



Appeal Decision

Site visit made on 13 February 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 APRIL 2024

Appeal Ref: APP/A3010/W/23/3326677

40 Town Street, Sutton Cum Lound, Retford DN22 8PT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Christopher Jessop (The Gate Inn) against the decision of Bassetlaw District Council.
 - The application Ref is 22/01253/FUL.
 - The development proposed is change of use of existing public house to create two four-bedroomed semi-detached dwellings with ground floor and first floor extensions.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of existing public house to create two four-bedroomed semi-detached dwellings with ground floor and first floor extensions at 40 Town Street, Sutton Cum Lound, Retford DN22 8PT in accordance with the terms of the application, Ref 22/01253/FUL, and subject to the conditions in the attached schedule.

Preliminary Matters

2. I have used the slightly more detailed site address and description of development given on the appeal form in the banner and decision above.
3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The main parties have had the opportunity to comment on the revised Framework during the course of the appeal. Reference hereafter in the decision is to the December 2023 version of the Framework.

Main Issue

4. The main issue is whether the proposal would result in the unjustified loss of a valued local community facility.

Reasons

5. The appeal relates to the Gate Inn, a public house located within the village of Sutton Cum Lound some three miles outside Retford. The public house ceased trading on 5 March 2023, the appellant stating that the business had become economically unviable to run. I understand that the premises have been vacant since that time. The pub trading area was still in a reasonable state of repair at the time of my visit, albeit the wooden floor has suffered some distortion. The first floor accommodation has been recently renovated to a good condition.
6. The Framework at Paragraph 97 supports the provision and use of community facilities, including public houses, to enhance the sustainability of communities and residential environments; and states that the unnecessary loss of valued

facilities and services should be guarded against, particularly where this would reduce the community's ability to meet its day-to-day needs.

7. Policy CS8 of the Bassetlaw Core Strategy & Development Management Policies DPD (December 2011) (the CS) addresses development in Rural Service Centres, including Sutton Cum Lound. Part C states that:

Development that will result in the loss of sites or premises currently, or previously, used for services and facilities will not be supported unless:

- i) alternative provision, with explicit community support, of equivalent or better quality will be provided and made available prior to commencement of redevelopment; or*
- ii) it is evident that there is no reasonable prospect of the service or facility being retained or resurrected; and*
- iii) it is evident that the service or facility is no longer viable; and*
- iv) there is little evidence of local use of that service or facility.*

8. Read plainly, the policy requires either criterion i) to be met or all of criteria ii), iii) and iv) to be met. The appellant's position is that the proposal would accord with the latter three criteria. With respect to these criteria, the policy adds that applicants will be expected to demonstrate to the Council's satisfaction that all reasonable efforts have been made to sell and let the site or premises for its existing use or another service/facility use at a realistic price for a period of at least 12 months.
9. Although separately listed, the criteria are interrelated in that the prospects for the service or facility being retained or resurrected are inherently linked to whether it is or can again be viable, which in turn is in large part a factor of how well used the service is locally.
10. Community Objective 6 of the Sutton Cum Lound Neighbourhood Plan (March 2021) (the NP) encourages sufficient housing growth to sustain the range of facilities in the village. Policy 7 supports the enhancement of facilities in the village but does not specifically address potential loss of community facilities.
11. The appellant sets out that in the years ending March 2015, March 2016 and March 2017, the pub traded at substantial losses of £48,084, £73,231 and £44,812 respectively. Small profits were recorded in March 2018 and 2019 of £5,899 and £10,523. A profit in March 2020 of £4,318 was achieved in March 2020 only following a Covid grant of £10,000. Although grants of £94,726 and £20,122 were obtained in the following two years during Covid, profits in the year to March 2021 were just £960 (due to the pub being closed during lockdowns for much of the year) and a loss of £30,133 was recorded in the year to March 2022. The evidence also details significant outstanding loans of £238,000 and a further loan of £50,000 taken out to fund working capital requirements during the Covid period, including a marquee to enable social distancing and refurbishments to attract customers back.
12. Although the appellant has not submitted full financial details to verify the above figures, they have been put forward by a chartered accountant and I have no evidence to contradict them. Council officers, in recommending the application for approval, did not cast doubt over their accuracy. In short, they paint a picture of difficult trading conditions over a prolonged period. Notably,

the evidence from the chartered accountant indicates that the business was moving to a position of trading whilst insolvent, a significant risk for the business owner if he had kept the premises open.

