
Appeal Decisions

Hearing and site visit held on 19 September 2023

by P Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State

Decision date: 20 October 2023

Appeal Refs A & B: APP/N1730/Y/23/3322730 & APP/N1730/W/23/3322576

The Bell Public House, The Bury, Odiham, Hook RG29 1LY

- The appeals are made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) against a refusal to grant listed building consent and under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeals are made by Paul Roger against the decisions of Hart District Council.
- The applications Refs 21/02877/FUL & 21/02878/LBC, dated 1 November 2021, were refused by notices dated 23 December 2022.
- The development proposed is change of use of public house to form two dwellings with associated single storey side extensions, demolition and internal and external alterations.

Appeal Refs C & D: APP/N1730/Y/23/3323488 & APP/N1730/W/23/3323487

The Bell Public House, The Bury, Odiham, Hook RG29 1LY

- The appeals are made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent and under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeals are made by Paul Rodger against the decisions of Hart District Council.
- The applications Refs 22/00234/FUL and 22/00229/LBC, dated 2 February 2022, were refused by notices dated 23 December 2022.
- The development proposed is conversion of outbuilding to 2B/4P dwelling.

Preliminary matters

1. The name of the appellant in each appeal is taken from the application forms. At the Hearing, it was confirmed that correct spelling is Paul Rodger. I have considered the appeals on this basis.

Decisions

Appeal Refs A & B

2. The appeals are dismissed.

Appeal Refs C & D

3. The appeals are dismissed.

Main Issues

4. The main issues are as follows:

Appeals A & C:

- Whether the pub has been adequately marketed and whether it would be likely to be financially viable in the future; and
- Whether car parking would be adequate.

Appeals B & D:

- The effect on the architectural character and historic interest of the building, which is listed at Grade II.

Reasons

5. The Bell, subject of appeals A and B, is a two storey timber framed building erected around 1600, initially as a dwelling. It has been licensed as a public alehouse since at least 1660 and some representations suggest as early as 1508. Later extensions and alterations and the addition of a brick frontage have not compromised its architectural and heritage interest or its contribution to the character and appearance of the Odiham Conservation Area. It lies behind the High Street opposite All Saints Church in the oldest part of Odiham, which is also the former site of the local market. The Bury was the location of market before the focus of the town moved to the wider High Street.
6. A barn-like timber framed former garage building at the rear, subject of appeals C and D, forms part of the property and is agreed to be curtilage listed due to its attachment to the adjoining Webb House also listed Grade II. It has been used for ancillary purposes such as storage, entertainment and events.
7. Pub use ceased in March 2020 and the tenants decided to retire the following year, after running the establishment for 27 years. The Bell was designated an asset of community value (ACV) in June 2021. The premises have been largely stripped of equipment and fittings and remain empty and deteriorating. Failing brick infill at the rear of the building has been repaired following a listed building consent granted in 2017.

Policy background

8. The development plan for the area includes the Hart Local Plan (Strategy and Sites) 2032 adopted in 2020 (LP), saved policies of the Hart Local Plan 2014-2032 (HLP) and the Odiham and North Warborough Neighbourhood Plan (NP).
9. LP policy INF5 advises that development proposals that would result in the loss of community facilities will only be supported if it is demonstrated that: (i) a suitable replacement facility of a similar or improved nature is provided that meets the needs of the local population or its current and intended users; or (ii) the existing premises are no longer required or viable. The explanatory text says that applicants will be expected to demonstrate that the community facility has been appropriately marketed for a period of at least 12 months and opportunities made for community groups and organisations to be made aware. Paragraphs 368-9 indicate that designation as an ACV is a material consideration as an indicator of local support and that the Council strongly supports retaining these facilities where they raise the quality of community life and help promote thriving, inclusive and sustainable communities.

10. LP policy INF3 has as its main objective that development should promote the use of sustainable transport modes prioritising walking and cycling, improve accessibility to services and support the transition to a low carbon future. With respect to parking this means providing appropriate parking provision, in terms of amount, design and layout, in accordance with the Council's published parking standards, or as set out in Neighbourhood Plans.
11. Policy 13 of the NP advises that the loss of, or significant harm to, an ACV will be resisted, unless it can be clearly demonstrated that the operation of the asset, or the ongoing delivery of the community value of the asset, is no longer financially viable.
12. National Planning Policy Framework (NPPF) paragraph 84 advises that planning policies and decisions should enable amongst other things, (d) the retention and development of accessible local services and community facilities, such as public houses. In seeking to promote healthy and safe communities, paragraph 93 (c) of the NPPF states that planning policies and decisions should seek 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. Paragraph 93 (d) seeks to ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

