



Appeal Decision

Site visit made on 14 October 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 December 2022

Appeal Ref: APP/R0335/W/22/3301265

The New Leathern Bottle, Maidenhead Road, Warfield, Bracknell RG42 6ET

- 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 Wellington Pub Company against the decision of Bracknell Forest Borough Council.
 - The application Ref 21/00925/FUL, dated 24 September 2021, was refused by notice dated 14 March 2022.
 - The development proposed is 'Change of use into a single dwelling house'.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use from a public house into a single dwelling house at The New Leathern Bottle Maidenhead Road, Warfield, Bracknell RG42 6ET, in accordance with the terms of the application, Ref 21/00925/FUL, dated 24 September 2021, subject to the conditions in the attached schedule.

Preliminary Matters

2. The development plan for the area includes the Bracknell Forest Core Strategy Development Plan Document (adopted 2008) (Core Strategy). This pre-dates the publication and subsequent revisions to the National Planning Policy Framework (the Framework). Some policies of the Bracknell Forest Borough Local Plan (adopted 2002) (Local Plan) have been saved and are part of the development plan. For the purpose of decision-taking, the policies should not be considered out-of-date simply because they were adopted prior to the publication of the Framework; due weight should be given to the relevant policies in the existing plans according to their degree of consistency with the Framework.
3. The Bracknell Forest Local Plan Regulation 19 document (the Emerging Local Plan) has also been published but is currently undergoing examination and has yet to be found sound. Therefore, I afford limited weight to this document in my consideration of the proposal.
4. I also understand that the Draft Warfield Neighbourhood Plan (NP) has been through examination and has been found sound subject to suggested modifications. However, the NP has yet to be made. Accordingly, it is not yet part of the development plan. Nevertheless, given its advance stage it remains a material consideration, to which I have given modest weight.

Background and Main Issues

5. The appeal site comprises a vacant, Grade II listed detached public house. The appeal scheme was refused based on the loss of a community facility, in conflict with Saved Policy SC3 of the Local Plan and the Framework.
6. Nevertheless, the Council has highlighted through its officer report and appeal submission a range of further policies that it deems the proposal to conflict with, namely, Policy CS8 from the adopted Core Strategy, as well as policies from emerging development plan documents.
7. In terms of the emerging development plan, draft Policy LP32 of the Council's Emerging Local Plan sets out protection for community facilities and services. The draft policy establishes criteria that development involving the loss of community uses would need to meet. This includes that a robust assessment has been carried out to demonstrate the facility or service is no longer required. Such assessment, is identified as needing to demonstrate the facility has been actively and appropriately marketed, is no longer economically viable, whilst consideration has also been given to an alternative community use on the whole, or part of the site.
8. Draft Policy WNP10 of the NP has also been highlighted by the Council. This seeks to resist the unnecessary loss of community facilities, with the appeal site having been specifically listed as a relevant facility. However, I understand that the examiner recommended amendments to this draft Policy. Notably, it has been suggested that the list of specific community facilities is omitted, and that the policy is amended to make clear that the loss of community facilities will not be supported unless their current use is no longer viable.
9. Considering the above, the main issue is whether the loss of a public house in this location is acceptable, having regard to its community use and its continued viability.

Reasons

Community Use

10. The appeal site is located off Maidenhead Road, in a rural location. The site measures approximately 1.17 acres, with the public house set back from the highway behind an extensive outdoor trading area/garden and a small car park. It was evident from my site visit that the appeal site was in a generally poor condition.
11. There are few residential properties within walking distance of the appeal site, whilst I understand that the property has been vacant for approximately two years. Nevertheless, prior to its closure it was run as a traditional local public house and provided a range of community events, including charity events, annual fares, karaoke, darts, as well as a club for senior citizens to meet and socialise. It thereby offered a venue that promoted social interaction within the community.
12. The importance of the community aspect of the facility is highlighted in the objections that the application received from a small number of residents, Warfield Parish Council as well as the Campaign for Real Ale (CAMRA). As such, despite the property not being designated as an asset of community value (ACV), I nevertheless deem that the public house acted as a meaningful

community facility. Although it may not currently be in such active use, the appeal proposal would nevertheless result in the loss of a community facility.

