
Appeal Decision

Hearing Held on 18 April and 16 May 2023

Site visits made on 17 April and 18 May 2023

by S Hunt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2023

Appeal Ref: APP/E2734/W/22/3312758

The Half Moon Inn, Sharow Lane, Sharow, North Yorkshire HG4 5BP

- 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 Mark Fitton against the decision of Harrogate Borough Council.
 - The application Ref 22/01162/FUL, dated 17 March 2022, was refused by notice dated 21 November 2022.
 - The development proposed is Change of use to a single dwelling.
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Decision

1. The appeal is dismissed.

Application for Costs

2. Prior to the Hearing an application for costs was made by Mr Mark Fitton against Harrogate Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The Hearing was initially opened in Harrogate on 18 April and adjourned following the absence of one of the parties. It was then resumed as a virtual event on 16 May. I am satisfied that all parties had the opportunity to make representations and were not put at a disadvantage.
4. Numerous representatives of the Half Moon Pub Group (HMPG) (also referred to as the Sharow Community Pub Group Limited) and Sharow Parish Council were present at the Hearing and nominated a spokesperson, with other members giving evidence on certain topics throughout the Hearing.

Main Issues

5. The main issues are:
 - Whether the proposed change of use of the public house would comply with local and national planning policies which seek to protect existing community facilities, having regard to its Asset of Community Value status, the marketing, and its viability; and
 - The non-designated heritage asset status of the property and its implications for the proposed change of use.

Reasons

Protection of community facilities

6. The Half Moon Inn is situated on a narrow lane within the village of Sharow, which is located a short distance to the east of Ripon. Sharow is identified as a service village by policy GS2 of the Harrogate District Local Plan (HDLP) 2020. The policy supports continued provision of a basic range of services and facilities in service villages to maintain their continued sustainability. The supporting text to the policy, at paragraph 3.20 notes that service villages represent sustainable locations for development and that most will contain a shop, pub or café in addition to other basic services.
7. The population of Sharow has increased since the closure of the public house in around December 2016, with a small number of new dwellings completed and a further 60 dwellings consented on the 'V&A Homes' site at Dishforth Road/New Road, expected to complete within around three years.
8. There are a small range of services in the village, including a primary school, church and village hall. There are no other public houses, shops or other food and drink uses. The village hall is located with the cricket club to the edge of Sharow. I heard that it is privately owned and offers a different function to the public house, being mainly used for planned events rather than being a drop-in community facility. It does not represent a comparable alternative to a public house.
9. HDLP policy HP8 seeks to protect existing community uses in rural communities, which include public houses. This is reinforced by paragraph 93 of the National Planning Policy Framework (the Framework) which at part c) requires decisions to 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. Public houses are listed in part a) of paragraph 93 as a community facility. Furthermore, I have had regard to paragraph 92 which highlights the promotion of social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other.
10. From what I heard at the Hearing, together with the large volume of representations from local people and visitors, it is clear to me that the Half Moon Inn is highly valued as a community asset. Its designation as an Asset of Community Value (ACV) carries a limited degree of weight in my considerations in providing further evidence of its local value. I also heard about the increase in working from home and social isolation. The representative for V&A Homes explained that a public house in the village would be an attraction to future homebuyers as well as construction employees.
11. The location of the Half Moon Inn is not on a main through road, nonetheless it is conveniently located on the circular route around the village which I heard is well used by pedestrians and cyclists, and I saw that it is already well-signposted from both Dishforth Road and the A61 Ripon bypass. The site is within reasonable distance of the majority of the dwellings in the village and is also accessible to pedestrians from the nearby city of Ripon, albeit the route under the bypass may not be safe for all users. The increase in dwellings in the village, as well as in Ripon, lend further credence to the stance taken by the

HMPG and the local housebuilder that its location could feasibly continue to support a public house.

