



Appeal Decision

Site visit made on 14 October 2024

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2024

Appeal Ref: APP/D3505/W/23/3332753

The Queens Head, The Street, Erwarton, Suffolk IP9 1LN

- 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 Mrs Claire Niewiarowski against the decision of Babergh District Council.
 - The application Ref is DC/23/01002.
 - The development proposed is the change of use from a public house (Sui Generis) to residential (Class C3).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from a public house (Sui Generis) to residential (C3) at the Queens Head, The Street, Erwarton, Suffolk IP9 1LN in accordance with the terms of the application, Ref DC/23/01002, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) Prior to the first occupation of the use hereby permitted, a covered and lit cycle store shall be formed in accordance with details that have been first submitted to and approved in writing by the local planning authority, and this store shall thereafter be retained for that purpose.
 - 3) Prior to the first occupation of the use hereby permitted, a refuse store shall be formed in accordance with details that have been first submitted to and approved in writing by the local planning authority, and this store shall thereafter be retained for that purpose.
 - 4) Prior to the first occupation of the use hereby permitted, on-site parking provision shall be formed in accordance with details that have been first submitted to and approved in writing by the local planning authority, and this provision shall thereafter be retained for that purpose.

Main Issues

2. The main issues in this case are
 - a) whether the proposal would result in the inappropriate loss of a community and employment facility and
 - b) whether it would preserve the special architectural and historic interest of this Grade II listed building and its significance.

Reasons

Community and employment facility

3. In the recently adopted *Babergh and Mid Suffolk Joint Local Plan – Part 1* (the JLP), Policy SP03 is headed 'The sustainable location for new development' and says outside of the settlement boundaries development will normally only be permitted where at least one of a number of circumstances apply. Of these, it is circumstance (c) that is of relevance to this appeal, namely that the development needs to be in accordance with certain specified policies in the JLP. JLP Policy CS17 supports and promotes rural businesses, while Policy CS15 in the JLP seeks sustainable development by protecting services and facilities in smaller rural communities and JLP Policy CS21 aims to safeguard existing services.
4. One of the policies specified in JLP Policy SP03 is JLP Policy LP10, and this advises that proposals that would lead to the loss of employment sites will be required to demonstrate

that the possibility of re-using or redeveloping the land for other employment or community uses have been explored by a period of sustained marketing normally for 6 months by an independent qualified assessor. This must be undertaken at a realistic asking price, on a range of terms and in an appropriate format. The approach for the marketing must be agreed by the relevant LPA.

This policy replaced Policy EM24 in the previous local plan, which was the policy in place when the application subject of this appeal was being prepared and considered. Like JLP Policy SP03, that superseded policy also said that proposals to use existing or vacant employment premises for non-employment purposes will only be permitted if it can be demonstrated that an appropriate employment use has been fully explored, by undertaking an agreed and sustained marketing campaign. In relation to that superseded policy though it was accepted a 12 month marketing period was required.

5. This approach broadly accords with that in the *National Planning Policy Framework* (the Framework), which advocates the retention of accessible local jobs, services and community facilities in rural areas.
6. The Queen's Head sits on the edge of the small village of Erwarton, and it had been a public house for many years up until 2009. Over that time it would have been both a community facility and a source of employment. Since then it has been closed, leaving the church as Erwarton's only community space. From the submissions it is unclear as to its current use. Although I was told the appellant lived there for a while, the application form said the use before me had not begun, and my attention was drawn to the fact that the lawful use of the site was as a public house with living accommodation above. On balance, and having regard to the wording of the Council's suggested conditions, I am assessing this appeal on the basis that it has not yet changed to a dwelling, though if in fact it has occurred it would have had no bearing on my decision.
7. Although a community use is cited as a possible alternative in JLP Policy LP10, the policy itself is focussed on the loss of employment uses. Whilst a public house clearly employs staff and so the policy is correctly applied to this

proposal, the concerns in the submissions appeared to be more oriented around the need to avoid the loss of a community facility, which the policy, as worded, is not designed to protect.

