



Appeal Decision

Site visit made on 21 March 2023

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2023

Appeal Ref: APP/E2734/W/22/3311582

Lamb & Flag Inn, Boroughbridge Road, Bishop Monkton HG3 3QN

- 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 Mr & Mrs Pawson against the decision of Harrogate Borough Council.
 - The application Ref 21/01715/FUL, dated 20 April 2021, was refused by notice dated 23 May 2022.
 - The development proposed is redevelopment of the Lamb & Flag Public House to form 2no. dwellings, redevelopment of existing holiday lets to form 1no. dwelling and development of 2no. dwellings.
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Decision

1. The appeal is allowed, and planning permission is granted for redevelopment of the Lamb and Flag Public House to form 2no. dwellings, redevelopment of existing holiday lets to form 1no. dwelling and development of 2no. dwellings at the Lamb & Flag Inn, Boroughbridge Road, Bishop Monkton HG3 3QN in accordance with the terms of the application Ref 21/01715/FUL dated 20 April 2021, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues in this appeal are :-
 - Whether or not the proposed development would result in the loss of a community facility having regard to relevant national and local planning policy.
 - The location of the two new dwellings, with regard to their proposed location outside of the development limits of Bishop Monkton.
 - The effect of the two new dwellings on the character and appearance of the area, including the adjacent listed building and the Conservation Area.
 - Whether the level of residential amenity currently enjoyed by users of the holiday cottages would be suitable for permanent residents.
 - Whether the access to serve the proposed development is suitable in terms of highway safety.

Reasons

3. The Lamb and Flag Public House (the LAF) is located within the village of Bishop Monkton, and has been operated by the appellants for a number of years. Due to declining trade, and ill health, there had been a reduction in

hours of opening, and the LAF was closed permanently at the beginning of the pandemic.

Community Facility

4. The LAF has ceased trading. I saw at my site visit that, after a period of disuse, the building is in need of considerable renovation. It is likely that significant investment would now be necessary to bring the property back to a condition where it could accommodate a successful business. In view of the current trading conditions for the hospitality sector, there is no guarantee that finance for such a project would be forthcoming.
5. These matters notwithstanding, the Council has advocated that insufficient marketing has been carried out to support a conclusion that the building could not be brought back into use for other community uses.
6. However, the appellant has provided evidence of marketing, and put forward arguments to counter the Council's stance outlined in the officer's assessment. The analysis is principally to demonstrate why the business is no longer viable, either now or in the longer term. The additional information has not been disputed by the Council in an appeal statement.
7. I note that there is another public house in the village, which is already limited in opening hours, and I am informed that the business is struggling even with the LAF being closed, although I am reliant on anecdotal rather than financial evidence.
8. Whilst I bear in mind these assertions, having regard to the financial reports for the LAF, there is no substantive indication that the headline figures going forward are in any way inaccurate or skewed. The pub has been up for sale for a significant time and its status has attracted previous interest for an alternative use, which I understand fell through due to the amount of investment required in bringing the LAF back into use. Had there been genuine financial backing for the acquisition of the pub I would have expected to see more progress on this issue.
9. Taken in the round, I find there is no compelling evidence that operation of the facility would be financially viable. I therefore consider that a requirement for further marketing has not been justified. As such, I find no conflict with Policy HP8 of the Harrogate District Local Plan (the LP)

Location of New Dwellings

10. The two new dwellings proposed to be built in the car park lay outside the development limits of Bishop Monkton. Paragraph 79 of the National Planning Policy Framework (the Framework) states that to promote sustainable development in rural areas housing should be located where it will enhance or maintain the vitality of rural communities.
11. This section of the appeal site forms the car park for the LAF and is immediately adjacent the development limits. A previous outline consent was granted for a single dwelling on the site, but this has now lapsed, and was assessed under a previous policy regime.

12. The proposed dwellings would be located on previously developed land and would not represent isolated dwellings. Bishop Monkton has a range of community facilities.
13. Policy GS3 of the LP states that new development outside of development limits will only be supported where expressly permitted by permitted by other policies of the LP, neighbourhood plan or national planning policy
14. The siting of the new dwellings out of development limits is not disputed by the parties, and no LP policies have been forwarded that would expressly permit this part of the development, but the appellant has stated that the site would be designated as a brownfield site, and there is support in the Framework for redevelopment of such sites, including residential uses.
15. Whilst the format of the development plan has changed from the previous lapsed outline consent, that section of the site was out of the development limits before, and still is now.
16. The Council can demonstrate a land supply in excess of the five-year target, and this is not disputed by the appellant. Therefore, this does not trigger the third paragraph of Policy GS3 in relation to the presumption in favour of sustainable development, or trigger the same presumption set out in Paragraph 11 of the Framework.
17. The site is well connected to the village and its community facilities and services. The appeal proposal is a small-scale development and the section containing the two new dwellings lays just beyond the remaining parts of the proposal and would not be located in an area that relates poorly to that remaining development or Bishop Monkton as a whole, nor would it have an adverse impact on the character or appearance of the surrounding countryside. Nor would it be of a scale or nature out of keeping with the core shape or form of the village.
18. Taking the above into consideration, it still remains that this element of the proposal is contrary to Policy GS3 of the LP on the basis of its location outside of development limits. I am not aware of any policies in the LP that would expressly permit the proposed development, and there is no dispute that the Council is able to demonstrate a five-year supply of housing land.
19. However, I attach significant weight to the material considerations that relate to the relationship of this part of the proposal with the remaining development and Bishop Monkton as a whole, and the lack of identified harm. As outlined above, these matters weigh heavily in favour of the proposed development and outweigh the conflict with Policies GS2 and GS3 of the LP.

