



Appeal Decision

Site visit made on 5 June 2024

by Alexander O'Doherty LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th August 2024

Appeal Ref: APP/D0840/W/23/3325429

The Hawkins Arms, Zelah, Truro, Cornwall TR4 9HU

- 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 Adam & Alexandra Hill against the decision of Cornwall Council.
 - The application Ref is PA22/11220.
 - The development proposed is provision of additional letting rooms for use as C1 (guest house) or C4 (Houses in multiple occupation) (*sui generis*), reduction in floorspace of existing pub and creation of a ground floor flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the site visit I observed that works had been undertaken internally on the ground floor of The Hawkins Arms, which bear some resemblance to those shown on the submitted plans. However, I cannot be certain that the development that has been carried out is exactly the same in its entirety as that which has been applied for. For the avoidance of doubt, this appeal decision only relates to the proposed development as shown on the submitted appeal plans.
3. At the appeal stage, the Council confirmed that the 2nd reason for refusal given in the Council's decision notice, relating to habitats sites, has been overcome. This has been reflected in the main issue, below.

Main Issue

4. The main issue is whether or not the proposed partial loss of provision of a community facility is acceptable.

Reasons

5. The Hawkins Arms is an existing public house in Zelah, which comprises a restaurant, a bar, and a guest house. It has previously been extended via the addition of an enclosed seating area¹. The Hawkins Arms is intended to remain as a public house under the proposed development. However, its size would be reduced, with a loss of approximately 1/3 of the existing floorspace.
6. Part 4. a. of Policy 4 of the Cornwall Local Plan: Strategic Policies 2010 – 2030 (adopted 2016) (Local Plan) provides that, amongst other things, community facilities should, wherever possible, be retained, and that loss of provision will only be acceptable where the proposal shows no need for the facility or service.

¹ Local Planning Authority reference: PA15/11961

In this case, the 'the facility or service' under consideration primarily relates to part of the seating / dining area of The Hawkins Arms and to part of its ground floor kitchen.

7. St. Allen Parish Council have stated that The Hawkins Arms is the only public facility in the village, and this has not been disputed by the appellants. The numerous representations before me from local residents suggests that The Hawkins Arms is highly valued as a community facility, and that it has, in the past, significantly contributed to the community's health, social and cultural well-being. It has been listed as an Asset of Community Value and a community group has expressed interest in purchasing The Hawkins Arms, which reinforces this view.
8. Considering the numbers of persons from clubs and groups recorded as attending The Hawkins Arms in recent years², it appears that the seating / dining area proposed to be retained would be of a sufficient size to accommodate similar numbers of people.
9. Even so, the fact that The Hawkins Arms was previously extended by a large margin indicates that its operators considered at that time that its previous size was too small to accommodate the legitimate needs of the community. Although macro-economic factors in recent years have affected the hospitality industry in general, and the A30 improvements have temporarily had a negative impact on trade, it is not at all clear that the need for The Hawkins Arms at its present scale has significantly diminished from when the extension was constructed.
10. Indeed, whereas the census data provided by the appellants relates to 2001, local residents have referred to the large size of the parish, which is said to extend beyond the confines of the village itself, and the survey provided by the Zelah One and All group indicates that out of the 143 responses received, approximately 49% of people would visit The Hawkins Arms more than once per week or more, should it re-open. In this regard, few details have been provided to illustrate whether The Hawkins Arms at the reduced scale proposed would continue to be able to adequately cater over the long-term for the needs of regular patrons, less regular visitors, and tourists, including those wishing to purchase food.
11. It appears from the plans provided relating to the planning permission for the addition of the enclosed seating area, referred to above, that The Hawkins Arms, as it was prior to the erection of the enclosed seating area, did not have a smaller kitchen than it does currently.
12. With this in mind, few details have been provided to demonstrate that the reduced size of the kitchen would be sufficient to adequately cater for patrons of The Hawkins Arms going forward, even taking account of the proposed reduced size of the seating / dining area. This includes events such as funerals and family celebrations, which local residents have referred to, which potentially could require catering on a larger scale than is required for normal day-to-day operations.
13. Under the proposals, The Hawkins Arms would only have 2 toilets available for use by patrons. This contrasts with the 3 toilets and 3 urinals which were

² Appellants' Amendments and Rebuttal to Representations letter of 31 January 2023

present before the extension referred to above was implemented. The plans for the proposed development do not show specific provision for disabled people. The evidence before me does not show that this reduced toilet provision would be adequate to serve The Hawkins Arms under the proposed development.

