

Appeal Decision

Hearing held on 12 September 2024

Site visit made on 12 September 2024

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th of September 2024

Appeal Ref: APP/D3125/W/23/3330918

The Newlands Inn, 45-47 Newland Street, Eynsham, WITNEY, OX29 4LD

- 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 and Mrs Woodin against the decision of West Oxfordshire District Council.
 - The application Ref is 23/00730/FUL.
 - The development proposed is the conversion of a public house to a residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised personal statement setting out the appellants' involvement with the public house, including freehold ownership and tenants, was considered as part of this appeal. Consideration has also been given to Heritage policies of the West Oxfordshire Local Plan (WOLP) 2031, adopted 2018, that were submitted at the hearing. The Newlands Inn is also otherwise known as the Newlands Public House (under its listed building description).

Main Issues

3. The main issues are whether (a) the development would preserve a Grade II listed building known as The Newlands Public House or setting or any features of special architectural or historic interest it possesses, (b) the character or appearance of the Eynsham Conservation Area would be preserved or enhanced and (c) the loss of local service/community facility is justified, having regard to the viability of the public house.

Reasons

Heritage assets

4. The appeal site comprises a Grade II listed building within the village of Eynsham. It is two storey with accommodation within the roof above. To the rear, there is a single storey extension, garden area/patio area and detached toilets (formerly the mens) attached to the side of a neighbouring

residential terrace. There are footway and car parking hard surfacing areas within the adopted highway to the front. This leaves a limited amenity strip of land on the frontage of the listed property adjacent to the hard surfaced areas.

5. The listed building is constructed with coursed limestone rubble and dressed quoins, a gabled 20th century roof and ridge, and end stacks of stone finished in brick. The roof comprises machine made plain tiles. The building forms part of an end of a terrace of similarly scaled and finished buildings fronting onto Newlands Street. An access drive, alongside the exposed side of the appeal building, serves the public house and a terrace of dwellings behind. The appeal site and its surroundings are within the Eynsham Conservation Area which covers much of the village.
6. The statutory list entry (number 1198509) identifies the building as early/mid-18th century. It forms a 4-window range comprising 19th century horned 8-pane sashes at the ground floor and 20th century casements at the first floor. The central late 19th century plank door is set in a heavy pegged frame door and has a timber lintel and gabled hood over it. The interior is identified as having a 4-unit plan with stop-chamfered beams and open fireplace. Despite 20th century internal changes associated with the public house use, these remain and exposed historic roof beams and frames within the attic.
7. The listed building was originally residential. The Eynsham Junior History Group stated that the public house was originally two cottages in the 19th century, one large corner building and a much smaller one on the west side that is now used as the pub dining room area. The group further indicated that the original building did not become a public house until sometime in the 1860s.
8. Despite internal alterations, the building's origins as comprising two dwellings is reflected within its timber construction interior, proportions and elongated footprint. Its overall form, layout, construction and degree of historic integrity also typifies the established local Cotswold vernacular. The building's location, fronting a route into the village, combined with a long-established public house use, has also given rise to a significant period of historic continuity and community focus. Thus, the significance and special interest of the listed building comes from the building being an example of a residential-come-public house, historic public house use, which although currently not active, remains very much evident in its overall form and character, and its vernacular design and construction.
9. Eynsham is part of a historic village that has many listed and non-listed historic buildings, including the Grade II* Church of St Leonards with its distinctive square stone tower within its historic core. This church is also the site of a mediaeval Benedictine Abbey. Away from the historic core of close-nit streets, patterns of development are looser with greater landscaping and amenity space. Historically, much of the wealth of the village has been derived from farming in the surrounding area and the church, that is reflected in its services and facilities, including number of public houses.
10. Newland Street is a historic street located outside of the historic core that runs broadly west-east from the historic Mill Street and contains many,

mainly historic stone buildings, including dwellings but also a shop, two restaurants, a cafe, a care home and two public houses, namely the White Hart, also Grade II listed, and The Newlands Public House. In this regard, The Newlands Public House makes a positive contribution to the character and appearance of the Conservation Area. The village's historic development, with its range of uses, including public houses, associated vibrancy and its locally distinctive vernacular are of significance and special interest to the Conservation Area.

