



Appeal Decision

Hearing Held on 11 January 2023

Site visit made on 11 January 2023

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th February 2023

Appeal Ref: APP/N1025/W/22/3304032

Bulls Head, Little Hallam Hill, Ilkeston DE7 4LY

- 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 Ram & Lakhi Ranavaya (Ranavaya Properties LTD) against the decision of Erewash Borough Council.
 - The application Ref ERE/1121/0073, dated 29 November 2021, was refused by notice dated 28 April 2022.
 - The development proposed is change of use of ground floor along with extensions to form retail unit, convert upper floor of building to form 3 flats.
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Decision

1. The appeal is allowed. Planning permission is granted for change of use of ground floor along with extensions to form retail unit, convert upper floor of building to form 3 flats at the Bulls Head, Little Hallam Hill, Ilkeston DE7 4LY in accordance with the terms of the application Ref ERE/1121/0073, dated 29 November 2021 subject to the conditions set out in the attached schedule.

Main Issue

2. Since the appeal was lodged, the Council has withdrawn its sole reason for refusal as it has stated that The Asset of Community Value (ACV) listing was removed in July 2022 and accordingly the property is no longer the subject of an ACV designation. Notwithstanding this, the appellant has chosen to pursue the appeal under section 78 of the Town and Country Planning Act 1990, as is their statutory right.
3. Therefore, the main issue has been informed by a matter raised by interested parties. Accordingly, the main issue is whether the Bulls Head is considered a community facility and if so, the effect of the loss of such a facility.

Reasons

4. It was discussed at the Hearing that the Bulls Head, prior to its closure in January 2020, was a valued asset within the community offering popular Sunday Lunches and playing host to a variety of celebrations of life events and hosting local sports teams and clubs including for social functions.

5. On the basis of the evidence, the Bulls Head can therefore be considered a community facility. Further, public houses are identified as community facilities under paragraph 93 of the Framework¹.
6. I was advised at the Hearing that there had been previous unsuccessful attempts to sell the pub while the freehold of the pub was with former owners, Greene King.
7. The appellant stated at the Hearing that having been advised by the Council that the loss of the pub would not be looked on favourably, they devised alternative plans for the site.
8. Subsequently, the appellant applied for and was granted a planning permission which included the retention of what would effectively be a micropub within the existing building along with bed and breakfast rooms. This was referenced ERE/0620/0017.
9. The premises was marketed on this basis with Estate Agents Robert Ellis from 27 July 2021. Commercial property agents Omeeto became joint agents in July 2022 with the property still on the market at the time of the Hearing. I am informed that the marketing exercises have been without success.
10. Whilst likely in part due to the passage of time, and different ownership, no detailed financial information has been provided about the pub whilst it was in operation.
11. However, it was discussed at the Hearing that Greene King were attempting to sell the lease on the pub prior to its closure. Further, the closure came before the Covid-19 Pandemic and the recent increase in energy and other price rises which have led to significant pressure on the hospitality trade. No evidence was presented at the Hearing to indicate the pub was or would be viable.
12. Whilst there was concern from interested parties about the asking price, the appellant did confirm that they were open to offers and that the marketing was made based on a guide price.
13. The Bulls Head Community Group were concerned that the removal of internal fixtures and fittings would have made the re-opening of the premises difficult. However, I do not consider this, or the fact that the planning approval for a micropub/bed and breakfast was in place as complete justification for not making any offer for the premises, were the intention to form a group to take over the pub a serious prospect.
14. At the Hearing, alternative facilities were discussed. Whilst clearly not as convenient if living locally to the Bulls Head, it was clear from the evidence and my site visit that a range of drinking establishments are available within the centre of Ilkeston to the north, some of which appear as traditional public houses. These are located a 10–15-minute walk away, albeit uphill, with access available via bus services.
15. I therefore consider that the marketing exercises have offered any interested parties reasonable opportunity to express serious interest in taking on the premises to continue the public house use. It is also the case that other

¹ National Planning Policy Framework 2021.

comparable facilities are available, particularly within the centre of Ilkeston which is accessible from the site.

16. There would also be some community benefit through the provision of a convenience store (which can also be considered a community facility) within the building.
17. The proposal would not therefore conflict with Paragraph 93 of the Framework which amongst other things states that planning decisions should plan positively for the provision and use of community facilities.

Other Matters

18. Interested parties expressed concern at the Hearing that the provision of a convenience store at the site would not be appropriate in terms of highway safety. Whilst accepting that the site is located on a busy road and close to a roundabout, the Council have not raised concern with relation to this matter and no compelling evidence has been presented to me within the evidence or at the Hearing which leads me to arrive at any other position.
19. The Council consider the premises to be a non-designated heritage asset. While the loss of the use of the building as a pub would see the loss of some historical significance in terms of its use, this would be balanced out by the securing of a viable longer-term use for the building.
20. The proposal would not therefore conflict with Policy 11 of the Erewash Core Strategy (2011) which amongst other things states that proposals will be supported where the significance of heritage assets will be at a minimum sustained.

Conditions

21. Planning permission is granted subject to the standard three-year time limit. A condition requiring matching materials is necessary in the interests of the character and appearance of the area. It is necessary that the development be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of certainty.
22. A condition is necessary requiring the provision of the parking area in the interests of Highway Safety and a contaminated land condition is necessary to properly deal with small areas where elevated levels of lead have been found within the topsoil. A condition is also necessary controlling hours of opening for the retail unit and hours within which deliveries can be received, in the interests of the living conditions of occupiers within the building and nearby.

Conclusion

23. There is nothing, including the Framework, to indicate that the decision should be made otherwise than in accordance with the development plan and I therefore conclude that the appeal should be allowed.

T J Burnham

INSPECTOR

Schedule of Conditions

- 1) The development shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans/details: Site location plan, Block plan dwg. no. CF/RR/21/68/01 rev.E, Proposed floor plans dwg. no. CF/RR/21/68/02 rev.D & Proposed elevations dwg. no. CF/RR/21/68/03 rev.D.
- 3) The external wall and roof materials used in the development, with the exception of the flat roof element, shall be of the same type, texture and colour as those used in the existing building.
- 4) Prior to the occupation of the premises hereby approved the whole of the vehicle parking and manoeuvring areas and all service areas to serve the approved retail unit and flats shall be laid out and constructed and surfaced in materials, the details of which shall have been submitted to and approved in writing by the local planning authority beforehand. All such areas shall then be clearly and permanently delineated in accordance with the approved details and retained for their intended use for the lifetime of the development.
- 5) No development (excluding demolition) shall commence until;
 - a) As indicated as necessary by the results of the Phase I and Phase II investigations - a written method statement detailing the remediation measures necessary to deal with any contaminated land risks found on the site shall be submitted to, and approved in writing by, the local planning authority. The method statement shall include details of all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures during the remedial works. The development shall then be undertaken in accordance with the measures thereby approved.
 - b) Prior to the development first being brought into use a verification report shall be submitted to the local planning authority demonstrating that the works identified in the approved method statement have been carried out. The development should not be brought into use until the verification report has been submitted to and approved in writing by the local planning authority.
- 6) The retail unit shall not be open for business outside the hours of 06:00 – 22:00. Deliveries associated with the retail unit shall not take place outside of the permitted hours of opening.

Documents submitted at Hearing

- Photographs of the site and traffic on adjacent roads.
- Email regarding potential local road improvements.
- Maps showing local public houses and shops.