Marketing and viability

13. The reasons for refusal refer to the loss of the community facility of the public house and the associated outbuilding which is integral to its function. The evidence indicates that the closure of The Bell has been keenly felt by the local community. It had been used by diverse local groups for many years (a very long list was presented as part of the third-party evidence) and representatives of the community and local organisations attested to this at the Hearing. I accept that alternative nearby venues in the town suggested by the appellant such as the Bel and the Dragon or The Red Lion target a different market and price point. The Waterwitch is further away and in any case as a Chef and Brewer franchise would be unlikely to have the same ambience as The Bell. The Anchor is in North Warnborough more than a kilometre from the centre of Odiham. Other similar venues are more difficult or impractical to reach. I am satisfied that The Bell provided for the community's day to day needs in the form of a 'basic' public house with a simple and affordable food offer at the centre of the village and that these needs are not being met in any other way. Other halls and venues such as school halls and church facilities are available but do not have the offering that a public house can provide. Whilst loss of The Bell would not be fatal to the community life and fabric of Odiham, there is not, in my opinion, in the words of policy INF5, a suitable replacement facility of a similar or improved nature, which would serve the community in the same way.
14. The Bell had been operated on a 'tied tenancy' basis relying on a single bar and a very limited food offering. No detailed accounts are available, but barrelage had declined year on year prior to 2020. With only 25 covers and limited space, plus substantial repairs and future maintenance for a listed building, it is unsurprising that there was initially little realistic interest in the property when it was marketed. Predicted likely low profit margins would mean the business would be unlikely to be able to meet interest and rent payments, resulting in

year-on-year losses. The appellant's consultants Savills have convincingly set out the disadvantages of ongoing commercial use of the property for the purposes of the appeal.

15. The property was first marketed between November 2020 and May 2021 with no bids except from the appellant. Despite interest and concern, no offers were forthcoming from the local community. It remains on the market and despite increasing local interest and some financial commitment, no firm offers have been made. The appellant has extended the deadline for the local community to raise the necessary funds beyond what is required by the Localism Act (2011) as a gesture of goodwill, and provided full access to the site. There is no evidence to indicate that marketing was inappropriate or inadequate. The lack of realistic offers reflects the professional view that the normally accepted minimal requirements for public house operators are buildings of approximately 280 - 650 square metres capable of accommodating in excess of 60 covers, to remain viable.
16. Notwithstanding the lack of firm offers at the time of the Hearing, it was very apparent that there remains a significant and well-supported and organised local movement in favour of retaining the premises as a pub. Fund raising efforts and grant applications had been actively explored with a view to running it as a community venture. In that case, 'normal' commercial criteria would not apply. The offers made informally thus far from the local residents group reflect a lower value based on the appellant's consultant Savill's valuation as a going concern (before stripping out) plus an allowance for inflation. Recognising that no firm offer has yet been put forward, the momentum behind the community's efforts has accelerated and the prospects of an offer for the building have significantly improved since the Council considered the proposal.
17. The representations of the local residents and groups as well as the local District Councillor and Parish Councillor at the Hearing were persuasive. Having reviewed all the evidence, I give significant weight to the residents' case that there is a realistic prospect of The Bell remaining as a community asset, run by and for local community. Financial contributions have been received or pledged and various formalities completed. The upper floor would be released for community and pub use. I saw that the kitchen area, whilst limited in size, was not so small that it could not be used for food preparation in accordance with up-to-date standards. Even allowing for the costs of repairs and modernisation, it has not been convincingly shown that it would not be financially viable on this basis. It has not been shown that the residents' group misunderstand the existing layout or have failed to appreciate the extent of the alterations and improvements required.
18. The retention of the public house complies with local development plan policies INF5 and NP policy 13 and clearly stated national advice. Its location at the centre of the village, heritage interest and unusually long history as a public house indicate strongly that this community asset should be retained as a pub.
19. The outbuilding, subject of appeals C and D, is a separate structure with its own entrance. The public house retains its own entrance and access/escape to the yard at the rear. I agree that it would be preferable to retain it as part of the pub operation as proposed by the local residents' group, partly as accommodation for a wheelchair accessible function room, offices and new disabled toilets, contributing to the viability of the public house as a going

concern. In observing this, I note that the appellant is willing to sell as two lots, in theory providing an opportunity to purchase and operate a public house separate from the rear outbuilding. The detailed financial implications on the viability assumptions of the residents' proposal mean that that possibility is beyond the scope of these appeals.

