



Appeal Decision

Site visit made on 27 November 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 January 2025

Appeal Ref: APP/M2270/W/24/3344563

White Horse Inn, High Street, Cranbrook, Kent, TN17 3EX

- 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 Cordage 26 Limited against the decision of Tunbridge Wells Borough Council.
 - The application Ref is 24/00348/FULL.
 - The development proposed is the conversion of the ground floor of the White Horse Public House to provide two self-contained residential apartments (Use Class C3), with associated bin and bike store, and reconfiguration of the car park.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted amended plans with the appeal documents showing the retention and internal blocking up to window sill height of an existing door and privacy screens on the south east elevation. As these only involve minor changes, my consideration of the amended plans would not cause procedural unfairness or prejudice to interested parties. Therefore, I have had regard to the amended plans in my determination of the appeal.
3. There are references to emerging policies in the Tunbridge Wells Borough Submission Local Plan 2021 (SLP). These policies do not yet form part of the development plan and are subject to examination, with various hearings having already taken place. The Council and the appellant dispute the amount of weight that these should be afforded. Considering that the Inspector's Report has not yet been issued and there remain unresolved objections to the relevant policies, I broadly share the appellant's view that these should carry no more than moderate weight.
4. The National Planning Policy Framework (the Framework) was revised, and the 2023 Housing Delivery Test (HDT) results were published in December 2024. As these could affect the issues and matters in this case, the Council and the appellant were invited to make further comments. My decision reflects the latest versions of these documents and the responses received on them.

Main Issues

5. The main issues in this appeal are:
 - the effect of the proposal on the vitality and viability of the Cranbrook primary shopping area, retail frontage and town centre;

- whether the proposal would result in the unjustified loss of a community facility;
- whether the proposal would result in the unjustified loss of an employment-generating use; and
- whether the proposed development would provide acceptable living conditions for future occupiers, with particular regard to privacy and outlook.

Reasons

Vitality and viability

6. The appeal site comprises a vacant ground floor public house, formerly the White Horse Inn, within the thriving Cranbrook town centre. The linear centre largely comprises ground floor shops and other commercial premises stretching along Stone Street and around the corner onto High Street, with some residential units, especially on upper floors. The site occupies a prominent central location close to where these streets converge.
7. The Cranbrook Primary Shopping Area (PSA) extends across much of the central commercial area. Saved Policy CR3 of the Tunbridge Wells Borough Local Plan 2006 (LP) sets out a wide range of uses that are generally accepted within PSAs, requiring proposals to not detrimentally impact on their vitality and viability. It does not refer to residential use.
8. Saved LP Policy CR11 sets out a maximum percentage and seeks to avoid an excessive concentration of non-A1 uses in the PSA frontage. The Use Classes Order (UCO)¹ has been amended since the LP was adopted, providing flexibility by subsuming most town centre uses plus some employment, service and recreational uses within use class E. Public houses were previously within use class A4 but now fall outside the use classes (*sui generis*). Given the use class changes, saved Policy CR11 has limited applicability.
9. Policy BE6.2 of the Cranbrook and Sissinghurst Neighbourhood Plan 2023 (NP) supports proposals to increase the diversity of retail, hospitality, community, cultural and business activities that reflect the market town character of Cranbrook. Amongst other things, it also supports proposals that promote sympathetic active ground floor uses in the town and village centres. Policy HD4.2 of the NP seeks to protect and enhance shopfronts.
10. Within town centres, emerging Policy ED9 of the SLP supports the development of a range of appropriate uses where they contribute to the vitality and viability of the centre or respond to changing needs or trends. Amongst other things, it also seeks to enhance the diversity of centre uses and may resist the over-concentration of uses that would be detrimental to the character and function of an area or the vitality or viability of the centre.
11. Emerging Policy ED11 of the SLP identifies public houses as a town centre use that would support the overall vitality and viability of centres such as Cranbrook. It sets out several criteria for the change of use of ground floor premises in the PSA. These include: maintaining the vitality, attractiveness and viability of the frontage; complementing the shopping or commercial

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

function and providing a direct service to the public; and contributing to an appropriate mix and diverse offer. It seeks to resist the change of use of ground floor premises to residential use, amongst other things.

12. The proposal is to convert the ground floor to two apartments. The premises is not a shop, has no window display and is not part of the comparison shopping frontage and therefore the proposal would not adversely affect a shopfront or conflict with NP Policy HD4.2.
13. The previous use of the site as a public house was compatible with commercial uses in the PSA. I acknowledge that the appeal scheme would bring a vacant unit back into use and that residential uses help to sustain the vitality of centres such as Cranbrook, which has some existing dwellings in the PSA. Nevertheless, due to its location in the heart of the PSA and the sizeable building frontage, the loss of a street level commercial premises to residential use in this location would cause significant harm to the function of the centre. This would be contrary to saved LP Policy CR3, NP Policy BE6.2 and emerging SLP Policies ED9 and ED11.
14. Therefore, I conclude that the proposal would harm the vitality and viability of the Cranbrook primary shopping area, retail frontage and town centre. This would conflict with saved Policy CR3 of the LP and Policy BE6.2 of the NP.

