



Appeal Decision

Site visit made on 22 August 2024

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2024

Appeal Ref: APP/J3720/W/3335844

Fox and Hounds Inn, Moreton in Marsh Road, Great Wolford, CV36 5NQ

- 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 Allely against the decision of Stratford on Avon District Council.
 - The application Ref 22/03071/FUL, dated 14 October 2022, was refused by notice dated 22 June 2023.
 - The development proposed is the change of use of former public house to 2 dwellings.
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Decision

1. The appeal is allowed, and planning permission is granted for the change of use of former public house to 2 dwellings subject to the conditions in the conditions annexe.

Preliminary Matters

2. The submitted planning application was originally accompanied by an application for listed building consent but that was latterly withdrawn. The planning application drawings show internal and external works, however it has been confirmed that the appeal proposal is solely for the principle of the use as 2 dwellings and not any external and internal works¹. I have therefore considered the changes shown on the submitted drawings as indicative only.
3. 'At the time of the application the Council considered the principle of the conversion of the public house to a residential use [was] acceptable'², and the contention was over the sub-division to 2 dwellings. Accordingly, the viability of the pub was not part of the reason for refusal. The Council and Parish Council remarked during this appeal, albeit belatedly, that another application for a residential change of use for the appeal building was refused on such a ground.
4. The appeal concerns the change of use of the Grade II listed building Fox And Hounds Inn (List Entry Number: 1355504), situated within the Great Wolford Conservation Area.
5. Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) require special regard is given to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the Act relates to

¹ Appellant's e-mail 27 August 2024

² Paragraph 8.3 Council's Statement of Case

Conservation Areas and requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. I am also mindful of the historic environment policies within the National Planning Policy Framework (the Framework) that relate to the significance of designated heritage assets and their settings.

Main Issues

6. The main issues are therefore:

- whether the proposal would preserve the Grade II, Fox And Hounds Inn listed building or its setting or any features of special architectural or historic interest that it possesses, and whether the character or appearance of the Great Wolford Conservation Area (CA) would be preserved or enhanced; and
- the viability of the building as a pub.

Reasons

The listed building and conservation area

7. The appeal site is a former pub which closed in 2016³ and has been inhabited as a dwelling since. It is on the edge of the village, with a car park to the front within a courtyard formed by the pub building and the adjoining neighbouring dwelling. There is a garden to the rear.
8. I find the special interest and significance of the listed building is partly derived from its former use as an inn, although the list description notes it was originally a farmhouse. It also has importance in its broken massing, gently changing rooflines and varied fenestration but unified by its stone walling. Interior features are the low floor to ceiling height and timber beams as well as a stone fire place which is noted in the list description; the bar is contemporary and of little importance. The settings of the building are its frontage car park and rear garden, which are components of the pub use.
9. The CA encompasses much of the village and includes the appeal site. It is characterised by a variety of roofing materials and buildings with a sense of enclosure. Whilst there is widespread use of stone walling, both in buildings and boundary walls as noted in the Village Design Statement (VDS), later buildings feature locally made brick.
10. The appeal site contributes to the CA by its former use as a traditional inn and its stone architecture.
11. The proposal would involve the permanent cessation of use as an inn, which would undermine its historic interest as a focal point in the life of the village. However, this is tempered by the fact that originally it was used as a dwelling. In addition, the public would not be able to access and appreciate the interior of the building. On balance, I find that in these respects the proposal would be marginally harmful to the special interest and significance of the listed building and the CA.
12. The proposal also involves the principle of sub-division. There is no submitted evidence to show the special interest and significance of the listed building is derived from a single occupation. In addition, one doorway would be closed

³ Appellant Grounds of Appeal Statement paragraph 2.1

which could be done by simple means thereby avoiding the loss of historic fabric. The cessation of the route through the building would not be harmful as I found the experience of the sequence of rooms is not a notable feature. Additionally, the internal sub-division would be likely to be potentially reversible.

13. As the building has two separate stairs and entrance doors, it lends itself to sub-division thereby avoiding works to the listed fabric. The parking area would remain, and the rear garden is capable of being divided, so that the settings would be maintained.
14. The Council suggests this appeal proposal would be overly intensive and harmful. However, as a former pub, it would have been expected to at times attract people and cars in their numerous roles as staff, customers, and suppliers: the proposed two dwellings would be likely to generate considerably less cars and people. Consequently, I do not find in this respect the proposal would be harmful.
15. Overall, the permanent cessation of the pub would harm the listed building and the CA, which would be less than substantial.
16. Policy CS.8 of the Stratford-on-Avon District Core Strategy 2011-2031 (CS) seeks to protect and enhance the historic environment, including the human influence. In this respect the proposal would conflict. The Policy also states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm must be justified and weighed against the public benefits of the proposal, including securing its optimum viable use. I consider this further below.

The viability of the pub

17. Policy AS.10 of the CS allows for the conversion of a building to residential within a village, to which the proposal would comply. Policy CS.25 of the CS seeks the retention of community facilities including pubs unless there is no realistic prospect for commercial or operation reasons. Policy CS.22 of the CS states an existing employment site should not be redeveloped or converted to non-employment use unless it is no longer viable. Paragraphs 88 and 97 of the Framework also acknowledge the contribution of pubs to local communities. Paragraph 8 notes the social benefit of accessible services and also has economic and environmental objectives. The Parish Council also paraphrase the Public Houses Planning Advice note adopted by the Council in May 2024, which seeks to prevent the undue loss of pubs. This seeks evidence of at least 6 months marketing as a pub, viability assessment and community engagement.
18. The Appellant submitted a viability statement dated June 2022 with the planning application, which considered the operating accounts, potential customer base and competition, contribution of letting rooms, and operating costs. This concluded the pub would not be viable.
19. A marketing report was also submitted with the planning application which states the building was advertised for sale as a pub via the internet, trade publications and direct contact between 2018 and 2019. The few offers received were not commensurate with the reasonable value of the building.

