



Appeal Decision

Site visit made on 29 August 2024

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 13th January 2025

Appeal Ref: APP/P0240/W/24/3339821

109 Clophill Road, Maulden, Central Bedfordshire MK45 2AD

- 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 Sohail Iqbal against the decision of Central Bedfordshire Council.
 - The application Ref is CB/23/03249/FULL.
 - The development proposed was originally described as a 'change of use from pub on the ground floor to farm/convenience shop, first floor new entrance door, staircase and car showroom to the rear'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description of development is taken from the application form. However, the Council has described the development as a "change of use from public house on the ground floor to farm/convenience shop. First floor creation of new entrance door and staircase. Removal of rear staircase and rear and side stores. Erection of a car showroom to the rear of the site. Demolition of existing outbuilding". This represents a more accurate description of the development, and I note that the appellant has entered a similar description onto the appeal form. Accordingly, I have dealt with the appeal on this basis.
3. Based on the evidence and my observations during the site visit, the primary building on the site appears to function as an office, although the proposed development seeks to use it as a farm/convenience shop. Regardless of the intended use of the primary building, it is clear that planning permission has been sought partially retrospectively for the use of the appeal site for the sale of cars, and I have considered the appeal on that basis.
4. The appellant and Council dispute whether planning permission is required for the independent use of the first floor of the primary building as residential flats. However, the proposed development is for a comprehensive scheme including a change of use and the loss of a community facility. As such, further assessment on this point is unnecessary and does not alter my findings in respect of the appeal proposal against the relevant policies of the development plan.
5. Since the planning application was determined, the NP¹ was formally 'made' on 2 January 2024. Accordingly, the relevant policies of the NP have been given due consideration and attract full weight.

¹ Maulden Neighbourhood Plan Made 2024

Main Issues

6. The main issues are:

- whether the proposed development would comply with local planning policies which seek to protect existing community facilities, having regard to need, viability and marketing;
- the effect of the proposal upon the character and appearance of the surrounding area; and
- the effect of the proposed parking and access arrangement on highway safety.

Reasons

Protection of Community Facilities

7. The appeal site includes a one and a half storey building and associated land. During my site visit, I observed that the ground floor of the property had been converted into an office to facilitate the sale of cars, which were parked around the site. The parties agree that the last lawful use of the appeal site was as a public house.
8. Policy HQ3 of the LP² addresses the provision of social and community infrastructure. It permits a change of use of community infrastructure if the following criteria are met: (a) the use no longer serves the community, and significant evidence is provided to demonstrate that it is surplus to requirements and there is a lack of need for any other community uses at the facility; or (b) the loss is replaced by equivalent or better provision, either on site or at a suitably accessible location; or (c) evidence is provided which satisfactorily demonstrates that the use is no longer financially viable, and all reasonable efforts have been made to sell or let the premises for a community use at a reasonable price for at least 12 months. Additionally, the supporting text at section 17.3.2 highlights that public houses are a form of community infrastructure, as they provide a service that supports and meets the everyday needs of local residents and workers.
9. Regarding criteria (a), I recognise that the public house which previously operated on the appeal site has been closed for over 4 years. However, the specific reasons for this are unclear and so this does not provide conclusive evidence that the appeal site as a public house would no longer serve the community. There is no significant evidence before me that it would be surplus to requirements. Indeed, a considerable number of objections to the proposal have been received from residents, many citing concerns over the loss of a public house. This level of interest strongly indicates that the facility is valued by the local community. Although the proposed development may still make a minor contribution to the local community as a farm shop, there is no detailed evidence to suggest that there is a demonstrable need for such a use. Moreover, it would not serve as a comparable alternative to its use as a public house.
10. As such, the proposed development would result in a significant negative impact on social cohesion of the local area, and a reduced sense of community

² Central Bedfordshire Local Plan 2021

and I also see no reason to doubt its potential to remain a valued rural destination. There is no significant evidence to suggest the public house is surplus to requirements and this indicates that criterion (a) is not met.

