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## Appeal Decisions

Site visit made on 10 November 2021

**by Paul Thompson DipTRP MAUD MRTPI**

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

**Decision date: 14<sup>th</sup> June 2022**

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### **Appeal A Ref: APP/W3520/W/21/3273897**

#### **Red Lion Inn, Greenstreet Green, Great Bricett IP7 7DD**

- 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 I Newman (Everose Ltd) against the decision of Mid Suffolk District Council.
  - The application Ref DC/20/05376, dated 26 November 2020, was refused by notice dated 22 March 2021.
  - The development proposed is change of use of public house (sui generis) to dwelling (C3).
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### **Appeal B Ref: APP/W3520/Y/21/3273896**

#### **Red Lion Inn, Greenstreet Green, Great Bricett IP7 7DD**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Mr I Newman (Everose Ltd) against the decision of Mid Suffolk District Council.
  - The application Ref DC/20/05377, dated 26 November 2020, was refused by notice dated 22 March 2021.
  - The works proposed are change of use of public house (sui generis) to dwelling (C3).
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## **Decision**

### *Appeal A*

1. That part of the appeal that relates to Change of use of Public House (Sui Generis) to 1no. Dwelling (C3) is dismissed. That part of the appeal that relates to associated external alterations is allowed and planning permission is granted for associated external alterations at Red Lion Inn, Greenstreet Green, Great Bricett IP7 7DD, in accordance with the terms of the application Ref DC/20/05376, dated 26 November 2020, subject to the attached schedule of conditions.

### *Appeal B*

2. The appeal is allowed and listed building consent is granted for Internal and external alterations to facilitate change of use of Public House (Sui Generis) to 1no. Dwelling (C3) at Red Lion Inn, Greenstreet Green, Great Bricett IP7 7DD Red Lion Inn, Ipswich, IP7 7DD in accordance with the terms of the application Ref DC/20/05377 dated 26 November 2020 the plans submitted with it, including drawing ref: 20-178-201-A, subject to the attached schedule of conditions.

## **Procedural Matters**

3. Despite the descriptions set out above, I consider the description found on the Decision Notices better reflects the scheme that is before me and that which the Council considered. The development proposed is therefore for 'Change of use of Public House (Sui Generis) to 1no. Dwelling (C3) and associated external alterations'. The works proposed are for 'Internal and external alterations to facilitate change of use of Public House (Sui Generis) to 1no. Dwelling (C3)'. I have therefore dealt with the appeals on this basis.
4. The appeal property was listed as an Asset of Community Value (ACV) under the Localism Act 2011 on 21 February 2021. I have been referred to formal proceedings that were lodged to challenge the listing, but this is a separate matter, outside the scope of this appeal. There is no evidence before me to suggest that the property is no longer listed as an ACV, so this remains a material consideration in my determination of the appeal scheme.
5. The Council's Decision Notice refers to Policy E6 of the Mid Suffolk Local Plan (1998) (LP). Paragraph 2.5.17 of the supporting text for the relevant chapter of the LP outlines that the terms 'industrial and commercial development' only relate to Classes B1, B2 and B8 in Part B of the Town and Country Planning (Use Classes) Order 1987 (as amended), as they would have been at the time. As a public house, the use of The Red Lion Inn would have fallen within Class A4, but it is now Sui Generis, Policy E6 is therefore not relevant to the appeals.
6. Whilst the National Planning Policy Framework was revised on 20 July 2021 (the Framework), the revisions do not alter the policies upon which this appeal turns. I am therefore satisfied that no party has been prejudiced by my reference to its content.
7. The 2021 Housing Delivery Test (HDT) results were published on 14 January 2022. The latest HDT result for the District does not alter the Council's position, with the approach remaining that no action is necessary in relation to the results, and I have not engaged further with the main parties.
8. The Decision Notices set out the drawings relevant each of the applications relevant to the appeals. While these do not refer to the drawing 20-178-201-A, it is clear that this amended plan was considered by the Council, as it is referred to in its Officer Reports.

## **Main Issues**

9. The main issues are:
  - whether the proposed development would comply with local and national planning policies which seek to protect existing community facilities, having regard to the marketing of the public house, its viability and loss of employment (Appeal A only); and
  - whether the proposals preserve a Grade II listed building, known as 'The Red Lion Inn', and any features of special historic interest that it possesses (Both Appeals).

## Reasons

### *Protection of Existing Community Facilities (Appeal A only)*

10. The appeal concerns the The Red Lion Inn, a vacant Grade II listed public house with a generally open plan dining / sitting area and bar at ground floor and living accommodation at first floor. It is the only public house in Great Bricett, with those in other settlements being some distance away.

