



Appeal Decision

Site visit made on 18 October 2022

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 November 2022

Appeal Ref: APP/Y1138/W/22/3298547

Cross Hotel, Road From Bassets Bridge To Copplestone Cross, Copplestone EX17 5NH

- 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 Mrs Olivia Ambrose against the decision of Mid Devon District Council.
 - The application Ref 21/01403/FULL, dated 11 July 2021, was refused by notice dated 26 November 2021.
 - The development proposed is to convert outbuildings to the rear of The Cross Inn, to create 3 residential units for affordable rent by local people. Public house to be retained and refurbished. Existing car park to provide outside amenity to each house and car parking spaces for the pub and residential dwellings. New small enclosed pub garden to be created.
-

Decision

1. The appeal is allowed and planning permission is granted to convert outbuildings to the rear of The Cross Inn, to create 3 residential units for affordable rent by local people. Public house to be retained and refurbished. Existing car park to provide outside amenity to each house and car parking spaces for the pub and residential dwellings. New small enclosed pub garden to be created at Cross Hotel, Road from Bassets Bridge to Copplestone Cross, Copplestone EX17 5NH in accordance with the terms of the application, Ref 21/01403/FULL, dated 11 July 2021, and the plans submitted with it, subject to the schedule of conditions below.

Application for Costs

2. An application for costs was made by Mrs Olivia Ambrose against Mid Devon District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. I have taken the description of development as set out above from the application form as neither party has provided written confirmation that a revised description has been agreed.

Main Issues

4. The main issues are the effect of the proposal on the living conditions of future occupiers with particular regard to outdoor space provision, privacy, and noise, and on the provision of community facilities.

Reasons

Living Conditions

5. The outdoor space for the 3 new units would be located to their frontages adjoining the parking area for the public house. Whilst I recognise that the private external space would be of a limited size, the arrangement would not be too dissimilar to adjoining properties on Bewsley Hill.
6. I acknowledge that the amenity space would only benefit from an unrestricted outlook onto the car parking area shared with the public house. However, I do not find that this would result in unacceptable living conditions given the proposed provision of some dividing boundary features, distances to the car parking spaces serving the public house, and distance set back from the road.
7. Although the new dwellings would be located nearer to the public house than other residential development, their relationship to the car parking area would be similar to that between the dwelling on the A377 that adjoins the existing car park. No evidence has been provided to demonstrate that this relationship causes harm to the living conditions of nearby occupiers. Moreover, future occupiers of the proposed dwellings would be aware of the relationship of the dwellings to the public house, and I note that the Council's Public Health Team acknowledge that the mitigation in the submitted noise survey would ensure that the amenity of future residents would not be harmed by the relationship to the public house. This mitigation can be secured by condition. The Council raise a concern regarding the cost of this mitigation, but I have not been provided with any evidence to demonstrate that such measures cannot be achieved or would undermine the viability of the proposal.
8. It is noteworthy that in terms of the size of the outdoor space, Policy DM1 of the Mid Devon Local Plan 2012-2033 (LP) only requires external spaces for recycling, refuse and cycle storage. The proposed plans detail adequate space for such provision, which could be suitably screened.
9. Given the above, I conclude that the proposal would not cause harm to living conditions of future occupiers with particular regard to outdoor space provision, privacy, and noise. The proposal therefore complies with Policy DM1 of the LP which, amongst other things, requires that development proposals do not have an unacceptable adverse effect on privacy and amenity and provide adequate private amenity space.

Community facilities

10. There is no dispute that the existing use on the site is a community facility; indeed, it has been designated as an 'asset of community value' reflecting its value to the community.
11. Policy DM23 of the LP states that proposals for the redevelopment of existing community facilities that enables them to modernise, remain viable and continue for the benefit of the community will be supported. Paragraph 4.70 of the LP clarifies that the policy seeks to protect existing services whilst permitting some redevelopment where it is necessary to ensure viability. The proposal would comply with this part of the policy by allowing redevelopment that would modernise the public house, provide the opportunity for it to re-open in a viable manner and therefore continue to provide a community facility.

12. Policy DM23 goes on to state that the loss of community facilities will not be permitted where this would damage the settlement's ability to meet its day to day needs or result in its total loss. As the proposal would not result in the total loss of the public house, compliance with this part of the policy falls to a consideration of whether the loss of the existing kitchen, cellar, skittle alley, storage, and toilet areas from community use would damage the settlement's ability to meet its day-to-day needs. I will address this further below.
13. Although the public house would be reduced in size to facilitate the conversion of part of it to residential units, it would, once the conversion has taken place, provide a bar and dining area, customer toilets, games room, kitchen, and storage areas, in addition to letting rooms at first floor and a manager's flat. It is the appellant's intention to reopen the community facility, albeit at a reduced size to the existing use, rather than its use being lost. Given this, it is not necessary for the appellant to submit detailed evidence relating to trading accounts, valuation considerations or marketing of the business or property for 12 months as detailed in paragraph 4.71 of the LP.
14. At my site visit I was able to access the public house internally and see for myself the work and investment that would be needed to bring the public house back into active use. There is no dispute that re-opening the public house in its existing format is unlikely to be viable. It is also noteworthy that the Council's Economic Development Officer suggests that a smaller public house is more likely to be viable in the current economic climate. This acknowledges the current difficulties associated with running a public house of this size as outlined by the appellant.
15. The appellant's Economic Viability and History document June 2021 demonstrates that the proposal provides an opportunity to modernise the public house and enable a viable business to open to the benefit of the community. From the evidence submitted and given that the Council agree that the current public house format is unviable and therefore unlikely to reopen without further investment and redevelopment, the proposal provides an opportunity for the public house to reopen for the benefit of the local community and meet the day to day needs of the settlement whilst supporting the creation of sustainable communities and jobs as required by Policy S1 of the LP. The proposal would also add to the mix of homes available within the settlement in accordance with Policy S1.
16. As a result of my findings above in relation to this matter, the proposal would not result in the unacceptable loss of community facilities and accords therefore with Policy DM23 of the LP which, amongst other things, supports community facilities remaining viable and being retained to the benefit of the local community. Moreover, there would be no conflict with paragraphs 84 or 93 of the National Planning Policy Framework which seek to support a prosperous rural economy and provide community facilities.

