



Appeal Decision

Hearing Held on 23 March 2021

Site visit made on 23 March 2021

by S Dean MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 April 2021

Appeal Ref: APP/W9500/W/20/3256879

Plough Inn, Boonhill Road, Fadmoor, Kirkbymoorside YO62 7HA

- 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.
 - The appeal is made by HOLF Leisure against North York Moors National Park Authority.
 - The application Ref NYM/2020/0227/FL is dated 25 March 2020.
 - Application in respect of conversion of and extensions to former public house and outbuildings to form 2 no. local occupancy letting units and 4 no. holiday letting units with associated access, parking, bin/bike stores, amenity spaces and landscaping works.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. The appeal relates to a planning application that was not determined by the Authority within the prescribed period. The Authority have subsequently issued a statement for the purposes of this appeal which set out their objections to the proposal and putative reasons for refusal. In framing the main issues, I have therefore had regard to the statements of case of the appellant, Authority and comments from third parties.

Main Issues

3. The main issues are;
 - whether or not it has been robustly demonstrated that the public house is no longer suitable or viable for its current community use or that it is no longer needed; and,
 - whether the overall benefits of the proposal would outweigh the loss of the public house as a community facility.

Reasons

Suitability or viability of current community use and need

4. Strategic Policy L of the North York Moors National Park Authority Local Plan July 2020 (the Local Plan) sets out that development which would result in the loss of a community facility will not be permitted unless it can be demonstrated that the facility is no longer suitable or viable in that location, or that it is no longer needed. Appendix 2 of the Local Plan sets out how viability, or lack

thereof, is to be demonstrated, and requires this evidence to be robust and comprehensive.

5. Both Strategic Policy L and Appendix 2 make clear the value of community facilities, including public houses, highlighting their social value as well as their importance in maintaining the vitality and sustainability of communities. The Authority links this protection of community facilities with its statutory duty to foster the economic and social well-being of communities.
6. This approach is echoed in the National Planning Policy Framework (the Framework), in its support for a prosperous rural economy, promoting healthy and safe communities by guarding against the unnecessary loss of valued facilities and services and the great weight it places on the conservation and enhancement of cultural heritage in National Parks.
7. I have been presented with evidence of a marketing exercise for the public house, undertaken in 2011 when it last traded, alongside accounts for a number of years leading up to its closure, which showed a trading loss. Despite that evidence, given the passage of time, I do not consider that the evidence supporting the appeal is robust or comprehensive enough to meet the requirements of Strategic Policy L and Appendix 2 in particular.
8. I acknowledge neither Strategic Policy L, nor Appendix 2 explicitly set out a requirement that viability evidence or marketing information should be recent. However, I consider that the requirement for such evidence to be robust and comprehensive cannot reasonably be met through the use of information approaching ten years of age, even accepting that no recent trading figures are available.
9. In addition, when considering the adequacy of the marketing exercise undertaken in 2011, I must have regard to the range and variety of valuations before me from all parties. The 2011 valuation is significantly higher than the 2021 valuations for the Authority but only slightly higher than the appellant's 2021 valuation. Whilst I acknowledge that there has been a deterioration in the condition of the property and indeed perhaps in the attractiveness of public house to the market, I am nevertheless concerned about the differences in these figures. I must be satisfied that the valuation and the price at which the public house was offered to market was realistic, and priced to sell; based on the value of the business, as a function of the turnover and profit rather than the valuation of the site as a building or its development potential. As explanation of, and context around the appellant's valuations is lacking in comparison to that of the Authority, I cannot be sure that their marketing and viability information meets the requirements of the policy.
10. It is clear from the valuation and commentary produced for the Authority that whilst a public house use could be viable, it would be far from easy to make it so. There is significant disagreement between the parties on the potential cost of refurbishment, and I acknowledge that the historic trading figures would be difficult to reconcile with any of these costs. The appellant was unable to explain how their current valuation was arrived at, particularly in relation to the historic valuations for the site, the business and the likely costs of refurbishment. This contrasts with the evidence of the Authority, which, despite caveats around viability and future success of a public house on the site, appeared more robust and comprehensive.

11. Whilst I accept that valuation and viability are two separate concepts, and that that the relationship between value and cost of restoration works is not a simple one, they are interlinked. As such, I consider that the strength of the evidence on one has a bearing on the weight I can give the other.
12. In light therefore of the weaker evidence of the appellant on the value of the site and the effect of that on the potential viability of the public house, the weight I give to the evidence of the appellant, based on trading figures leading up to closure ten years ago and a marketing exercise undertaken shortly thereafter, is limited.
13. Allowing the appeal would draw a line under more than two-hundred years of community use. Whilst I acknowledge that the public house has been closed for ten years, and that dismissing this appeal cannot reopen it, it does preserve the potential of such a use reoccurring, at least until such time as a robust and comprehensive case is made in line with the criteria in the relevant Local Plan policy and the Framework.
14. Furthermore, there is strong evidence before me which suggests there is a weight of community support for the facility that could reasonably be expected to have a bearing on the viability of the public house use, as well as its suitability and any need for it.
15. To my mind, it is recognition of the value of such facilities, the permanence of such a loss, and the importance of them to community sustainability and cohesion that the Local Plan and the Framework set such a high bar to their loss. The evidence before me does not clear that high bar.
16. The viability and valuation information coupled with the marketing exercise which support the proposal do not therefore meet the robust and comprehensive requirements of the Local Plan policy. As a result the proposal would conflict with the aims of Strategic Policy L and Appendix 2 of the Local Plan which only permits the loss of community facilities where it is demonstrated that the facility is no longer suitable, viable or needed, through application of the relevant tests.
17. In addition, the Framework seeks to guard against the unnecessary loss of valued facilities and services. It is clear that a public house at this site, even in spite of ten-years of closure is such a valued facility and service and is therefore protected by the Framework. I find that this aim is entirely consistent with the thrust of Strategic Policy L. As it has not been satisfactorily demonstrated that the public house is no longer suitable, viable or needed, I consider that its loss through this proposal would be unnecessary. The proposal is also therefore contrary to guidance in the Framework on promoting healthy and safe communities.

