



Appeal Decision

Site visit made on 20 September 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 October 2022

Appeal Ref: APP/B1930/W/21/3285540

**The Chalkdrawers Arms PH, Roestock Lane, Colney Heath, St Albans
AL4 0PP**

- 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 Bluestone Landscapes Ltd. against the decision of St Albans City Council.
 - The application Ref 5/21/1989, dated 6 July 2021, was refused by notice dated 6 September 2021.
 - The development proposed is described on the application form as: Change of use of public house to create one, three-bedroom dwelling and office accommodation with associated parking, landscaping and external works.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Bluestone Landscapes Ltd. against St Albans City Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed development would result in the unacceptable loss of a community facility.

Reasons

4. The appeal site is a public house which ceased trading in 2018. Prior to its closure it would have provided a service of benefit to the local community by offering a communal space for social interaction and leisure. It would have therefore served the community in a valued manner and constitutes a community facility.
5. It is part of the appellant's case that the St Albans District Local Plan Review (1994) (LPR) does not contain any policies which seek to protect public houses. The Council did not identify Saved Policy 67 of the LPR as relevant to the proposed development within its response to the appellant's pre-application advice enquiry, but this policy is referred to in the Council's subsequent decision notice relating to the appeal scheme. The supporting text of Saved Policy 67 does not exclusively relate to public meeting rooms and facilities suitable for local clubs and societies and worship. Saved Policy 67 relates to any buildings used for community purposes. The National Planning Policy Framework (the Framework) clarifies that public houses are community facilities, and as such Saved Policy 67 is relevant to the appeal scheme.

6. Saved Policy 67 states, amongst other things: 'before granting planning permission for a change of use or redevelopment of buildings used for community facilities, the Council will need to be satisfied that a need for them no longer exists'. This is consistent with the advice of the Framework, which sets out at paragraph 93 that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other things, plan positively for the provision and use of community facilities to enhance the sustainability of communities and residential environments, guard against the loss of valued facilities, particularly where this would reduce the community's ability to meet its day-to-day needs, and ensure that facilities are retained for the benefit of the community.
7. A marketing exercise would be one method of showing there is no longer any need for a community facility at the appeal site, but that marketing exercise would need to be thorough enough to show the appeal site had been marketed at a reasonable rental and/or sale price for a community use.
8. The freehold of the appeal site was advertised for sale from 22 March 2019. The marketing details¹ presented comprise a single page of property particulars produced by a specialist licensed property broker and refer to 'considerable scope for local and regional pub operators and restaurateurs' and 'potential scope for a range of uses'. They also state the appeal site would likely be of interest to local developers, investors, and builders. The Council has claimed that online sales details required a response to the marketing details by 28 March 2019 and this has not been disputed by the appellant.
9. No details have been provided as to where the appeal site was advertised for sale, how long it was advertised for sale, whether any offers were received, or whether any adjustments were made to the asking price for the property during that marketing exercise.
10. Sale prices of other Hertfordshire public houses between 2010 – 2018 have been presented, which are claimed to demonstrate the guide price of the appeal site during the marketing exercise was reasonable and competitive. However, there is no evidence which demonstrates those other public houses were in a comparable state and position to the appeal site. There is also no evidence that the advertised sale price of the appeal site was reasonable for an alternative community use.
11. A viability assessment² has concluded that the appeal site is not capable of being operated as a commercially viable public house, but this does not demonstrate there is no longer any need for a community facility at the appeal site. The appellant purchased the appeal site after the public house had ceased trading, some time prior to the publication of the viability assessment. No evidence has been provided of any attempts that they may have made to operate it as a public house or any other community facility.
12. I have been referred to other local community facilities, including those which offer drinking, dining and catering services, meeting rooms and other spaces available for hire³. In particular, I note Colney Heath Village Hall advertises a Main Hall and a Community Hall for hire, and the appellant has identified

¹ Appendix 3 of the viability assessment

² By Everard Cole Ltd, ref: VA2021/CD01 dated 5 July 2021

³ Those at the Crooked Billet, the Plough, Colney Heath Football Club, the Mercure Hatfield Oak Hotel, and Colney Heath Village Hall

availability in its booking calendar 2 months in advance of October 2021⁴. The booking calendar shows a range of community interests use those facilities regularly and casually. However, I am not convinced that the levels of availability shown in the booking calendar during that period demonstrate there is no need for a community facility at the appeal site. The appeal site may be better suited to provide some facilities or services than those other spaces referred to, for example.