#### Viability

11. The Council's SPG<sup>1</sup> does not form part of its development plan, rather it is an endorsed document. While it is generally consistent with the aims of the Framework with respect to rural facilities, it is of some age and supplements an obsolete Structure Plan policy. For these reasons, I concur with the Inspector in the appeal at Framdsen<sup>2</sup> that the SPG would attract only limited weight in my determination of the appeal. Nevertheless, the SPG suggests that evidence on the viability of the facility should follow strict criteria, including attempts at diversification. The Framework guards against the "unnecessary loss" of valued facilities in rural communities.
12. The public house closed during the Covid-19 pandemic, as the appellant suggests it was in economic decline. However, he has endorsed The Campaign for Real Ale (CAMRA) approach to the impact of the Covid-19 pandemic on public houses. This acknowledges that there will have been huge pressures on the licensed trade, during periods of lockdown and social-distancing, but points to the general upturn in fortunes for public houses prior to its inception. This approach is reflected by the Inspector in the decision for the Four And 20 public house in Padbury<sup>3</sup> and I share the view that the pandemic is unlikely to have permanent repercussions on the licensed trade. Given the lack of substantive evidence before me referring to rural locations, I have afforded limited weight to people working from home would have a direct benefit on trade.
13. The appellant's second Marketing Report of September 2021 (MR) refers to the effect of market conditions on public houses and trends in sales and his Viability Assessment (VA) appraises the potential of the business to remain viable as a going concern. However, the former presents more of a general picture and the projections in the latter are not informed by full business accounts. While the Council did not seek any specialist advice from the District Valuer, which the appellant suggests is against its usual approach, I do not find this to be determinative. Moreover, no information was provided to demonstrate the actual economic performance of the public house, which undermines the assertions made by the appellant that the business does not attract the extent of custom that would be required to sustain its viability or the needs of the community, and how competition with other public houses in the locality may affect this.
14. I have no reason to doubt the experience of the current publicans or that they attempted to improve their business or its appeal to patrons. Nonetheless, other than establishing a vegan menu prepared with high food hygiene standards, there is no indication of the steps taken by the appellant. In particular, as discussed in the VA and 2016 Judgement referred to above, the

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<sup>1</sup> Retention of Shops, Post Offices and Public Houses in Villages (Adopted February 2004).

<sup>2</sup> Appeal Reference: APP/W3520/W/18/3208626.

<sup>3</sup> Appeal Reference: APP/J0405/W/20/3259210.

extent of any investment in the business, advertising or other means explored to encourage trade. Indeed, there is conflicting evidence from the appellant and other interested parties as to whether the vegan menu created interest.

15. The appellant suggests that there would be little prospect of establishing the public house as a destination in its own right, particularly in the context of alternative dining options, without significant investment. The VA refers to the business model for these, but it is not explored in detail and the internal fabric in the public areas of the premises is generally modern. It is therefore unlikely that refreshment of the interior or expansion to provide more covers, would be particularly constrained by the Grade II listing.
16. The location of the public house in Great Bricett shares similarities with many others situated within rural settings, as the absence of dedicated footpaths does not discourage people to walk to such facilities. However, the population of the village is relatively small so would be unlikely, in itself, to support the viability of the business. Nevertheless, modes of transport available between rural settlements will often require residents to travel some distance to meet their day-to-day needs, including accessing public houses, which is reflected by the large carpark at the pub. I do not therefore find these factors to be determinative in this instance.

#### Marketing

17. The appellant instructed the property to be marketed in late October 2020, with the initial results reported in April 2021, but the results of the whole marketing period are reported in the MR. The sales particulars clarify the use class of the premises but do not directly encourage other alternative uses. However, the advertising led by the appellant's agent (Savills) included their website and other third-party commercial sales websites. The agent's monthly email circular, which included the appeal property, was sent to a significant list of pub operators, commercial and community users, developers, and investors.
18. Despite the absence of a sales board during part of the marketing undertaken, the term of the marketing only being around 11 months and during the pandemic, it seems to have been a reasonable attempt to expose the premises to a wide audience in order to incite offers, including those from parties considering the potential re-use in the licensed trade and alternative uses.
19. Parallels can be drawn between community support for the Red Lion Inn and the circumstances reflected in the judgement<sup>4</sup> handed down regarding another pub in Mid Suffolk. The ACV listing of the premises, together with local support demonstrated since for the continued protection of the use, underlines its importance to the community of Great Bricett. However, since it was registered as an ACV, there has not been any clear intent or willingness to take on the premises and attempt to run it as a going concern.
20. The Parish Council has suggested that it will be preparing a business plan for the pub but no such plan is before me as part of the appeal. Although it is not necessary for a business plan to be provided to support the use of a building, together with the absence of an offer for its acquisition and/or continued operation, the lack of one undermines the prospect of such proposals emerging in the near future.

