
Appeal Decision

Site visit made on 24 September 2020

by Iwan Lloyd BA BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 February 2021

Appeal Ref: APP/L3245/W/20/3254576

Longville Arms, Longville in the Dale TF13 6DT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Alf Murray against Shropshire Council.
 - The application Ref 20/01360/VAR is dated 29 March 2020.
 - The application sought planning permission for conversion of outbuilding to provide holiday let unit without complying with a condition attached to planning permission Ref 1/05/17285/F, dated 12 September 2005.
 - The condition in dispute is No 2 which states that: "a) No person, family or group of persons shall occupy any part of the holiday accommodation hereby approved for a period of more than 4 consecutive weeks; b) Not less than 10 weeks shall elapse between each period of occupancy by the same person, family or group of persons".
 - The reasons given for the condition is: "To ensure that the development approved is not used to establish a permanent residential use, contrary to Policies SDS3, SDS4 and ED3 of the South Shropshire Local Plan".
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Decision

1. The appeal is dismissed and planning permission for conversion of outbuilding to provide holiday let unit without complying with a condition attached to planning permission Ref 1/05/17285/F, dated 12 September 2005 is refused.

Procedural matters

2. The appeal building is the northern half of a pair of cottages within the grounds of Longville Arms Public House. The appeal building is known as Coach House Cottage. The southern half of the pair of buildings is known as The Old Coach House. This is subject of a separate appeal for a Certificate of Lawful Use or Development under reference APP/L3245/X/20/3254145 and is dealt with under a separate appeal decision. The site visit for both appeals was conducted on the same day.
3. Had the Council determined the application the subject of this appeal it would have refused it. The Council's objections to the removal of the holiday use restriction condition would have been on the grounds of inadequate amenity standards for a residential dwelling and adverse living conditions for future occupants of the dwelling due to the shared access arrangement, no outside amenity space and proximity to the main public house building resulting in the potential for noise and disturbance to the occupants of the appeal building. The

Council also objects to the removal of the condition on the grounds that no affordable housing contribution is being offered or that removal of the condition would not adversely affect the vitality of the pub and the local community.

4. I was advised that Longville Arms was also subject an appeal and that this was allowed on 16 October 2020 for the change of use of former public house to residential under reference APP/L3245/W/20/3256872. The appeal decision and details of the approved layout has been provided, and in the light of this, I sought comments from the parties and they in turn have had an opportunity to comment on each other's reply. These comments and replies have been taken into account in the determination of this appeal.

Background and Main Issues

5. The application indicates that the development was completed on 3 August 2006 following the grant of planning permission for conversion of outbuilding to provide holiday let unit on 12 September 2005. The application is therefore already carried out without complying with the condition imposed on the planning permission as indicated in evidence that the unit had been occupied as residential accommodation for some seven years since the appellant bought Longville Arms. A planning application to remove the condition restricting occupancy of the unit to holiday use was submitted but not determined in the prescribed timeframe. This now is the subject of this appeal.
6. The main issues are:
 - whether the condition is necessary and reasonable having regard to the living conditions of the occupants of the appeal building in relation to noise and disturbance and the provision of amenity space, if so, whether the removal of the condition would result in two inconsistent planning permissions on the site resulting in some parts of one development being incapable of being completed and implemented in its entirety in accordance with the relevant planning permission,
 - whether the removal of the condition would give rise for the need to make a financial contribution for affordable housing,
 - whether the removal of the condition would impact on the vitality of the pub and the social and economic vitality of the local community.

Reasons

Living conditions

7. Coach House Cottage is located adjacent to the narrow lane which separates the cottages from the pub and provides access to the service yard of the former public house. It is reported that the pub closed in 2017 and the yard is presently partly fenced-off and is also enclosed by a range of outbuildings. There is no defined area in the application for an amenity space for the appeal building. Furthermore, the curtilage of the pub is the same as that defined for the appeal application for Coach House Cottage. This element of overlap in relation to the land they share provides no amenity provision for the appeal building. In my view, providing no outside amenity space for a dwelling house and its future occupants would be detrimental to their living conditions, because they would have no place to sit outside and enjoy and no outside areas for storage. The proposal to remove the holiday restriction condition