13. Paragraph 84d) and 93c) of the Framework aim to enable the retention of community facilities such as public houses, and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.
14. Despite my above recognition that the public house provided a meaningful community use, I observed on my site visit that the Shepherds House public house was located nearby, approximately 600m along Maidenhead Road. I am also informed that there are approximately 80 pubs within a five-mile radius of the appeal site, many of which have been shown to have similar types of offer to the appeal property. Accordingly, there appears to be an extensive and diverse range of public houses in the wider area, which could appropriately offer the opportunity for community interaction, whilst the appeal site is not deemed important to enable the community to meet its day-to-day needs. Whether the loss is unnecessary is a matter of viability, which I will return to below.
15. Local Plan Saved Policy SC3, states that development will not be acceptable which results in the reduction of existing community facilities. The policy does not provide any criteria whereby the loss of an existing community facility may be appropriate. As such, the proposal would conflict with this policy. However, I find the Policy's lack of nuance (e.g. recognising there may be instances where a loss of facilities is appropriate) is inconsistent with the approach of the Framework.
16. Core Strategy Policy CS8 relates to recreation and cultural developments. There is some dispute as to whether this policy is intended to cover development involving public houses. I am mindful that the Council's reason for refusal did not include the policy, whilst I have been made aware of another relatively recent decision (ref: 19/00387) relating to the change of use of a pub where the Council did not find the policy to be of relevance.
17. I find it an unrealistic expectation that any unviable public house that is proposed to be redeveloped should be offset by a replacement facility, which would be required under the terms of Policy CS8. To my mind this rather unequivocal approach reinforces that Policy CS8 is not specifically targeted at public houses. However, despite my reservations, there is nothing within the policy or supporting text that specifically precludes public houses from being considered a recreational development. Even so, the policy's lack of nuance is again inconsistent with the approach of the Framework.
18. I conclude that the adopted policy requirements relating to the protection of community/recreational facilities have not been met. The proposed change of use would therefore be contrary to Local Plan Policy SC3 and Core Strategy Policy CS8. However, the Framework, which is also referenced within the reason for refusal, indicates that the loss of such uses should be guarded against where they are unnecessary. It therefore requires an assessment of whether the continued use of the public house is viable to consider whether it is necessary to be maintained.

Viability and Marketing

19. I understand that the pub ceased trading in September 2020 and that it was formally repossessed shortly afterwards. Details of financial performance, indicate that the business was operating at a very low gross profit in the years leading up to its closure, which included very little expenditure on repairs or maintenance.
20. The appellant has provided a viability assessment (VA), prepared by a suitably experienced professional. The VA largely follows the widely respected CAMRA 'Public House Viability Test', whilst also offering further insights into an assessment of the site's potential trade that could be generated by a reasonably efficient operator.
21. Notably, the site is in a location with a small local population and no significant local attractions to draw potential customers. The adjacent large employment facility does add to the site's potential customer base. However, given modern working practices, and its otherwise rural location, I consider that the number of employees that would regularly utilise the public house is likely to be somewhat limited.
22. In addition to its location and level of nearby competition, there are several other factors that hinder the public house's operations. This includes an extremely small internal trade space, the quality of kitchen space, the building being ill-suited to multiple use and diversification, as well as the large outdoor area causing an imbalance in servicing and operating requirements.
23. I appreciate that there has been a lack of investment into the pub in the past, such that the trading performance may have improved under different management conditions. However, I consider such lack of investment is likely a symptom of the uncertain and difficult trading positions facing the pub, as well as the business' ability to recoup such investment in the face of its constraints and competition it faced.
24. From my observations on site and the evidence before me, the appeal facility would require a significant level of investment before the pub could re-open. A more substantial level of investment is likely to be required to address more fundamental shortcomings with the property (e.g. internal trade space, kitchen facilities etc.) to enable potential revenues that would attract an operator. Whilst its location within the Green Belt and Listed Building status would not prevent future development, it does add constraints and further risk for potential investors.
25. Indeed, the VA provides a comprehensive picture of the challenges that the business faces. The site's continued operation as a public house is subject to substantial risks due to the site-specific circumstances and the public house/hospitality sector more generally. Given the likely level of investment required, the associated operational and financing costs the VA finds the property is unlikely to generate a 'fair maintainable operating profit' that would provide an owner with a suitable level of return on investment. From the evidence before me, this finding appears sound.
26. The Council highlights successful examples of other pubs in the nearby area that have seen recent investment. However, I do not have specific details of those pubs in terms of their original trading position, size and potential, the

level of investment that was necessary/made, or indeed if they are now achieving sustainable profit margins. As such, I cannot draw appropriate comparisons with the appeal site.