20. The Council commissioned their own consultants to undertake a viability assessment⁴, which also found the pub not to be viable.
21. The Appellant forwarded the Council officer's report on the other application for the change of use of this pub. Whilst this was refused for loss of the pub, the report nonetheless accepts their consultant's findings on lack of viability.
22. The Parish Council also submitted a late response to this appeal with comments on viability based on a report⁵ they commissioned, which alludes to the potential for some financial savings including finding cut price supplies, accepting no minimum monthly wages and having to be very innovative, which I do not consider realistic. Moreover, that report was considered by the Council's consultants, and their response dated 19 September 2023, projects the costs/turnover and finds a loss, confirming the pub would not be commercially viable. They note the commercial challenges of the operating environment and conclude energy, staffing and food/drink costs to have risen considerably since they have been involved.
23. Given its prolonged closure since 2016, regular and loyal customers have been lost, and it would be hard to build up a sufficient customer base again. In addition, the building would have to be re-equipped, re-fitted and stocked to function as a pub, which would require investment well ahead of any potential income.
24. The village has had 'pop up pubs' as photographed in the VDS, and I note the comments from local residents recorded in support of the pub. The building was designated as an Asset of Community Value in 2016 and redesignated, expiring 27 September 2026. Whilst this demonstrates the interest in a pub and is a material consideration, it does not take precedence over the consideration of the Development Plan policies. A considerable customer base would be needed to make and continually sustain its viability and the Council's own consultant's report demonstrates it would not be viable.
25. Whilst several examples are quoted by local residents of closed pubs being re-established, it is not evident how comparable they are to the specific economics of this building.
26. Accordingly, taking the above together as a whole I find that the proposal would not be contrary to Policies CS.22 and CS.25 or the Framework paragraphs 8, 88 and 97. Whilst it would not fully accord with all aspects of the Council's advice note, fundamentally the lack of viability has been clearly shown.

Heritage and Planning Balances

27. Whilst the harm to heritage assets would be less than substantial; however, Paragraph 205 of the Framework advocates great weight to the asset's conservation. I therefore give considerable importance and weight to the harm I have identified in my balancing judgment below. In addition, Paragraph 206 of the Framework emphasises that any harm to, or loss of, the significance of a designated heritage asset, should require clear and convincing justification. Paragraph 208 mirrors Policy CS.8 in that less than substantial harm should be

⁴ Everard Cole

⁵ Morgan and Clarke

weighed against the public benefits of the proposal including securing its optimum viable use.

28. The subdivision would make more use of the existing building. It would also lead to the renovation of the building and support its future maintenance and upkeep. The creation of two dwellings would also be a benefit, even though the Council has a good housing land supply.
29. As I have found above the proposal would harm the designated heritage assets, contrary to sections 16, 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
30. Taking the public benefits together as a whole I conclude that they would be of sufficient weight to outweigh the harm identified to the significance and special interest of the designated heritage assets.
31. I have found above the proposal would conflict with Policy CS.8 in terms of harm arising, but this has to be weighed against the other criterion of securing its optimum viable use, which it does, and I therefore find it accords with CS.8 overall. In terms of providing additional dwellings, and change of use, the proposal would not be contrary to Policies AS.10 and CS.25.
32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states determination must be made in accordance with the plan unless material considerations indicate otherwise. Paragraph 11(c) of the Framework states that decision taking means approving development proposals that accord with an up-to-date development plan without delay. I find the proposal would accord with the Development Plan when taken as a whole.

Conditions

33. Paragraph 56 of the Framework and the Planning Practice Guidance, Use of planning conditions, provide the tests for the imposition of conditions. The Framework is clear that planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning, and to the development to be permitted, enforceable, precise and reasonable in all other respects. I have assessed the suggested conditions accordingly.
34. Conditions on the approved plan(s) would help clarity and confirm the works shown on the plans are indicative only.
35. The Council suggest a condition on the retention of the car park, and this is imposed to avoid car parking and potential congestion on the village road. A condition is also suggested on the provisions of bins for refuse disposal and recycling. As the dwellings are different from the commercial use of the pub, I find that this condition is necessary to ensure that these essential services function. However, the suggested condition also seeks rear siting of the bins or screening measures which I do not find would be reasonable as this would be no different to its former use.
36. The Council suggest a condition on landscaping, however as the proposal is a change of use of the building this is not warranted. Similarly, as the proposal would be less intensive than its pub use, the re-surfacing of the site access would not be reasonable. The condition on sustainability measures would also not be appropriate for a change of use.

Conclusion

37. I therefore conclude that the appeal should be allowed, subject to the conditions in the conditions annexe below.

John Longmuir

INSPECTOR

Conditions Annexe

1. The development to which this permission relates must be commenced not later than the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in accordance with the Location and Site Plans drawing number HAR-001-001E. All the internal and external works shown on Proposed Plans drawing number HAR-001-004C and Proposed Elevations drawing number HAR-001-005C are indicative only and not hereby permitted.
3. All existing parking spaces within the site as shown within the red line on drawing number HAR-001-001E shall be used solely for the parking of vehicles used by the occupants of the approved dwellings and the persons visiting, attending or working at the site and shall be kept permanently free from obstruction.
4. The dwellings hereby permitted shall not be occupied until 3 bins for the purposes of refuse, recycling and green waste have been provided for each of the approved dwellings, in accordance with the Council's bin specifications.

End of conditions