13. Interested parties point to the appellant's running of the pub as a source of its downturn, describing it as unwelcome to those seeking only to drink and instead focusing on a destination food offer aimed at visitors rather than locals. Although I note a number of parties making similar comments, these are ultimately anecdotal statements and it is not possible to draw any firm conclusions as to exactly how the premises were run and what effect, if any, this may have had on the level of patronage and overall viability. However, the appellant states that the small uptick in profits in March 2018 and March 2019 was due to the change in focus to food service, which had it not occurred would have resulted in even worse trading figures.
14. The appellant also points out that, prior to his ownership, the pub was leased to a community consortium between 2017 and 2018, who ran it with a focus on drink sales, but made significant losses of some £160,000 in that time and closed within a year in January 2018 before the appellant purchased it in August 2018. Representations from one of the previous owners attest to the significant financial losses incurred during this time and the difficult trading conditions experienced.
15. Overall, the substantial losses incurred under more than one operator over recent years are a strong indicator that the premises were not viable. Whilst I understand the expressions of support from interested parties for a pub in the village, this is not in itself evidence of sufficient local demand, and the trading figures do not bear this out. I am aware of a number of dwellings under construction within Sutton Cum Lound, but these would generate only modest increases in the overall population of the village and would not be so significant as to reverse the long-term trading difficulties evidenced by the appellant.
16. The appellant indicates that the property has been 'soft marketed' for a period in excess of 12 months. This involves placing the property with a network of other agents and possible known interested parties and other clients within the pub trade. The potential detrimental impact on trade and staff was cited as a reason for not openly marketing the site, including with estate agents boards, though these have subsequently been placed on the building since the closure of the pub. I can appreciate the concern of the Council's planning committee over the robustness of the marketing exercise, given it was not openly conducted and no details of the asking price have been provided in evidence. There are also anecdotal claims from interested parties that phone calls to the named estate agent have indicated the property was not for sale, although I cannot verify this from the evidence before me.
17. However, it is evident that landlords of the premises have experienced consistently tough trading conditions over recent years. It is also necessary to acknowledge the wider difficulties of the hospitality industry due to Covid, increased costs of energy, stock and staff and changing drinking habits partly caused by cost-of-living increases. In light of all this, the lack of interest shown by those with knowledge and experience of the pub trade, even if only through soft marketing, is not an unreasonable or unexpected outcome.
18. Reference is also made to an application to register the public house as an Asset of Community Value (ACV). The information before me is that no

determination has yet been made, nor is there any evidence of a prospective bid by a community group. What is before me is that a community pub run by local residents on a non-profit basis has already been attempted without success. I note from the representations that local support began to mobilise once the pub closed, but there is no evidence before me of any tangible efforts by a local group to purchase the pub and return it to a viable operation, a task that would also require additional funding for necessary works including repairs, new furniture and equipment. As such, I afford limited weight to the potential for the pub to re-open under community ownership, whether utilising the ACV mechanism or otherwise.

19. Separately, I note reference to the availability of the village hall as an occasional venue for community events where a licenced bar is available. I recognise that this is not comparable to a traditional public house, but it is a service that means the loss of the public house would not wholly deprive residents of any form of community use or opportunity for social gathering within the village.
20. Drawing these considerations together, I am satisfied that the appellant has demonstrated that the Gate Inn is no longer viable as a public house, and that marketing has shown there is no realistic interest in the building as a public house, nor has any other potential viable community use been advanced by the Council or interested parties. Therefore, I find that there is no reasonable prospect of the use being resurrected.
21. For these reasons, I conclude that the proposed change of use of the site would not result in the loss of a valued community facility. No conflict therefore arises with the aforementioned requirements of Policy CS8 of the CS, with Policy 7 of the NP or with the related guidance of the Framework.
22. Furthermore, the Council raised no objection to the principle of residential development, which is supported within the development boundary for Sutton Cum Lound under Part A of Policy CS8. I have no reasons to disagree with this.

