



## Appeal Decision

Site visit made on 13 November 2023

**by J Moore BA (Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1<sup>st</sup> February 2024**

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**Appeal Ref: APP/W2845/W/23/3318780**

**The Black Horse, Main Street, Cold Ashby, West Northamptonshire  
NN6 6EL**

- 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 P Kusnecovs of Friendship Zone against the decision of West Northamptonshire Council.
  - The application Ref WND/2022/0437, dated 6 May 2022, was refused by notice dated 24 October 2022.
  - The development proposed is temporary change of use to residential.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Planning Statement submitted with the application states that permission is sought for a temporary period of three years. The Council determined the application on this basis, and so shall I.
3. The appellant states that the ground floor of the former public house (PH) has been trading as an unlicensed community venue. For the avoidance of doubt, it is not the role of an Inspector dealing with a section 78 appeal to determine the lawful use of a building. I have considered the proposal as submitted.
4. The National Planning Policy Framework (the Framework) was revised during December 2023. In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework, and this has informed my determination of the appeal.

### Main Issue

5. The main issue is whether the proposal would result in the unnecessary loss of a community facility.

### Reasons

6. The appeal property is a former PH, located to the easterly side of Cold Ashby village, on the main thoroughfare. The purpose of the appeal scheme is to provide temporary accommodation for Ukrainian refugees and includes alterations to the ground floor of the PH. During my visit I saw that the accommodation to the first floor was occupied, the ground floor was undergoing works, and external scaffolding was in place.

7. Taken together, Policy RC2 of the West Northamptonshire Joint Core Strategy 2014 (CS) and Policy CW3 of the Daventry District Settlements and Countryside Local Plan 2020 (LP) resist the loss of public houses unless certain circumstances are demonstrated. These circumstances include evidence of active marketing for a period of 12 months to demonstrate that the site is no longer attractive to the market; whether there are sufficient alternative equivalent services accessible in the village or immediate locality, having regard to the settlement's role in the settlement hierarchy; and where a proposal will bring about community benefits that outweigh the loss of the facility.
8. The PH was nominated as an Asset of Community Value (ACV) in October 2020, and so designated in February 2021. The evidence indicates that the community exercised its right to bid during the initial moratorium period; that Cold Ashby Community Pub Group Ltd (CACPG) wishes to purchase the former PH, and that some discussion has taken place between the appellant and the community pursuant to the purchase of the PH.

#### *Marketing and viability*

9. Cold Ashby is a small village in a rural area and is identified as an 'other village' in the settlement hierarchy of Policy S1 of the CS. As such, its services and facilities are limited but play an important role in meeting the day to day needs of rural communities.
10. The evidence indicates that the former PH closed in March 2020 and was subsequently placed on the market. There is no compelling independent evidence before me to detail the operational model of the former PH. The evidence suggests that it was a wet operation and operated at a small profit, opening four evenings and two lunchtimes per week and that it was the venue for the village pool and skittle teams, which are now using alternative premises within the village.
11. The sales particulars prepared by Sidney Philips (licenced property specialists) before me are undated, but the evidence suggests that they date from a time after its closure in March 2020, prior to the appellant's purchase of the property at the end of July 2021. The particulars detail a freehold price of £225,000 and a leasehold price of £10,000 and demonstrate that the property included fixtures and fittings and appeared fit for purpose.
12. However, there are no independent valuations of the property before me to support the stated prices, or further detail as to how the property was marketed, the length of the marketing period, number of viewings or offers made, or the terms upon which the appellant purchased the property.
13. The appellant placed the PH on the market for long term rent or sale on 12 January 2023. At the time of my visit, boards were in place indicating "To Let (May Sell)" with reference to Hadland Chartered Surveyors (commercial property specialists). The CACPG have provided the sales particulars to the appeal, which detail an asking price of £350,000 and a leasehold price of £15,000, which is substantially more than that sought circa 2020. There are no independent valuations of the property before me, nor information such as the number of viewings or enquiries. Consequently, I cannot be certain that the property is being actively marketed at a realistic asking price.

14. The evidence suggests that an offer was verbally made from an individual within the community, but this is not independently demonstrated, nor is it clear whether this is part of any formal process to acquire the PH as an ACV or outside of it.
15. At my visit, alterations were taking place to the ground floor of the property, such that some internal walls had been removed with exposed areas of the ceiling serving a bar area. The toilet/washroom areas were undergoing works such that there were no toilet facilities. While the beer cellar was accessible, beer pump equipment had been removed, and materials were stored across the ground floor. Therefore, I did not find the property to be fit for purpose for use as a PH.
16. There is no independent assessment before me with regard to the viability of the business or a market view of the site. My attention is drawn to the sales particulars by Sidney Phillips which state that historic trade accounts are unavailable. However, this would not prevent the preparation of a viability assessment or market view of the appeal site. The appellant's evidence regarding a potential operating model and overall costs of £50,000 for a kitchen and other redevelopment measures is very brief and without further detail. Consequently, there is no compelling evidence before me to demonstrate that the use of the property as a PH is not viable.
17. The appellant states that the policies of the development plan have not taken account of changes to the planning system since the Covid pandemic. No specific changes are brought to my attention, and no further detail is provided.
18. The supporting text to Policy RC2 of the CS sets out that the policy approach should be determined by (among other things) whether the facility is still required. In this regard the appellant provides evidence on public engagement, including a survey between February and March 2022 to ascertain the wishes of the community for the former PH, with survey forms designed by and returned to the appellant.
19. There is no detailed survey report, and I am not satisfied that calculations are properly made or described in the results provided. For example, 27 responses in favour of a wet pub would not equate to 26% of the total 49 responses received. It would be about 55%. There is nothing to relate the survey sample to the potential catchment of the PH and therefore I cannot be certain that the survey properly establishes the likely demand for the facility. I am therefore not satisfied that the evidence of public engagement robustly demonstrates that the facility is no longer required, nor that it indicates that there is little or no support for the use of the property as a PH.
20. Overall, I find that it has not been demonstrated that the site has been actively marketed for 12 months, nor that the site is no longer attractive to the market for use as a PH.