Whether the overall benefits would outweigh the loss of the public house

18. Both the Local Plan and the Framework support tourism related development, such as holiday lets and acknowledge the positive role development of this sort can play in sustaining rural communities. The Authority also notes that new housing development within the National Park is restricted to affordable, or local occupancy housing in order to meet established local needs and to ensure balanced communities.

19. This support for tourism related development and local occupancy housing is balanced against a need to preserve that which makes the National Park worthy of its designation and attractive to those tourists. Evidence is clear that there is no shortage of other tourism related development in the immediate and wider area. In addition, there is no suggestion that local needs are not being adequately met elsewhere in the National Park. Set against this, community facilities are in shorter, finite and increasingly limited supply, and represent a part of the cultural heritage of the area, which the National Park designation, as well as local and national policy, seeks to protect and preserve.
20. There are potential benefits, socially, economically and environmentally (in terms of the appearance of the site) which could flow from the proposal. These must be weighed against the harm which would arise from the loss of the opportunity or ability to have and retain a community facility in the form of a public house, in the village. Given the fine balance between these benefits and harms, in light of my earlier conclusions on the evidence around viability, this is not a decision that can be properly taken with the information before me.
21. In such a context, I do not consider that the benefits of the proposal arising from the local occupancy housing, the holiday lets, and the improvement to the appearance of the site and its setting, outweigh the harm that would arise to the cultural heritage of the National Park through the unnecessary loss of the public house.
22. The proposal would therefore conflict with the aims of Strategic Policy L of the Local Plan which only permits the loss of community facilities where it is demonstrated that the facility is no longer suitable, viable or in particular, needed, through application of the relevant tests.
23. Elements of the Framework can be used both in support of the proposal, regarding the provision of local occupancy housing and tourism related development, and in support of the retention of the public house, guarding against the unnecessary loss of community facilities. Like the Local Plan, the Framework requires a proper balancing of these two positive elements, and as I have set out above, I do not consider that the benefits of the proposal would outweigh the harm it would cause on the basis of the evidence before me. The proposal would also therefore conflict with guidance in the Framework on promoting healthy and safe communities.

Other Matters

24. There is and can properly be a difference between the view of Officers expressed in reports, and the formal view of the Authority expressed in their decision, or, as in this case, putative reasons for refusal. I acknowledge that the proposal had a positive recommendation by Officers, which covered the issues on which this appeal turns, as well as some other matters. However, I do not consider that it is inconsistent, or otherwise inappropriate for the view of the Authority, particularly in a finely balanced case such as this.
25. I note that there is another public house in Gillamoor, within walking distance of the appeal site and that there are already some community facilities shared between the two villages. I also acknowledge the arguments made on both sides around whether or not this is a suitable alternative for the appeal site in terms of access and its particular characteristics. However, this does not alter

the fundamental conflict identified above between the proposal, the evidence and the Local Plan policy.

26. Parties agree that the conversion and extension of the buildings to the rear of the site for holiday lettings is not at issue between them, and this part of the proposal could find support in the relevant policies. However, through discussion at the hearing and from a close assessment of the plans, it is plain that the existing public house use and the proposed holiday let conversions are not physically and functionally clearly severable. As such, it would not be possible to issue a split decision to that effect.

Conclusion

27. The proposal must be determined in line with the development plan, unless material considerations indicate otherwise. In addition, as the site lies within the National Park, there is a statutory duty to conserve and enhance the natural beauty, wildlife and cultural heritage of the area, reinforced by the great weight which the Framework places on the conservation and enhancement of cultural heritage in National Parks. Both of these duties find expression in the relevant development plan policies and Framework, around which my reasoning is structured, and this decision taken.
28. To my mind, both the statutory duty in respect of the exercise of powers within a National Park, and the great weight which the Framework places on the conservation and enhancement of cultural heritage in National Parks add further weight to my conclusions on the main issues above. In particular, they bolster the need for robust and comprehensive evidence, which I am not satisfied that I have been presented with in this appeal.
29. For the reasons given above I therefore find that as the proposal conflicts with the development plan and there are no material considerations which indicate that a decision should be taken other than in accordance with it, the appeal should be dismissed, and planning permission refused.

S Dean

INSPECTOR

Appearances

FOR THE APPELLANT

Mr Patrick Barrett BA Arch
Dipl Arch RIBA

Barrett+Barrett Architects

Mr Luke Wilkinson

HOLF Leisure

FOR THE LOCAL PLANNING AUTHORITY

Mr Chris France BSc BTP MRTPI

Director of Planning

Mrs Hilary Saunders BA BTP MRTPI

Planning Team Leader Development
Management

Mrs Janet Frank

NYMNPA Member

INTERESTED PARTIES

Mr Gary Housden

Head of Planning, Ryedale District Council

Mr Gerry McMahon

Administrator, Fadmoor Community Pub
Limited

Mr David Harris

Fadmoor Community Pub Limited

Mr Robert Ibbotson

Parish Chairman

Mr Peter Jones

Mrs Tracy Hostler

Mr Christopher Smailes

Mr Robert Armistead