



Appeal Decision

Site visit made on 9 June 2023

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

Appeal Ref: APP/Q3305/W/23/3314058

The Crown Inn, Clapton Road, Clapton, Wells, BA3 4EB

- 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 R Thorner, Flower and Hayes Developments Ltd, against the decision of Mendip District Council.
 - The application Ref 2022/1184/FUL, dated 7 June 2022, was refused by notice dated 7 December 2022.
 - The development proposed is described as 'Proposed conversion of Public House into 3no. residences and the erection of 2no. additional new build residences at The Crown Inn, Zion Hill, Clapton, Midsomer Norton, Somerset, BA3 4EB'
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of the public house into 3no. residences and the erection of 2no. additional new build residences at The Crown Inn, Clapton Road, Clapton, Wells BA3 4EB in accordance with the terms of the application, Ref 2022/1184/FUL, dated 7 June 2022, subject to the condition in the attached schedule.

Application for Costs

2. An application for the award of costs has been made by the appellant, which is subject of a separate decision.

Preliminary Matters

3. The description of development and site address in the banner heading above is taken directly from the original planning application form.
4. On 1 April 2023 Mendip District Council merged with other councils in Somerset to form Somerset Council. However, the development plan for the area formally covered by the District Council remains in place until such time as it is revoked or replaced. I have determined the appeal on this basis.

Main Issue

5. The main issue is whether the proposal involves the unnecessary loss of a viable community facility.

Reasons

6. The appeal site comprises a vacant, detached public house. It is located within Clapton, a rural hamlet of modest size located to the south-east of Midsomer Norton along rural country roads. As such, there are limited residential properties within walking distance of the public house, whilst there did not

- appear to be any significant local attractions nearby to the site, such that the pub would be likely to attract significant levels of passing trade.
7. Policy DP17 of the Mendip District Council Local Plan Part 1: Strategy and Policies 2006-2029 (adopted 2014) (Local Plan) establishes that the loss of premises last used for local services and facilities (including commercial facilities such as pubs) will only be permitted in certain circumstances. Notably, in this instance, where the service or facility is of a commercial nature and there is no likelihood of a viable community use.
 8. The Council's 'Marketing and business evidence to support planning applications Supplementary Planning Document' (SPD) (adopted 2017) provides further advice as to the information that is expected to be provided to justify the loss of a premises under Policy DP17. This includes the annual accounts for the previous 3 years, evidence of appropriate marketing activity, as well as a valuation report to demonstrate how the sales price has been determined.
 9. I understand that the pub has been vacant for over 3 years. The annual accounts for the 3 years prior to its closure (i.e. accounts for 2018-2019, 2019-2020, and 2020-21) suggest that the pub was operating at a loss over that period, while the figures have not been contested by the Council.
 10. However, in refusing the application the Council highlights what it perceives as inadequacies in the marketing of the premises for sale. It therefore determined that it had not sufficiently been demonstrated that a community use was no longer viable. The Council's concerns are fundamentally related to the period in which the property was marketed and the overall price that was being sought.
 11. The appeal site has been marketed for sale as a public house on two separate occasions. Firstly, between July 2020 and April 2021. I understand that the property was then brought back onto the market in April 2022 until the present day. Throughout these two periods, the marketing of the property for sale as a public house has been undertaken by Alder King, a leading property agent in the region.
 12. The sale of the appeal property appears to have been comprehensively advertised during both the marketing periods. This includes production of sales particulars, direct mailshots to relevant parties with a recognised potential interest, advertisement on Alder King's and relevant third-party websites, as well as signage at the site. The sale of the property has therefore been thoroughly broadcast, in line with the expectations of the SPD.
 13. Marketing of the property initially took place during the Covid-19 pandemic, which may have influenced the relevant interest in the property at that time. However, the site has subsequently been on the market for a considerable period following the height of the pandemic, and to the best of my knowledge continues to be. Indeed, it has been on the market in excess of the 10 – 12 months minimum period that is set out within the SPD.
 14. I am informed that during the first marketing period the public house was advertised for sale at £595,000. Following a valuation report¹ on the property being completed (by suitably qualified professionals), it has subsequently been

¹ Valuation Report – prepared by Andrew Forbes Chartered Surveyors, dated 25th May 2022.

