



Appeal Decision

Site visit made on 11 January 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th March 2021

Appeal Ref: APP/J0405/W/20/3259210

Four And 20, Main Street, Padbury MK18 2AY

- 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 D. Marle against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 20/01896/APP, dated 12 June 2020, was refused by notice dated 10 September 2020.
 - The development proposed is change of use from the public house (Use Class A4 Drinking establishments and A3 Restaurants and cafes) to a single dwelling (Use Class C3a Dwellinghouse).
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The emerging Vale of Aylesbury Local Plan (the VALP) was submitted by the Council for examination in February 2018. Since then Main Modifications and Further Main Modifications have been made and consulted upon, with the latter consultation having commenced in December 2020. Whilst the VALP is at an advanced stage, it is currently unclear whether further public hearing sessions and/or modifications shall be required. The VALP is thus at a stage that attracts moderate weight. For the avoidance of doubt, this apportionment of weight applies to each of the individual emerging policies against which the Council has identified conflict (emerging Policies I3 and BE1).

Main Issues

3. The main issues are:
 - Whether or not the proposed change of use from a public house would be acceptable, having particular regard to local need and viability considerations; and
 - Whether or not the proposed change of use would preserve or enhance the character of the Padbury Conservation Area (the CA).

Reasons

Change of use from a public house

4. Saved Policy GP32 of the Aylesbury Vale District Local Plan (January 2004) (the Local Plan) sets out that the Council shall resist proposals for the change of use of shops, post offices and public houses for which there is a demonstrable local need and, in considering such proposals, shall have regard to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use.
5. Emerging Policy I3 of the VALP is broadly consistent with Policy GP32 in the sense that it sets out that proposals for the change of use of community buildings and facilities for which there is a demonstrable local need shall be resisted. Community facilities are confirmed to include public houses in the policy's supporting text. In addition to requiring that consideration be given to the viability of the existing use, the presence of alternative local facilities and the community benefits of the proposed use, emerging Policy I3 sets out a requirement for the site/use to have been marketed for a minimum period of 12 months at a price commensurate with its use.
6. The appeal property, a public house that I understand has lain vacant since June 2017 following closure in December 2016, is comprised of two main bar/restaurant rooms that are supplemented by kitchen, restroom and storage areas. There are also guest rooms in place to the rear, as well as living accommodation at first floor level. Having inspected the property both internally and externally, it was seemingly in a good state of repair with no obvious signs of deterioration or noticeable outstanding maintenance requirements.
7. The property was purchased in June 2014 at £260,000 and a full refurbishment and reconfiguration followed, costing approximately £160,000. Since closure, the property's freehold has been marketed across a lengthy timespan. The asking price, originally set at £550,000, was reduced to £495,000, which remains its current marketed price. Despite the significant investments made to refurbish the property, an asking price of £495,000 represents a very substantial uplift when compared to the June 2014 purchase price.
8. Valuations by independent professionals have been referenced by a director of the company that most recently operated the premises. However, no written confirmation of any recent independent valuation of the property based upon its current use appears in the submitted evidence. I have also not been made aware of any broadly comparable premises in the area recently marketed or sold at a similar price. I note here that the extent of previous investments made in the property is of limited relevance in establishing a fair and reasonable current asking price.
9. The lack of supporting information to justify the pricing approach taken is a significant shortcoming of the proposal. Indeed, whilst a purchase offer made in November 2019 was accepted conditionally, it has not been clearly demonstrated that a £495,000 asking price would not have deterred potential pub operators from making a bid. This is a concern shared by the consultant instructed by the Council to critique (February 2021) the Viability Study (October 2020) (the VS) carried out on behalf of the appellant.