Community use provision

15. Core Policy 8 of the Council's Core Strategy Development Plan Document 2010 (CS) aims to resist the loss of community facilities as far as practicable. The supporting text indicates that this relates to a local venue or building available for use by, or to serve the needs of, the local community, and could include recreational venues, amongst other things.
16. LP saved Policy CS6 seeks to resist the change of use of community buildings outside defined neighbourhood and village centres unless it is demonstrated that there is no longer demand for the facility in the locality or suitable alternative provision is made elsewhere. Notwithstanding that the site is within Cranbrook town centre, as the supporting text refers to community and village halls and makes no reference to public houses, the proposal would not conflict with this policy.
17. It is clear from the supporting text to emerging Policy ED12 of the SLP that this relates to recreational facilities such as public houses, amongst other things. This emerging policy states that proposals resulting in the loss of a local facility or service which serves a local need will not be permitted subject to criteria. The criteria relate to suitable alternative provision, the viability of the commercial use, marketing for at least 18 months and consideration of alternative commercial uses. These were subject to discussion at the examination hearings and there will be some minor policy changes as a result.
18. The Marketing and Viability Report April 2024 (the Report) indicates that there has been open marketing since April 2023 for freehold of the entire premises and latterly leasehold of the ground floor. There is no dispute that the freehold asking price set out in the Report is realistic. There were several enquiries and viewings in 2023 involving different potential uses. One offer for an alternative use was made without any supporting funding information and there have been no offers for leasehold of the ground floor.

19. Planning permission for retention of the public house and conversion of the upper floors and outbuilding to residential use was granted in January 2024². If implemented, the appeal scheme and extant permission would bring a vacant property back into use. The Report states that the extant permission will increase the attractiveness of the premises to potential buyers/lessees as a viable pub opportunity on the ground floor. The Council indicates that the previous application had been submitted to provide financial support to the public house through rental income. The parties dispute whether, based on the barrellage information, the use of the ground floor as a public house would be profitable. However, as there is limited evidence that the marketing reflects the extant permission, I cannot be certain that the ground floor would not be viable for use as a public house in conjunction with the residential use of the upper levels.
20. The Report refers to a wide variety of existing and competing provision of public houses, but many are establishments in other villages and not easily accessible other than by car. Close to the site, the Report identifies The George Hotel and the micropub known as Larkins Alehouse as competing outlets. The Parish Council and several local residents consider that the proposal would result in the loss of the last public house in the town. I agree that due to the relatively small size of the nearby alehouse and the location of the bar within part of a hotel, the other nearby premises do not provide the same type of sizeable, self-contained public house facility as that formerly provided on the appeal site.
21. Therefore, from the information before me, the proposal would result in the loss of a community facility. There is little information to demonstrate that it could not be viably used as a public house in combination with the extant residential permission for the upper floors. Further, there is no similar provision nearby. As such, the scheme would be contrary to Core Policy 8 of the CS. In addition, irrespective of the length of time marketing has been carried out, the proposal would result in the loss of a local facility which serves a local need, contrary to the aims of emerging Policy SD12 of the SLP.
22. Consequently, I conclude that the proposal would result in the unjustified loss of a community facility. For the reasons set out, I find conflict with Core Policy 8 of the CS.

Employment use provision

23. Core Policy 7 of the CS relates to a wide range of employment uses, seeking to safeguard the existing employment use of buildings subject to several criteria. These relate to being well located to main roads and public transport networks, capable of providing good quality modern accommodation attractive to the market, and capable of meeting a range of employment uses to support the local economy.
24. Policy BE6.1 of the NP supports proposals that enhance the town centre business offer where they complement the local context and the conversion of long-term vacant High Street spaces into business premises.
25. Emerging Policy ED2 of the SLP aims to retain existing employment buildings in their existing or previous use, or an alternative employment-generating use

² Planning application ref: 23/02747/FULL 'extant permission'

in accordance with several criteria, unless they are demonstrably unsuitable for longer-term employment use through reuse, refurbishment or redevelopment. At the Local Plan examination hearings, the Council agreed to make some wording amendments to this policy to provide greater clarity.

26. The site is located on a main road in a settlement with access to public transport. I note that the site's location within a Conservation Area would limit options for redevelopment of the site. However, there is insufficient evidence to demonstrate that the premises could not be refurbished to provide modern accommodation suitable for employment use in accordance with Core Policy 7 or improve the town centre business offer as set out in NP Policy BE6.1. The proposal would also be contrary to the objective of retaining buildings in employment-generating use set out in emerging SLP Policy ED2.
27. Public houses fall outside the use classes in the UCO which limits the extent to which they can change to other uses without planning permission. The appellant states that there has been no commercial interest in Class E (commercial, business and service) uses to date. However, given the limited evidence of marketing having reflected the extant permission for residential use of the upper floors, it has not been demonstrated that the ground floor could not be used for a public house or other suitable business use.
28. Therefore, I conclude that the proposal would result in the unjustified loss of an employment generating use. This would be contrary to Core Policy 7 of the CS and Policy BE6.1 of the NP.