- advertised at a guide price of £450,000 during the additional period of marketing.
15. Despite the continued marketing efforts and reduction in sale price the property has attracted very little interest. Only a single viewing has been undertaken from a party that I understand was considering utilising the site for a mixed commercial use (e.g. office/residential). However, no offer was subsequently received.
 16. Furthermore, the appeal site has seemingly attracted very limited enquiries and where these have been made, they were in relation to the potential for redevelopment of the site into residential accommodation. The marketing evidence further indicates that no interest has been received from a public house or bar operator, whilst no enquiries have been made at all since the marketing campaign recommenced in April 2022.
 17. Although the initial advertised sales price appeared excessive, having regard to the valuation report, the public house has been marketed for over a year at a lower figure. I appreciate that the guide price of £450,000 remains in excess of the site's value that was identified in the appellant's valuation report. However, I do not consider that the guide price is of such a substantial difference that it would necessarily have put off potential realistic purchasers from at least providing expressions of interest or seeking viewings.
 18. Notably, the site has been vacant for a considerable period. Potential purchasers are therefore likely to need to invest significantly into the building/business to continue to operate it as a public house. There are also likely to be financing costs involved. Given the context of the appeal site and previous accounts information, I consider that it is highly unlikely that the site would offer a suitable return on investment as a public house. I therefore consider it improbable that the difference in the guide price from the valuation is the underlining issue as to why the property has not attracted interest.
 19. I appreciate that the village pub may have been a valued facility by local residents. I also note the views expressed by residents regarding the previous operations of the pub and that it may remain viable under better management. However, the evidence before me, including the lack of operator demand, suggests otherwise.
 20. Overall, from the evidence before me, including the site's context, previous accounts, the valuation report, and marketing information, I am satisfied that the existing public house use is no longer viable. Despite appropriate marketing it appears no expressions of interest have been made by commercial operators or community groups to continue operating the site either as a pub or another community facility. I am also mindful that Clapton is already served by a Village Hall nearby to the site. The appeal site is also not designated as an Asset of Community Value, nor am I aware of any intentions to list it as such.
 21. Accordingly, I am satisfied that the proposed development would not result in the unnecessary loss of a community facility. The proposal therefore accords with the requirements of Local Plan Policy DP17 and the expectations of the SPD. Likewise, I do not find the proposal conflicts with the aims of the National Planning Policy Framework (the Framework), in respect of the protection that is offered to community facilities.

22. In coming to the above view, I have had regard to the previous Inspector's appeal decision at the site (ref: APP/Q3305/W/21/3286944), which amongst other matters found that the appellant had not demonstrated the public house use was unviable. However, since that appeal decision further marketing of the property has been undertaken at a more realistic asking price, while a valuation report and previous accounts have also been provided. Together this new information justifies an alternative view.

Other Matters

23. The appeal site is located outside any designated settlement limit, but it is common ground between the main parties that the Council is unable to demonstrate a 5-year housing land supply. Consequently, its policies relating to the delivery of housing are out-of-date, having regard to paragraph 11 of the Framework. The Council therefore did not oppose the principle of residential development at the appeal site and its location did not form a reason for refusal. Based on the evidence before me and my observations on site, there is no reason for me to conclude differently on this matter.
24. Various concerns have been raised by third parties in relation to the proposal. With respect to highways implications, the proposed development would include sufficient on-site parking spaces to meet the Council's adopted parking standards. Additionally, the overall level of trip generation is likely to be modest given the scale of the proposed scheme, whilst its former use as a public house would have also generated vehicular movements. There also appears adequate space on-site to accommodate vehicles during the construction process. As such, subject to relevant conditions, I am satisfied that the development would not cause harm to highway safety.
25. The proposed scheme would incorporate materials that have regard to the existing building and the wider surroundings. Likewise, I am content that the scale and layout of the proposed development responds appropriately to the size of the site and the surrounding built form. Accordingly, the proposal would not cause harm to the character and appearance of the area. The scheme would need to comply with current building regulations, whilst other sustainability measures are proposed to be secured including the incorporation of electric vehicle charging points and rainwater harvesting facilities. My decision therefore does not turn on the environmental sustainability of the proposed dwellings.
26. It was evident on my site visit that one of the proposed units would be sited close to the boundary with a neighbouring dwelling. As such, there may be some loss of light to the neighbouring property, particularly to an outbuilding within its garden. Nevertheless, I am satisfied that the design and scale of the proposals (including the relocation of a telegraph pole) would not result in significant adverse impacts to the living conditions of neighbouring residents.
27. Reference has been made to previous flood events within the area and the potential impacts of the proposed development on flooding. The appeal scheme would involve the use of a soakaway to receive flows from external hard paving, roof catchment, as well as foul flows that have been treated through an onsite package treatment system. In addition, parking bays at the site would utilise permeable paving, whilst a surface water pumping station would be used to transfer relevant flows upstream to the proposed soakaway.