12. The appellant does not dispute that a public house is a valuable community facility, but contends that it is unviable. HDLP policy HP8 recognises that there will be instances in which it is no longer viable for such a community use to continue. Detailed guidance is given in paragraphs 8.101 to 8.104 of the supporting text of the policy in assessing proposals against criterion C. This includes evidence to demonstrate that active marketing has taken place for sale or lease by an appropriate agent for at least 12 months prior to the application being made, and the onus is on the applicant to provide details of that marketing, price, any interest generated and so on.
13. Whilst the first agent used by the appellant did not meet the Council's criteria regarding use of a specialist commercial agent, extensive marketing has been carried out on behalf of the appellant by a further two different agents who have advertised the public house locally and nationally. Paragraph 8.104 requires the asking price to be pre-agreed by the Council following an independent valuation with expertise in the licenced leisure sector. Following the withdrawal of the first property agent, a rental price of £20,000 per annum was endorsed by the Council's independent valuer. This was subject to a clause that incentives be offered, such as initial rent concessions. Given that two agents and the Council's independent surveyors indicated that this was a reasonable price, and that the particulars (and signage) made it clear that incentives were available, I am satisfied that the advertised price would not represent a barrier to the effective marketing of the public house.
14. The supporting text to HDLP policy HP8 at paragraph 8.100 notes that consideration should also be given to the innovative diversification of existing facilities to improve custom and viability, giving the example of a 'pub in the community'. The marketing details clearly state that the property may be suitable for other community uses, and as such I consider that any other potential occupiers would have not been excluded.
15. The parties disagree whether the property should have been marketed for both sale and lease, and I understand that the HMPG and other interested parties have a clear preference for purchase of the building to achieve their aims for future uses of the building. However, I also acknowledge the appellant's reasons for wishing to retain ownership of the building. The supporting text to the policy is clear in its wording at paragraph 8.101 in its requirement for sale or lease (my emphasis). The marketing period took place for a significant amount of time between August 2018 and March 2022, more than the 12 months required by the policy and it spanned either side of the coronavirus pandemic.
16. Taking these factors into consideration, I am satisfied that the requisite marketing of the public house was carried out properly and thoroughly, and in general accordance with paragraphs 8.101, 8.102 and 8.104.
17. A comprehensive review of the interest received over the marketing period was provided by each of the three marketing agents. Overall, there appears to have been a good amount of enquiries and viewings which related largely to public house and restaurant uses. There is limited evidence before me to indicate that marketing the building for rent only represented a significant barrier to potential occupants. The reasons supplied by the agents for interest not being

followed up included the costs of refurbishment and relatively limited trading potential. Three expressions of interest followed viewings, two of them being unsuitable following due diligence checks. Further details of the viewings and enquiries made by a member of the HMPG were put to me at the hearing, including the involvement of V&A Homes in backing the group's plans. I understand that the property was withdrawn from the market before an offer could be made by the relevant member of the HMPG.

18. I acknowledge that several years have passed since the Half Moon Inn was last in use as a public house, and that re-establishment of the business and its reputation may therefore be more difficult. However, I do not consider this to be an insurmountable factor. Further investment is clearly required for the works necessary to bring the building back into commercial use, including the addition of stud walls to separate it from the living accommodation upstairs and to create a commercial kitchen and serviceable bar area. Whilst there are no specific costings before me for the works required to make the building function as a public house again, a figure of around £100,000 was put to me at the Hearing. However, there is a lack of detailed evidence to back this estimate up.
19. I am not persuaded that the works required to re-enable public house use would necessarily deter all future potential occupiers given the substantial renovations already carried out. These include making the building warm and damp-free, energy efficient, as well as more attractive generally and sympathetic to its age, although I acknowledge that these works would have been costly and time-consuming to the appellant.
20. Supporting text paragraph 8.103 of HDLP policy HP8 sets out a requirement for applications involving licensed premises to include the last three years trading accounts and licence details amongst other things. The appellant was the holder of the licence until relatively recently, but since he bought the property has not operated it as a public house despite his initial intentions to do so. Three years of trading accounts are therefore unavailable for the period prior to submission of the planning application. Consequently, the appellant has sought to obtain accounts from previous licensees. No such accounts have been forthcoming, although I acknowledge that there is some limited Companies House data together with statements which explain the difficult trading and financial conditions relating to various occupiers of the Half Moon between 1992 and 2016¹. However these are largely second-hand accounts and the weight I can give to them is therefore limited. Given the insufficient evidence before me relating to trading accounts, I am not persuaded that it has been adequately demonstrated that the criteria within paragraph 8.103 of HDLP policy HP8 have been fully met.
21. Importantly, HDLP policy HP8 C) refers to the 'reasonable prospect' test, with all options for continuance having been fully explored. Paragraph 8.100 explains the policy support for bringing vacant buildings back into use for alternative purposes in circumstances where there is evidence to demonstrate that there is no realistic prospect of the premises operating viably in the short to medium term. This should be firstly in its existing use, and thereafter in other community uses, including consideration of innovative diversification such as a 'pub in the community' where a shop or post office is located within to provide a dual service to the community.

