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## Appeal Decision

Site visit made on 15 February 2022

**by Laura Cuthbert BA(Hons) MSc MRTPI**

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

**Decision date: Tuesday 15 March 2022**

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**Appeal Ref: APP/Q3305/W/21/3286944**

**The Crown Inn, Clapton, Midsomer Norton, Radstock, BA3 4EB**

- 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 Mr R Thorner (Flower & Hayes Developments Ltd) against Mendip District Council.
  - The application Ref 2021/1138/FUL, is dated 14 May 2021.
  - The development proposed is the proposed conversion of Public House into 3no. residences and the erection of 2no. additional new build residences.
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### Decision

1. The appeal is dismissed and planning permission for the proposed conversion of Public House into 3no. residences and the erection of 2no. additional new build residences is refused.

### Procedural Matters

2. Following the submission of the appeal against non-determination, the Council has provided a copy of the delegated officer report, which provides clarity in terms of the 3 reasons why the Council would have refused planning permission had it been able to do so. Therefore, the main issues below are taken from the officer's report.

### Main Issues

3. The main issues are as follows: -
  - whether the proposals involve the unnecessary loss of a viable community facility;
  - the effect of the proposed development on highway safety, with regard to whether a safe and suitable access to the site is achievable and the adequacy of parking provision; and
  - whether surface and foul water from the development site would be adequately dealt with.

### Reasons

#### *Loss of a Community Facility*

4. The Crown Inn public house (pub) is situated in a small hamlet with no defined settlement limit. There are limited other services and facilities in the settlement

at present, with the Crown Inn being the only pub. Part of the appeal proposals involve the conversion of the existing pub to form 3 residential units.

5. Policy DP17 of the Mendip District Council Local Plan Part 1: Strategy and Policies 2006-2029 (2014) (Local Plan) makes it clear that the loss of premises last used for local services and facilities (including commercial facilities such as pubs) will only be permitted where there is suitable alternative provision; maintenance of the existing use would perpetuate environmental problems or (for commercial uses) there is 'no likelihood of a viable community use'. The Council have subsequently adopted the 'Marketing and business evidence to support planning applications Supplementary Planning Document' (SPD) which sets out the information that should be submitted to support a loss of a premises covered by Policy DP17.
6. As required by the SPD, a marketing report was submitted with the planning application. However, I have a number of concerns regarding the marketing report. Whilst the marketing board was still on site at the time of my site visit, I note the comments of the Parish Council and the Council's Planning Policy Officer that the premises were not being advertised on the websites provided in the marketing report. No evidence (such as a screenshot) of the webpages on these websites have been provided. There is no evidence before me that the premises has been registered with the property listings on [www.intosomerset.co.uk](http://www.intosomerset.co.uk) which is something the Marketing SPD expects as a minimum. Furthermore, no valuation report has been provided to provide evidence as to how the sale price has been determined and there is no reference to values of comparable properties in the locality. Therefore, whilst I acknowledge that the site has been marketed, the report submitted would not meet the compelling evidence that is required to pass the tests of Policy DP17 of the Local Plan or the adopted SPD.
7. The appellant's appeal statement confirms that they consider that the pub is no longer viable and that there is no prospect of a viable community use. Therefore, as the application has been made on the basis of lack of viability, the SPD sets out that accounts for the previous 3 years must be submitted as evidence of this. Where a business has closed in the previous year, the last 3 years accounts will be required. It is noted that the pub has been closed to the public since early 2020. However, no accounts information prior to this have been submitted therefore there is no evidence before me to demonstrate that the existing pub is no longer viable.
8. The Council state that the marketing the appellant has provided is not sufficient to fulfil the requirements of the SPD. Following consideration of the marketing report, I concur with Council on this matter. I also note the local objections to the loss of the pub, as well as the objection from the Bath and Borders branch of Campaign for Real Ale (CAMRA) to which I attach weight to in reaching my decision.
9. I acknowledge the appellant has provided information regarding the marketing strategy submitted in relation to the change of use of another pub in the district, 'The Ring of Bells'. However, I must consider the appeal scheme on its own merits and in this case, I consider that the marketing strategy falls short of the requirements of both Policy DP17 and the SPD.
10. Based on the evidence before me, given the shortfall of the information within the marketing report, the proposed development would involve the

unnecessary loss of a viable community facility. The development would conflict with Policy DP17 of the Local Plan, as well as the guidance within the adopted SPD, which are both intended to protect facilities such as village pubs where they are considered to still be viable enterprises. It would also conflict with paragraph 93 of the National Planning Policy Framework (the Framework) (2021) which states that planning decisions should guard against the unnecessary loss of valued facilities and services.