28. Infiltration testing has been undertaken at the site in order to aid the drainage design. The appellant's drainage strategy is highlighted as being suitable to attenuate and discharge water for the lifetime of the development (as advised in the Government's Planning Practice Guidance) including an appropriate allowance for climate change. The Council's drainage team has not objected to the proposed development, indicating that the foul and surface water drainage strategies appear viable, while no robust evidence has been provided to suggest otherwise. Consequently, from the information before me, I consider the proposal would be served by suitable drainage arrangements and not harmfully increase flood risk in the area.
29. The proposed dwellings would be sited nearby to a working farm, which I recognise could impinge on the living conditions of any future residents, leading to conflicts between the uses. Reference has been made to another planning application in the area near the farm that I understand was refused based on the potential for conflict with the farm activities. However, I have been provided with no specific details of that case. As such, I cannot draw any appropriate comparisons. While the proposals may be located near to the farm, it was evident that there are already several neighbouring residential properties located relatively nearby. As such, whilst mindful of the 'agent of change principle', I do not consider that the proposal's living conditions would be significantly different to those already experienced by many residents within the hamlet. The proposal would therefore not result in any significant harm in this respect and my decision does not turn on this matter.

Conditions

30. Both main parties were provided the opportunity to comment on draft planning conditions in the event that planning permission was to be granted. These largely followed conditions that had been put forward in the committee report for the original planning application. For clarity and precision, and to ensure compliance with the PPG, some minor editing of the suggested conditions was undertaken where necessary.
31. 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.
32. A pre-commencement condition relating to the disposal of foul drainage is necessary to ensure that the development is served by suitable drainage facilities. Conditions requiring the approval of sample materials and provision of landscaping measures are necessary in the interest of the appearance of the scheme and the surrounding area.
33. A condition requiring that visibility splays are constructed and maintained at the site access is necessary in the interest of highway safety. Likewise, a condition ensuring that the areas proposed for parking, loading and unloading, and turning of vehicles are kept free and maintained for such purposes is also needed in the interest of highway safety.
34. Conditions requiring the installation of electric vehicle charging points, bicycle storage facilities, rainwater harvesting facilities, and the provision of recycling and waste storage facilities are reasonable and necessary on sustainability grounds.

35. A condition limiting the hours of demolition and construction activity at the site is reasonable and necessary to protect the living conditions of neighbouring residents.
36. A condition to limit works to the roof of the existing building to outside of the bird nesting season (unless appropriate survey work is completed) is necessary in the interest of biodiversity. Similarly, conditions requiring the approval of external lighting prior to its installation and the provision of ecological enhancements at the site are also needed on biodiversity grounds.