Other Matters

17. I note that the appeal site is located close to the Grade II listed Former School and Master's House North East of (opposite) Methodist Chapel. As required by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission I have had special regard to the desirability of preserving the building and its setting or any features of special or historic interest. From the information before me, the significance of

the listed building is due to its architecture and historic relationship with the former school and chapel on the opposite side of the A377 which forms its setting. The appeal property is not visually related to the listed building and in light of the above, the appeal site does not form part of its setting, which would be preserved as a result of the proposal. In addition, I have no evidence before me that the appeal property should be considered as a non-designated heritage asset, or that the proposal would be harmful to the design or characteristic of the buildings or unacceptably damage the nature of the buildings or wider area.

18. There are no new windows proposed to serve the dwellings, but in order to protect the living conditions of adjoining residents and future occupiers, conditions are necessary to obscure glaze the existing first floor windows to the rear elevations of Plot 2 and to prevent further extensions. For the same reasons a condition is necessary to ensure the submission and approval of a construction method statement.
19. Comment has been made that the proposal should provide an element of affordable housing, but I have not been provided with any policy that would require affordable housing provision for this scale and location of development. In addition, I have not been provided with any planning policy requirement for this scale of development to address the challenge of climate change through the incorporation of renewable/low carbon technologies or to provide electric car charging points.
20. My attention has been drawn to the lack of any external smoking area for the public house. However, I have not been made aware of any specific planning policy requirement for such an area. In addition, I do not find that the absence of such an area would be harmful to the amenity of the occupiers of the proposed or existing dwellings given their distances from the public house.
21. A neighbouring resident and the Councils Economic Development Officer have referred to Policy DM19 of the LP and the loss of employment land and jobs as a result of the proposal. I am however satisfied that the proposal should be considered against Policy DM23 as it specifically references public houses and community facilities. As such, there is no need for the proposal to be marketed for 18 months in accordance with Policy DM19. In any case, as detailed above, I am of the view that due to viability the existing public house is unlikely to reopen and as such the current proposal provides more likelihood of the business providing jobs and a public house facility that the community would benefit from.
22. Concern has been raised about the resultant size of the public house not being large enough to accommodate families, and with regard to the small size of beer garden. However, I have not been provided with any detailed planning policies requiring a minimum size for a public house or its garden. As such I give these matters little weight.
23. Further concerns have been raised regarding poor disabled access and toilet provision. However, such matters are covered by other legislation.
24. Finally, I have been provided with no substantive evidence to demonstrate that the proposed car parking provision, turning area or access would be unacceptable. It is noteworthy in this regard that the Highway Authority raised no concerns.

Conditions

25. I have had regard to the tests in the National Planning Policy Framework in relation to conditions, and the planning conditions suggested by the Council and appellant. In addition to the standard time condition, it is necessary for a condition to confirm the approved plans in the interests of certainty. Further conditions are necessary to secure ecological mitigation to enhance biodiversity and for the submission of materials to protect the character and appearance of the area. I find the other conditions suggested by the Council and appellant in relation to the submission of a construction method statement, removal of permitted development rights for further extensions and outbuildings, and the obscure glazing of windows facing a neighbouring property to be necessary in the interest of protecting the living conditions of nearby residents. I have however amended the suggested wording in the interests of conciseness.

Conclusion

26. For the reasons given I conclude that the appeal should succeed.

C Rose

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drg.01A, Drg.09B, Drg. 10C, Drg. 11D, Drg. 12D, Drg. 13D, Drg. 14D, Drg. 15E, Drg. 16E, Drg. 17C, and 857.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;

- delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Prior to commencement of development, details of the proposed noise mitigation measures to be provided in accordance with the recommendations of the Impact Acoustics Environmental Noise Impact Assessment shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions and alterations of the dwellings, extensions and alterations to its roof or the provision of outbuildings or enclosures, shall be constructed.
- 6) Prior to their use on site details / samples of the materials to be used in the construction of the external surfaces of the buildings shall have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details / samples.
- 7) The development shall be carried out in accordance with the recommendations and mitigation measures contained in EPS Ecology Protected Species Assessment (October 2018) as amended by the EPS Ecology addendum letter dated 8th July 2021.
- 8) The dwelling forming Plot 2 hereby permitted shall not be occupied until the windows at first floor level shown on Elevation EE on drawing number Drg. 14D have been fitted with obscured glazing, and no part of those windows that are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.