14. Consequently, it has not been demonstrated that the current provision of The Hawkins Arms in terms of the amount of floorspace of the seating / dining area and the size of its kitchen, and the amount of toilets provided, are not needed to support The Hawkins Arms as a community facility, in the terms of part 4. a. of Policy 4.
15. Part 4. b. of Policy 4 provides that, amongst other things, community facilities should, wherever possible, be retained, and that loss of provision will only be acceptable where the proposal shows it is not viable.
16. As mentioned above, planning permission was previously granted for the construction of a large seating area, which was subsequently constructed. From this, it is reasonable to conclude that at this time the operators of The Hawkins Arms considered it to be not merely a viable enterprise, but one that merited substantial investment.
17. Several macro-economic factors have negatively impacted the hospitality industry in recent years, including the coronavirus (COVID-19) pandemic and the cost of living crisis. In particular, the pandemic was a period of world-wide economic instability and financial uncertainty. The pandemic was also a period when Government-imposed 'lockdowns' and various restrictions negatively impacted the hospitality industry across the country. The submitted unaudited financial statements include periods which coincided with the pandemic.
18. Moreover, a portion of the lost revenue referred to by the appellants appears to stem from the A30 improvements, which is a temporary situation, which would not affect the long-term viability of The Hawkins Arms. Furthermore, local residents have mentioned that the most recent set of accounts cover a period when The Hawkins Arms was operating under reduced opening hours and that it was occasionally closed without notice. This has not been disputed by the appellants.
19. For these reasons, whilst I have considered the financial information as a whole, the period prior to the first pandemic-related 'lockdown' in March 2020 is of most relevance to the proposed development.
20. The unaudited financial statement for the year ended 31 March 2019 includes information relating to the year ended 31 March 2018. Although the statements for the financial years ending 2018 and 2019 each show a profit, these figures do not include the reasonable salaries of the proprietors. Even without considering the rent of premises figures (mentioned in the submitted Chartered Accountants letter of 30 May 2023), taking account of these salaries, The Hawkins Arms was, in effect, operating at a loss for both of these financial years.
21. However, the actual opening hours and days of operation per week of The Hawkins Arms have not been specified for this 2-year period. Information has also not been provided to explain whether the accommodation on the first floor was being used to capacity. It is accordingly unclear whether the optimum

revenue-generating capacity of The Hawkins Arms was being realised during this period.

22. For these reasons, the unaudited financial statements do not convincingly demonstrate that The Hawkins Arms at its current scale is not viable in the terms of Policy 4, which emphasises that community facilities should, wherever possible, be retained. This is particularly so, as the proposed development would result in the permanent loss of approximately 1/3 of the floorspace of The Hawkins Arms, which is not an insignificant amount. Thus, it has not been shown that the requirements of part 4. b. of Policy 4 have been met.
23. Part 2. i. of Policy 5 of the Local Plan provides that, amongst other things, proposals that would result in the loss of business space must demonstrate there is no market demand through active and continued marketing for at least a period of 9 months. As the proposed development relates to space used for business purposes, Policy 5 is applicable.
24. The marketing of The Hawkins Arms coincided with the start of the pandemic, which was a period of significantly heightened economic uncertainty, meaning that macro-economic factors likely contributed to the lack of interest for at least some of the marketing period.
25. In any event, few details have been provided within the submitted marketing information to explain how the guide price, which local residents have claimed has been set far too high, has been arrived at. In this regard, it appears that the permission in principle planning permission³ has been included within the plot and the marketing particulars. Whilst not an unreasonable approach, it does make it difficult to conclude that there is a lack of market demand for The Hawkins Arms itself. Furthermore, whilst the appellants' have claimed that The Hawkins Arms is operating at a loss, and I note that The Hawkins Arms has been closed in recent months, it has not been shown that the stated modest reduction in the guide price has adequately reflected this situation.
26. Hence, the evidence when considered as a whole does not demonstrate that there is no market demand for The Hawkins Arms in the terms of Policy 5.
27. I therefore find that it has not been demonstrated that the proposed partial loss of provision of a community facility is acceptable. The proposed development would conflict with parts a. and b. of part 4. of Policy 4 of the Local Plan which provide that, amongst other things, community facilities should, wherever possible, be retained, and loss of provision will only be acceptable where the proposal shows no need for the facility or service and that it is not viable.
28. The proposed development would conflict with part 2. i. of Policy 5 of the Local Plan which provides that, amongst other things, proposals that would result in the loss of business space must demonstrate there is no market demand through active and continued marketing for at least a period of 9 months.
29. The proposed development would also conflict with paragraph 97 c) of the National Planning Policy Framework (the Framework) which provides that, amongst other things, to provide the social, recreational and cultural facilities and services the community needs, planning decisions should guard against the

