



Appeal Decision

Site Visit made on 20 December 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 January 2022

Appeal Ref: APP/K0235/W/21/3278273

The Chequers, High Street, Yelden, BEDFORD MK44 1AW

- 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 F&L Group against the decision of Bedford Borough Council.
 - The application Ref 18/00949/FUL, dated 12 April 2018, was refused by notice dated 24 February 2021.
 - The development proposed is extensions and alterations to Public House and residential development of 4 dwellings consisting of two three bed and two four bed dwellings with associated parking and access.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The proposal includes an extension to a public house and the erection of four dwellings to its rear. The Council has raised no objection to the works to the public house, which is within the settlement boundary. The housing development and public house works could be severable and thereby subject to different planning policies. However, the appellant is clear that both projects are interdependent, and that the scheme should be viewed as one mixed use scheme. I shall consider the proposal on these terms.

Policy Background and Main Issues

3. The appeal site is located on the edge of the village of Yelden, or Yelden. The site consists of a vacant public house and its large rear garden. The public house is within the defined settlement boundary and the proposed dwellings are beyond the Settlement Policy Area (SPA), as defined by the Bedford Borough Local Plan 2030 (2020)(LP). As such, the appeal site as a whole would be within the countryside for policy purposes.
4. Policy 7S of the LP relates to development in the countryside. The proposal would not meet criteria i – v, that relate to limited rural development in specific circumstances. Criterion vi, ix and x relate to exceptions for new development where it would relate well to a SPA. These support development that would respond to an identified community need, contribute positively to the character of the settlement and for community buildings to be viable in the long-term respectively.

5. Accordingly, the main issues are:

- the effect of the proposed dwellings on the character and appearance of the area and whether the proposal would affect the setting of Yielden Castle, a scheduled ancient monument, and
- whether the proposed development would respond to an identified community need and whether this provision would be viable in the long term.

Reasons

Character and appearance

6. Yielden is a small village with a dispersed settlement pattern. Dwellings are of various styles and scales with the majority being of a traditional rural character. The rear area of the appeal site is largely open with the rearmost area consisting of some tree and hedge boundary screening. These enable views through to the open countryside beyond. Views from the street, to the side of the existing building, also reveal the countryside beyond the rear of site. Being on the edge of the settlement, the site makes a positive contribution to the character and appearance of the surrounding countryside and the loose-knit form of the village within a verdant rural setting.
7. Given the proximity of existing residential properties, the proposal would not be isolated, but being located on the edge of the settlement it would affect views of, and from, the surrounding open countryside. Although the proposed dwellings would align with 'The Old Granary', they would stand well behind the pattern of development to the south and would appear as stark and prominent additions within this open setting. These would create a second tier of linear development, with an awkward frontage, that would overlook the rear of the public house and its car park. The proposed dwellings would not integrate well with the existing pattern of development. Therefore, residential element of the scheme would create a poor relationship which would be visually separate from the existing built form of the village.
8. The design of the proposed dwellings would be in keeping with local built vernacular having a rural farmyard design. Nevertheless, the physical presence of built form to the rear of the existing building would represent a significant encroachment into the countryside. This would result in a harmful erosion of the open rural character of the site and its surroundings. Moreover, the proposal would not be perceived as infill development within this context. The proposed development of dwellings would not therefore be successfully nestled adjacent to the village boundary or existing built form. It would consequently have a harmful effect on the surrounding open countryside.
9. The proposal is within the setting of the heritage asset of Yielden Castle, to the north and east of the site. Paragraph 199 of the National Planning Policy Framework (The Framework) requires great weight to be given to a heritage asset's conservation when considering the impact of a proposal on its significance. Yielden Castle is represented visually by a series of striking earthworks. These are clearly evident from High Street and the adjacent public footpath. Its significance derives from its historic importance and its prominent setting within the open countryside.

