 2020.
 - The development proposed is the change of use from public house and domestic premises to dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from public house and domestic premises to dwelling house at Masons Arms, Hopperton, Knaresborough, North Yorkshire HG5 8NX in accordance with the terms of the application, Ref 19/05125/COU, dated 11 December 2019, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Since the determination of the application the Harrogate District Local Plan (the LP) was adopted on 4 March 2020 replacing many of the saved policies of the old local plan. The parties had the opportunity to comment on the new policies in the course of the appeal.
3. The Appellant submitted additional evidence in their statement case in response to issues raised by the Council in the course of determining the application. The Council has had the opportunity to comment on this additional information in the course of the appeal and their response has been taken into account in my decision.

Main Issues

4. The main issue is whether or not sufficient evidence has been provided to justify the permanent loss of the public house.

Reasons

5. The appeal site is located off the main road, within a small hamlet of residential properties and otherwise set within agricultural fields.
6. Policy HP8 of the LP seeks to safeguard community uses, such as public houses, except where "c) There is no reasonable prospect of the existing use continuing on a viable basis with all options for continuance having been fully

explored, and thereafter there is no reasonable prospect of securing a viable satisfactory alternative community use.”

7. This policy is consistent with paragraph 92 of the National Planning Policy Framework (Framework), which says that planning policies and decisions should plan positively for the provision and use of community facilities, including public houses, and guard against the unnecessary loss of valued facilities and services.
8. The accounts submitted by the Appellant clearly show that the current business is not financially viable, making a profit in only one of three years and even then only a marginally so. I note the Council’s comments regarding the reduced opening hours of the business, but I have no substantive evidence before me to suggest that longer opening hours would improve the viability of the business.
9. Evidence submitted by the Appellant confirms that the property has been advertised for sale with “bizdaq” at an asking price of £325,000 since 10 August 2018, having been advertised at a higher price previously. The asking price is broadly reflective and indeed lower than the values detailed in the marketing proposal letters from three prospective agents. While these are not the formal Red Book Valuations requested by the Council, nonetheless they are from established agents with experience of valuing and selling public houses. On the basis of the evidence before me I am satisfied that the appeal property has been marketed at a reasonable asking price for a period in excess of 12 months.
10. The council refers to “community/village halls, schools, colleges, nurseries, places of worship, health services, care homes, libraries, public houses, and village shops or post offices that cater for day to day needs in rural communities” as being potential alternative community uses. I note that the property has not been specifically marketed for these uses but has been available on the market for a prolonged period. In responding to the Council’s comments, the Appellant identified two farm shops nearby, the absence of public transport options, the limited number of houses nearby and the unsuitability of the property for a care home use. On the basis of the evidence before me I am satisfied that there is no reasonable prospect of securing a viable alternative community use.
11. I therefore find that sufficient evidence has been provided to justify the permanent loss of the public house and as such the proposal is not contrary to Policy HP8 of the LP and paragraph 92 of the Framework.

Conditions and Conclusion

12. In the interests of certainty, I have included conditions in respect of the life of the permission and approved plans.
13. The site is set within the open countryside, the appeal site is large and occupies a prominent position in relation to the neighbouring residential properties, therefore I have included a condition removing permitted development rights specifically relating to garages and outbuildings to protect the character and appearance of the area, in accordance with Policy NE4 of the LP. The Council had requested that such a condition include Part 2 Class A and Part 1 Class F. However, in accordance with guidance set out in the Planning

Practice Guidance I have not included these as they are not reasonable or necessary.

14. The Council also requested a condition relating to the provision of an electric vehicle charging point at the appeal site. However, the justification for this refers to a policy specifically relating to the submission of air quality assessment and/or a dust assessment reports by applicants. No specific justification has been provided as to why an electric charging point is specifically required for the appeal site. The condition does not therefore meet the relevant tests.
15. For the reasons given above I conclude that the appeal should be allowed.

Mark Brooker

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan dated 11 December 2019 and layout dated 11 December 2019.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no garages or outbuildings shall be erected other than those expressly authorised by this permission.

End of Schedule