



Appeal Decision

Site visit made on 10 July 2023

by J N Seymour BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03.10.2023

Appeal Ref: APP/P0240/W/23/3315384

The Vicars Inn, 68 Church Lane, Arlesey, SG15 6UX

- 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 Basra of Basra Investments Ltd against the decision of Central Bedfordshire Council.
 - The application Ref: CB/22/03387/FULL, dated 19 August 2022, was refused by notice dated 22 December 2022.
 - The development is described as: 'Conversion of former public house (closed) with flat over to create 1no dwelling and construction of 3no dwellings'.
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Decision

1. The appeal is allowed and planning permission is granted for the Conversion of former public house (closed) with flat over to create 1no dwelling and construction of 3no dwellings at The Vicars Inn, 68 Church Lane, Arlesey, SG15 6UX in accordance with the terms of the application, Ref CB/22/03387/FULL, dated 19 August 2022, subject to the conditions in the attached schedule.

Preliminary Matters

2. Revised plans 3456-02F, 3456-05B and 3456-06B have been submitted, superseding 3456-02E, 3456-05A and 3456-06A, respectively. The Council have had an opportunity to review these revised plans, they have referred to them in their Statement of Case and they have not objected to their inclusion to the appeal. Therefore, with both parties agreeing to the inclusion of the revised plans, I have determined the appeal on this basis.

Main Issues

3. The main issues for determining this appeal are as follows:
 - i. Whether the site could be used for an alternative community or employment-generating use;
 - ii. The living conditions of the future occupiers of the dwellings in relation to garden and bedroom sizes.

Reasons

Potential Alternative Uses

4. The appeal site is a pub which ceased trading in March 2020. I was able to see on my site visit that the pub remains closed. It is common ground between the parties that the information contained in the viability reports demonstrates

there is no reasonable prospect of the site reopening as a pub due to it being financially unviable. I acknowledge the Covid-19 Pandemic contributed to the closure of pubs and other businesses across the country, however the viability reports show that the site was operating consistently at a loss in the years prior to its closure at the very beginning of the Pandemic. Therefore, evidence indicates the Pandemic was not integral to the pub's demise, even if it perhaps was a contributing factor to its permanent closure.

5. It is also common ground that there are suitable alternative pubs in Arlesey that are within walking distance of the appeal site, namely The Old Oak, The White Horse, The True Briton and Arlesey Social Club. The appellant has also drawn my attention to other pubs in neighbouring villages that will benefit from custom from Arlesey residents.
6. I am satisfied the pub has been shown to be financially unviable and that there is a choice of alternative pubs within Arlesey and in the wider area. This strongly indicates that the facility no longer meets the needs of the community and their needs are being met elsewhere. Consequently, the appeal proposal has demonstrated compliance with the three relevant criteria, numbered 3-5, in Policy R2 of the Central Bedfordshire Local Plan 2021 (Local Plan).
7. Policy R2 states when the three criteria are satisfied, only where an alternative community infrastructure use is demonstrated to be unviable or unsuitable, may other uses be considered acceptable. The Council recently granted planning permission, ref: CB/23/01086/FULL, to allow a change of use at the site to a restaurant on the ground floor and residential on the first floor. This application was permitted on 8 June 2023 just over a month before my site visit which revealed this development had not yet been implemented. The Council's delegated report for that application reveals all reasonable efforts were made to sell or let the premises for community use at a reasonable price for at least 12 months without success and I have no evidence to the contrary.
8. The granting of the CB/23/01086/FULL application in accordance with Policy R2 indicates the Council was satisfied to lose the site as a community facility for an alternative use. Policy R2 does not contain a sequential preference for alternative uses in this situation. Therefore, the appeal proposal for a residential development also complies with Policy R2 as the evidence before me demonstrates the relevant criteria of the policy have been satisfied and, according to the Council, an alternative community use is not forthcoming.
9. The Council has also cited conflict with Policy EMP2 of the Local Plan, which sets out criteria for the change of use of identified employment land to non-employment uses. No evidence has been submitted to indicate the Vicars Inn is an identified employment site in the Local Plan. The CB/23/01086/FULL development has not been implemented, therefore this is not evidence of an employment-generating use at the present time.
10. Employment land in planning terms refers to uses contained within Class E, formerly Class B, of the Use Class Order. Employment land does not include pubs which are sui generis uses that benefit from separate safeguards in Policy R2. Therefore, I consider Policy EMP2 to not be determinative in this case.
11. Concluding on this issue, the appeal proposal satisfies all the relevant criteria of Policy R2 of the Local Plan, thus demonstrating that redeveloping the site for residential use is acceptable in this case.

