

Appeal Decision

Site visit made on 13 May 2021

by Martin Andrews MA(Planning) BSc(Econ) DipTP & DipTP(Dist) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2021

Appeal Ref: APP/M2270/W/20/3271087

The Wheelwright Arms, The Green, Matfield, Tonbridge, Kent TN12 7JX

- 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 Rob Marshall, The Wheelwright Arms at Matfield, against the decision of Tunbridge Wells Borough Council.
 - The application, Ref. 19/02753/FULL, dated 23 September 2019 was refused by notice dated 17 February 2020.
 - The development proposed is the conversion of the existing public house to 3 No. self-contained residential dwellings including a studio ancillary to Plot 3.
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Application for Costs

1. An application for costs was made by Mr Rob Marshall against Tunbridge Wells Borough Council. This is the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for the conversion of the existing public house to 3 No. self-contained residential dwellings, including a studio ancillary to Plot 3 at The Wheelwright Arms, The Green, Matfield, in accordance with the terms of the application, Ref. 19/02753/FULL, dated 23 September 2019 and subject to the following conditions:
 - 1) The development to which this permission relates shall begin not later than the expiration of three years beginning with the date of this Decision;
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing No. Series P051: Plan Nos. 001; 002; 003; 004; 101; 301 Rev. A; 302; 501; 502;
 - 3) Prior to the first occupation of the dwellings hereby permitted, details of all boundary treatments including elevations and sections shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details and thereafter retained.

Main Issues

3. The main issues are (i) whether the loss of a community facility in this location would be justified having regard to the relevant local and national policies, and
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in that event (ii) the adequacy of living conditions for future residential occupants, with particular reference to private amenity space.

Reasons

4. On the first issue, the Council's development plan and Government policy in the National Planning Policy Framework 2019 ('the Framework') seek to prevent the loss of community facilities, with in both cases a public house mentioned as an example. In this case, the Council cites Policy CR13 of the Tunbridge Wells Local Plan 2006 & Core Policy 14 of the Tunbridge Wells Borough LDF Core Strategy 2010 and at the national level Paragraphs 83, 91 & 92 of the Framework. There is also an emerging Draft Local Plan which in due course will carry forward the objectives of the existing policies.
5. The thrust of policy is very much one of retention of community facilities, but in an appeal against a decision to refuse permission to convert a pub to residential use it is the specific provisions of Policy CR13 read together with its supportive and interpretative paragraphs in the Local Plan that are key to my Decision.
6. The officer's report makes it clear that The Wheelwright Arms is considered to be a community facility within a defined centre (in this case a village) and thereby falls within the scope of Policy CR13. Paragraph 5.143 is one of the policy's justification paragraphs in the Local Plan and says that the policy '*seeks to retain existing provision unless suitable alternative provision is available within the centre. For example, if a defined centre contained more than one public house, it may be acceptable to reduce the number of pubs within the centre. In the case of a commercial enterprise, a change of use may be permitted where it can be clearly demonstrated that an existing use is no longer viable*'.
7. Whilst a pub is almost always a commercial enterprise (and The Wheelwright Arms was such before its closure), the structure and wording of that paragraph separating pubs from commercial enterprises (e.g. a village shop) make it clear that for the purposes of Policy CR13 a public house does not need to undergo a viability appraisal if there is at least one other pub in the centre. The actual wording of the policy confirms this interpretation and in this regard the grounds of appeal refer to another appeal decision that turned on the meaning of Policy CR13 (Ref. APP/M2270/A/08/2079862). In his Decision, the Inspector points out that through the use of 'or' rather than 'and' the policy is worded to mean that if it can be demonstrated that suitable alternative provision is available, there is then no need or requirement to go on to demonstrate a lack of viability.
8. As regards alternative provision in Matfield, there are three pubs, including The Star and The Poet. Both of these establishments are within the qualifying area for the policy and both offer a car park, beer garden and a restaurant. As in the case of The Wheelwright Arms, they are located on the main road through Matfield leading from the A21 to Paddock Wood.
9. The officer's report also observes that in relation to The Wheelwright Arms '*The two other pubs appear to offer a greater range of seating options, are well furnished and appear to be well patronised. They are therefore considered to be deemed as suitable alternative provision within the village It is considered that there is suitable alternative provision (and) the development proposed is considered to comply with the first part of CR13*'.