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<sup>4</sup> Fernwick Ltd v Mid Suffolk DC & Anor [2016] UKFTT CR-2015-0024 (GRC).

### Loss of Employment

21. As in the case at Brundish<sup>5</sup> and based on the evidence before me, the Red Lion Inn is not a significant employer. The actual loss of jobs and potential employment with a thriving public house would likely be modest and would not, of itself, be a harmful contributing effect associated with the proposal.

### Conclusion on the First Main Issue

22. Despite my findings in relation to the marketing exercise undertaken for the premises and the potential for the loss of an employment generating business, I conclude that the public house use has not been satisfactorily demonstrated to be unviable. The proposed use as a dwelling would therefore lead to the unnecessary loss of a valued rural facility. Hence, it would fail to accord with the aims of the SPG and Paragraphs 84 and 93 of the Framework.
23. I have not found in relation to paragraph 85 of the Framework as, although it refers to sites required to meet local business and community needs, the general thrust appears to be in relation to new development and accessibility.

### *Listed Building*

24. The main parties agree that The Red Lion Inn was formerly a house of early or mid-17<sup>th</sup> Century origin, later converted to form a public house. The public house is a two storey timber-framed and plastered building arranged on a 2-cell lobby-entrance plan. The listing description primarily focuses on the external detailing of the property, including its chimney, bargeboards with spike finials, casement windows and 6-panelled entrance door. However, it also refers to the exposed timber frame within the bar and later extensions to the side and rear of the building. It is categoric in its suggestion that the latter are not of special interest.
25. As far as it is relevant to the appeals before me, the significance of the listed building today is found in the architectural and historic interest of the plan form, timber-frame construction, and architectural detailing of the principal range of the building which originates from the 17<sup>th</sup> Century.
26. The proposal includes external alterations to the principal, 17<sup>th</sup> Century range, through two conservation-style rooflights which would be added to its rear roof slope and set above the rafters to avoid their removal. A window would also be added to the first-floor rear façade to serve a new bathroom, but the main changes relate to fenestration of the modern extensions. The internal alterations proposed generally relate to the removal or repositioning of stud walls, mostly within later extensions. The most noteworthy changes would be to separate the public house dining room from the remainder of the building and to remove divisions to rooms at first floor to return the two-cell plan form. This would enable the historic floorplan, including the proportions of rooms to be better understood and appreciated. The existing modern staircase would also be reconfigured to reflect the historic form more closely.
27. The proposed alterations would be sensitive in form and so would not harm the external appearance of the listed building and would result in a layout that moves closer to the original intended layout of the property. This would better reveal the significance of the listed building. I also note that the Council did not

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<sup>5</sup> Appeal Reference: APP/W3520/W/18/3209602.

identify any harm with respect to the proposal in the Officer Reports for the applications but that the existing use should be preferred if it is viable. Its concerns focused on the principle of the change of use discussed in the first main issue. Those considerations are not relevant to whether the proposal would preserve the special interest of the listed building.

28. In light of the above, I conclude that the proposal would preserve the listed building and the features of special historic interest that it possesses. Hence, it would satisfy the requirements of Sections 16(2) and 66(1) of the Planning (Listed Building and Conservation Areas) (England) Act 1990 (the Act) and the design and heritage aims of Policy CS5 of the Council's Core Strategy<sup>6</sup>, Policies GP1, HB1, HB3 and H15 of the LP, and the Framework.

### **Other Matters**

29. The site is near to Red Lion Cottage, which is designated as a Grade II listed building. I have had regard to the statutory duty referred to in the Act but, given the proximity and physical relationship of the proposed alterations with this designated asset, its setting would be preserved and the proposal would not detract from it.
30. The evidence before me demonstrates that the proposed internal and external alterations referred to in the appeals would be unlikely to result in any effect on protected species.

### **Conditions**

31. In addition to the standard time limits for both appeals, in the interests of clarity I have specified the approved plans in Appeal A. This is unnecessary in the listed building consent appeal, as the decision incorporates the plans. Furthermore, in the interests of preserving the special interest of the listed building, conditions for the details, specifications and samples of materials and equipment are necessary for the proposed fenestration, internal partitions/stud walls and doors, the replacement staircase, and any vents for bathrooms. I have not included the conditions requested by the Council's consultees in relation to contamination and vehicle manoeuvring, as there are no ground works associated with the proposed internal and external works, nor to these affect the ability of vehicles to move within the existing public house car park.