Character and Appearance

20. With regard to this issue, the wording of the reasons for refusal refer to the proposed dwellings beyond the development limits only, and their possible effect on the locality, including the Conservation Area and the listed building. I will therefore assess this aspect of the scheme on that basis.
21. The LAF and the holiday lets are located within the Conservation Area, but the proposed dwellings would be located adjacent to it and will be assessed on their effect on the setting of the Conservation Area.

22. The appeal site falls within the Conservation Area. I therefore have a statutory duty under s72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
23. The access entrance to the overall appeal site is taken between Rose Dene and the LAF. At that point of entrance, for obvious reasons the LAF can be seen, whilst the existing holiday cottages can be seen through the access road. The siting of the proposed dwellings would not be seen within the street scene of Boroughbridge Road.
24. The proposed appeal properties would not look out of the ordinary within the wider settlement. There are a range of sizes and types of residential development in the locality, and the conversion of the holiday lets and the LAF will add to the variety within the Conservation Area. The dwellings would only be viewed at the far end of the site curtilage of Rose Dene, and there would be a combination of mature vegetation, a tall boundary fence and a recently approved annexe separating Rose Dene and the proposed dwellings.
25. In my view, the proposed dwellings would have a neutral effect on the conservation area and not harm the setting of the listed property (Rose Dene) nor be harmful by their design or impact on the landscape or settlement as a whole. As such, with regard to this issue, I find no conflict with Policies HP2, HP3, NE4 and NE5 of the LP.

Residential Amenity

26. The proposals would see the conversion of the three holiday lets to create one residential dwelling. The Council have raised concerns with regard to the amount of private amenity space that would be available for a permanent resident in comparison to someone renting as a holiday let.
27. At my site visit, it was apparent that there is an area to the front of the holiday lets that is used as amenity space as at the time of my visit drying washing was hung in the area and space was still available for a patio set to be set out. At the rear, the paved area was shallow in terms of projection, but ran along the rear of the building, with another small, grassed area beyond the paved area at the rear.
28. The amount of space for three holiday lets is somewhat lacking, but if the lets were converted, it would create the equivalent of a single small residential unit. The three units are small and at present, the appellants are utilising it as the level means of access is assisting with the issues of meeting the ill health needs of the appellants.
29. If converted, the unit would be unlikely to be occupied for family use, given the size. The property would be best suited for a single person, or a couple. For such use, the level of amenity space, whilst not being expansive, would be suitable for the use of a small household. Whilst there is the issue of the access passing along the side of the conversion, privacy can be obtained by judicious use of boundary treatments and the level of vehicle movements from the full proposal would not be excessive.
30. With regard to this matter, I do not find conflict to a level that would result in a dismissal of the proposals with relation to Policy HP4 of the LP.

Highway Safety

31. There is a reason for refusal with regard to the possibility of six dwellings utilising the access, which according to the Council, would be contrary to the provisions of Paragraph 111 of the Framework.
32. This would be two from the conversion of the LAF, one from the conversion of the holiday lets, two new dwellings and the need to provide access for the adjacent property.
33. Normally a private access would be expected to serve no more than five dwellings, and the access that would serve this development encapsulates a left-right switch as it passes to the rear of the LAF and the front of the holiday lets to be converted.
34. The specific policy position relates to the Framework, and that sets a high bar of unacceptability on highway safety grounds, or severe cumulative impact.
35. When the LAF was open, the car parking was located to the rear, where the two new dwellings are proposed. Undoubtedly, at some point, the car parking would have been well used, and those users would have been generating more vehicle movements than the current proposals, of which many could have been in the hours of darkness.
36. Also, the users of the car parking area would not have been au fait with the nature of the access, whereas the potential users of the proposal would be used to the comings and goings of vehicles from the domestic properties as time went by.
37. As such, I cannot consider the access to be unacceptable in highway safety terms, or severe in a cumulative sense, with respect to the guidance set out in the Framework.

Conditions

38. I have considered the conditions suggested by the Council in the event that I was minded to approve the appeal and I consider them all to be reasonable and necessary in order to ensure that the development is carried out in accordance with the submitted plans and proper planning, and takes into account the environmental responsibilities of the development.