10. Nothing I have seen or read in connection with the appeal leads me to disagree with this assessment, although in fairness it should be noted that the report then goes on to say that because there is no definition in the Local Plan of the difference between a community facility and a commercial enterprise, a public house should also be considered under the remaining provisions of Policy CR13. However, as I have explained above, I concur with my colleague Inspector that this is not the correct approach.
11. Whilst the alternative provision is sufficient to allow the appeal on the first issue, a viability appraisal has been carried out and I have therefore considered this aspect on its individual merits. Indeed, despite the alternatives the Council points out that Matfield is in line for substantial increase of new houses and that *'if the public house or a similar community use is retained it will help maintain the vitality and viability of the Matfield community'*. However, whilst there might be some limited shortcomings in management and marketing identified in the appellant's viability report, the facts are that at the time of the appellant's purchase in 2013 The Wheelwright Arms was already a loss making venture. And there was a further decline in trading until closure of the business in September 2017 as being fundamentally no longer viable.
12. I am satisfied from the viability report and the appellant's further evidence on his investment in the pub and the particular difficulties of the premises, that this period between 2013 and closure was not a contrived run down of the business. And with the pub's constraints relating to car parking, internal and external space and layout compared to The Star and The Poet, and against the background of a long term trend of national pub closures greatly accentuated by Covid-19, the prospects of a re-opening and achieving a successful profit-making business would now appear to be remote.
13. Indeed, having regard to the financial appraisal and other circumstances before me in this appeal, I can see no likely prospect of financial support from a bank or other third party lender to invest in a business that by next September will have been closed for four years and thereby having lost any good will it once had. Accordingly on this issue, with all things considered, I conclude overall there is no conflict with Local Plan Policy CR13 and Core Policy 14 of the Core Strategy.
14. Turning to the second issue, the Council takes the view that the small external area for Units 1 & 2 would not provide adequate residential amenity for the future occupants of the buildings and thereby comply with Local Plan Policy EN1. However, the policy does not refer to minimum standards and the space, although limited, would be sufficient for sitting out, domestic activities and the storage of some household paraphernalia.
15. The officer's report says that *'due to the rural location some form of private external amenity space is required'*. However, in my view there is a far greater need for external amenity space in urban than in rural areas, even if only in the form of a balcony or patio. And in respect of the appeal site, in addition to the modest area to the rear of the dwellings there are recreational opportunities on largest village green in the County on the doorstep and many public rights of way in the village and surrounding countryside.

16. On this issue I therefore conclude that the external amenity space would be sufficient for the occupants Units 2 & 3 and there would be no harmful conflict with either Local Plan Policy EN1 or with paragraph 127f) of the Framework.

Other Matters

17. The Wheelwright Arms is a Grade II Listed Building and is located within the Matfield Conservation Area ('the CA'). The proposed change of use from a pub to three dwellings would in my opinion have some effect on the significance of these designated heritage assets as a result of the building's change in external appearance and a loss of character in the CA.
18. However, any harm caused would be '*less than substantial*' and in the particular circumstances of this case the securing of the building's optimum viable use through the addition of three dwellings would have social and economic public benefits. Accordingly, and having regard to Government policy in paragraph 196 of the Framework, I conclude that as regards the preservation and enhancement of the historic environment the appeal should be allowed.

Conclusions

19. My conclusions on the main issues and consideration of the heritage assets, and taking into account all other matters raised by the Borough Council, the Parish Council and local residents, lead me to support the appellant's case and allow the appeal. I agree with the Parish Council and local residents that the loss of this historic pub in Matfield would be a matter of considerable regret, but I regard it as inevitable and in accordance with local and national planning policy.
20. The Council has suggested conditions if the appeal is allowed and I agree that these are necessary. A condition requiring the development to be carried out in accordance with the approved plans is needed for the avoidance of doubt and in the interests of proper planning. A condition stipulating the Council's prior approval of the boundary treatment for each dwelling will safeguard the appearance of the listed building and the conservation area.

Martin Andrews

INSPECTOR