Living Conditions

12. The Council has maintained that the appeal proposal broadly complies with Policy HQ1 of the Local Plan, the space standards in the Central Bedfordshire Design Guide and the Nationally Described Space Standard (NDSS). The only element the Council has raised an issue with is the fact the living, kitchen and dining areas should be provided in a minimum of two rooms, whereas the floor plans show no separation between these three areas.
13. The Council states this can be made acceptable with a prior-to-occupation condition ensuring the kitchen areas for each plot are separated with an internal wall. However, such a condition would be impractical to enforce internal alterations in the event occupants decide to remove the wall in future if they prefer a more open-plan layout. I also consider this type of condition to be unnecessary in this case because the internal layouts of the three dwellings are such that the kitchens are located within an alcove creating a degree of natural separation from the living and dining areas.
14. The plans were revised to ensure the gardens comply with the 60-square-metre minimum in the Design Guide, which also states that gardens for all dwellings should be a minimum of 10 metres in depth. The Council acknowledges that despite one garden measuring only 9.3 metres in depth, the minimum area requirement for the gardens has been met and therefore the development would provide a good standard of amenity for future occupiers. I have no reason to disagree with this assessment.
15. The Council have recommended that conditions removing permitted development rights for extensions and outbuildings should be included should the appeal be allowed. I agree with this suggestion because extensions and additional outbuildings may reduce the amount of residual external amenity space to unacceptable levels and the Council needs to retain control in managing the amount of amenity space for each dwelling.
16. Consequently, with the removal of certain permitted development rights by condition, I conclude the appeal proposal accords with Policy HQ1 of the Local Plan, the space standards in the Central Bedfordshire Design Guide and the NDSS in terms of creating appropriate living conditions.

Other Matters

17. The appeal site lies immediately to the north of the Grade I Listed St Peter's Church on the opposite side of Church Lane. The Council has not raised any concerns regarding the impact of the development on the setting of the listed church and I concur that its historic setting would be preserved.

Conditions

18. The appellant raised no objections to the conditions suggested by the Council. However, some conditions suggested by the Council have been omitted because they fail to meet the tests set out in the National Planning Policy Framework and Planning Practice Guidance, as explained below.
19. Suggested Condition 5 (scheme to increase climate change resilience) – this condition is imprecise as climate change risks are a very broad issue that

cannot be mitigated by this development. The site is not known to be at risk of the impacts of climate change, e.g. flooding, and is therefore considered unnecessary.

20. Suggested Condition 9 – the provision of a maintenance and management plan for surface water drainage has been incorporated into Condition 3.
21. Suggested Condition 13 – the provision of visibility splays has been incorporated into Condition 8.
22. Suggested Condition 16 – the provision of an 'optional' water efficiency requirement of 110 litres per day, per person is imprecise and would be impractical to enforce.
23. Suggested Conditions 18 and 19 removing permitted development rights have been merged into a single condition, number 14.
24. Suggested Condition 20 (separation of cooking, living and eating spaces) – an explanation of the omission of this condition has already been provided above.
25. Suggested Conditions 21 and 22 – the Council's Environmental Code of Practice and Construction Code of Practice for Developers and Contractors both relate to issues covered by separate legislation and are not relevant to planning.
26. Suggested Condition 23 – the condition confirming the approved plans is now Condition 2.