13. The appeal site has not been subject to an application to be registered as an Asset of Community Value. One objection was received against the planning application, from Colney Heath Parish Council, and one letter of support from a local resident has been received in respect of the appeal. The proposal would not appear to reduce the community's ability to meet its day-to-day needs on account of the presence of other public houses and other community facilities nearby. However, these matters and the inability of the appeal site to operate as a commercially viable public house do not demonstrate the appeal site did not previously provide valued facilities/services, or that valued facilities/services could not be provided in the future.
14. It has not been demonstrated that there is a lack of demand for community facilities at the appeal site, either through the rental or sale of the property, or that the appeal site would be unsuitable to provide community facilities other than a public house. The proposal would therefore fail to accord with Saved Policy 67 of the LPR and paragraph 93 of the Framework, which have been set out above.

Other Matters

15. I have been referred to other decisions made by the Council⁵, where planning permission was granted for the conversion of public houses to dwellings without the officer reports referring to Saved Policy 67. The Council has not adequately explained why this policy, which has formed part of the development plan for a substantial period of time, was not considered as part of those decisions. Those other decisions suggest an inconsistent approach has been adopted by the Council with regard to some planning applications proposing the conversion of public houses.
16. As I have found Saved Policy 67 is consistent with the aims of the Framework, I am not minded to apply less weight to the policy in light of the Council's other decisions. Those other decisions do not suggest to me that the appeal site should not be considered a community facility or that the development plan does not require it to be demonstrated that there is no longer any need for a community facility at the appeal site

Planning Balance

17. The Council is unable to demonstrate a five year housing land supply. Where this is the case, paragraph 11(d) of the Framework advises that the policies which are most important for determining the application should be considered out-of-date and planning 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.

⁴ Appendix F of the Appellant's Statement of Case

⁵ The Council's references: 5/2014/1910, 5/2015/3468 and 5/2021/1674

18. I have identified harm which would be caused by the proposal through the unacceptable loss of a community facility, contrary to the development plan and the Framework. That harm would be long-lasting, and I assign it significant weight in the planning balance.
19. The proposal would provide a three-bedroom residential unit over two levels, unattached to a public house, and office accommodation in a District constrained by Green Belt, where there is a significant shortfall in housing land supply⁶. An employment generating use would be retained and there would be modest economic benefits to local services from future occupants/users of the dwelling and office. The proposal would also secure the refurbishment of what the appellant has described as an otherwise vacant building.
20. The appellant has clarified that part of the appeal building is currently occupied as residential accommodation, and the submitted plans suggest that the public house previously provided associated residential accommodation. Minimal information has been provided of the proposed office use, but any economic benefits associated with that part of the proposal would appear to be modest based on the size of the proposed office. Accordingly, the social and economic benefits associated with the proposal would be modest, and I attach moderate weight to them in favour of the proposal.
21. The Framework supports the Government's objective of significantly boosting the supply of homes. Paragraph 84 of the Framework advises that planning decisions should enable the sustainable growth of businesses in rural areas through the conversion of existing buildings and enable the retention and development of accessible community facilities. Paragraph 93 sets out that to provide the social, recreational and cultural facilities and services communities need, planning decisions should plan positively for the provision and use of community facilities, guard against the loss of valued facilities, and ensure that facilities are retained for the benefit of the community.
22. Taking all of the above into account, and all other matters raised, it is sufficiently clear to me that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore constitute sustainable development for which the presumption in favour applies.

Conclusion

23. For the reasons outlined above, I conclude that the appeal should be dismissed.

L Douglas

INSPECTOR

⁶ The Council's most recent Annual Monitoring Report refers to a 2.4 year supply of housing land.