
Appeal Decision

Site visit made on 2 September 2022

by David Nicholson RIBA IHBC

an Inspector appointed by the Secretary of State

Decision date: 22nd September 2022

Land and building north of Gardiner Arms, Medcroft Road, Tackley OX5 3AH

Appeal A: APP/D3125/W/21/3277461; Appeal B: D3125/Y/21/3277462

- The applications Refs. 20/02105/FUL and 20/02106/LBC, dated 13 August 2020, were refused by notices dated 22 December 2020.
 - The appeals are made under section 78 of the Town and Country Planning Act 1990 against the refusal to grant planning permission; and under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against the refusal to grant listed building consent.
 - The appeals are made by Heston Holdings Ltd against the decisions of West Oxfordshire District Council.
 - The development/works are for: Conversion to single residential dwelling, with ancillary works.
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Decisions

1. Appeal A is dismissed and Appeal B is dismissed.

Procedural matter

2. Amended drawings were submitted during the course of the application, as was an appeal Decision for a site in Burford, where the Inspector found that the Council has a housing land supply of less than 5 years, together with the relevant Decision Notice and plans. I have taken all these into account.

Main issues

3. A main issue in both appeals is whether the proposals would harm the significance of the listed building and, if so, whether there would be any overriding public benefits.
4. A further issue in Appeal A is the effect of the proposals on community facilities in the area having regard to registered Assets of Community Value (ACV).

Reasons

Listed building

5. The Gardiner Arms is Grade II listed and lies within the Tackley Conservation Area. It dates from the 18th Century with later additions from the 19th and 20th centuries. I consider that its special interest, and significance, lies in the survival of its historic fabric and use as a public house.
6. Until recently, the pub's facilities included what was referred to as a function room, formerly used as a skittle alley and for occasional events, which lies

across the car park from the main pub. The Appellant acknowledged that it is within the curtilage of the listed building. While probably not as old as the main pub building, in my assessment the function room is much earlier than the relevant date of 1948¹ and should therefore be considered as part of the listed building for consent purposes. The appeal site comprises the function room and part of the car park.

7. The function room is a substantial building which is currently vacant but still fitted out. The proposed conversion would require few external physical changes and I acknowledge that in the context of a residential conversion the scheme would be quite sympathetic. Nevertheless, there would be physical alterations that would cause more than negligible harm to its character.
8. Also of concern is the potential impact of a change of use on the special interest of the appeal building. Not only would residential use result in a significant change in its character, but the subdivision of the car park would diminish the link between the two buildings and their historical association, adding to the harm. To my mind, the alterations as a result of the change of use would result in greater interference, and harm to its character, than the physical works.
9. The Appellant has put forward a number of potential public benefits to outweigh the less than substantial harm that would be caused by the alterations, as required by paragraph 196 of the National Planning Policy Framework (NPPF). I have therefore considered the second issue before weighing the overall balance.

Asset of Community Value

10. The pub, including the function room, are registered as an ACV². Policy E5 of the West Oxfordshire Local Plan seeks the retention of community facilities and only supports proposals that would result in their loss where appropriate alternative provision will remain and, in the case of pubs, the existing use is no longer viable and is incapable of being made viable. Regard is also to be had to whether it is registered as an ACV.
11. The Appellant has described its former use as extremely minimal, but I am also informed that the function room was used as a skittle alley for around 8 years prior to 2018, for a catered wake in 2014, for beer festivals in 2018 and 2019 (I also saw a notice at the entrance which advertised a festival on Friday 17 June – presumably this year), and as a place to which the football team with around 30 cars would return after matches.
12. I saw that the function room is still in a relatively good state of repair, in the context of its former uses for skittles or occasional functions, despite no evidence of recent efforts to maintain it. The Council has not served a repairs

¹ Planning Practice Guidance, Historic environment, Paragraph: 023 Reference ID: 18a-023-20190723

