
Appeal Decision

Site visit made on 6 October 2020

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2020

Appeal Ref: APP/D3505/W/20/3248328

The White Hart, 11 High Street, Nayland with Wissington, CO6 4JF

- 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 I Altug against the decision of Babergh District Council.
 - The application Ref DC/19/04081, dated 29 August 2019, was refused by notice dated 30 October 2019.
 - The development proposed is change of use of former public house to a single dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use of former public house to a single dwelling at The White Hart, 11 High Street, Nayland with Wissington, CO6 4JF, in accordance with the terms of the application, Ref DC/19/04081, dated 29 August 2019, subject to the following 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 location plan scale 1:1250.

Main Issues

2. The main issues in this appeal are:
 - whether the proposed change of use would result in the unacceptable loss of an employment site; and
 - whether the proposed use would have adequate vehicle and cycle parking.

Reasons

Employment Site

3. The local planning authority (LPA) consider the former public house to be an employment site and that its change of use would therefore conflict with local plan policies and supplementary guidance, which seek to protect and create jobs in order to strengthen the local economy. It is important to note that in this case the harm identified by the LPA is specifically limited to the loss of employment premises and the lost opportunity for other businesses to

potentially utilise the site to the benefit of the local economy. The refusal of planning permission did not relate to the loss of a public house or a community facility and in this respect I observed that there is another public house, shops, services and facilities nearby.

4. Although employment land and premises are generally considered to relate to business, industrial and warehousing uses, I note that saved policy EM24 of the Babergh District Local Plan 2006 (BDLP) and the associated Supplementary Planning Document Safeguarding Employment Land (SDP) refer also to employment in other categories of land use that are significant for providing jobs. As the public house sector, as a whole, is significant in terms of providing jobs, I do not consider the LPA have been unreasonable in terms of assessing the proposal against this policy and the SPD. Although the public house has been closed for almost 12 years, in which time it has not provided any employment, there is no evidence that any attempts have been made by the owners to bring the building back into use themselves or to sell or let the building for commercial purposes, since planning permission was refused for a mixed commercial and residential use in 2010.
5. In the absence of any evidence that any attempts have been made to re-use or sell the pub for commercial purposes that would generate some employment, or to demonstrate that the building would be unsuitable or unviable for any form of employment related use, I find that the proposal would conflict with policy EM24 of the BDLP and the SPD, which require applicants to demonstrate that the retention of the premises for an appropriate employment use has been fully explored.
6. Saved policy EM24 and the SPD both significantly pre-date the National Planning Policy Framework (the Framework). However, Annex 1 of the Framework is clear that policies should not be considered out of date simply because they were adopted prior to its publication. Due weight should be given to policies according to their degree of consistency with the Framework.
7. Paragraph 83 of the Framework encourages the retention and development of accessible local services and community facilities, including public houses, in order to support a prosperous rural economy. On the other hand paragraph 121 encourages LPA's to support proposals to use retail and employment land for homes in areas of high housing demand provided this would not undermine key economic sectors or the vitality and viability of town centres.
8. The Framework is clearly more flexible than policy EM24 and the SPD in relation to the protection of employment sites, which has been relaxed considerably over recent years with the introduction of permitted development rights to change the use of many commercial buildings to residential use. I acknowledge that these rights do not extend to public houses, however in this particular case the LPA's reason for refusal does not relate to the loss of a public house or community facility but to the loss of employment premises.
9. I therefore consider that saved policy EM24 and its associated SPD are not wholly consistent with the Framework and the weight I have given to them is reduced accordingly.
10. Policy CS15 (iii) of the Babergh Core Strategy and Policies Local Plan, adopted February 2014 (the CS) states that proposals, where appropriate, should protect or create jobs and sites to strengthen or diversify the local economy.

The former public house closed almost 12 years ago and as such its change of use would not result in job losses. Although the policy also makes reference to creating jobs, this is focussed more upon new employment, in higher skilled occupations, as opposed to restricting alternative uses of former commercial premises. I therefore find no conflict with this policy, the general purpose of which is to ensure new development is sustainable.