Other Matters

23. The application was not refused on other grounds, having originally been recommended for approval by officers. However, noting representations from interested parties on various other matters, I briefly address other material considerations.

Character, Appearance and Heritage Matters

24. The proposal would retain the existing building, which already has a single storey extension to the rear. I concur with Council officers that the proposed side and rear extensions would be subservient in scale and would not detract from the main front elevation of the building and would reflect the two storey scale which predominates. The detached garage would be similarly subordinate in size and function. Given the existing car park and beer garden to the sides and rear of the building, there is sufficient space to accommodate the extensions without the development being cramped, and sufficient separation would be maintained to development to either side of the site. Details of materials could be secured by condition to ensure a satisfactory appearance.
25. The appeal building is also identified as a non-designated heritage asset (NDHA). Given the acceptability of the proposed alterations, which would retain

the distinctive architectural features including the porch and front and side gables, the proposal would preserve those parts of the building contributing to its architectural interest. Although it would no longer be in use as a public house, the retention of the building would maintain historic and cultural value embodied within it. On the evidence before me, I am satisfied that the proposal would preserve the significance of the NDHA.

26. The site is also within the settings of the Grade I listed St Bartholomew's Church and the Grade II gate piers and gates to Sutton Manor; however, in view of the acceptability of the proposed works, and the separation distances involved, the proposed alterations would not have an adverse effect on the respective settings of these assets.
27. Consequently, I find the proposal in accordance with the development plan and Framework in respect of character and appearance and heritage matters.

Highway Safety

28. The proposal would result in fewer overall vehicle movements compared to the use as a public house, with adequate visibility splays and car parking provided for each dwelling in line with the Council's standards. Although located at a junction, my site visit did not lead me to a different view on the suitability of the access points. Therefore, I identify no harm in respect of highway safety.

Neighbours' Living Conditions

29. New windows are proposed to the side and rear elevations which would face towards 42 Town Street and The Old Post Office respectively. Both are indicated to be in excess of the required 10m separation distance between habitable rooms as set out in the Council's 'Successful Places' SPD. Moreover, these windows would address the neighbouring dwellings at oblique angles and there is mature planting to the rear boundary to filter views. I am otherwise satisfied, having observed the site, that the massing of the proposed extensions would not have a detrimental effect on the living conditions of neighbouring occupants given the separation distances which would exist.

Other Matters

30. No objection has been raised by the Council in respect of flood risk or archaeology, and on the evidence before me I have no reasons to disagree.

Planning Balance

31. On the main issue of the appeal, I have found that the appellant has demonstrated that the existing site is not viable as a public house and that marketing exercises and the ACV process have not shown a viable new public house or other community use is likely to come forward. Therefore, the loss of the public house is not a matter weighing against the proposal in the overall planning balance.
32. I have found that the other material considerations in this case do not raise significant adverse impacts, with any concerns capable of being addressed by condition. Conversely, the proposal would deliver benefits in terms of providing additional housing and making productive use of a NDHA, with associated economic benefits arising from the construction of the dwellings.

33. Moreover, even if I were to ascribe harm arising from the loss of the public house on the basis of the local sentiment expressed, the circumstances I have set out above are such that the level of harm associated with its loss would be limited at best and not be sufficient to outweigh the benefits of the proposal.
34. Overall, therefore, I conclude that proposal accords with the development plan for the area taken as a whole and the Framework. Material considerations do not indicate that planning permission should nevertheless be withheld, and the appeal should therefore succeed.