#### *Alternative equivalent facilities*

21. The evidence indicates that the village has no other PH; no GP, shop, post office, school or library; no access to public transport or a local taxi service; and that Church services are once per month. I find no reason to consider otherwise, including my own observations. The main thoroughfare through the village includes footways and street lighting to both sides of the carriageway,

and therefore the former PH is reasonably accessible to village residents by foot.

22. The nearest PH is about 1 mile away at Thornby. During my visit, I found the route via Thornby Road to be narrow, unlit and without a footway from the edge of the village, with few places for vehicles to pass each other, and thus it would not be a particularly inviting or safe route. An alternative route via Welford Road would be about 1.4 miles, without street lighting or a footway. Consequently, I do not find this PH to be reasonably accessible. While there are other PHs at other villages in the wider area, these are at some distance from the appeal site, at least 2.4 miles away, with similarly uninviting routes for pedestrians.
23. The Village Hall is located on Main Street, not far from the PH. There is also a pavilion at the Cold Ashby Playing Fields located to the westerly side of the village. The evidence suggests that these facilities are run on a volunteer basis with very limited opening hours, and I find no reason to consider otherwise. An outdoor bowls club with small pavilion is located to the westerly side of the village. Interested parties state that this facility has no offer of food or drink, is a private members club, and opens from May to September. I find no reason to consider otherwise. While these facilities are available for use or hire by the community, they do not provide a comparable offer to that of a PH where a walk-in service is offered, which would allow social interactions on an ad-hoc basis.
24. Cold Ashby Golf Club is open to non-members and includes a clubhouse and bar, with daily opening hours from 8:00 until 18:30, with later hours during the summer until 21:30 on Wednesdays and Fridays. However, it is located about 1.2 miles from the appeal site, beyond the westerly edge of the village, where the road becomes narrower, is unlit and without a footway.
25. Consequently, I find the loss of the PH would result in a situation where alternative equivalent facilities to fulfil the role of the village in the settlement hierarchy would not be reasonably accessible in the village or immediate locality.

#### *Benefits*

26. The Planning Statement makes clear that the purpose of the application is to assist the Ukrainian Refugee Sponsor Scheme by providing accommodation for a Ukrainian family, with the proposed accommodation providing facilities for up to five persons. From the evidence before me and my own understanding, government schemes allow for Ukrainian refugees to reside in the UK for a maximum of three years, and this would be commensurate with the temporary period sought. There is no proposed mechanism to control who could occupy the accommodation.
27. In terms of responding to a government objective to provide accommodation for Ukrainian refugees, it is clear that the proposal would be in the national interest and thus of wider public benefit. Consequently, this attracts weight in favour of the proposal. However, the benefit would accrue to one household or up to five persons, and thus be limited in scale.
28. The proposal would provide an opportunity for the community to show solidarity with the suffering of the Ukrainian nation. However, while I empathise

with this, it has not been demonstrated that the proposal is the only way for the community to achieve this objective. This community benefit would therefore attract limited weight.

29. On the other hand, the loss of the PH would impact upon the village as a whole, which has a population of about 280 persons, and therefore the loss would be more widespread.
30. In the absence of sufficient alternative equivalent facilities that are reasonably accessible, the proposal would result in an increased need for travel. This would significantly reduce the opportunities within the village for social and cultural interaction. The proposal would impact on the ability of the community to meet its day to day needs over three years, which would be a considerable period of time. In such circumstances, this would be a disbenefit to the community, attracting significant weight against the proposal.
31. Consequently, it is clear that the limited community benefit and wider public benefit of the proposal would not outweigh the loss of the PH.
32. I therefore conclude that the proposed development would result in the unnecessary loss of a community facility. The proposal conflicts with Policies SA, S1, S10, RC2 of the CS, and Policies RA3, CW3 and ENV10 of the LP. Taken together, these policies seek to manage development in accordance with a settlement hierarchy, to ensure that settlements and places are sustainable; and to prevent the unnecessary loss of community facilities.
33. The proposal conflicts with paragraph 97 of the Framework, which seeks to ensure that planning decisions 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.

### **Other Matters**

34. I note the appellant's position that the PH was purchased without knowledge of its designation as an ACV and that this matter was not disclosed during the conveyancing process. This is a civil matter and does not affect my consideration of the planning merits of the proposal.
35. Matters pertaining to the conduct or character of any party has no bearing on my consideration of the planning merits of the proposal.

### **Conclusion**

36. For the reasons given, I conclude that the development conflicts with the development plan, read as a whole. No material considerations have been shown to carry sufficient weight to warrant a decision otherwise than in accordance with the development plan, and therefore, the appeal is dismissed.

*J Moore*

INSPECTOR