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# Appeal Decision

Site Visit made on 24 August 2021

**by F Wilkinson BSc (Hons), MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 15<sup>th</sup> September 2021**

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**Appeal Ref: APP/X1355/W/21/3275539**

**Smiths Arms, Forge Lane, Castle Dene DH3 4HE**

- 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 Brown of KBMB Developments against the decision of Durham County Council.
  - The application Ref DM/21/00702/FPA, dated 1 March 2021, was refused by notice dated 11 May 2021.
  - The development proposed is the conversion of existing pub into a single residential unit, with associated landscaping, demolition of outbuildings, construction of new workshop and garage.
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## Decision

1. The appeal is dismissed.

## Applications for costs

2. An application for costs was made by Mr Brown of KBMB Developments against Durham County Council. This application is the subject of a separate decision.

## Preliminary Matters

3. Following the submission of the appeal a revised National Planning Policy Framework (the Framework) was published. The main parties have been given the opportunity to comment. I have taken the new Framework and any comments thereon into account in my decision. Whilst some content has been added and the paragraph numbers changed, the substance of the Framework in regard to the main issue of the case has not.
4. The appeal site is within the Green Belt. Paragraph 149 of the Framework states that the construction of new buildings in the Green Belt is inappropriate. A number of exceptions to this are identified including proposals comprising the extension or alteration of a building, provided that it does not result in disproportionate additions over and above the size of the original building; and the limited infilling of previously developed land provided that it would not have a greater impact on the openness of the Green Belt than the existing development. The proposed rear extension would be of a smaller size than the existing rear extension that would be removed. The proposed new side extension would be located where the current fire escape is and would be proportionate to the original building as would the proposed dormer windows. A double garage and workshop are also proposed. They would be proportionate in size to the original building in unobtrusive locations beside the boundary wall and would not result in built development projecting into the open countryside beyond the building line of adjacent properties. As such they would not have a

greater impact on the openness of the Green Belt. The Council, in raising no objections on this particular matter, reached the same conclusion, and I therefore agree with its approach. On this basis, I am satisfied that the proposed development would not be inappropriate development in the Green Belt.

### **Main Issue**

5. The main issue is the effect of the proposed development on the quality of life of the local community and whether or not there is sufficient evidence to justify the loss of the public house.

### **Reasons**

6. The Smiths Arms public house (the pub) is a detached building located on Forge Lane to the north east of the hamlet of Castle Dene. The appeal site also includes a surfaced area to the south and east of the pub and an area of land to the west that is level near to the appeal property then slopes steeply down to Forge Lane. Based on the information submitted, the pub closed at some point during 2020.
7. Policy 9 of the County Durham Plan adopted 2020, (the LP) states that in locations outside of those identified in the retail hierarchy, the loss of essential shops and services will be resisted. The supporting text explains that in some of the smaller settlements, where there are not sufficient shops for a local centre to be defined, a local shop/convenience store or community facility is of even greater importance to the local population and it is important that the unnecessary loss of shops, community or cultural facilities within the county's smaller settlements is avoided. The supporting text also advises that in assessing applications that would potentially see the loss of such facilities, particular consideration will be given to the accessibility or availability of equivalent facilities nearby and the role that facility plays within the settlement, and that the views of local people and relevant town or parish councils will be of particular importance in assessing such applications.
8. Policy 10 of the LP sets out that development in the countryside will not be permitted other than in certain circumstances. This includes the change of use of an existing building which does not result in the unjustified loss of a community service or facility amongst other matters. The supporting text recognises that the sympathetic conversion of such buildings can safeguard their future, but the change of use must be clearly justified on a case-by-case basis according to their individual circumstances including consideration of the proposed use's future viability and the impact the loss of that proposed use would have.
9. A considerable number of objections to the proposed development were received during the consideration of the planning application as well as two parish councils relating to the loss of the pub. From the evidence presented, it appears that the pub has been listed as an Asset of Community Value (ACV) since the determination of the application.
10. The appellant has identified a number of other pubs in the wider area as providing suitable alternatives. This includes the Old England at Great Lumley, the Dun Cow at Bournmoor and the Floaters Arms at Woodstone. There would therefore remain other pubs in the wider area. However, given the distances

from the appeal site and the unlit nature of the roads, it is likely that these would require access by car for local residents. Furthermore, the availability of other pubs in the wider area does not in itself establish that the pub fails to serve an important purpose.