¹ Appellant statement of case (December 2022); Additional Document 1) Half Moon Tradition History and 13) Heather Raine email

22. Given the lack of accounts, and details of costings for bringing it back into use as a public house and/or other community use, I am not persuaded the Half Moon Inn would be unviable in the future. The evidence from the HMPG, and its ACV status, indicates that there are genuine intentions by a large group of people within the village to take on the Half Moon as a community-led facility. This has been pursued both through the agents and directly to the appellant himself since it was taken off the market, with an offer made as recently as January 2023. I heard further evidence on this matter at the Hearing, but reasoning as to why the appellant has not responded to this offer is lacking.
23. I heard that the submission of a final business plan, valuation and costings from the HMPG, and the appellant's response to their offer, is dependent on the decision of this appeal. This is somewhat of a 'chicken and egg' situation. I was told that funds are available to the HMPG, and that the backing and expertise of the local housing developer has been assured. I also heard how the works to make the building usable as a public house again could be provided 'in kind', and that the HMPG are not motivated to make a profit from the operation of the public house, but only to break even. This approach differs from the other interest generated during the marketing campaign. I was told about the HMPG's extensive research and their training from the Plunkett Foundation. I also heard that whilst the group would prefer to purchase the building, leasing it would also be a viable option. Overall whilst the HMPG's business plan is in its infancy, from what I have seen and heard regarding their intentions I am satisfied that there is a reasonable prospect of the continuation of the existing public house use. Consequently, the proposal fails to fully meet part C of HDLP policy HP8.
24. I was presented with a range of appeal decisions by all the parties at the Hearing. Whilst some of them are local to the appeal site, others are more distant and would be subject to different development plan policies. The decisions relating to the neighbouring village of Copt Hewick² and the Station Hotel in Ripon³ are of some age, with the former being before the publication of the original Framework in 2012. The circumstances leading to the most recent decision at Bishop Monkton⁴ appear to be quite different to that before me. I find limited information within any of the decisions which are directly relevant to my decision, and consequently I give them very limited weight.
25. In conclusion I take the view that whilst extensive and appropriate marketing has been carried out, the proposed change of use of the public house would fail to comply with HDLP policy HP8 which seeks to protect existing community facilities, specifically part C) in respect of there being a reasonable prospect of the existing use continuing on a viable basis. In turn, the proposal also conflicts with paragraph 93 c) of the Framework which seeks to guard against the unnecessary loss of valued facilities and services in the community.

Non-Designated Heritage Asset

26. There is no dispute between the parties that the existing building is a non-designated heritage asset (NDHA). Whilst not specified within a 'local list', the Council's Heritage Management Guidance (2014) at chapter 5 includes a range of criteria for selection. At paragraph 5.13 it notes that surviving examples of

² APP/E2734/A/08/2072331 The Oak Tree Inn, Main Street, Copt Hewick

³ APP/E2734/W/16/3147943 The Station Hotel, 26 North Road, Ripon

⁴ APP/E2734/W/22/3311582 Lamb & Flag Inn, Boroughbridge Road, Bishop Monkton

buildings associated with strong community significance amongst other criteria can merit designation as a NDHA.

