

Appeal Decision

Site visit made on 29 August 2024

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 September 2024

Appeal Ref: APP/P1615/W/24/3341783

Horseshoe Inn House, Brooms Green, Dymock, GL18 2DP

- 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 John Christopher Tweedale against the decision of the Forest of Dean District Council.
 - The application Ref is P1305/23/FUL.
 - The development proposed is a change of use of bed and breakfast accommodation to residential use ancillary to main dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of bed and breakfast accommodation to residential use ancillary to main dwelling at Horseshoe Inn House, Brooms Green, Dymock, GL18 2DP in accordance with the terms of the application Ref P1305/23/FUL subject to the conditions set out in the attached Schedule.

Preliminary matters

2. The appeal premises was formerly a public house with living accommodation (mixed use)¹. The public house element ceased trading almost a quarter of a century ago. Planning permission was subsequently granted for the change of use of the public house to a dwelling and erection of a single storey extension to create three bed and breakfast rooms². Condition 02 imposed on that permission provided that the commercial areas shown on the approved plans should not be:

'...used for residential accommodation for the approved dwelling unit or as independent residential use.'
3. The permission was implemented, but a conservatory was subsequently added without the benefit of planning permission. With the passage of time, however, this became immune from enforcement and a certificate to this effect was granted in 2023.
4. The appellant's current proposal relates to the bread and breakfast (B&B) accommodation formed pursuant to the 2009 permission, together with the conservatory. In effect, the appellant seeks the removal of condition 2 imposed

¹ Established by the outcome of the 2005 Enforcement appeal.

² Ref P1505/09/COU dated 11 November 2009

on the 2009 permission³ so that the B&B accommodation could be utilised as ancillary residential accommodation in association with the principal dwelling.

5. The Council relies on two development plan policies in opposing the scheme⁴. The appellant acknowledges that CS policy CSP.7, relating to the Economy, is applicable, but disagrees that this is the case with CS policy CSP.8, which deals with Retention of Community Facilities.
6. The Council's response to the appellant's pre-application consultation on the proposal highlighted various factors but did not identify the precise development plan policies thought relevant. Nevertheless, the Council's response contained the following paragraph:

*'However, a strong written justification will need to accompany the application detailing the reasons as to why the applicant wishes to change the use to residential. This is to justify the loss of the business and **evaluate the impact that this loss would have on the local economy.**' (my highlighting)*
7. The Council's pre-application response did not mention or imply that the B&B would be treated as a community facility for policy purposes in the consideration of any future planning application.
8. I also note in passing that the reason provided in the 2009 decision notice for the imposition of condition 2 referred to contemporaneous development plan policies which were not specifically directed to the retention of a 'community' or 'business/economic' use.
9. I have considered the wording of CS policy CSP.8 and its explanatory text⁵. The facility, in comparison with the examples of community facilities provided in the CS, would not be accessible to the local community in the same manner as others would be⁶, and it is not designed or intended to be such. It is not a facility meant for use by the local community, rather by tourists or visitors which, by definition, generally arrive from distance, well outside what I would describe as the local community. Whilst a hotel, for example, also caters for visitors, it would also normally offer incidental facilities such as a restaurant or a bar accessible to the local community. The B&B has no such community elements.
10. It appears that one of the Council's main reasons for considering that policy CSP.8 applies is that the proposal was described by the appellant's wife as a community facility when the 2009 application was made. However, having regard to the wording of the policy and its supporting text, I see no convincing reason why B&B accommodation meant for tourists should properly be regarded as a community facility for the purposes of local planning policy. I have also had regard to the provisions of the Framework and am not persuaded that a B&B falls clearly within its policy guidance on this topic⁷. Accordingly, as a matter of planning judgment, I do not share the Council's reasoning or opinion on this aspect.

³ The content of the pre-application correspondence provides the main reason why a s73 application was not pursued.

⁴ Namely, policies CSP.7 & CSP.8 of the Forest of Dean Core Strategy (CS).

⁵ Having regard to the principles established in *Tesco Stores Ltd v Dundee City Council (Scotland) [2012] UKSC 13*

⁶ For example, a pub, GP surgery, shop or school

⁷ The National Planning Policy Framework paragraph 88(d).