### **Planning Balance (Proposed Use in Appeal A only)**

32. The development plan for the area comprises the LP, CS and the Core Strategy Focused Review (Adopted December 2012) (CSFR). While these all predate the current Framework, it is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to policies according to their consistency with the Framework.
33. The appellant has referred to Policy FC1 of the CSFR due to its relevance to the presumption of sustainable development advocated by the Framework. This only unnecessarily duplicates what was in paragraph 14 of the 2012 Framework, so it is out-of-date and any conflict with it would only be afforded

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<sup>6</sup> Mid Suffolk Local Development Framework Core Strategy Development Plan Document (Adopted September 2008).

limited weight. I have not found against the policy in the main issues of my decision, as any such consideration should follow this Planning Balance.

34. The Council has identified that it can demonstrate five-years supply of deliverable housing land within the District, which the appellant does not dispute, but the proposed use would add to the number and mix of dwellings in the District. The construction work required to implement the use would provide short term employment and there would be long term employment of persons carrying out maintenance, repairs, and services for occupants. There would also be support for other local services and facilities from occupiers, but there is already residential accommodation at first floor. The dwelling would be spatially well-related to others nearby and there is no evidence before me that it would be a location beset by any accessibility issues, as occupants could access nearby settlements by public transport. Nevertheless, the magnitude of the proposal means that these social, economic, and environmental benefits would be modest in scale and kind, so I afford each of them limited weight.
35. While the proposed use could re-use the listed building more efficiently and provide Council Tax receipts, such heritage and socio-economic benefits could equally be derived from the continued use of the building as a public house and its business rates. There is also no substantive evidence before me to suggest the building would be at risk. For this reason and having regard to my findings in relation to the viability of the existing use, I give very limited weight to these benefits.
36. I have found that the marketing undertaken for the proposal was suitable and there would not be a harmful loss of employment associated with the proposed use. The Council has confirmed that there would be an absence of harm with respect to living conditions. Such matters would therefore neither weigh in favour nor against the proposed use.
37. In terms of harm, it has not been satisfactorily demonstrated that the existing use as a public house is unviable, so the proposed development would result in the unnecessary loss of a valued facility.
38. Taking the above together, while collectively there would be a range of benefits associated with the proposed use, the harm that would be caused by allowing it, would be of greater significance.
39. This leads me to an overall conclusion that the use within the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts associated with it are matters of considerable weight against the grant of planning permission for the proposed use that outweigh the identified benefits. Moreover, the development plan includes Policy FC1 and the loss of the public house has not been adequately justified, so it would not amount to sustainable development under the terms of that policy and the current approach outlined in the Framework.

## **Conclusion**

40. For the reasons given above I conclude that the appeals should be allowed insofar as they relate to the proposed internal and external alterations, but dismissed insofar as it relates to the proposed change of use of the public house to a dwelling. Moreover, the proposed use would be contrary to the

development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding.

*Paul Thompson*

INSPECTOR

### **Schedule of Conditions**

#### **Appeal A Ref: APP/W3520/W/21/3273897**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20-178-201-A and 20-178-001.
- 3) Specifications and samples of the materials to be used in the construction of the external surfaces of the development hereby granted, including 1:20 scaled drawings of the fenestration, shall be submitted to and approved in writing by the local planning authority prior to their use on site. The development shall thereafter be carried out in accordance with the approved specifications/samples.
- 4) Details including the specification, appearance, and location of any proposed bathroom extraction vents, shall be submitted to and approved in writing by the local planning authority prior to their use on site. The development shall thereafter be carried out in accordance with the approved details.

#### **Appeal B Ref: APP/W3520/Y/21/3273896**

- 1) The works authorised by this consent shall begin not later than three years from the date of this consent.
- 2) Specifications and samples of the materials to be used in the construction of the external surfaces of the works hereby granted, including 1:20 scaled drawings of the fenestration, shall be submitted to and approved in writing by the local planning authority prior to their use on site. The works shall thereafter be carried out in accordance with the approved specifications/samples.
- 3) Specifications and samples of the materials to be used in the construction of the proposed internal partition/stud walls and doors, and the replacement staircase hereby granted, including 1:20 scaled drawings, shall be submitted to and approved in writing by the local planning authority prior to their use on site. The works shall thereafter be carried out in accordance with the approved specifications/samples.
- 4) Details including the specification, appearance, and location of any proposed bathroom extraction vents, shall be submitted to and approved in writing by the local planning authority prior to their use on site. The works shall thereafter be carried out in accordance with the approved details.

END OF SCHEDULE