Living conditions

29. The proposed flats would have windows to their living/dining/kitchens and bedrooms immediately abutting High Street and Carriers Road. Except for one of the bedrooms in apartment 2, these would be the only external windows serving these rooms. The revised plans show privacy screens designed as open shutters covering most of each window opening facing High Street.
30. Apartment 1 would have window shutters on all its habitable room openings. Whilst these would provide privacy to future occupiers of this proposed dwelling, there would be minimal outlook which would not provide satisfactory living conditions for future residents of this unit.
31. The High Street facing windows of apartment 2 would have shutters whilst the living/dining/kitchen and bedroom windows fronting Carriers Road would be open to the street. Although the shuttered windows would provide some privacy, pedestrians would be able to walk directly in front of habitable room openings on Carriers Road, creating unacceptable overlooking into the living area and bedrooms of this dwelling. The appellant considers that blinds or lace curtains could be used or that a condition could require the installation of shutters. However, as the living room and bedroom 2 would not have any other openings, such measures would result in minimal and unacceptable outlook from apartment 2.
32. There are other dwellings in the locality with ground floor windows abutting the highway. However, these are in more peripheral parts of the centre, and it is unclear whether they have other windows providing outlook to their habitable rooms. Therefore, these do not justify the unsatisfactory living arrangement proposed.

33. It is suggested that one-way glass could be used that would allow a full outlook for residents but no inward looking from the street. No further details of this have been provided to assess its effectiveness or how the appearance of such glass would affect the character of the area. Accordingly, there is no certainty that a condition securing this would be appropriate or effective.
34. For the above reasons, I conclude that the proposed development would provide unacceptable living conditions for future occupiers, with particular regard to privacy and outlook. This would be contrary to saved Policy EN1 of the LP where it requires proposals to provide adequate residential amenities for future occupiers, including in terms of privacy.

Other Matters

35. The site lies within the Cranbrook Conservation Area (CA) where there is a requirement for special attention to be paid to the desirability of preserving or enhancing the character or appearance of the CA. Having regard to the Cranbrook CA Appraisal (CAA), the significance of the CA derives in part from the survival of the historic street plan, dense development form and many buildings relating to Cranbrook's cloth industry in the medieval and early modern periods. The host building is identified as a prominent and flamboyant positive building in the CAA, being a major focus because of its position, size, materials and decorative detailing. As the amended proposal would retain the existing historic entrances onto High Street, the window openings and other important elements of the frontage, the proposal would preserve the character and appearance of the CA. Given the revisions, I note that the Council is no longer pursuing its third reason for refusal in this respect.
36. The Council did not find harm or development plan conflict in relation to several other matters, including flood risk, parking, highways, cycle and waste storage, archaeology, landscape and protected trees, and that many consultees did not object to the proposal. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposed scheme.

Planning Balance and Conclusion

37. The Council's Housing Land Supply Statement November 2024 refers to a 4.34 year supply of housing land. The Council is considering its housing land supply position to account for the reintroduction of a 5% buffer and the removal of the four year supply requirement in the Framework. It is highly likely that the Council will not be able to demonstrate a five year housing land supply. The appellant also considers that the increased housing need for Tunbridge Wells using the new standard method will require the preparation of a new plan as soon as possible after the SLP has been adopted. Given this, paragraph 11(d) of the Framework is engaged.
38. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies including directing development to sustainable locations and making effective use of land.

39. The Framework seeks to boost housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal would make a modest contribution of two flats to the supply of housing, making better use of previously developed land within Cranbrook's limits to built development with access to public transport and a range of services. It would contribute towards Tunbridge Wells' housing supply, making a modest difference to addressing any shortfall, and therefore I attribute modest weight to this benefit.
40. In contrast, the proposal would harm the vitality and viability of Cranbrook primary shopping area, retail frontage and town centre, result in the unjustified loss of a community and employment generating use and provide unacceptable living conditions for future occupiers. The Framework seeks to promote the long-term vitality and viability of town centres, guards against the unnecessary loss of valued facilities, supports economic growth, and requires development to provide a high standard of amenity for future users. I have concluded that the proposal would conflict with Core Policies 7 and 8 of the CS, saved Policies CR3 and EN1 of the LP, and Policies BE6.1 and BE6.2 of the NP. These matters combined carry significant weight against the scheme.
41. Consequently, the adverse impact I have identified would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.
42. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Wright

INSPECTOR