### *Highways*

11. The appeal site is situated on Zion Hill, with the existing entrance to the pub car park positioned just after a bend in the road. Whilst the road is set at national speed limit, due to the character of the road being of a country lane, within no footways and tight bends as recognised by the appellant's Transport Statement, this helps to keep speeds low through the settlement. The Highway Authority's consultation response also noted the low traffic levels and that vehicle speeds of up to 20mph each way were observed on the site.
12. The proposed vehicle access would move the existing access away from the bend and make it wider. The Council initially had concerns that the site was unable to achieve the required visibility splays; however the appellant submitted a Transport Statement during the course of the application which confirms that visibility at the site access would exceed the 2.4 x 33m standard suggested by the Highway Authority for approach speeds of up to 25mph. Based on the evidence before me, I am therefore satisfied that a safe and suitable access to the site would be provided.
13. The proposed development would be served by 17 car parking spaces, 2 of which would be within the garages associated with Plots 4 and 5. Three of the 17 parking spaces would be for visitor parking. Whilst the Highway Authority have concerns regarding whether the garage parking spaces would actually be used for parking purposes, it is noted that the Somerset County Council Parking Strategy (2013) states that residential parking standards can include car ports, garages and driveways. Therefore, it is considered that in these circumstances, the garage parking spaces can count towards the on-site parking numbers. The proposals would therefore achieve the parking standards for the development as set out by the Parking Strategy and therefore I am satisfied that the parking provision proposed would be acceptable.
14. Furthermore, I note that the Council in their appeal statement state they consider sufficient information has been submitted by way of the Transport Statement which has overcome any previous concerns regarding the highway impact of the proposals.
15. The proposed development would not have an unacceptable impact on highway safety, as both a safe and suitable access and an adequate level of parking would be provided. It would therefore meet the requirements of Policy DP9 of the Local Plan which states that development proposals will be supported where they would make safe and satisfactory provision for access by all means of travel. The proposals would also accord with paragraph 111 of the Framework which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

### *Drainage*

16. The appellant has provided details of the soakaway tests which were carried on site as well as a foul drainage strategy drawing, drawing 01-PDL-1001C. Soakaways have been shown at the southern end of the site, where infiltration testing has demonstrated that this would be acceptable. Surface water runoff from the site would be pumped to these soakaways from the pumping station shown. Foul drainage would be secured by a package treatment plant, and this is shown on the foul drainage strategy drawing. Evidence has been provided by the appellant confirming that the Council's Land Drainage Engineer confirmed that the information submitted presented a viable foul and surface water drainage solution for the site, subject to the inclusion of a ground water level monitoring condition.
17. I note the local concerns regarding the local flooding and drainage issues in the hamlet. However, I have not been provided with any substantive evidence which demonstrates that the proposed drainage strategy presented by the appellant would be inadequate.
18. Therefore, based on the evidence before me, it is considered that both surface and foul water from the development site would be adequately dealt with. The proposed development would therefore be in accordance with Policy DP23 of the Local Plan which seeks to ensure proposals would incorporate appropriate water management measures and to ensure development would not increase flood risks elsewhere.

### **Other Matters**

19. Whilst they have not been included in the likely reasons for refusal put forward by the Council, the Council's Officers Report raises a number of other concerns with the proposals regarding layout and amenity space.
20. The external amenity space provided for plots 1-3 would be small courtyard areas situated to the rear of these plots. These would sit next to the large agricultural buildings associated with the adjacent site and would offer little amenity value to the future occupants, in regards to their outlook and sunlight. However, I note that larger, more practical garden areas for plots 1 and 2 would be provided to the south of the site. Plot 3 would also be provided with a small garden area to the site of the plot. Therefore, when the amenity space provision is considered on the whole, I consider that an acceptable provision of external amenity space would be provided for the future occupants of the proposed development.
21. In terms of the parking court, it is considered that as the proposed parking court would replace the existing tarmac car park associated with existing pub, it is not considered that this feature would be harmful to its rural setting. Furthermore, it is not considered that the proposals would result in a cramped development given that there is a variation in layout and density of existing development evident throughout the hamlet. Whilst the refuse collection for plots 1-3 would not be within their domestic curtilage, the location of the shared refuse storage area would not be so remote to render it unusable or inaccessible, especially as there would be a clear paved route from the front of each of the plots.

## **Planning Balance and Conclusions**

22. The Council is unable to demonstrate a five-year supply of deliverable housing sites. Paragraph 11 of the Framework states that where the development plan is out of date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or there are specific policies in the Framework which indicate that development should be restricted.
23. The proposal would provide a limited amount of short-term employment through the construction of the development and some further modest benefits would result from the additional support to the vitality of the local community from the future occupiers of the five houses. The five new houses would make a modest contribution to the supply of housing and towards helping to address the Council's shortfall.
24. However, the proposal would result in the unnecessary loss of a viable community use. As such it would be contrary to the aims of the Framework, which recognises that planning decisions should guard against the unnecessary loss of valued facilities and services. Overall, I find that the adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
25. Consequently, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*Laura Cuthbert*

INSPECTOR