27. The Half Moon Inn comprises a simply designed two storey detached building of white render and painted brick with a slate roof covering, occupying a prominent position to the edge of the footpath along the narrow Sharow Lane. The evidence indicates that it dates from the early 1800s. Whilst the building has Georgian origins it has undergone numerous internal and external alterations over time, particularly in the latter part of the 20th Century. The 'Half Moon' signage remains as a painted panel to the centre of the building. I heard that the origins of its name are likely to be linked to former views of Ripon Cathedral from the village over a designed landscape.
28. Notwithstanding its alterations, the building's significance as a NDHA for the purposes of this appeal derive from its architectural and historic interest as an example of a surviving public house in the village of Sharow. It has communal value which is clearly evident from the representations, forming an important aspect of collective memory and identity associated with its role in the social interaction of the village. As noted in the Historic England guidance⁵ social values tend to be less dependent on the survival of historic fabric, so long as its key social and cultural characteristics are maintained.
29. The proposal before me relates to change of use only and not physical alterations. Nonetheless the renovation works cannot be categorically separated when considering whether they have enabled any future residential use or prevented its continuing use as a public house. The public house use illustrates the historic values of the building and undoubtedly contributes to its significance. I saw that the alterations carried out by the appellant as part of their ongoing renovation of the building have, on the one hand, removed some features typical of a public house, but others have been retained and continue to form an important part of its character. Indeed, I also saw that the renovations have revealed previously hidden historic features. The works would not prevent its continuation of use as a public house or some other community use. Likewise, nor would its NDHA status prevent its use as a dwelling.
30. It retains its existing appearance from Sharow Lane, and its place in the social history of the village would be maintained whether or not the building eventually reopens as a public house. In considering this, I have had regard to the works carried out by the appellant to maintain the building and which seek to ensure a sustainable future for the NDHA.
31. Overall I find that the proposed change of use would result in a neutral effect on the significance of the NDHA, and as such complies with HDLP policy HP2 and paragraph 203 of the Framework.

Other Matters

32. Benefits cited by the appellant include the sympathetic restoration and ongoing maintenance of the building, including energy efficiency measures. However, they are general benefits that are not specific to its residential use and could also arise from a community use of the building. I understand that the upper floors of the public house were previously and historically in use as residential

⁵ Conservation Principles, Policies and Guidance for the sustainable management of the historic environment (English Heritage, 2008)

accommodation, therefore no public benefit would arise in terms of housing supply.

33. The garden and parking area have been retained and would remain in place no matter what the ultimate use of the building may be. There is also ample on-street parking available, and the evidence does not indicate that there would be any adverse effects on highway safety nor living conditions from the continued use of the building as a public house.
34. Any allegations relating to the appellant's purchase of the property or their motives, the personal attributes of any prospective lessees, or the activities of past licensees of the public house relate to unfounded claims and private matters which do not have any bearing on my decision.
35. In considering my duty under section 149 of the Equality Act 2010, the evidence before me does not suggest that the proposal would have any specific impact in relation to persons who share a protected characteristic as compared to persons who do not, or any indication that my decision would have any harmful equality implications. Likewise, the evidence does not indicate that there would be an infringement of human rights under Article 1 of the First Protocol of the European Convention of Human Rights as codified in the Human Rights Act 1998.

Conclusion

36. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

Susan Hunt

INSPECTOR

APPEARANCES

For the Appellant:

Mark Fitton

For Harrogate Borough Council:

Mike Parkes, Harry Hunt, James Cullen

Interested Persons:

Local Residents /

Half Moon Pub Group /

Sharow Parish Council:

Alison Da Costa

Simon Warwick

Tony Whitley

Gemma Escott

Henrietta Warwick

Dan Robinson

V&A Homes

Jon Beeson

DOCUMENTS SUBMITTED AFTER THE HEARING

Decision notice dated 30 January 2023 22/04634/FUL

Harrogate District Local Plan Policy GS2 (Growth Strategy)

Appeal Decisions:

Fox and Hounds, Barley APP/X1925/W/16/3154355

Giant Gorum, Lawrence Weston APP/Z0116/W/20/3257409

Henry Jenkins Inn, Kirby Malzeard APP/E2734/W/22/3306214

Lamb and Flag Inn, Bishop Monkton APP/E2734/W/22/3311582

Oak Tree Inn, Copt Hewick APP/E2734/A/08/2072331

Old Nags Head, Hargrave APP/G2815/W/17/3184040

Station Hotel, Ripon A APP/2734/W/16/3147943

Travellers Rest, Skeeby APP/V2723/W/16/3161299