Conclusion

27. For the reasons given above, I conclude the appeal should be allowed and planning permission is granted. This is subject to the conditions listed in Schedule 1.

J N Seymour

INSPECTOR

SCHEDULE 1, CONDITIONS

1. The development hereby permitted shall begin no 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: 3456-02F, 3456-05B, 3456-06B, 3456-08A, 3456-09, CTP-20-560-SP01A and 186-2021-02-P1.
3. No development shall take place until details of the implementation, adoption, maintenance and management of the sustainable drainage system have been submitted to and approved in writing by the local planning authority. Those details shall include:

- a) timetable for its implementation; and,
- b) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the effective operation of the sustainable drainage system throughout its lifetime.

The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

4. No development shall take place, including any works of demolition, until a Construction Traffic Management Plan, associated with the development of the site, has been submitted and approved in writing by the Local Planning Authority which will include information on:
 - a) The parking of vehicles;
 - b) Loading and unloading of plant and materials used in the development;
 - c) Storage of plant and materials used in the development;
 - d) The erection and maintenance of security hoarding / scaffolding affecting the highway, if required;
 - e) Wheel washing facilities;
 - f) Measures on site to control the deposition of dirt / mud on surrounding roads during the development;
 - g) Footpath/footway/cycleway or road closures needed during the development period;
 - h) Traffic management needed during the development period;
 - i) Times, routes and means of access and egress for construction traffic and delivery vehicles (including the import of materials and the removal of waste from the site) during the development of the site.

The approved Construction Management Plan associated with the development of the site shall be adhered to throughout the development process.

5. Prior to the commencement of any above ground works, samples of all external facing materials must be submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.

6. Prior to the occupation of the proposed dwellings, details of any proposed boundary treatment, indicating the type of boundary treatment, position and materials, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved details.
7. Prior to the occupation of the proposed dwellings, a landscaping scheme to include all hard and soft landscaping and a scheme for landscape maintenance for a period of five years following the implementation of the landscaping scheme have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented by the end of the full planting season immediately following the first use of any separate part of the development (a full planting season means the period from October to March). The trees, shrubs and grass shall subsequently be maintained in accordance with the approved landscape maintenance scheme and any which die or are destroyed during this period shall be replaced during the next planting season.
8. Prior to the occupation of the proposed dwellings, the visibility splays, vehicular parking spaces, cycle parking spaces and vehicle manoeuvring areas clear of the public highway, as illustrated on the approved drawings, shall be provided and maintained thereafter.
9. Prior to the occupation of the proposed dwellings, the refuse storage and collection points shall be provided in accordance with the approved plans.
10. No dwelling shall be occupied until the junction between the proposed estate road and the highway as shown on plan ref: 3456-02F has been constructed in accordance with the approved details, or as amended as necessary by the technical and safety audit process, and opened to traffic.
11. Before the new access is first brought into use, the existing access shall be closed in a manner to the Local Planning Authority's written approval and constructed in accordance with the approved details.
12. In the event that contamination is found at any time when carrying out the approved development, it must be reported in writing immediately to the local planning authority. Any land contamination identified shall be remediated to the satisfaction of the Local Planning Authority to ensure that the site is made suitable for its end use.
13. The first floor windows in the eastern elevation of Plot 3 and the left-hand side of the southern elevation of Plot 1 (which are to serve bathrooms) shall be permanently fitted with obscured glass of a type to substantially restrict vision through it at all times and shall be non-opening, unless the parts of the windows which can be opened are more than 1.7m above the floor of the rooms in which the windows are installed. No further windows or other openings shall be formed in the eastern elevation of Plot 3 or southern elevation of Plot 1.
14. Notwithstanding the provisions of Part 1, Classes A and E of Schedule 2 to the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions or outbuildings shall be erected without the grant of further specific planning permission from the local planning authority.