³ Local Planning Authority reference: PA22/11130

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

30. Appeal decision Ref APP/D0840/A/14/2228217 was issued before the adoption of the current Local Plan. No plans have been provided relating to the development under consideration in that appeal, which might enable a comparison with the proposed development.
31. As mentioned above, a community group has put forward an offer to purchase The Hawkins Arms. This was not the case in appeal decision Ref APP/D0840/W/20/3251246, which was a factor which the Inspector took into account in coming to the conclusion that there was not a continuing need for the facility under consideration in that appeal. Appeal decision Ref APP/D0840/W/20/3251246 also related to circumstances where 3 public houses served the settlement, whereas in this case The Hawkins Arms is the only public facility in the village.
32. As such, it has not been demonstrated that appeal decision Refs APP/D0840/A/14/2228217 and APP/D0840/W/20/3251246 are directly comparable with the proposed development. As a result, these appeal decisions do not change my findings on the main issue above.
33. The proposed additional accommodation is intended to be let to persons undertaking essential services, including NHS workers, but no mechanism is before me to secure this. As it has not been shown that there is no need for The Hawkins Arms at its present scale, or that The Hawkins Arms is not viable, based on the evidence before me the reduced floorspace proposed would not meaningfully increase the attractiveness of The Hawkins Arms to a suitable operator, nor would the proposed development result in the optimal viable use of the site. These are neutral matters, which do not weigh in favour of the proposed development.

Planning Balance

34. According to the submitted plans, The Hawkins Arms currently has 5 bedrooms, a lounge, and a kitchen at first floor level. The proposed development would create 2 additional bedrooms at first floor level (via the removal of the lounge and the kitchen), and create a ground floor flat.
35. The principle of residential development on this previously developed site has been established via a previous planning permission⁴, and the Council has previously considered Zelah to be a settlement for the purposes of Policy 3 of the Local Plan. The proposed introduction of additional letting rooms and a ground floor flat would provide a contribution towards addressing the housing crisis in Cornwall referred to by the Council, which is a matter supported by Policies 3 and 21 of the Local Plan and the CPOAN⁵. It would also support the Government's objective of significantly boosting the supply of homes, mentioned at paragraph 60 of the Framework, and would help to maintain the vitality of rural communities, including services in nearby villages, as required by paragraph 83 of the Framework.

⁴ Local Planning Authority reference: PA22/11130

⁵ Chief Planning Officer's Advice Note: Infill/Rounding off (December 2017)

36. However, as the ground floor flat would be created via the conversion of business space which is part of a needed community facility, it would not constitute a 'suitable site' to which great weight is afforded in the terms of paragraph 70 d) of the Framework.
37. The additional accommodation provided would create opportunities for the generation of additional revenue on a potentially continuous basis, but the extent to which this accommodation would support the viability of The Hawkins Arms over-and-above the current provision of 5 bedrooms, referred to above, has not been quantified. Similarly, whilst reference has been made to staff shortages in the area and I have had regard to the quote from the Financial Times supplied, the specific scale of any reduction in overheads arising via the proposed development (including, amongst others, heating, lighting, and staffing) has not been quantified. Nor has the scale of any contributions towards Council Tax or the New Homes Bonus been specified. It is not my role to speculate on these matters.
38. The proposed development would provide work for construction professionals involved in the conversion process, thereby supporting the local economy.
39. Taking account of the minimal quantum of units of accommodation proposed, and the lack of quantitative information referred to above, it has not been shown that the benefits of the proposed development in economic and social terms would be significant. These benefits would therefore not outweigh the adverse impacts arising from the proposed permanent reduction in the scale of The Hawkins Arms, which is the sole public facility in the village and which at its present scale has been listed as an Asset of Community Value.
40. For these reasons, the proposed development would not assist in the creation of resilient and cohesive communities by supporting the delivery of community based initiatives that help to make communities more resilient with respect to part 2. d. of Policy 2 of the Local Plan, nor would it entail development that improves the economic, social and environmental conditions in the area, as required by Policy 1 of the Local Plan and paragraph 8 of the Framework.
41. Taking all of the above into account, the proposed development would conflict with the development plan when considered as a whole. None of the other considerations in this case indicate that this appeal decision should be taken otherwise than in accordance with the development plan.

Conclusion

42. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Alexander O'Doherty

INSPECTOR