8. Putting that aside, a similar proposal at the site was refused planning permission a few years ago. This was because the appellant had failed to agree and undertake a marketing strategy that explored alternative employment and community uses and therefore failed to demonstrate the building was not suitable for any other purpose, and the subsequent appeal was duly dismissed. With this current submission though the appellant advertised the property in a manner and at a price agreed with the Council for a period of just over 12 months, which was the timeframe required by the policy in place then but is now twice as long as stated in the currently operative policy. No suitable offers came forward over this period that showed the building could be re-used for other employment or community uses. As a result, I consider the proposal to lose this employment site does not conflict with JLP Policy LP10, and so is one of the developments supported by JLP Policy SP03(c).
9. In coming to this view, I am mindful that valuations are not an exact science, and qualified professionals will, inevitably, come to different findings based on the judgements they make. I have no reason to question the credentials or authority of the assessor used by the appellant, especially given their apparent expertise in marketing this type of property in this area. Moreover, their asking price and marketing exercise appear to have been agreed with Council officers in line with the requirements of the policy. As a result, while another independent qualified assessor, advising the residents, identified a lower figure for the premises, I have no reason to consider that the property was not marketed for a realistic asking price and in a suitable manner. Although it was contended that the appellant's asking price did not account for the building's dilapidation and the costs needed towards its re-fitting, both the assessor for the residents and the submissions of the appellant appeared to accept the necessary refurbishment would be in the region of £100,000. It is therefore reasonable to assume these costs were taken into account in the asking price. Consequently, I have no basis to find the judgements underlying the appraisal by the appellant's assessor were flawed to any material degree.
10. The Council said that limited alternative uses were explored and regard was not given to the lack of community space in the village. Those points though seem to be going beyond what is found in JLP Policy SP03. Although the policy does say that re-using or redeveloping the land for other employment or community uses needs to be explored, it states that this exploration is to be done *'by a period of sustained marketing normally for 6 months by an independent qualified assessor'* in an agreed marketing exercise. It does not require the appellant to explore possible community uses in any different way. As such, her approach was not inadequate in this regard.
11. The marketing did not occur when the country was in the depths of the pandemic, but rather when it was emerging from it, and I was told of no reservations being raised in relation to this by the Council when the exercise was agreed with the appellant. Finally, there was debate about how the appellant and the action group called Friends of the Erwarton Queen's Head (FOTEQH) engaged during the marketing process and the nature and basis of FOTEQH's financial position. However, I have no reason to consider the

marketing and the appellant's response to enquiries were not in accordance with the terms of the policy. Consequently, I maintain my view that there has been compliance with JLP Policy LP10, and while FOTEQH might have made approaches to buy the premises since, as that lies outside of the requirements of the policy any failure of the appellant's to pursue that does not give rise to policy conflict.

12. There appears to be strong enthusiasm in the local community, focussed through FOTEQH, to run the appeal property as a community public house. I recognise the great benefits that can flow from such facilities, as they can provide an accessible focus for local residents. However, in determining this appeal I cannot require the premises to be used in that manner and, if dismissed, it is not certain that the public house use would re-start.
13. Moreover, there are many ways to run a public house, and it could always be said that a different approach could be more viable. Although I was told that some 15-20 years ago it was profitable, those accounts were not before me and, in any event, that was a different market climate to the current one. It was also said that the Queen's Head could thrive once more and could achieve a sustainable level of trade. Clearly a community public house could have different profit aspirations to premises run by, say, a public house company, but there is still a need for a commercial return. However, apart from relatively general statements no business plan has been offered by local residents to support such a view. Indeed, even FOTEQH's own assessor sounded caution in their advice, with phrases such as '*the need to recruit a suitable operator cannot be overemphasised*', '*there would be an initial period of uncertainty*' and '*success cannot be guaranteed*'. Public houses have been closing across this peninsula, but any benefits these closures may have on the viability of a public house here have not been quantified or shown to be determinative.
14. Although distant from services, a household can already live at the site under the current lawful use, and so I consider what is proposed would not be materially different. If the Queen's Head did not reopen, Erwarton residents would need to continue to travel to other villages for such facilities. Balanced against this though the assessor engaged by FOTEQH accepted that while local residents using the premises would be paramount, as Erwarton has in the region of only 60 dwellings any public house use here must nonetheless attract car-borne custom from outside the local area. On balance, I therefore consider that issues around sustainability and the increased need to travel do not weigh against the scheme.
15. Reference was also made to public houses elsewhere that in similar circumstances seemed to be prospering. Again though whilst this site may have parallels with others, no 2 premises are in identical positions in relation to financial pressures, market options or the facilities available. As such, apparent success elsewhere does not mean the Queen's Head could, once again, be viable.
16. Finally, whilst I recognise the support in the Framework and in JLP Policies CS15, CS17 and CS21 for maintaining local services and employment, I consider it would be unrealistic to resist changes of use once it had been demonstrated that the possibility of re-using or redeveloping the land for other employment or community uses had been suitably explored.