Conditions

35. I have had regard to the draft list of conditions set out by the Council in its committee report. The appellant has indicated their agreement to these conditions being imposed. Where necessary, I have amended the wording of the conditions for precision and conciseness, and to otherwise ensure the tests for conditions set out in the Framework are met.
36. In addition to the standard time limit for implementation [1], a condition setting out the approved plans [2] is necessary to provide certainty.
37. A construction method statement [3], restrictions on working hours [4] and requirements for wheel washing [5] are necessary to mitigate the impact of works on the public highway and neighbours' living conditions. Condition No 3 is required to be pre-commencement as it relates to impacts that may arise from the outset of the construction phase and would be ineffective or lead to harm or loss were they required to be addressed at a later stage.
38. Conditions are required to secure details of external materials [6] and the garage doors [7] to ensure a suitable appearance. In the interest of highway safety, conditions are also required to ensure the parking areas are provided for each dwelling prior to occupation [8]; that redundant vehicular crossovers are removed and replaced with full height kerbs and footways [9]; and that boundary treatments are agreed and installed to maintain visibility [10, 11].
39. Finally, given the particular form and layout of the development and its proximity to neighbouring buildings, it is necessary to remove permitted development rights for extensions and alterations to the dwellings or their roofs [12] and the erection of boundary treatments [13] which may otherwise lead to harm to the appearance of the building and/or the living conditions of adjoining occupants.
40. The Council set out a condition requiring installation of electric vehicle charging facilities. However, since June 2022, the requirement to provide electric vehicle charging points has become part of the Building Regulations. Therefore, it would duplicate the provisions of other legislation and fail the test of necessity. I shall not therefore impose it.

Conclusion

41. For the reasons set out, the appeal should be allowed.

K Savage

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:
 - PA-100-0-EX-SLP Rev 0 (Site Location Plan);
 - PA-102-C-PR-SBP Rev C (Site Block Plan);
 - PA-103-A-0-EX-P&E Rev 0 (Existing Plans & Elevations);
 - PA-104-A-F-PR-P&E Rev F (Proposed Plans & Elevations).
- 3) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall include:
 - a quantitative assessment of site operatives and visitors;
 - a quantitative assessment of the size and number of daily deliveries;
 - a plan of parking for site operatives and visitors;
 - a plan of loading and unloading areas for plant and materials; and
 - a plan of areas for the storage of plant, materials, and waste associated with the construction of the development.

The designated areas shall be in place on commencement of development and the approved Construction Method Statement shall be adhered to throughout the site clearance and construction period.
- 4) No works relating to site preparation or construction shall take place outside 08:00 hours to 18:00 hours Monday to Friday; 09:00 hours to 13:00 hours on Saturday and not at all on Sundays, Bank Holidays or Public Holidays.
- 5) All vehicles preparing to leave the site during the construction period shall have their wheels thoroughly washed should they be displaying signs of mud or debris and a mechanically propelled road sweeper shall be employed should mud or debris be transported onto the public highway.
- 6) Before any construction occurs above damp proof course (DPC) level, samples or detailed specifications of all external materials to be used on the development hereby permitted shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed materials.
- 7) Notwithstanding the submitted details, before the garage doors are installed, details of their material, design, specification and finish, in line with drawing no. PA-104-A-F-PR-P&E Rev F, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out only in accordance with the agreed details.
- 8) The dwellings shall not be occupied until the respective parking/turning areas for plots 1 and 2 are provided in a bound material (not loose gravel) and which shall be drained to prevent the unregulated discharge

of surface water onto adjacent roads and footways. The parking/turning areas shall not be used for any purpose other than refuse storage/parking/turning/loading and unloading of vehicles.

- 9) No part of the development hereby permitted shall be brought into use until the existing sections of dropped vehicular footway crossovers that have been made redundant because of this permission have been removed and replaced with a full height kerb and footway in accordance with extents previously submitted to and approved by the Local Planning Authority.
- 10) Plot 1 shall not be occupied until such time as details of a boundary fence/wall not exceeding 0.6m in height to the extent of the dropped vehicular footway crossover to be removed has been submitted to and approved by the Local Planning Authority. The boundary treatment shall remain at a height not exceeding 0.6m within 1.0m of the site boundary whilst the development remains in existence.
- 11) Plot 2 shall not be occupied until such time as the frontage box planter is in place as shown on plan PA_102_C_PR_SBP Rev C. The planter including any associated planting shall be maintained at a height not exceeding 0.6m above carriageway level whilst the development remains in existence.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2 Part 1, Classes A, AA, B, D and E (or any order revoking and re-enacting that Order), no building, extension or structure shall be erected or placed within the curtilage of the dwelling(s) hereby permitted, unless otherwise agreed in writing with the Local Planning Authority.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, Schedule 2 Part 2, Class A (or any order revoking or re-enacting that Order), no fence, wall, gate or other means of enclosure shall be erected on the site, unless otherwise agreed in writing with the Local Planning Authority.