10. However, views between the monument and the proposed dwellings would be largely unaffected by the development. The Old Granary provides significant screening which, when coupled with existing boundary planting, would result in limited intervisibility between the scheme and the monument. Therefore, whilst views from the monument to the south would alter, this effect would be limited and be read within the context of adjacent existing built form.
11. As such, the proposal would have no discernible impact on the setting of the monument. Accordingly, the proposal would comply with policies 41S, 28S and 29 of the LP. These seek, among other matters, for development to preserve the setting of heritage assets and to successfully integrate with the historic environment.
12. Nevertheless, the proposal would fail to satisfy policies 7S(ix), 28S, 29 and 30 with respect to character, which include the requirement for development to have a positive relationship with the surrounding area, respect its local context and make a positive contribution to the local townscape quality.

Community provision

13. Local residents and the parish council give substantial support in favour of the proposal. These comments largely relate to the benefits to the local community from the provision of a substantially improved meeting place and the potential for it to provide a range of community services. Many residents list a range of community services that they would hope could be provided by the extended public house. These include a shop, tea-room, a post office and general meeting place. The sentiment of many residents can be encapsulated by the community's request for a place "where villagers can meet to enjoy a drink and perhaps a meal". Paragraphs 84 and 93 of the Framework support a prosperous rural economy and to provide development that supports community needs. Furthermore, policy 98 of the LP supports new community facilities provided its provision is supported by research and consultation with the local community.
14. Criteria (vi) of policy 7S requires proposals for community development in the countryside to support an identified local need. The Council's briefing note, on this policy, although of limited weight, provides guidance on how this policy should be applied for consistency. This identifies that a local need could be established by a local study and for housing to be shown to be specifically required. No such evidence has been provided to support either the housing or expanded public house. Whilst not in itself determinative, the briefing note demonstrates the general requirements sought by the Council to address an issue of need.
15. The village does not have another public house, and as such the proposal could provide a useful and currently unprovided facility for the community. This is an important material consideration in this context. However, no legal mechanism has been offered to ensure that the public house would commit to trade for an agreed period of time, the level of investment that would be made in it, how it would operate or what services would be offered to the local community. Accordingly, there is an absence of compelling evidence to illustrate that the extended public house would deliver more than just food and drink, limiting its broader benefits. The appellant also states that the viability of a 'gastro pub' would be improved by the removal of the bar area and games room to

- accommodate further covers. Accordingly, such a business model would not necessarily enable local villages to attend the facility for a simple drink.
16. This creates a disconnect between the needs identified by the community in support of the expanded public house and the type of facility being offered by the appellant. As such, the evidence does not illustrate clear or compelling justification that a local need exists for either element of the scheme despite the local support expressed by interested parties.
 17. Turning to issues of viability, the appellant states that the expanded public house would be an asset to the local community and would be funded by the profits derived from the proposed residential development. The appellant's business plan explains that if the public house were to reopen, without the extension, it would generate a loss. Furthermore, the business plan illustrates that the business cannot sustain the cost of the works without investment garnered from the sale of the proposed housing. These conclusions seem reasonable.
 18. The submitted viability appraisal shows that the development costs of both the proposed dwellings and alterations to the public house would deliver a relatively low profit of around 16% to the developer. The evidence includes a realistic assessment of how many customers could be accommodate within the expanded building. This takes into account reduced attendance at quieter times of the week and arrives at predicted custom levels that seem reasonable. These figures have not been contested by the Council, although I recognise it has raised general concern that the projections seem optimistic, it has not provided a technical assessment to support this contention.
 19. However, the business plan describes that the new facility would be a 'gastro pub' and would need to attract customers from a wide catchment area. This would require the business to grow from being closed for four years into a successful endeavour attracting new and significant customer numbers. Whilst I recognised several public houses, referred to in the evidence, show how investment can save and grow public houses in rural locations, these examples only identify the successful cases. I also understand that these examples are within larger settlements where steady local custom would be more readily accessible than found in Yelden, based on the site's history.
 20. I understand the appellant's concerns that robust analysis of the future success of the business seems hard to prove. However, the success of the business is intrinsically tied to the exception case put forward by the appellant to satisfy policy 7S. Thus, the community use must be shown to be a benefit of sufficient significance, with relatively compelling certainty of its longevity, to outweigh the harm identified to the character of the village and countryside. The appellant's evidence includes commentary that the success of an extended public house would be reliant on the quality of the offer and extent of marketing undertaken. This raises doubt to its success and indicates the speculative nature of the endeavour.
 21. The Grampian style condition, offered by the appellant, would require the extension to be complete and for the public house to be operational prior to the occupation of the first dwelling. However, such a mechanism would not be sufficiently robust. It would not in itself ensure that the public house remained trading and would not therefore ensure the long-term viability of the business.