11. I am satisfied that the above factors strongly suggest that the pub is valued by the local community. The proposed development would therefore result in the loss of a valued community facility, and consequently its loss would have a significant negative impact upon the quality of life, particularly in the social sense, of the community. In line with Policies 9 and 10 of the LP, it is necessary to ensure that the proposed development is clearly justified and would not result in the unnecessary loss of the pub.
12. There are a relatively small number of houses within easy walking distance of the appeal property. I would accept that trade purely from local residents accessing the appeal property on foot would be unlikely alone to sustain the pub. Furthermore, its location may limit the amount of passing trade. However, its location in the countryside does provide the opportunity to provide a different offer to the other pubs in the wider area.
13. The appellant has submitted only very limited viability information and much of this is based on anecdotal evidence and unsupported statements about the investment required to undertake repairs and renewals. For example, no independent viability report exploring alternative business models has been presented, there is no information relating to historical trading performance and the figures presented for repair and renewal costs are not supported by any detailed calculations. Although a number of the interested parties state that the pub is not viable, these statements are not supported by evidence.
14. The appellant raises questions about how committed the Friends of the Smiths Arms is in progressing with a purchase of the pub and its ability to do so. From the evidence submitted, it appears that the Friends of the Smiths Arms or other local community group did not register an interest during the interim moratorium period in the ACV process to be considered as potential buyers. However, this is not a determinative factor on whether the pub is financially viable or in the level of value that the local community place on the pub. I am satisfied that, based on the representations to the application and appeal and the ACV status, there is considerable community support to re-open the pub.
15. Pubs do face challenges, particularly in the context of changing drinking habits and legislation relating to smoking and drink driving. The appeal property does have some configuration constraints and there is likely to be the need for initial investment to address the repairs and renewals required. Notwithstanding this, it has not been clearly demonstrated that a new pub operation would necessarily fail.
16. The appellant's supporting evidence states that attempts have been made to find a new tenant for the pub for almost two years, but very limited information is provided on what steps this involved. The appellant's marketing report is also lacking in supporting detail. For example, there is very limited detail on the measures taken to try and establish a local consortium to buy the pub as a community venture. Various sales particulars for the appeal property have been submitted. Current sales details have also been provided. However, no detailed valuation reports or independent valuations have been included to

validate the asking prices. There is also no information on how the appeal property was marketed and no evidence about the interest that was shown.

17. The Council highlights that much of the marketing timeline is during the COVID pandemic. The uncertainty caused during this period would have been likely to affect confidence in the hospitality sector. In addition, restrictions were in place that limited the ability to do in-person viewings of properties. It is therefore reasonable to conclude that interest in the sale of the pub would have been affected during this period. Although not determinative in itself, this adds support to my concerns about the marketing exercise undertaken by the appellant.
18. The proposed development would lead to the loss of a community facility which would be significantly harmful to the quality of life of the local community. No meaningful evidence has been submitted by the appellant that demonstrates the pub is unviable and there is a lack of firm evidence that it is of no interest to any other operator. In the absence of this, it would be premature to conclude that the appeal property is not of interest and viable as a pub.
19. As such, the proposed development would conflict with Policies 9 and 10 of the LP, the aims of which are summarised above. It would also conflict with paragraphs 84 and 93c) of the Framework which require planning decisions to retain and guard against the unnecessary loss of valued and accessible facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

### **Other Matters**

20. The appellant draws attention to an appeal decision that it is considered has parallels with the current appeal scheme. However, marketing and viability issues are development specific. As such I give this other appeal decision very limited weight and have assessed the proposed development on its own merits.
21. The appellant states that the proposed development would represent a windfall site and would contribute to the supply of housing with associated economic and social benefits. This would be the case, although the benefits stemming from one dwelling would be limited and as such have limited weight. The Council's officer report identifies that there is more than five years supply of deliverable housing land which the appellant has not disputed. Amongst other things, policies for the supply of housing are therefore up to date and thus the presumption in favour of sustainable development in paragraph 11 of the Framework does not apply.
22. It has been suggested that the loss of the pub would assist with the economic viability of other pubs in the wider area. No evidence has been submitted to substantiate this and I therefore give it very limited weight.
23. The appellant states that the proposed development would make an effective use of land and utilise an existing building. Whilst this is the case, the appeal site is located outside of a settlement. I therefore give this benefit moderate weight.
24. The appeal property is an attractive building, which the Council considers to be a non-designated heritage asset, that complements the character and appearance of the surrounding area. It has been submitted that the proposed development would improve the character and appearance of the building and

wider area and would be consistent with the Framework aims regarding new uses for heritage assets. The proposed development would bring the building back into use. The supporting information demonstrates that it can be converted without complete or substantial rebuilding and the conversion proposed would broadly retain its current appearance. However, its historic use as a pub would be lost. Furthermore, the proposed development would not result in significant improvements to the character and appearance of the building or surrounding area. As such I give this matter very limited weight.

25. Concern has been expressed that the appeal property will fall into a state of disrepair if it is continued to be left vacant and this would be harmful to the appearance of the area and the heritage value of the building. The appellant's Structural Inspection, Assessment and Recommendations report does not highlight any major concerns with the integrity of the building that would suggest significant cause for concern about further deterioration. Furthermore, powers are available to the Council to address situations where the amenity of its area is being adversely affected by the condition of land and buildings. I give this matter very limited weight.
26. I saw no evidence that the vacant building has attracted anti-social behaviour despite the fact that it has been vacant for a period of time, nor have I been directed to any reports or complaints to the Council. I give this matter very limited weight.
27. The appellant states that there would be no harm caused to the highway, biodiversity interests or heritage assets and no unacceptable noise impacts. An absence of harm is a neutral factor.

## **Conclusion**

28. The appeal property is a valued community facility, and as such its loss would significantly harm the quality of life of the local community. Sufficient evidence to justify its loss has not been provided. The proposed development would therefore conflict with Policies 9 and 10 of the LP and paragraphs 84 and 93c) of the Framework in this regard.
29. I acknowledge the benefits of the proposed development. However, these benefits do not, individually or cumulatively, outweigh the harm that I have identified.
30. The proposed development would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with it. Therefore, for the reasons given, I conclude that the appeal should not succeed

*F Wilkinson*

INSPECTOR