10. To my mind, a high or not wholly realistic asking price would be particularly likely to deter interest in the property when noting that a range of additional capital expenditures would apply before an active public house use could recommence (as set out in the VS). Furthermore, the property has been marketed purely on a freehold basis such that potential leasehold interest has not been directly targeted. This is a further deficiency of the marketing exercise undertaken, which supports the stance that potential market demand has not been thoroughly and adequately explored.
11. A group of local residents known as the Padbury Community Hub (the Hub) has been formed with the sole purpose of facilitating the purchase of the appeal property for the village community on a not-for-profit basis. It is also my understanding that, whilst not having been able to make a proceedable offer to this point, efforts are continuing to be made to raise funds towards a potential purchase of the property. In the absence of any firm guarantees at this current time, the Hub's existence is not decisive in my consideration of this main issue. It nevertheless serves to demonstrate the strong desire of a group of local residents to proceed in this manner, which further highlights the importance of attaining full assurances that the appeal property has been fairly and robustly marketed.
12. The VS contains a projected profit and loss account (the PPLA). Historical trading information and the author's extensive knowledge of the pub industry has been used to assist in estimating an achievable level of trade. When the listed costs and revenues are accurately totalled, the PPLA shows a small net profit before any potential rent requirements are factored in.
13. It is indicated in the VS that, once the Covid 19 pandemic has passed, sales of more than £100,000 per annum would be unlikely and that this figure is probably optimistic with social distancing measures in place. However, it cannot be assumed that the pandemic shall have permanent repercussions for the way in which licensed premises can operate. Indeed, at this point, it could realistically be envisaged that social distancing measures shall be slowly phased out. I also see some merit in the suggestion that a greater trend for working from home could realistically see rural pubs receive a boost in their trading in the long term.
14. Having viewed the various historic sales/revenue records submitted, which include a trading summary covering the period from February 2015 to December 2016 (the point at which trading ceased), I find that the aforementioned £100,000 maximum sales projection does not accurately reflect the full trading potential of the premises. Indeed, notwithstanding any national or general trend for declining beer sales, pre-pandemic trading levels at the site are, to my mind, of greater relevance than is reflected through the VS.
15. The highest single operating cost, as listed in the PPLA, would be staff wages. Even so, the PPLA has been formulated on the assumption that most shifts would be undertaken by individual operators likely living on-site. This would appear to be a reasonable expectation given the limited size of the premises (unlikely to operate as a managed house) and the likelihood that any future active public house use in this rural location would primarily seek to cater for custom during targeted peak hours. Thus, the potential for staff wages to exceed the level indicated in the PPLA is, to my mind, low.

16. In terms of alternative provision, there are other public houses in the area. These include the New Inn, also located in Padbury. Whilst the New Inn is situated within the CA, its makeup and position within the village differ markedly when compared to the appeal property. Indeed, the New Inn is of comparatively modern origin and situated upon the main classified route through the village, whereas the appeal property is Grade II Listed and sited amongst more tranquil immediate surroundings and towards Padbury's core. Furthermore, whilst it is my understanding that the New Inn incorporates dining facilities, it is my impression (from considering representations received and the Council's Officer Report) that its custom, most particularly in recent times, has been centred upon the consumption of drinks rather than food.
17. It is set out in the VS that if the appeal premises were to re-open the operation would be likely to remain primarily food based. This would appear logical in the interests of providing a differentiated facility and enhanced dining experience when compared to the New Inn. A food-led business model failed when most recently attempted at the site and, notwithstanding any assertions made to the contrary, I have no clear reason to doubt that legitimate efforts were made to seek to make that venture a successful one. Nevertheless, any new operator would have the opportunity to impose their own specific business model, which could, for example, be diversified in the future in the interests of seeking to promote its longer-term viability.
18. There would undoubtedly be an element of risk for any new operator at this site, particularly given the continuing damaging effects of the Covid 19 pandemic upon the hospitality industry. However, having considered all the evidence before me, including past trading records and the PPLA, it has not been clearly demonstrated that a new pub operation would necessarily fail.
19. Indeed, even when acknowledging the New Inn's presence, I consider that the potential to operate a food-led business model whilst achieving a reasonable level of profit should not be ruled out. This is consistent with the views of the Council's instructed consultant and is notwithstanding the various expenditures that I acknowledge would apply before any re-opening could occur. For the avoidance of doubt, I do not accept the intimation made in the VS that annual turnover would need to be as high as £300,000 to offer a strong chance for a reasonable level of profit to be returned.
20. It has been brought to my attention that a nomination to list the appeal property as an Asset of Community Value was unsuccessful. This is a material consideration and means that the appeal property is not subject to additional protection under the Localism Act 2011. Nevertheless, any proposed change of use of a public house still falls to be assessed against the requirements of saved Policy GP32 and emerging Policy I3.
21. The Crown at Great Horwood has been referred to within the submitted evidence, where planning permission was recently granted by the Council to convert the property into residential accommodation. Great Horwood has a slightly larger population compared to Padbury and similarly contained two public houses. It is also my understanding that, in recent history, a higher annual turnover had been achieved at The Crown when compared to the appeal property. However, each case must be considered upon its own individual merits. Furthermore, it is unclear from the evidence before me what is offered by the alternative pub provision within Great Horwood, and how it related to

