



Appeal Decision

Site visit made on 6 March 2023

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/W2845/W/22/3290853

The Windmill Inn, Main Street, Badby NN11 3AN

- 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 G Warr of Warr Investments Limited against the decision of West Northamptonshire Council.
 - The application Ref DA/2020/1051, dated 17 November 2020, was refused by notice dated 20 December 2021.
 - The development proposed is change of use of public house (sui generis) to single dwelling (Class C3) and other alterations to the grounds to form associated parking and garden areas.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of public house (sui generis) to single dwelling (Class C3) and other alterations to the grounds to form associated parking and garden areas at The Windmill Inn, Badby NN11 3AN in accordance with the terms of the application, Ref DA/2020/1051, dated 17 November 2020, subject to the conditions set out in the schedule at the end of this decision.

Applications for costs

2. An application for costs was made by Mr G Warr of Warr Investments Limited against West Northamptonshire Council. This application is the subject of a separate decision.

Preliminary Matters

3. In the decision above I have used the description of development given on the Council's decision notice, rather than that given on the planning application form. This description, which has been agreed between the appellant and the Council, best reflects the development for which planning permission is sought and does not change anything fundamental.

Main Issue

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

Reasons

5. The appeal site relates to The Windmill Inn, a public house which is located within a prominent position on Main Street in Badby. The building is a stone and thatched inn dating back to the sixteenth century. It includes outdoor

- areas to the front and rear and a car park to the rear. The neighbouring properties are in residential use. The site lies within Badby Conservation Area.
6. Policy CW3 A. of the Settlements and Countryside Local Plan (Part 2) for Daventry District 2011-2029 (adopted 2020) (the Local Plan) sets out that the loss of a public house will only be permitted where the site is no longer attractive to the market for its existing permitted use as demonstrated by evidence that it has been actively marketed for a period of 12 months; or there are sufficient alternative equivalent services accessible in the village or immediate locality having regard to its contribution to the settlement's role in the settlement hierarchy.
 7. Policy B4 of the Badby Parish Neighbourhood Plan 2018-2029 (made 2019) (the Neighbourhood Plan) identifies the Windmill Inn as one of the community facilities in the village. Policy B4 (1) sets out a similar requirement for evidence that the site has been actively marketed for a prolonged period of 12 months or more without securing a viable community use; or the proposal includes alternative provision within the locality of equivalent or enhanced facilities. Therefore, both Local Plan Policy CW3 A. and Neighbourhood Plan Policy B4 (1) require that at least one of two criteria are satisfied.
 8. The evidence before me indicates that the building closed in 2019 and for some year prior to that it had not been a viable commercial enterprise. The site has been actively marketed by Fleurets, a firm of chartered surveyors, for its current use since September 2019. The site has therefore been marketed for a lengthy period well in excess of 12 months. The Council comment that the marketing period coincided with the Covid-19 pandemic, the effects of which the Council considers remain uncertain. However, the property was marketed 6 months prior to as well as during the pandemic, and has remained on the market following the lifting of the lockdown in 2021.
 9. The Parish Council considers that the property should be marketed on a freehold, as opposed to a leasehold, basis. Whilst that is not a requirement of either Local Plan Policy CW3 A. or Neighbourhood Plan Policy B4 (1), the appellant confirms that Fleurets were instructed, if they received any enquiries for the freehold interest, to inform the enquirers that the owner may consider an offer for the freehold although the priority remains to retain and let the pub.
 10. Despite that, and the length of the marketing period, there appear to have been no reasonable offers for the property as a going concern. That appears to be partly due to competition from other establishments in the wider area which provide accommodation facilities and because there is another public house in the village. Whilst an interested party refers to three separate parties waiting to buy the premises, there is no evidence before me of any written offers in this regard.
 11. Whilst the Council considers that alternative uses should be explored, the evidence demonstrates that reasonable attempts have been made to market the premises, including for potential alternative uses. Moreover, any alternative community use would require planning consent, and I have not been provided with any evidence to suggest that an application for an alternative community use is forthcoming.
 12. Based on the evidence before me, and in the absence of substantive evidence to the contrary, I am satisfied that the property has been thoroughly and

appropriately marketed for a sufficiently long period to demonstrate that there is no reasonable prospect of it returning to use as a public house or as another type of community facility. The proposal therefore complies with the first part of both Local Plan Policy CW3 A. and Neighbourhood Plan Policy B4 (1).

