



Appeal Decision

Site visit made on 7 January 2021

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2021.

Appeal Ref: APP/G2245/W/20/3254754

Fox and Hounds, Toys Hill, Brasted TN16 1QG

- 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 Rebecca Haigh against the decision of Sevenoaks District Council.
 - The application Ref 20/01070/FUL, dated 16 April 2020, was refused by notice dated 10 June 2020.
 - The development is for the conversion of the public house to residential use.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the public house to residential use at Fox and Hounds, Toys Hill, Brasted TN16 1QG in accordance with the terms of the application, Ref: 20/01070/FUL, dated 16 April 2020, subject to the conditions in the attached schedule.

Preliminary Matter

2. An application for costs was made by Rebecca Haigh against Sevenoaks District Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is the effect of the proposal on community facilities.

Reasons

4. The appeal site relates to a vacant public house with associated outbuildings, parking, outside seating and garden area in a verdant rural locality. The wider landscape comprises predominantly mixed woodland with sporadic residential properties. The Council has indicated that the premises is currently listed as an Asset of Community Value.
5. The Council argues that the proposal would result in the loss of a rural facility which serves the local community. Policy LO7 of the Sevenoaks District Council Local Development Framework Core Strategy February 2011 (CS) states that that the loss from rural settlements of services and facilities that serve the local community will be resisted where possible. Exceptions will be made where equivalent replacement facilities and provided equally assessable to the population served or where it is demonstrated, through evidence submitted to the Council, that the continued operation of the service or facility is no longer financially viable.

6. I sympathise with the views of a number of local residents that the appeal property has served as a valuable community facility in the past. Amongst other things, I note the assertions from third parties regarding the use of the premises by walkers, cyclists, visitors to local National Trust properties, and so on. I have no doubt that historically the location would have been attractive for day-trippers as a destination pub. I am also satisfied that there is sufficient parking in the locality for customers. I have no evidence from the County Highways Authority that the use of the site as a public house generates highway safety issues.
7. Despite these points, I understand that The Fox and Hounds has ceased trading. I saw at my site visit that, after a period of disuse, the building is in need of renovation. It is likely that significant investment would now be necessary to bring the property back to a condition where it could accommodate a successful business. In view of the current trading conditions for the hospitality sector, there is no guarantee that finance for such a project would be forthcoming.
8. These matters notwithstanding, the Council has advocated that insufficient marketing has been carried out to support a conclusion that the building could not be brought back into use as a public house.
9. However, the appellant has provided evidence of marketing with the appeal papers, and put forward arguments to counter the Council's stance outlined in the officer's assessment. The analysis is principally to demonstrate why the business is no longer viable, either now or in the longer term (the longer term being defined in the viability report as at least the next fifteen years). The additional information has not been disputed by the Council in an appeal statement.
10. I appreciate the comments from third parties in this respect, still their assertions are not backed up by any compelling financial material to the contrary. It is suggested that the appellant's information does not cover years of successful management historically, and reference is made to the availability of records from previous owners. I have been provided with figures from a previous tenant for 2017/2018, and it is likely that the premises operated profitably for many years. I am also aware that a local consortium has made an offer to purchase the property for £300,000, although the appellant argues that this is substantially lower than the market value of the property, and subject to extending the building.
11. Whilst I bear in mind these assertions, having regard to the viability report, there is no substantive indication that the headline figures going forward are in any way inaccurate or skewed. The pub has been up for sale for a significant time and its status has attracted considerable community involvement. Third party intention to purchase material indicates that further investment in the premises would be in the region of £300,000-£400,000; this is a considerable sum and had there been genuine financial backing for the acquisition of the pub I would have expected to see more progress on this issue. Taken in the round, I find there is no compelling evidence that the continued operation of the facility would be financially viable. I therefore consider that a requirement for further marketing has not been justified.
12. It has been inferred, anecdotally, that the pub has deliberately not been operated on a suitable and sustainable model during the recent past, and that

proprietors have prevented a welcoming ambiance from establishing over the last few years. However, I can give only limited weight to such evidence.

13. It is recommended that a new and creative approach to reviving the Fox and Hounds as a community hub would be appropriate once the pandemic has passed. I appreciate the strength of feeling on this issue - that the building would not simply represent a drinking destination - however I have no tangible evidence detailing how this would be achieved.
14. Taking into account my above reasoning, I consider that it has been adequately demonstrated that, on the balance of probability, the appeal pub is no longer a viable enterprise. There are no sound planning reasons for the appeal to be dismissed based on the policy provisions before me.
15. The appellant is of the view that policy LO7 is not relevant to the appeal proposal, in that it relates to development in rural settlements. It is argued that the appeal site lies outside any of the designated settlements listed in the policy. Even if this were the case, in the absence of any response from the Council on this matter I have taken a precautionary approach and dealt with the merits of the case accordingly.
16. I conclude that, although there is a significant level of local opposition to its loss, the proposal would comply with the requirements of CS Policy LO7 as regards the effect on community facilities.

Conditions

17. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the National Planning Policy Framework. The Council has suggested conditions which it considers should be imposed in the event of the appeal being allowed and planning permission being granted; I have altered the wording of some of the conditions suggested in the interests of clarity and necessity. In addition to the normal commencement condition, a condition would be necessary, in the interests of proper planning, to ensure that the development would be carried out in accordance with the approved plans.
18. Given the relatively open curtilage within the locale, a condition would be necessary, in the interests of visual amenity, to control soft and hard landscaping. Electric Vehicle Charging should be installed in the interests of air quality and the provision of renewable energy alternatives. The application form and plans do not indicate any changes to external materials and as such I do not consider a condition to be necessary in this respect.

Conclusion

19. The proposal is acceptable and I conclude that the appeal should be allowed.

C Hall

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: Location plan, block plan, PL/08, PL/08A, PL/09, PL/10, PL/11, PL/12.
- 3) No development above slab level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 4) Prior to the occupation of the development details and the location of an electrical vehicle charging point must be submitted and approved in writing by the local planning authority. The charging point shall be installed in accordance with the details and must be maintained at all times.