



Appeal Decision

Hearing held on 12 July 2021

Site Visit made on 13 July 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 September 2021

Appeal Ref: APP/W1145/W/21/3269314

Crealock Arms, Littleham, Bideford, Devon EX39 5HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Morgan and Mr & Mrs Nicholls against the decision of Torridge District Council.
 - The application Ref 1/1017/2020/OUT, dated 6 November 2020, was refused by notice dated 5 January 2021.
 - The development proposed is the change of use from public house with owner's accommodation to 3 dwelling houses together with 2 additional dwellings in the domestic curtilage and pub parking area.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A revised unilateral undertaking made under Section 106 of the Town and Country Planning Act 1990 was submitted on 14 July 2021. I subsequently sought the main parties' views as to the implications of the revised National Planning Policy Framework (the Framework) on their respective positions. Following that, the Hearing was closed in writing.

Preliminary Matters

3. The appeal relates to an application for outline planning permission. All matters are reserved for subsequent consideration. A single plan is provided showing an indicative layout for the site which I have treated as illustrative.
4. The description of development, above, differs from that given on the application form in that it specifies the number of dwellings. At the Hearing, the parties confirmed that this amended description should be used. Nevertheless, in view of the reserved matters it was also agreed that the number of dwellings was not fixed by the description of development and I have, therefore, considered the appeal as a proposal for residential development within the existing pub building and some new build dwellings in the grounds.

Main Issues

5. The main issues are:
 - (a) The effect on the provision of community services and facilities; and

- (b) whether the site is in an appropriate location for housing, with regard to local and national planning policy.

Reasons

Community services and facilities

6. Policy ST22 of the North Devon and Torridge Local Plan 2011-2031 (LP) sets out that development involving the loss of community services and facilities will not be supported unless there is compelling evidence to demonstrate that certain criteria are met. In essence, that evidence must show that either the existing use is no longer commercially viable or could not be made so, or there is alternative local provision that is accessible to the local community by walking or cycling. In both scenarios, it must also be shown that the premises are no longer required to meet the needs of the local community.
7. Although there is no other public house in Littleham, the Crealock Arms is not used by local people to the extent that the appellants would like, despite regular opening, efforts to improve custom, and good reviews. I am told that only a small proportion of local residents use the pub and that a number of sports teams are made up, predominantly, of residents from elsewhere. However, there is little firm evidence as to the extent or pattern of usage by the local community that might demonstrate that the premises are no longer required.
8. There are alternative facilities at other nearby villages but these settlements are linked to Littleham by steep, rural lanes that would not be attractive for walking and cycling for most people. Regardless of the nature of the roads the distances would also discourage use of these facilities for casual socialising. While some people may wish to make the journeys, they would not be equivalent to a short walk or cycle to the existing facility for the local community. It may be possible to make the journey for lunch by public transport, but this would take time and is unlikely to be appealing. Nor is it what the Policy requires. Public transport would not be available in the evening.
9. There is a village hall that provides space for meetings, parent and children groups, cards teams and the like. It is located outside the main hub of the settlement, but not so far removed that it could not readily meet most residents needs. However, although activities can take place at the village hall with opportunities for the community to socialise, it has not been demonstrated that it would provide the same ability for ad-hoc social meetings such as may be afforded by a public house. I, therefore, find that there is no alternative local provision that is accessible to the local community by walking or cycling.
10. I understand that some previous landlords may have struggled at times and summaries of the business accounts indicate declining profits from 2018 to 2020. The appellants do not take a wage out of the business and the profits could not pay one. The financing arrangements whereby they 'live out of the business' make it difficult to quantify what a necessary profit would be to support them, although profits in the year to 2020 were very poor.
11. It is clear that a reduction in takings almost equates to the reduction in overall profit from 2018 to 2020 as a whole, although profits were higher in 2019 than 2020 due to lower admin expenditure. At the Hearing, the appellants were not able to give clear reasons why the expenditure was significantly higher in 2020

than 2019 and from a 3-year period, it is not clear which are the most typical figures. It appears that some account may have been made of the cost of this planning process, which while not a large proportion, is not reflective of the business performance. The business has continued to trade and, on the basis of the evidence, I cannot be certain that the very poor net profit for 2020 is wholly indicative of future prospects.

12. Success of the pub is understandably hindered by its location away from well-travelled routes and popular tourist destinations, especially with permissions for signage at key road junctions having been denied. Clearly the year to 2021 and maybe going forward, will have to bare the impacts of the Covid-19 pandemic. However, while some of the social clubs and sports teams may not be set to return in the near future, it is impossible to speculate that business will not recover.
13. The appellants have sought, unsuccessfully, to sell the pub for some time. However, whether or not it was advertised at an appropriate price, from what I heard, it appears that the desire to sell was initially because the appellants had only intended to run it for 10 years. The timing of the initial marketing was broadly consistent with that intention. The appellants now wish to move on and, in the absence of a willing purchaser, are unable to do so. While I understand the frustration that this may cause, that is not the policy test.
14. Therefore, while I acknowledge that profits have been declining and the immediate future is uncertain, it appears to me that the desire to change the use of the pub stems more from a desirability to leave than from failings in the business. For the above reasons, the case to change the use of the public house does not amount to the compelling evidence required to meet the tests set out in LP Policy ST22, and will have a harmful effect on the provision of community services and facilities.