- would therefore conflict with the Shropshire Council Site Allocations and Management of Development (SAMDev) Plan Policy MD7a(4a).
8. Whilst there is a possibility to condition this aspect to ensure that provision is provided with the development there would be inconsistency with the planning permission granted on appeal reference APP/L3245/W/20/3256872 on 16 October 2020. This approval granted planning permission for a change of use of the public house to residential conditioned to a single residential unit. The approved plan showed all surrounding land within the application provided for the benefit of this single unit within the former pub. To condition part of the same land as amenity space for the benefit of Coach House Cottage would result in two inconsistent planning permissions on the same site. In my view, as presented both permissions could not be implemented.
 9. Although the public house has been closed it remains the lawful use of the adjoining site. The appeal allowing the change of use of the public house to residential is material although I have no information whether it has been carried out. If the public house use was to continue this would cause unacceptable harm to the occupants of the appeal building as a dwelling house because the narrow lane separating the pub and Coach House Cottage would be used for deliveries resulting in disturbance. I also agree with the Council that there would be noise and disturbance from the public house given its close relationship with Coach House Cottage. The impact would not be similar if Coach House Cottage remains a holiday let, since occupancy would be variable and temporary. I therefore concur with the Council that the removal of the holiday restriction condition would conflict with SAMDev Plan Policy MD7a(4a).
 10. Whilst the implementation of the planning permission for the change of use of the public house to residential would overcome this objection in relation to noise and disturbance, to allow the removal of the holiday condition restriction on Coach House Cottage would not outweigh my concerns in relation to outside amenity space and the issue of inconsistent planning permissions on the same site where both could not be implemented in their entirety in accordance with the relevant terms of each planning permission.
 11. I conclude that the condition is necessary and reasonable having regard to the living conditions of the occupants of the appeal building in relation to noise and disturbance and the provision of amenity space, and the removal of the condition would result in two inconsistent planning permissions on the site resulting in some parts of one development being incapable of being completed and implemented in its entirety in accordance with the relevant planning permission.

The need to make a financial contribution for Affordable housing

12. The National Planning Policy Framework (February 2019) indicates that the provision for affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The appeal building is situated in an Area of Outstanding Natural Beauty and is therefore a designated rural area where the local planning authority may choose to set its own lower threshold in plans and seek affordable housing contributions from developments.

13. Shropshire Local Development Framework Policies CS5 and CS11 broadly seek a contribution towards affordable housing from all new housing developments. The Supplementary Planning Document (SPD), Type and Affordability of Housing, adopted in 2012 seeks an affordable housing contribution in line with the forementioned policies when conversions of holiday let to dwellings are considered. The Housing Enabling and Development Officer indicates that an affordable housing contribution is needed. The prevailing target for the Parish is 20% and the contribution would be based on the uncapped floor area of the property as set out in the SPD.
14. As no contribution is being offered in this case the development is contrary to the forementioned policies as set out above. I conclude that the removal of the condition would give rise for the need to make a financial contribution for affordable housing.

The vitality of the pub and the social and economic vitality of the local community

15. It is suggested that the loss of the holiday unit would adversely affect the vitality of the pub and the social and economic vitality of the local community. In granting planning permission for the change of use of the public house to residential the Inspector in that appeal considered the impact of the development on the social and economic vitality and quality of life of the local community. He concluded that the development did not have such an adverse impact on the local community because the pub itself was not a viable enterprise. I have no reason to depart from these considered views. The loss of the holiday let would not result in the loss of a revenue stream for the pub as this is no longer considered a viable enterprise and planning permission is granted for it to change to a residential unit. There is no compelling evidence to indicate that the loss of the holiday unit would adversely affect the vitality and sustainability of the local community. I therefore consider on the available evidence that the development would not conflict with Shropshire Local Development Framework Policy CS5.
16. I conclude that the removal of the condition would not impact on the vitality of the pub and the social and economic vitality of the local community.

Other matters

17. The appellant asserts that the appeal building is a heritage asset. However, as a matter of fact it is not a listed building, and I give the suggestion that it has special architectural or historic interest on the available evidence limited weight.

Conclusions

18. Notwithstanding my favourable conclusion for the appellant on the third issue this does not outweigh my conclusions on the first and second issues.
19. In the overall balance of the considerations, the development conflicts with the development plan and material considerations are insufficient to outweigh this conflict in this case. I conclude that the appeal should be dismissed.

Iwan Lloyd

INSPECTOR