Proposals

11. The proposal would result in the conversion of the public house to residential with minor internal changes. At the ground floor, the 20th century wooden bar serving structure would be removed although part of it, its back storage shelves, is intended to be retained. The existing restaurant area would be changed to a reception and dining room for the new dwelling.
12. The listed building's use as a public house makes a significant contribution to its historic interest. It is inevitable, therefore, that the permanent loss of that use to residential has and would sever the listed building's long-standing functional links with the community. Consequently, irrespective of physical interventions, the proposed residential use per se would adversely affect the significance and special interest of the listed building.
13. For all these reasons, the change of use would fail to preserve the listed building or its features of special architectural or historic interest in conflict with s66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990 (the Act). It follows that if the special interest of a listed building, prominently located, such as in this case, is diminished, then the character and appearance of the Conservation Area, as a whole, would be incrementally harmed in conflict with requirement s72(1) of the Act.
14. For each heritage asset, the degree of harm to the significance, would, in terms of the National Planning Policy Framework (the Framework), be less than substantial.

Viability

15. WOLP Policy E5 states that the development and retention of local services and community facilities will be supported to meet local needs and to promote social wellbeing, interests, interaction and healthy communities. The policy further states development proposals that would result in the loss of community facilities and services will only be supported where it can be shown clearly that appropriate alternative provision of a least equivalent suitability and accessibility will remain. By its nature, The Newlands Public House is a community facility and there is a multitude of public houses within walking distance of it.
16. However, the policy further states proposals need to demonstrate that the existing use is no longer viable and incapable of being made viable or adapted to retain a viable service or adapted to retain a viable service, including as a community run enterprise. Importantly, it requires a robust marketing exercise to demonstrate the use or premises is unviable in accordance with guidance.

17. The appellant's Marketing Report (MR)¹ indicates that the public house has been marketed in the form of an e-market campaign, published on a monthly property list distributed to potential applicants and posted on well known commercial websites. The estate agents have an applicant database who receive updates that match their criteria. The database was a substantial list of names. In the first marketing campaign, matching the public house details with customer needs, 37% opened the e-campaign below the normal opening rate of 45% to 65%. In a more recent e-market campaign 9 February 2023, the respective opening rate was 55% in accordance with the normal opening rate. Despite a marketing campaign between December 2021 and March 2023, the MR shows little interest in the property, with only one viewing and one offer well below the asking price. The public house has attracted no significant interest from the local community when it was offered.
18. The marketing has been comprehensive in its reach of potential customers and over an extended period beyond 12 months, a time frame favoured by the Council. However, a high marketing price would inevitably deter potential customers and the MR does not detail how the marketing price was derived other than that it is based on experience and knowledge of the market. The price could be reasonable but there is no detailed evidence before me to indicate this, for instance, there is no clear justification derived from comparables, market prices of similar public house properties. Appendix C of the Appellant's appeal statement indicates that the valuation is at the same level as several other public houses for sale in July 2023. However, there is no detailed commentary of how these are comparable or not, for instance in terms of location, facilities, parking, upkeep and availability of accounts, and how they have been used to inform the market price.
19. Within Eynsham, there are numerous public houses, including the nearby White Hart Public House. The ratio of public house to population is significantly greater than that of Witney. There are also restaurants and cafes within the village. However, it has not been proven whether this signifies an overly competitive or buoyant market.
20. The Newlands Public House has a small kitchen, limited outside space, being restricted to the rear, internal seating area for just over 30 people, and is located away from the main commercial core of the village. Nevertheless, public houses engage different business models and whilst such physical constraints are highly likely to prohibit a gastro-type restaurant public house, the MR does not explore other business models, that may or may not be appropriate for this type of public house in this location.
21. Market conditions have improved since Corvid times, but public house operators are still experiencing high interest rates, cost of drink and food supplies, energy costs, competition from supermarkets and cost of living reducing customer expenditure. The MR further estimates an operator would require capital expenditure of approximately £100,000 for refurbishment and restoration of internal and external areas. However, such factors need to be justified more fully in the MR in relation to this proposal.