11. The appellant has made an application for a partial award of costs against the Council. This is the subject of a separate decision.

Main issue

12. The main issue is the effect of the loss of the B&B on local employment and the rural economy.

Reasons

13. The appeal property is a detached dwelling, with a B&B annex, set in spacious grounds. The B&B's design is such that it now perceived from the outside as an integral part of the main dwelling. The B&B annex is linked internally to the dwelling, which renders it easily accessible from within. It also has a separate external door. The accommodation is spacious, well appointed, but was not in use when I visited; indeed, the appellant says that the annex is not currently uses for B&B purposes.
14. The appellant acknowledges that the annex remains capable of providing a B&B service, and I saw no physical reason why it couldn't. The issue for the appellant and his wife is that they have reached retirement age and no longer wish to run the B&B. Instead, they propose it becoming an ancillary adjunct to the main dwelling providing accommodation for family, friends or in the short term for an aged relative who may need future care.
15. The Council regard these as personal considerations which should not outweigh the applicable development plan policies. Indeed, the Council says that the site:
- '..has a lawful use protected through Policy CSP.7 of the Core Strategy'.*
16. The main thrust of CS policy CSP.7 is to promote economic development throughout the District with a view to encouraging new and more diverse types of development. It relates to all sectors of the economy, including tourism. It is also directed to protecting existing employment land and to facilitate the productive use of underused employment sites by taking a flexible approach to alternative uses. The accompanying explanatory text to the policy says that the CS strongly supports economic development in rural areas, including tourism-based enterprise.
17. There is no doubt that the policy promotes tourism and its related development in those rural parts of the District which include the appeal site. However, the policy does not, in my view, 'protect' the existing B&B as suggested by the Council, and nor does condition No 2 imposed on the original permission.
18. There is no planning requirement that the appellant and his wife should be obliged to continue trading beyond retirement age, and the Council has not suggested any alternative course of action to address their conundrum. In this regard, it strikes me that the appellant and his wife could simply cease trading, and as wasteful as it may appear, the space could simply remain unused without offending any planning policy or condition. In such circumstances, there would be a similar effect on local employment and the rural economy as if it were used for the proposed alternative use. Judging from the information and data provided by the appellant, the effect on employment and the rural economy would be minimal. In this respect, apart from a very short period,

when part-time help was required, the use established for over a decade has not directly generated any local employment. It is also of note that other visitor accommodation is available in the local area as an alternative to those who may wish to visit the local area.

19. With reference to 2 appeal decisions⁸ affecting the same property in the District, the Council considers that a viability assessment should have been prepared for the initial application and appeal. However, as both Inspectors in the appeals referred to acknowledged, a viability assessment is not a requirement of policy CSP.7. Those appeal cases can also be distinguished from this since they involved an independent property rather than an adjoined annex; a different use, and policy issues arose in respect of the location of new housing, which do not apply here.
20. I therefore conclude that the effect of the change of use on local employment and the rural economy would be minimal and there would be no material conflict with one of the main objectives of CS policy CSP.7, that is, the promotion of the rural economy.

Conditions

21. The Council has suggested that several conditions should be imposed in the event of the appeal being allowed. The suggested condition that the development shall be carried out in accordance with the approved plans is imposed in the interests of certainty.
22. The condition proposed in respect of the future use and occupancy of the annex is proposed for clarity, and to reflect the application made. This would not prevent the annex from being used as B&B accommodation if that use were resurrected.
23. To safeguard rural character and wildlife a condition in respect of the provision of external lighting is proposed.
24. The condition restricting permitted development rights is not imposed since it would apply to the whole site and the Council has not convinced me of the justification for such a wide-ranging condition bearing in mind that the proposal involves a minor change of use of part of the building.
25. I have taken account of all other matters, including the representations made by some local residents, but none raised in the representations is of such strength or significance as to outweigh those considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

⁸ APP/P1615/W/22/3298072 & APP/P1615/W/17/3188851

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Ref No CT1; CT2; CT3; CT5 & CT6.
3. The residential use of the annex hereby permitted shall remain ancillary to the main residential dwelling known as Horseshoe Inn House (or any amended name of the main residential property) and shall not be used as a separate independent residential property.
4. No external lighting, other than that approved through this application shall be installed/erected at the site.