27. Consequently, the appellant's findings that the continued use of the property as a public house is unviable appears reasonable. This also appears to align with feedback received from the marketing of the public house.
28. Turning to the marketing exercise for the pub, it has been put to me that this has been undertaken in a somewhat inadequate manner. Concerns around the marketing primarily centred on the overall price sought, onerous conditions of sale/inspection of particulars, as well as the period in which marketing took place.
29. Marketing of the property for sale as a public house has been undertaken since March 2021 by Fleurets, a leading agent in the leisure and hospitality sector. I understand that marketing remains on-going. The sale of the appeal property appears to have been comprehensively advertised. This includes the direct mailing of sales particulars to over 8,000 parties with a recognised potential interest, advertisement on Fleuret's and relevant third-party websites, as well as signage at the site. I am informed that over 1,400 separate parties have requested further information of the sale. I find this to be evident that the sale of the property has been thoroughly broadcast.
30. The appeal property had a guide price set at offers in excess of £525,000 for the unencumbered freehold interest. The guide price appears to reasonably reflect the nature of the property having regard to market evidence provided by Fleurets in relation to relatively recent sales prices of other public houses in the wider area. Whilst these other properties may not be a like-for-like comparison, the guide price appears to reflect notable differences between properties.
31. Various conditions of sale have been raised by the Council which it suggests are overly onerous (e.g. cost of the sales pack, deadline for offers). However, I am not convinced that the conditions of sale would put off realistic potential purchasers. Given that over 1,400 parties requested further information from the agents, it would seem logical that conditions were applied to avoid the need to deal with unrealistic parties.
32. That the marketing of the property commenced during the Covid-19 pandemic also to my mind does not undermine the exercise. From the evidence before me, aside from the initial first lockdown period, I understand that the market for freehold pubs has remained strong. The property has also continued to be marketed for a considerable period beyond the height of the pandemic.
33. I recognise that by the time the planning application was submitted, marketing of the property had not been undertaken for a particularly prolonged period. However, I do not find it unusual that an owner would seek to progress with alternative options for the site, especially in the face of the feedback received from initial marketing. Furthermore, there was, and remains, no adopted policy basis that requires the appellant to undertake a minimum of 12 months of marketing. In any case, I understand that the property has been continually marketed for a period of around 18 months and still has not attracted offers based on maintaining its on-going use as a public house.

34. Whilst the initial deadline for offers was relatively soon after the property was taken to the market, seven offers were nevertheless received, including above asking price. The fact that none of these offers were from potential pub operators further adds to the VA findings that the site is unviable as a public house. Regardless of the initial offer deadline, the property remains on the market and from the evidence before me has still not attracted interest from parties that are seeking to maintain the pub use.
35. Additionally, no expressions of interest have been made by community groups to continue operating the site as a pub or other community facility. The New Leathern Bottle is not designated as an AVC, nor am I aware of any intentions to list it as such. While a pub in this location may nevertheless remain a valued community facility, I am mindful that the appeal site has been closed for two years, whilst there are a variety of pubs in the wider area.
36. Overall, I find that the marketing of the property has been suitable in its approach. Furthermore, I deem the lack of demand from potential purchasers who are seeking to continue to operate the premises as a pub logically aligns with the concerns regarding the viability of such use. Based on the viability evidence, I do not consider the proposal would result in the unnecessary loss of a valued facility. Whilst the availability of alternative public houses nearby means the appeal site is not essential for the local community's ability to meet its day-to-day needs. Accordingly, I do not find the proposal to conflict with the Framework in respect of the protection offered to community facilities.
37. There is no robust evidence before me to demonstrate that the use of the building as a public house, or other community facility remains viable. This is a material consideration that I find weighs heavily in favour of the appeal proposal. In this regard, the appeal scheme also aligns with draft policy WNP10 of the NP and the thrust of draft Policy LP32 of the emerging local plan, which also adds some additional modest weight in the planning balance.

Other Matters

38. The appeal proposal is for the change of use of the property. Although some external alterations are also proposed, these relate to the car park and landscaping as opposed to the fabric of the listed building. I understand that listed building consent has in any case been separately sought for related works to the building to facilitate its proposed use as a dwelling
39. The Council has not raised concerns in relation to the effects of the proposed development on the Grade II listed building. Nevertheless, I have a statutory duty, under the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.
40. Based on the evidence before me and my observations on site, the building was originally constructed as a house in the late seventeenth century with later additions. It is constructed from red brick in Flemish Bond with some timber frame with brick infill to the rear. It has an old tile gable roof. It retains many of its original features and its significance for the purposes of this appeal derives from its architectural and historic interest associated with the retention of some original building materials and evolution of domestic buildings and architecture. The subsequent use as a public house adds some historic interest

to the building. The building is set in its own large grounds and views of the building are available contributing to an appreciation of the early domestic architecture.