This approach would also not guarantee the delivery of the wider benefits envisaged by local supporters of the scheme.

22. The site has been the site of a public house for many years, but in recent times it has been occupied by various tenants and has had a number of periods of closure. It has most recently been closed since 2017. This indicates a general lack of local custom resulting in its gradual decline and persistent failure. The evidence also illustrates that several local public houses offer strong competition. This may also affect the success of a substantially extended public house, irrespective of the investment proposed. Furthermore, the village is relatively small and would be unlikely, by itself, to be capable of supporting the facility. As such, it would be essential to attract trade from a wider catchment area. Therefore, due to the facility's need to attract custom from a wide catchment it would be unlikely to offer a broad range of benefits for local residents.
23. For these reasons, there is doubt that the public house would provide for a long-term viable business. Even if it would, the community benefits of the proposal would be limited and accordingly the local need expressed would be unlikely to be met. Consequently, the proposal would conflict with criterion (vi) and (x) of policy 7S.

Other Matters

24. The proposal is within the setting of three listed buildings and a building deemed, by the Council, to be a non-designated heritage asset. I am required to pay special attention and have regard to the desirability of preserving the setting of listed buildings¹.
25. Middle Farm and its cottage are to the north of the site, beyond 'Leacroft', these connected buildings originate from C17 and are grade II listed. The building is two-storey with red brick and rendered walls and clay tile roof. It has a traditional form and is set back slightly from the road behind an open garden. Its significance can be seen to relate to its rural character and visual interest. The Cottage opposite Middle Farm is Grade II listed. This is a single storey thatched roof dwelling, with dormers, that also originates from the C17. It has a timber frame construction with a thatched roof and brick chimney stacks. Its significance derives from its age, traditional rural design and prominence in the street. The significance of the Grade II listed 'K6' telephone kiosk opposite 'Leacroft', relates to it being an iconic example of industrial design within this village setting.
26. The proposed dwellings would have a neutral impact on the setting of these listed buildings due to the separation distances, intervening buildings and their subdued siting, largely behind the existing public house. Accordingly, the proposal would not affect the setting of these listed buildings.
27. The Cottage opposite the site is a dwelling with a thatched roof. The Council has not explained how this has been identified as a non-designated heritage asset. It has not shown that its designation was through a sound evidence base or identified the criteria used to designate it as such. Therefore, although architecturally interesting, there is insufficient evidence before me to conclude that the building qualifies as such an asset.

¹ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

28. It is recognised that the Council granted planning approval² for enabling development to fund improvement works at the Red Lion. Its associated S106 Legal Agreement required the letting rooms to be available prior to the construction of the dwellings. Although the full details of that case are not in evidence, it appears that the site was within a settlement and therefore presented a different policy context to the appeal site.

Overall Conclusion

29. The provisions of Policy 7S are not intended to prevent rural businesses from thriving, and furthermore the Framework seeks to support a prosperous rural economy and to provide development that supports community needs. Nonetheless in this case I have found harm to the character and appearance of the settlement, and furthermore it has not been clearly demonstrated that it would either respond to an identified community need or secure the long-term viability of community buildings. As such the exception tests set out in Policy 7S have not been met.
30. In reaching a conclusion in this case I have considered the facts that the proposal would deliver four dwellings and improvement works to the vacant public house. The dwellings would make a small contribution to housing in the area and contribute towards the viability of the limited services available within the village. However, the modest scale of these benefits would be of limited weight in favour of the proposal.
31. As such I conclude that the proposal would conflict with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

B Plenty

INSPECTOR

² Planning Application Reference: 16/00751/FUL