Location of development

15. LP Policy ST07 sets out a broad spatial strategy for northern Devon's rural area. Local centres are to be the primary focus for growth development with development in defined villages being enabled to meet local needs and growth aspirations, in order to maintain existing population levels and support existing services.
16. Beyond these locations is an increasing absence of services. While the plan recognises a further tier of generally small settlements, including Littleham, which contribute to the overall sustainability of the rural area, only development of a modest scale is enabled in order to meet locally generated needs. Such would be consistent with helping to address a challenge in rural communities, identified in LP Paragraph 4.11, of a limited supply of affordable housing for local people and reduced housing choice. Proposals to address locally identified housing needs proposals would be assessed in accordance with the specific requirements of LP Policy DM24 that expects new housing to be subject to local occupancy restrictions.
17. Setting aside the specific nature of the existing use and conflict with Policy ST22, at the Hearing the Council accepted that the change of use of the pub building itself to residential would be permitted by LP Policy ST07, which supports rural building re-use in the countryside. However, in not being

restricted to address locally identified needs, I find that the additional new build dwellings would be contrary to the spatial strategy.

18. The Council is currently unable to demonstrate an adequate supply of housing land. However, while the shortfall in delivery indicates a clear housing need across the plan area, this does not equate to the locally generated need envisioned by Policy ST07 that, in conjunction with Policy DM24, clearly seeks to deliver housing for people with an existing, very localised connection.
19. In the context of the current housing supply situation, LP Policy ST21 allows residential development outside defined settlement limits, but it does require development to be broadly consistent with the overall spatial vision and strategy for northern Devon. While the development plan may support development for local needs at Littleham, it does not support speculative market housing. There may be little difference in terms of impact in relation to travel and accessibility between the two types of housing, but the LP appears to tolerate harm in that regard where it may help to address the specific housing issues facing rural communities. Thus, I find that the allowance for some housing at the rural settlements does not indicate that all housing would be broadly consistent with the development plan's strategy.
20. While the distance to Bideford in this case is not great, seeking to address wider general housing needs in locations such as Littleham with poor accessibility to services and facilities could collectively result in increased needs to travel and a pattern of development not intended by the policy. Furthermore, Policy ST21 requires the proposal to accord in all other respects with other local plan policies insofar as they apply. In light of my findings on the first main issue, this proposal does not and, therefore, it does not gain support from Policy ST21.

Other Matters

21. The existing pub building presents a traditional, low-key rural approach to the village. A dwelling on plot 5 would extend built form beyond this towards the countryside. Nevertheless, it would be seen in context with other dwellings in the area and although there are views of the landscape through the site, it would not substantially disconnect the settlement from its countryside setting. Therefore, I find that little harm would arise to the character and appearance of the area.
22. There is an agricultural building which the Council says is around 25m from the appeal site boundary. The Council's environmental protection officer is concerned that disturbance to the occupiers of plot 5, if sited as shown on the indicative plan, could arise from noise, smells and flies. The concern stems from problems that have arisen at other sites within the district and a desire to avoid potential sources of future conflict. However, other than being a dwelling close to an agricultural building the Council has not demonstrated how the sites and circumstances are comparable.
23. In this case, the land indicated for plot 5 appears to be existing residential garden land. There is also existing accommodation nearby within the pub and, while there are few windows facing the agricultural building, there is no clear reason why that could not also be the case for any new dwelling, if necessary. In this context and with no history of complaints arising from use of the agricultural building, the Council's concerns in this regard are unsubstantiated

- by evidence. I, therefore, find that adequate living conditions would be provided for future occupiers of the site.
24. A unilateral undertaking has been provided that would make financial contributions to education and green infrastructure. Whether or not it adequately secures those contributions, it seeks to deliver mitigation which is neutral in the planning balance.
25. The parties agreed at the Hearing that, in the context of the housing land supply situation, the benefits arising from the delivery of housing should be given significant weight. The shortfall in supply also means that Framework Paragraph 11(d) falls to be considered. This indicates that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
26. The Framework seeks to significantly boost the supply of housing, it also supports the reuse of previously developed land for meeting housing needs and indicates that development in one village can help to support services and facilities in nearby villages. It acknowledges that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. I, therefore, find support for the quantum and location of housing from the Framework, albeit that the benefits are tempered by the small-scale nature of the development.
27. However, the Framework also seeks to support the retention of accessible local services, including public houses, and indicates that decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, providing social, recreational and cultural facilities and services. The loss of the public house would result in significant harm to these aims.
28. I, therefore, find that, taking the policies of the Framework as a whole, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits and the proposal does not benefit from the presumption in favour of sustainable development outlined at Framework paragraph 11.

Planning balance and Conclusion

29. The proposal would result in the harmful loss of a community facility and housing in a location at odds with the spatial strategy of the development plan. Thus, it conflicts with LP Policies ST07 and ST22. There is no support from Policy ST21 and the absence of harm in respect of other matters are neutral considerations. As such, I find conflict with the development plan read as a whole. The benefits associated with the delivery of housing do not outweigh this conflict and material considerations, including the Framework, do not indicate that a decision should be taken otherwise than in accordance with the development plan.
30. I, therefore, conclude that the appeal should be dismissed.

M Bale

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Gilly Slater BA (Hons) MSc MRTPI CEnv MEnvSc – Enhance Land & Planning
Matt Payne – Trewin Design Architects
Mr & Mrs Morgan - Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Kristian Evely – Principal Planning Officer

INTERESTED PARTIES:

Robert Hicks FRICS FAAV REV
Ailsa Collins on behalf of Mr and Mrs Williams

DOCUMENTS SUBMITTED AT THE HEARING:

Revised Unilateral Undertaking – dated 14 July 2021
Council comments in respect of the revised Framework – dated 2 August 2021
Appellant comments in respect of the revised Framework – dated 4 August 2021