41. The Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. Paragraph 199 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
42. Subject to suitable conditions in relation to the landscaping arrangements, I am satisfied that the external alterations to the car park area and landscaping would enable views to the listed building to be retained and enhance the setting to the listed building
43. The loss of the public house and its reinstatement to a house would be an opportunity for the removal of later modern additions and would not materially harm the significance of the building.
44. The proposal therefore satisfies the requirements of Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 and the Framework insofar as it relates to conserving the historic environment.
45. Whilst there is large scale planned residential development that is likely to emerge in the nearby area, the timescales for delivery and its final scale are currently uncertain. As such, although there may be future demand that could further help to sustain the need for additional pubs in the area, my decision does not turn on this matter.
46. I acknowledge that the loss of the public house would be difficult to locals who previously regularly used the facility and enjoyed the services that it provided. However, I am mindful that there remains a range of wider pubs nearby. Whilst there is no evidence to suggest that there is interest from any operators to re-open the public house.

Conditions

47. The Council provided draft conditions in the event planning permission were to be granted. For clarity and precision, and to ensure compliance with the PPG, I have undertaken some minor editing of the suggested conditions where necessary.
48. In addition to the standard time limit, a condition requiring development be complete in accordance with the approved plans is needed in the interest of clarity and certainty. Pre-commencement conditions relating to a scheme of landscaping and protection of mature trees on the site are necessary in the interests of the character and appearance of the proposal. A pre-commencement condition relating to the provision of a scheme of biodiversity enhancements is reasonable and necessary in the interests of biodiversity. A condition requiring the provision of the vehicle parking spaces prior to occupation of the development is also necessary in the interest of highway safety.
49. The Council suggested a condition in relation to the provision of bicycle storage. However, given the storage of bicycles are shown within an existing

outbuilding that is not proposed to be altered under this planning application, I do not find such condition to be necessary.

Planning Balance and Conclusion

50. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that decisions be made in accordance with the development plan unless material considerations indicate otherwise.
51. The appeal proposal is contrary to Local Plan Policy SC3 and Core Strategy Policy CS8, which seek to protect community uses. However, the policies are highly stringent in their approach, without offering flexibility to consider the specific circumstances of a development proposal. Therefore, they are not consistent with the approach taken in the more up to date Framework. I therefore attribute only moderate weight to the conflict with these development plan policies.
52. I am satisfied that the use of the site as a public house has been demonstrated to be unviable, whilst appropriate marketing of the site has taken place for a considerable period. No interest has been expressed by any community groups, while the pub is not an AVC, nor to my knowledge earmarked to be listed as such. In addition, there are a range of further public houses nearby to the appeal site, which somewhat softens the harm that the loss of the public house would have. The loss of the community isn't therefore unnecessary and accords with the Framework. Moreover, there is a minor beneficial impact on the significance of the listed building. These matters weigh heavily in favour of the appeal scheme and outweigh the identified conflict with the adopted development plan policies. Indeed, the Council's emerging policy position indicates that on-going viability, suitable marketing, and the availability of alternative facilities are likely to be key issues in determining proposals that affect community uses.
53. Consequently, there are material considerations, specifically those relating to the appeal site's situation and circumstances, which indicate a decision other than in accordance with the development plan. The appeal should therefore be allowed.

Lewis Condé

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:
 - Site Location Plan, Drawing No. 01, Dated 27.07.21
 - Proposed Elevations, Drawing No. 08, Dated 27.07.21
 - Proposed Barn Elevation, Drawing No. 09, Dated 27.07.21
 - Proposed Site Plans, Drawing No. 06/B, Dated 16.11.21
 - Proposed Floor Plans, Drawing No. 07/B, Dated 16.11.21

- 3) The development shall not commence until a scheme depicting hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include a three-year post planting maintenance schedule. All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved scheme, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development or prior to the parking spaces being brought into use, whichever is sooner.

All hard landscaping works shall be carried out and completed in accordance with the approved scheme prior to the parking spaces being brought into use. As a minimum, the quality of all hard and soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision.

All trees and other plants included within the approved details shall be healthy, well-formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species, and quality as approved.

- 4) The development shall not commence until a scheme demonstrating how the mature trees on site will be safeguarded during the removal of any hardstanding on site has been submitted to and approved in writing by the Local Planning Authority. The protection measures shall be erected in accordance with BS 5837:2012 (or any subsequent revision) Section 6 prior to the commencement of development, including any initial clearance, and shall be maintained fully intact and (in the case of the fencing) upright until the completion of all building operations on the site.
- 5) The development shall not commence until a scheme for the provision of biodiversity enhancements, including a plan or drawing showing the location of these enhancements, has been submitted to and approved in

writing by the local planning authority. The approved scheme shall be implemented, observed, and complied with.

- 6) The development hereby approved shall not be occupied until the associated car parking has been provided in accordance with the approved Site Plan (06/B). The spaces shall thereafter be retained for the parking of vehicles.