Conclusion

39. The Framework states that development that accords with the development plan should be approved without delay. There are no material considerations, taken individually or cumulatively, that indicate that the appeal should not succeed. Overall, I conclude that planning permission should be granted, subject to conditions.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not more than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in strict accordance with Topping Engineers drawing DR-C-0100 (revision P1) dated October 2020, Section 5 of the Naturally Wild Ecological Impact Assessment dated September 2020, and the following Steve Hesmondhaigh & Associates Ltd drawings, as modified by the further condition of this permission:

SHA-LFBM-ZZ-GA-A-0020 H1 Plans and Elevations

SHA-LFBM-ZZ-GA-A-0021 H2 Plans and Elevations

SHA-LFBM-ZZ-GA-A-0031 Proposed Plans Lamb & Flag Pub

SHA-LFBM-ZZ-GA-A-0032 Proposed Elevations Lamb & Flag PUB

SHA-LFBM-ZZ-GA-A-0040 Proposed Elevations Lamb & Flag Cottage

SHA-LFBM-ZZ-SI-A-9010 Proposed Site Plan
3. Groundworks shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) has been submitted to and approved in writing by the Local Planning Authority.
4. Where further intrusive investigation is recommended in the Preliminary Risk Assessment approved under condition 3 above, groundworks shall not commence until a land contamination Phase II Intrusive Site Investigation Report has been submitted to and approved in writing by the Local Planning Authority.
5. Where site remediation is recommended in the Phase II Intrusive Site Investigation Report approved under condition 4 above, groundworks shall not commence until a land contamination remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall include a timetable for the implementation and completion of the approved remediation measures.

6. Land contamination remediation of the site shall be carried out and completed in accordance with the Remediation Strategy approved under condition 5 above. In the event that remediation is unable to proceed in accordance with the approved Remediation Strategy or contamination not previously considered in either the Preliminary Risk Assessment or the Phase II Intrusive Site Investigation Report is identified or encountered on site, all groundworks in the affected area (save for site investigation works) shall cease immediately and the local planning authority shall be notified in writing within 2 working days. Works shall not recommence until proposed revisions to the Remediation Strategy have been submitted to and approved in writing by the Local Planning Authority. Remediation of the site shall thereafter be carried out in accordance with the approved revised Remediation Strategy.
7. Following completion of any measures identified in the Remediation Strategy approved under condition 5 above or any revised Remediation Strategy approved under condition 6 above a land contamination Verification Report shall be submitted to the local planning authority. No part of the site shall be brought into use until such time as a Verification Report in respect of those remediation measures has been submitted to and approved in writing by the Local Planning Authority.
8. Further to condition 7, where verification has been submitted and approved in stages for different areas of the whole site, a Final Verification Summary Report shall be submitted to and approved in writing by the Local Planning Authority
9. Prior to the conversion of the public house hereby permitted commencing, a sustainable design statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall set out improvements to be made to the energy efficiency of existing building addressing measures including reduced energy consumption and improved energy efficiency. The development shall be carried out in strict accordance with the approved details.
10. Prior to the conversion of the holiday cottage hereby permitted commencing, a sustainable design statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall set out improvements to be made to the energy efficiency of existing building addressing measures including reduced energy consumption and improved energy efficiency. The development shall be carried out in strict accordance with the approved details.

11. Prior to the construction of either of the new dwellings hereby permitted commencing, a sustainable design statement shall be submitted to and approved in writing by the Local Planning Authority. The statement shall set out the measures to be incorporated to reduced energy consumption, enhance energy efficiency and identify any sustainable production of energy. The development shall be carried out in strict accordance with the approved details.
12. Construction work related to the development hereby permitted shall be carried out between the hours of 0800 and 1800 Monday to Friday and 0800 to 1300 Saturdays with no work on Sundays or Bank Holidays.
13. Prior to the first occupation of any of the dwellings hereby permitted, suitable and sufficient provision shall be made for the storage and containment of refuse prior to collection, and access for collection of refuse.
14. Prior to first occupation of any of the dwellings hereby permitted, a secure cycle storage facility shall have been provided and the parking spaces shall have been laid out as shown on drawing SHA-LFBM-ZZ-SI-A-9010, and at least one parking space to each dwelling shall be equipped with an Electric Vehicle charging facility of Mode 3 with a type 2 outlet socket and cable and circuitry ratings adequate to ensure a minimum continuous current demand of 16 Amps and a maximum demand of 32 Amps. The facilities shall be maintained thereafter, until in the case of the electric vehicle charging it is superseded by any advanced technology.
15. Prior to first occupation of any of the dwellings hereby permitted, access to Fibre Broadband infrastructure capable of Next Generation Access speeds shall have been provided.
16. Prior to first occupation of either of the converted public house or holiday cottages hereby permitted, two professional quality bat boxes or integrated bat bricks and two swift bricks or boxes shall be incorporated on site, at height, away from artificial sources of light.
17. Notwithstanding the terms of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and re-enacting that Order with or without modification) no door and/or window openings including dormer windows and rooflights, other than those shown on drawings approved under condition 2 above, shall be constructed without the grant of further specific planning permission from the Local Planning Authority.

END OF SCHEDULE