- The Crown in both physical and business model respects. The Great Horwood permission is thus of limited relevance to my considerations here.
22. A July 2020 appeal decision¹ relating to the former Green Dragon at Haddenham, which is situated in the same District, has been brought to my attention. Haddenham is noticeably larger than Padbury and, in July 2020, contained two operating public houses and several other non-pub food and drink establishments. Due to these differences in circumstances, the Haddenham appeal decision is of limited relevance to my considerations.
23. A comparable to the appeal property is specifically referred to in the February 2021 critique of the VS, where a net profit before rent is illustrated through recent trading figures. However, without knowing the comparable property's specific location relative to the site, the submitted trading information is of limited relevance to my considerations. This is notwithstanding any similarities with respect to internal layouts and trading areas.
24. The VS has been compiled by a chartered surveyor with lengthy experience specialising in the licensed trade. Its contents attract considerable weight accordingly. Even so, the compilation of the VS followed a direct instruction solely from the appellant. It does not thus represent a genuinely independent report jointly commissioned under terms formally agreed by both main parties to this appeal. In this context, the Council acted entirely rationally by instructing its own consultant to undertake a critique of the VS. This critique, which has been put together by a registered valuer with extensive experience in the leisure property sector, also attracts considerable weight. Indeed, for the avoidance of doubt, I have comprehensively considered the contents of both reports in coming to my conclusions upon this main issue.
25. For the above reasons, the proposed change of use of a public house would be unacceptable having particular regard to local need and viability considerations. It is of pertinence that the marketing approach taken has not been robustly justified such that potential market demand for the property has not been adequately explored. The proposal conflicts with saved Policy GP32 of the Local Plan, emerging Policy I3 of the VALP and the National Planning Policy Framework (February 2019) (the Framework) in so far as these policies set out that proposals for the change of use of public houses for which there is a demonstrable local need will be resisted, and guard against the unnecessary loss of valued facilities and services.
26. Whilst not specifically referenced in the Council's first reason for refusing planning permission, the proposal also conflicts with saved Policy 93 of the Local Plan in so far as it indicates that proposals for the change of use of community buildings and facilities for which there is a demonstrable local need shall be resisted.

The CA

27. The site is located at the heart of the CA and upon a principal historic thoroughfare through the village. The heritage significance of the CA as a designated heritage asset is drawn, in part, from its array of historic buildings and its range of important trees and open spaces. Indeed, these features are relevant to the historic evolution and rural history of the village.

¹ APP/J0405/W/20/3245096

28. The appeal property itself is Grade II Listed. Its origins, as indicated in its listing description, date back to as early as the eighteenth century. It is clear from the evidence before me that the appeal property's public house use is historic. As indicated in the CA Appraisal (March 2012), the building is prominent due to its size and the focus it provides for social activity within the village.
29. No external alterations are intended such that the proposal would preserve the CA's appearance. However, the significance and character of the CA is positively influenced by the building's longstanding presence as a public house. Even though currently vacant, the appeal property's intended loss as a past and potential future communal space and social focus point for villagers would fail to preserve the CA's character and would result in less than substantial harm being caused to its heritage significance.
30. As set out in the Framework, any less than substantial harm to a designated heritage asset should be weighed against the public benefits of the proposal. As also indicated in the Framework, when considering the impact of a proposal upon the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any identified harm to its significance is at a substantial or less than substantial level.
31. The proposal would deliver a single additional unit of residential accommodation and the Framework reaffirms the Government's objective of significantly boosting the supply of homes. Nevertheless, the Council has set out that it can currently demonstrate a five-year supply of deliverable housing and the appellant has not asserted otherwise. In this context the provision of merely one additional unit of housing is a benefit that attracts limited weight.
32. The scheme involves investment in the fabric of the building, which would bring temporary economic benefits and lead to a vacant property being brought back into active use. This investment and new residential use would be anticipated to support the long-term preservation of a designated heritage asset. Even so, limited physical works are planned and the property is not in imminent need of refurbishment. Indeed, my inspection highlighted that the building has remained in a seemingly favourable state of repair notwithstanding its recent period of vacancy. When also noting the site's/property's somewhat limited size, I apportion moderate weight in collective terms to the benefits of investing in a currently under-utilised property and of bringing it back into active use.
33. The proposal would also provide some support to the local economy and existing local community facilities once occupied. Nevertheless, when factoring in that merely a single unit of residential accommodation is proposed, such benefits attract limited weight. The scheme's benefits, when considered cumulatively, would be fairly modest and would not outweigh the less than substantial harm to a designated heritage asset that I have identified.
34. For the above reasons, the proposal would cause harm through failing to preserve the character of the CA. The proposal conflicts with saved Policy GP53 of the Local Plan, emerging Policy BE1 of the VALP and the Framework in so far as these policies state that proposals for development will not be permitted if they cause harm to the character or appearance of conservation areas and that, where a development proposal will lead to less than substantial

harm to the significance of a designated heritage, this harm should be weighed against the public benefits of the proposal.

Other Matters

35. Listed building consent is typically required for any extension, demolition work or alterations (external or internal) that would affect a listed building's character as a building of special architectural or historic interest. It is my understanding that no physical works to the appeal property are intended, besides like-for-like repairs and redecoration internally. This is consistent with the suite of existing and proposed plans submitted. Notwithstanding the change of use that is proposed, I see no clear reason why listed building consent would be required. In any event, this finding has limited bearing upon the planning merits of the proposal that is before me.
36. The scheme's benefits (as set out within my reasoning above) would not outweigh the harms and associated policy conflicts that I have identified. The proposal conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

Conclusion

37. For the above reasons, the appeal is dismissed.

Andrew Smith

INSPECTOR