17. Drawing these points together, there are a great range of asking prices, operating methods and timescales that could be employed in considering a proposal to change the use of an employment site. Therefore, to create an element of certainty for all involved, it is right and proper that the policy context should lay down a procedure to be followed in such cases. In the light of the above, I conclude the appellant has shown that the possibility of re-using or redeveloping the land for other employment or community uses has been explored by a suitable period of agreed sustained marketing, and so the development accords with JLP Policies LP10 and SP03. Moreover, the appellant's findings following her exploration of re-using the building for other employment or community uses constitutes a material consideration sufficient to outweigh any conflict with JLP Policies CS15, CS17 and CS21 or the Framework.

Heritage

18. The Queen's Head is a Grade II listed building dating from the 17th Century or earlier, and is a timber framed property with rough render that has been subject to subsequent alterations and changes. It might originally have been a dwelling, but has been a public house for a long time. In so far as this appeal is concerned, its significance is partly historic, reflecting the role it as played in this community over the years, and partly architectural in the detailing and building styles it displays.
19. For any listed building, it is important to secure a use in order to ensure its on-going maintenance and longevity. Given this, the Framework states that when determining applications the decision-maker should take account of, among other things, putting heritage assets to viable uses consistent with their conservation. Account should also be given to the positive contribution that the conservation of heritage assets can make to sustainable communities including their economic viability.
20. The proposed residential use need not adversely affect the physical character of the building or its outward appearance. However, it would take away the historic use of the premises, with its associated employment, economic and community benefits, and also restrict public access into the historic property. In this regard some harm, albeit at the lower end of less than substantial, would occur to the asset's significance. As stated above though, the possibility of maintaining the premises as a public house has been explored under the approach laid down in the policy. I therefore have insufficient grounds to find such a use could be expected to operate within the building. Consequently, the change to a dwelling constitutes the viable use sought by the Framework, ensuring the on-going occupation and maintenance of the building is secured, and this amounts to the public benefit sufficient to outweigh the less than substantial harm to its significance.
21. Accordingly, I conclude the proposal would fail to preserve the special architectural and historic interest of this building, while the harm to its significance would be less than substantial, and would be outweighed by the public benefit resulting from securing a viable use to ensure the on-going maintenance of the designated heritage asset. As such, the scheme would not conflict with the Framework in this regard.

Other Matters

22. What the motives of the appellant might or might not have been since she acquired the property do not affect the planning merits of the case.
23. The Suffolk Coast and Heaths National Landscape is on the opposite side of the road, but the landscape and scenic beauty of this would not be harmed by the change of use before me.
24. I am not aware of any existing or proposed employment uses in the vicinity of the site that would experience amenity conflicts because of the proposal.

Conditions

25. For the avoidance of doubt the use should commence within 3 years, while cycle storage, refuse storage and on-site parking should be approved and secured in the interests of sustainability, character and appearance, and highway safety. However, as the building is listed 'permitted development rights' need not be removed, while charging points are secured under other legislation. There is also no need to require development in accordance with the submitted plan as the proposal is for a change of use only.

Conclusion

26. Accordingly I conclude the appeal should be allowed.

JP Sargent

INSPECTOR