² The function room and pub were listed together as an ACV on 10 May 2018. The reasons given were: "In the Council's opinion the Gardiner Arms, Tackley furthers the social wellbeing/social interests of the local community and thereby meets the definition of an Asset of Community Value as set out in Section 88 of the Localism Act 2011. The public house is the only remaining one in the village and the Parish Council's nomination of this asset communicates the fact that it is used as a meeting place for various village groups and is a venue for music events. The nomination notes the importance of encompassing the full range of the public house facilities (main pub area; function room; garden and parking space) within the listing as these facilities are deemed to contribute to the viability of the public house. The nomination notes that the planned additional housing in Tackley should enhance the continued operation of the public house into the future."

notice on it since it became vacant. I am informed that the pub and the function room are no longer in the same ownership.

13. The proposals would extinguish the use as a function room. A business plan has been submitted which indicates that the use of the building is not viable. However, this is in the context of alternative community uses. I acknowledge that conversion to different uses would be likely to require more investment but, without the need for conversion costs I am not persuaded that it could not be viable again as a skittle alley and function room. This would be particularly true if it received assistance from the community and, given the effort of the Parish Council to register it as an ACV and the concern expressed in a substantial number of objections, I anticipate that this might well be forthcoming.
14. Moreover, skittles, festivals, events and football teams would be likely to generate useful income. It was in use prior to change of ownership, local residents have said that they did, and would, use it and there is little evidence that those uses would not have continued, regardless of theoretical viability studies.
15. The Appellant has argued that the viability of the pub overall depends on no financial burdens and that this was achieved by the owners divesting themselves of the function room. This has been achieved so there should be no ongoing requirement for capital investment. The assessment goes on to assert that to re-acquire the function room would need significant investment. However if, as the viability assessment implies, it has little value on the basis of its only lawful use, that would not necessarily be the case.
16. While the pub owners may not be able to use the function room at the moment, this does not justify conceding its previous and potential community value. Indeed, one scenario for which ACVs were created is where the use of an asset has ceased, and it is threatened with being taken out of that use. I accept that the function room only forms part of the nomination for ACV status, not as a stand-alone ACV. Nevertheless, in my view, not only is the building part of the ACV, but has potential to add community value both to the pub and in its own right. For all these reasons, I find that its loss of a community facility would conflict with Policy E5, and this weighs heavily against the scheme.

Other matters

17. As above, the function room has changed ownership. In the fullness of time, ownership, as well as many other factors, can be an indicator of a change in curtilage, although in the context of an historic building, the change here should count as very recent and neither party questioned that it is a curtilage building. Otherwise, ownership is of limited relevance to planning decisions.
18. I have noted that the Village Hall hosts functions, which could be viewed as alternative provision in the village, but this is a very different space and I am not aware that it includes a skittle alley.

Heritage balance

19. The Appellant has put forward a number of potential public benefits. First, that its retention and reuse would preserve it. However, I have found that it is unlikely to be necessary for its use to change in order for it to be reused. Second, that one new dwelling would be a public benefit. I agree, but find that

the public benefits of a single house, even where the Council cannot demonstrate a 5 year supply, and of employment in construction rather than in hospitality, warrant limited weight. Third, that it would be the optimal viable use but, as above, this need not be the case. For all these reasons, I find that the harm would not be outweighed and that the proposals would be contrary to NPPF paragraph 202 that requires a balance between less than substantial harm and public benefits, including, where appropriate, securing its optimum viable use. This also provides a clear reason for refusing the development under NPPF paragraph 11d)i. The scheme would also conflict with local plan policies which echo the NPPF.

20. To the extent to which the scheme would harm the listed building, it would also fail to preserve or enhance the character or appearance of the Tackley Conservation Area.

Conclusions

21. For the reasons given above, and having regard to all other matters raised, I conclude that the proposals would cause harm to the listed building, and through the loss of a community facility, such that both Appeals should be dismissed.

David Nicholson

INSPECTOR