13. The Windmill Inn has not been designated as an Asset of Community Value and there is another public house, The Maltsters Country Inn, located a short distance to the north on the same side of the road as the appeal premises. The evidence suggests that The Maltsters provides a similar range of facilities to The Windmill, including overnight accommodation, a bar and restaurant facilities, together with a beer garden and facilities for local functions.
14. While the Council acknowledges the other public house, it considers that the appeal property provides a different offer. However, the explanatory text to Neighbourhood Plan Policy B4 refers to both public houses offering accommodation and meals with on-site parking provision and that a number of village societies use the pubs for their regular meetings. That suggests that The Maltsters represents a 'sufficient alternative equivalent' facility in line with Local Plan Policy CW3 A. (ii).
15. The Council contends that the loss of the public house would adversely affect the village. However, the building has not been used as a public house since 2019. There is no substantive evidence before to indicate that its closure has adversely affected the village. Given the presence of another public house in the village offering a similar range of facilities, I consider that the change of use would not adversely affect the sustainability of the village.
16. For the above reasons, I conclude that the proposed development would not result in the unacceptable loss of a community facility that would harm the sustainability of Badby. Therefore, the proposal would comply with Local Plan Policy CW3 A. and Neighbourhood Plan Policy B4 (1). It would also comply with paragraph 84 d) of the National Planning Policy Framework (the Framework), which seeks to retain community facilities, including public houses.

Other Matters

17. The Council considers that the proposal would conserve the character and appearance of the building, which is of local interest, as well as the Conservation Area and the setting of the nearby listed buildings. I have considered the effects of the proposal in the context of the obligations under the Act¹ and the requirements of the Framework. Given the minor nature of the proposed external works, I have no reason to disagree with the Council's position on this matter.
18. Comments have been made by interested parties in relation to other matters, including but not limited to the need for affordable housing in the village and the effect of the proposal on employment. These matters do not form part of the Council's reason for refusal and I have no reason to reach a different conclusion based on the evidence before me.

Conditions

19. I have had regard to the conditions suggested by the Council. In imposing conditions, I have had regard to the relevant tests in the Framework, Planning

¹ Planning (Listed Buildings and Conservation Areas) Act 1990

Practice Guidance and of statute. In that context I have modified the wording of some of the conditions proposed by the Council without altering their fundamental aims.

20. In addition to the standard implementation condition, I have imposed a condition specifying the relevant plans as this provides certainty.
21. In the interests of highway safety and the living conditions of future occupants, I have included a condition to require the provision of the vehicular access, parking, turning and garden areas prior to occupation of the development.
22. In the interests of preserving the character and appearance of the area, including the Conservation Area, I have attached conditions relating to the submission of details of the new frontage stone wall and side gates, retention of the public house signs and the removal of permitted development rights for extensions and alterations.
23. A condition relating to unexpected contamination would prevent any potential impacts on human health and the pollution of the environment.

Conclusion

24. For the above reasons, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

M Ollerenshaw

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: W54-1A and W54-2C.
- 3) Prior to the first occupation of the development hereby permitted, the vehicular access, parking spaces, turning areas and outdoor gardens areas shall have been laid out within the site in accordance with the approved drawings. These facilities shall thereafter be retained for such purposes for the lifetime of the development.
- 4) Prior to their construction, full details of the new frontage stone wall and side gates shall be submitted to and approved in writing by the local planning authority. The agreed details shall be carried out in accordance with the approved details and maintained in that manner thereafter.
- 5) The existing Windmill Inn public house signs at the front of the site shall be retained in perpetuity.
- 6) Notwithstanding the provisions of Schedule 2 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 development as specified in Part 1 Classes A, AA, B, C, D, E and F of that Order shall be carried out at the site without planning permission first being obtained from the Local Planning Authority.
- 7) Notwithstanding the provisions of Schedule 2 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 development as specified in Part 2 Class A of that Order shall be carried out at the site, other than those hereby permitted, without planning permission first being obtained from the local planning authority.
- 8) Notwithstanding the provisions of Schedule 2 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 development as specified in Part 14 Classes A and B of that Order shall be carried out at the site without planning permission first being obtained from the local planning authority.
- 9) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the relevant phase of development is resumed or continued.

END OF SCHEDULE