Appeals C & D

20. In brief, the buildings' heritage significance stems mainly from their architectural and aesthetic value and historic interest derived from exceptionally longstanding communal use as a public house.
21. Planning Practice Guidance (PPG) indicates that the optimum viable use is the one likely to cause the least harm to the significance of the asset: and may not necessarily be the most economically viable one¹. The change to residential would involve splitting the main building into 2 units, including significant changes to fabric to provide first floor access, achieve adequate sound insulation between the dwellings and two new rooflights. Whilst there is limited information on the residents' detailed proposals for continuing use as a pub, I do not doubt that the degree of harm to the asset would be significantly less than would occur due to conversion to residential. The most important public spaces on the ground floor would be restored and there would be greater public access to the first floor than there was before. The important signage and appearance as a pub would remain and its contribution to the character and appearance of the conservation area would be unaffected. The public benefit of retention of the public house use would be far in excess of the benefit of providing a net increase of two dwellings to the housing stock.
22. Similar considerations apply in respect of the outbuilding, where the residential conversion would involve more significant work and moreover a noticeable change to a less utilitarian building in this back yard area.
23. The appellant noted at the hearing that the Council's conservation officer had observed that the residential works to The Bell would be limited and reversable, but in my view the extent of the works, the division of title and separation of the cellar areas would almost certainly mean that there could never be a return to community use.
24. Were it to be firmly established that The Bell had no future as a pub, then conversion to residential might be the best way of preserving its heritage significance. That is not the case. I conclude on this matter that there would be a distinctly higher level of 'less than substantial' harm that would occur due to the proposed conversion to residential use, conflicting with the heritage protection objectives of LP policy NBE8, HLP saved policy GEN1, NP policy 6 and national guidance.

Parking

25. The Bell is located within a town centre location with a medieval street pattern and does not benefit from any off-street parking. The rear yard is privately owned and there is no assurance that any parking would be available there. I saw at the site visit that there is constant pressure on parking in the Bury and

¹ Paragraph: 015 Reference ID: 18a-015-20190723

note local representations on the increase in local car ownership and limited parking availability.

26. Although many customers would have walked to the pub when it was in operation, the business would have generated some demand for parking. As it is, the location is within a short walk of the High Street with access to most services and public transport. The proposal includes cycle parking which could be ensured by condition. The scheme would not meet the Council's standards in its Technical Advice Note of 2022, but I note that these are neither a maximum nor minimum, and need to be considered alongside the placemaking quality of development and the parking strategy for the site taking into account access to alternative modes of transport amongst other things. In the light of the need to provide for the conservation of the appeal buildings, any use of which is likely to lead to an increase in parking demand, I conclude on this issue that lack of designated parking does not constitute a reason to refuse the appeals.

Other matters

27. With regard to the statutory duty in s72 of the LBCA, the existence of the pub with its associated signage and activity contributes a great deal to the character and appearance of The Bury at the centre of Odiham Conservation Area where traditional community events are often held. The Bell is a prominent and central building within The Bury character area². The change of use to residential would remove its contribution to the character of the conservation area because the building would cease to have the appearance of a public house. Whilst the appellant is willing to accept a condition requiring the repair and maintenance of the cantilevered pub sign (in contrast to the detailed proposal, which indicated removal and making good) I have significant doubt that this unusually large and interesting projecting sign would be maintained in the long term by future occupiers, on grounds of public safety but also to avoid any confusion by visitors expecting to visit a pub. This matter weighs against the proposals.
28. Hart has a housing land supply well in excess of 5 years and whilst additional housing units are a benefit, this matter carries no significant weight in these appeals.

Conclusion

29. National and local policies resist the loss of community facilities. Whilst concluding that lack of parking provision does not count against the schemes, I have found that the realistic prospect of a viable working community model of operating the business together with the increased level of harm that would occur to the heritage interest of the buildings, means that the appeals should fail.

Paul Jackson

INSPECTOR

² Odiham character zone 5

APPEARANCES

FOR THE APPELLANT:

Richard Murray
Paul Rodger

Murray Planning Associates
The Odiham Bell Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Pippa Moore

Team Leader Hart DC

INTERESTED PERSONS:

John Kennet
Helen Tyler

Ward Member for Odiham
Parish Councillor

A group of local residents