¹ Marketing Report relating to The Newlands Inn, Eynsham, Savill, 8 March 2023.

22. The appellants' revised personal statement sets out their involvement with the public house. In 2007, the appellants lent money to a friend to buy a lease on the public house but after about 10 months, it was closed. Rather than lose this money, one of the appellants took on the pub paying rent to a brewery company. Due to every increasing rental demands, the appellants decided to pull out but then the brewery company made an offer that was accepted by them in July 2009.
23. In the period thereafter, the public house was busy and successful but due to illness in 2013, the appellants leased out the pub to a tenant with strong local connections to the village. After just over a year, the public house closed again due to viability issues. The appellant wife subsequently took over the public house again until a six year lease from 2015 to 2021 was taken up by a another tenant. In 2020, the tenant informed the appellant's intentions to close the public house and it has now been closed since April 2021. Therefore, the public house has had a chequered history in operating successfully but success will often depend on how the commercial enterprise is being run. Consequently, such a consideration is not overriding and, in any case, the proposal does not provide a robust marketing exercise in accordance with WOLP Policy E5, for the reasons indicated.
24. Therefore, the lack of public house viability has not been proven and there would be conflict with Policy E5 of the WOLP.

Heritage and Planning Balance

25. In accordance with paragraph 208 of the Framework, the less than substantial harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. Putting heritage assets to viable use is likely to lead to investment in their maintenance necessary for their long-term conservation. The public house has been vacant for a significant period of time. The development would make a more effective use of land through making re-use of a vacant building. New residents would have good access to services and facilities.
26. However, the proposal would not provide a net increase in housing because there is already an upper floor flat, albeit it would be smaller than that proposed. In absence of detailed evidence on market price, lack of public house viability has not been proven. There would be harm to a listed building and Conservation Area. In considering whether to grant planning permission, the s66(1) of the Act requires decision makers to have special regard to the desirability of preserving a listed building, which the proposed development would fail to achieve for the reasons indicated. S72(1) of the Act requires special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In light of the forgoing, the benefits would not be sufficient to outweigh the less than substantial harm identified and the considerable importance and weight this carries for the listed building and Conservation Area when assessed separately under the heritage balance.
27. Therefore, there would be conflict with Policies EH9, EH10 and EH11 of the WOLP, which collectively and amongst other matters, requires the conservation or enhancement of buildings of historic, architectural, and environmental significance, permit residential development if it would be the

optimal viable use for the heritage asset and that unavoidable and justified adverse impacts are to be minimised and suitably mitigated. In the planning balance, there would also be conflict with Policy E5 of the WOLP. There would be conflict with the development plan, taken as a whole, and there would be no material considerations that indicate that it should be determined other than in accordance with the development plan and planning permission should be refused.

28. In coming to this conclusion, the planning officers' recommendation for planning permission for the proposal and report have been given careful consideration. However, having considered the evidence in respect of the heritage statutory duties and the viability issues, I have concurred with the Council's ultimate decision for the reasons set out above.

Conclusion

29. For all these reasons and having regard to all other matters raised, the appeal should be dismissed.

Jonathon Parsons

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr J Woodin	Appellant
Mrs A Woodin	Appellant
Mr P Dyson	Supporter

FOR THE LOCAL PLANNING AUTHORITY:

Mr C Wood	Planning Officer
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DOCUMENTS:

1. Revised Appellant Personal Statement, dated 13 August 2024.
2. West Oxfordshire Local Plan 2031 Heritage Policies, submitted 12 August 2024.