Conclusion

37. For the reasons outlined above, having regard to the development plan and all other material considerations, including the provisions of the Framework, the appeal is 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:
 - 0858 01-PDL-1001 C
 - F1450/001C
 - F1450/002
 - F1450/003
 - F1450/004
 - F1450/300D
 - F1450/301B
 - F1450/302B
 - F1450/303A
 - F1450/304
 - F1450/305
 - FSC.TD-01
- 3) No development shall commence until a detailed scheme for the disposal of foul drainage from the development has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and completed prior to the occupation any of the dwellings.
- 4) No construction of the external walls of the development shall commence until a schedule of materials and finishes, and samples of the materials to be used in the construction of the external surfaces, including roofs, have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out only in accordance with the approved details.
- 5) At the proposed access there shall be no obstruction to visibility greater than 600 millimetres above adjoining road level within the visibility splays shown on the submitted plan, (Drawing No F1450/300D). Such visibility splays shall be constructed prior to the occupation of the development hereby permitted and shall thereafter be maintained in perpetuity.
- 6) No occupation of the development shall commence until bicycle storage for at least F1450/300D bicycles has been provided in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be implemented in accordance with the approved details and retained permanently thereafter.
- 7) Each dwelling shall not be occupied until it is served by an electric vehicle charging point. Each charging point must be at least 7kW, an untethered

connection (i.e., only a socket without a built-in cable), and capable of Mode 3 charging.

- 8) The areas allocated for vehicle parking, loading and unloading, and turning on the submitted plan (drawing number F1450/300D) shall be kept clear of obstruction and shall only be used for the said purpose and not for any other purposes.
- 9) No occupation shall commence until a hard and soft landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following details:
 - (a) size, species and positions for new trees and plants,
 - (b) boundary treatments,
 - (c) surfacing materials (including roadways, drives, patios and paths) and
 - (d) any retained planting.
 - (e) a detailed programme of implementation

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season either with the same tree/plant as has previously been approved, or with other trees or plants of a species and size that have first been approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.

- 10) Demolition or construction works shall not occur outside of the following hours:
 - Monday - Friday 08.00 - 18.00
 - Saturday 08.00 - 13.00

All other times, including Sundays, Bank and Public Holidays there shall be no such activities.

- 11) No occupation of any individual dwelling shall commence until its respective provision for the storage of recycling and waste containers has been made in accordance with details which have been submitted and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.
- 12) No occupation of the approved dwellings shall commence until a scheme for rainwater harvesting or other methods of capturing rainwater for use by residents (e.g. water butts) has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details.
- 13) No external lighting shall be erected or provided on the site until a "lighting design for bats" has been submitted to and approved in writing by the Local Planning Authority. The design shall show how and where external lighting will be installed (including through the provision of technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent bats using their territory or having access to their resting places. All external lighting shall thereafter be installed in accordance with the specifications and locations set out in the

design, and these shall be maintained thereafter in accordance with the design.

No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority.

- 14) No development to the roof, including rooflights, soffits, fascias, bargeboards, and guttering, shall take place between 1st March and 31st August unless a survey to assess the nesting bird activity on the site during this period and a scheme to protect the nesting birds has been submitted to and approved in writing by the Local Planning Authority. No development to the roof, including rooflights, soffits, fascias, bargeboards, and guttering, shall take place between 1st March and 31st August other than in accordance with the approved bird nesting protection scheme.
- 15) No occupation shall commence until the following have been installed within the application site:
 - a. Five Habibat 001 bat boxes or similar will be built into the dwellings at least four metres above ground level and away from windows of the west or south facing elevation (one on each dwelling)
 - b. Five Schwegler 1SP Sparrow terraces or similar at least one metre apart directly under the eaves and away from windows on the north elevations (one on each dwelling)
 - c. Tree and native shrub planting; All new shrubs must be high nectar producing to encourage a range of invertebrates to the site, to provide continued foraging for bats. The shrubs must also appeal to nightflying moths (a key food source for bats).
 - d. Any new fencing must have accessible hedgehog holes, measuring 13cm x 13cm to allow the movement of hedgehogs into and out of the site
 - e. The new hedgerow/s to be planted up with native species comprised of a minimum of 5 of the following species: hazel, blackthorn, hawthorn, field maple, elder, elm, dog rose, bird cherry and spindle. The hedgerow will be ancient coppiced and laid on reaching maturity and cut on a 3-year rotation thereafter.
 - f. Five bee bricks built into the wall about 1 metre above ground level on the south or southeast elevation of the dwellings (one on each dwelling). Please note bee bricks attract solitary bees which do not sting.

The bat box and bird box shall be retained thereafter in perpetuity.