11. Policy CS17 of the CS supports new tourism and leisure development in rural areas. It is not directly relevant to the appeal proposal and does not seek to resist the change of use of vacant commercial premises.
12. It is widely acknowledged that the number of public houses has been rapidly declining for many years. Given the current economic climate the chances of the building being purchased and re-opened as a public house at any time in the near future is highly unlikely, particularly as there is an existing and popular public house, which also serves food, located approximately 250 metres from the site. I have also been advised there are other 3 further public houses in nearby villages, within 3km of the site.
13. As public houses are now classified as sui-generis, any change of use would need to go through the planning application process and public consultation. Several of the 11 representations I have read in support of the current proposal suggest that local residents would be opposed to the commercial use of the site due to the lack of suitable off street parking and the potential for noise and disturbance.
14. Any alterations to the building to bring it back into public commercial use would be constrained by its Grade II listing and its location within the Nayland Conservation Area. It is evident from the planning history of the site that previous planning and listed building consent applications that attempted to sub-divide the premises into a mixed use public house with a managers flat and two further flats, was refused partially on the grounds that this would be harmful to the heritage significance of the building.
15. The proposed change of use to a dwelling would require minimal alterations to the listed building, would generate minimal traffic and parking and would have no effect on the living conditions of neighbouring residential properties.
16. The proposed change of use, whilst not creating new jobs, would result in other economic benefits to the area in terms of creating a large family home in the village centre, future occupiers of which could access its facilities and services on foot, supporting local businesses and contributing to the vitality of the area.
17. Moreover, it would bring a vacant listed building in a conservation area back into use, ensuring the long term preservation and appearance of these important designated heritage assets.
18. Having been closed for almost 12 years, the public house is not contributing to the local economy, it is not providing any local employment and it is not providing any form of local service or facility. Without planning permission for a new use, the building could potentially continue to stand empty for many more years.
19. There is no evidence before me to suggest that there is a shortage of or demand for employment premises of this nature in the area. Moreover, the

appellants submissions demonstrate that there are many commercial premises available within the local area.

20. I therefore conclude on this issue that although the proposal would conflict with saved policy EM24 and the associated employment safeguarding SPD, these are not wholly consistent with the Framework and I have therefore afforded them moderate weight. The harm from the loss of these small premises, which have not provided any employment or made any positive contribution to the economy for a significant period of time, would be very limited and would therefore be outweighed by the other material considerations I have identified in favour of the proposal.

Parking

21. The LPA originally refused planning permission partially on the grounds that insufficient information was provided in relation to vehicular and cycle parking. The LPA have subsequently agreed that this issue could have been dealt with by a planning condition.
22. The submitted plans clearly identify a drive through entrance, car park access and large area of land to the rear. I observed on my site visit that there is indeed a large car park to the rear of the site and a cycle rack. I also observed unrestricted on street parking to the front of the site.
23. The proposed change of use to a single dwelling would clearly generate far less traffic and parking than the former public house would have done or than any alternative commercial use of the premises would be likely to do. I also noticed that there are a number of services and facilities in very close proximity, which future residents of the proposed dwelling would be able to access very easily on foot.
24. I therefore find no conflict with policy CS15 of the CS which seeks, amongst other things to minimise the need to travel by car. Whilst I have not been provided with a copy of the parking standards referred to in policy TP15 of the BDLP, I am satisfied from my observations on site that the proposal would not have any adverse impact on on-street parking in the vicinity and that there would be ample secure space within the site to store cycles. Based upon my findings I consider that a condition requiring further information with regard to this issue would be unnecessary.

Other Matters

25. In addition to the above, The White Hart is a Grade II Listed Building and is located within the Nayland Conservation Area. Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to have special regard to the desirability of preserving the listed building and the desirability of preserving or enhancing the character or appearance of the Conservation Area.
26. No alterations are proposed to the listed building other than to its use. Any alterations to the building, including internal alterations, would require listed building consent and as such can be controlled by the LPA. The building has been empty for almost 12 years. The proposal would bring it back into use enabling it to be conserved in a manner appropriate to its significance for the benefit of existing and future generations. The re-use of the building would also ensure the character and appearance of the conservation area is preserved

or enhanced in accordance with the Framework. I give these matters significant weight.

Conditions

27. The LPA have suggested two conditions, which I have considered in line with paragraph 55 of the Framework. I have imposed the standard time limit condition and a condition clarifying the approved red line site boundary in the interests of certainty. As the other submitted drawings comprise existing plans only and no development, it is not necessary to list them as approved drawings.
28. The LPA also requested that details to show the areas for manoeuvring and parking of vehicles, including secure cycle storage, be submitted to and approved by the LPA prior to commencement of the development. As set out in my reasons above, I observed from the submitted plans and my site visit that there is existing vehicle and cycle parking on site. As the proposed change of use would reduce the level of parking required, I am satisfied that in this case no further details need to be agreed.

Conclusion

29. Taking all matters into consideration, I conclude for the reasons set out above that the appeal should be allowed.

Rachael Bartlett

INSPECTOR