11. Regarding criteria (b), there are other public houses in the locality which remain open and offer drinking and dining facilities. This includes The Stone Jug and The Flying Horse in Clophill, as well as The George Inn and White Hart in Maulden. However, the appeal site's relaxed rural setting, detached from the more consolidated parts of the settlement offers a unique sense of identity and customer experience. Given the rural setting, it is unlikely that the other public houses would provide an equivalent or better provision of service. Moreover, the appeal site serves a specific catchment area within the immediate local community, rather than only attracting people from outside the area who would need to drive or walk to the site.
12. While the walking distance to other public houses may not be substantial, they are unlikely to be in easy walking distance for all residents close to the appeal site due to the rural setting of the area. This would affect accessibility, particularly at night, for individuals with limited mobility or those without access to private transportation. Furthermore, Policy R2 of the LP requires that other facilities performing the same function should be within easy walking distance of the community. Additionally, while there is a bus stop near the appeal site, there is limited evidence before me to suggest that services are frequent, particularly during evening hours when public houses are most commonly used. Having regard to these factors and in the absence of any substantive evidence to the contrary, criterion (b) has not been met.
13. Regarding criteria (c), the parties have referred to information considered in the previous applications and appeal³. I note that the Inspector in the previous appeal referred to the submission of a Commercial Viability Report (dated 7 August 2020) (CVR) and the appellant has appended this to the current appeal. The CVR included a review of historic trading performance and analysis of other licensed premises in the locality. It indicated that the business was run at a small loss in 2016, 2017 and 2018. Nonetheless, the CVR forecast suggests that under normal circumstances, and disregarding locational factors, a modest profit could be generated by the second year of operation following an initial investment to establish the business. Notably, this report was prepared in 2020, and no updated version has been submitted with this appeal to take account of current economic factors.
14. Given the time that has passed since the Covid-19 pandemic, it is likely that its impact has lessened, potentially reducing the risks for a future operator of a public house. In this context, although the appellant has referred to the closure of over 500 pubs in 2023, a more recent marketing and viability assessment is still necessary to accurately assess the viability of this particular site, and this is also reflected in the requirements of Policy M14 of the NP. While I recognise that there can be significant risk involved in operating the appeal site as a public house, and that the appellant has recently purchased the site, this does not exempt them from the need to demonstrate that the use of the appeal site as a public house is no longer financially viable.
15. The appellant has expressed a willingness to surrender the current lease to allow the local community to take on the property as a public house. However,

³ CB/20/02965/OUT, CB/22/04599/OUT and APP/P0240/W/21/3266473

it is unclear whether the appellant has entered into any formal meetings or consultation with any local community groups or organisations, or, in the event that they have, the nature and extent of any engagement with the community. While the appellant has indicated that there has been no solid or serious interest, there is no detailed information regarding expressions of interest, which offers were received and how these were assessed in terms of viability. As such, I cannot be certain that all reasonable efforts have been made to let the appeal site at a reasonable price.

16. The appellant also contends that the appeal site was marketed between 2020 and 2021, with a 'For Sale' sign erected in 2022. However, it is unclear whether it was marketed continuously for at least 12 months during those periods. Even if it was, given the changing market conditions, it is reasonable to expect that a more recent marketing report be produced, as the last one was completed in 2020. In the absence of any substantive evidence to the contrary, criterion (c) has also not been met.
17. Policy R2 (Retail for Minor Service Centres, Villages and the Rural Economy) of the LP and Policies M13 (Maulden's community facilities) and M14 (Supporting a vibrant village centre and other local services) of the NP are broadly similar to policy HQ3 in their objectives and application. These policies are also largely consistent with the criteria in Policy HQ3 and for the reasons already set out, the proposal would also not meet their requirements.
18. I acknowledge that previous proposals involved the demolition of the former public house, whereas the current proposal involves a change of use. Although the retention of the building could potentially allow the site to return to its previous use, this would be reliant on the site being available in the future which could not be guaranteed should an alternative use be granted permission and subsequently become established. Accordingly, I have assessed the proposal on the basis of the specified change of use against the relevant policies of the development plan.
19. Drawing my findings together, I conclude that the proposed development fails to comply with local planning policies which seek to protect existing community facilities, having regard to need, viability and marketing. In that regard it would conflict with the specific requirements under Policies HQ3 and R2 of the LP. For the same reasons it would also conflict with Policies M13 and M14 of the NP.

Character and Appearance

20. The appeal site and its immediate surroundings are bounded by native trees and hedgerows, within a wider undulating landscape which is comprised of wooded areas, agricultural land, and dispersed forms of residential development. These characteristics, along with the narrow width of the road, combine to give the street scene a strong rural character and rather pastoral feel. The appeal site is occupied by the former Dog and Badger PH set within a substantial plot. The evidence before me indicates that there was formerly a large associated garden. It is highly visible from the roadside, as there is currently no effective screening from public views.
21. The proposed timber fencing and sliding metal gate would introduce a new form of visual segregation which would be uncharacteristic of the overriding verdant and spacious characteristics of the existing area. Although the use of

the public house would typically involve vehicles being parked around the appeal site, these would be limited in number. In contrast, the mix of uses before me would result in an unusually high density of vehicles parked for extended periods of time. In combination, these factors would give the appeal site a semi-industrial appearance, detracting from the sylvan appearance of the local area and the established pattern of development which is predominantly defined by wide-open rural spaces.

22. I have considered the use of a planning condition to provide details of surfacing, noting that the appellant has expressed a willingness to include landscaped areas to soften the site's overall appearance and reduce the urbanising impact of the parking areas. However, without any more precise details as to what such landscaping areas would entail, I cannot be certain that any landscaping would effectively assimilate the development into its surroundings. Any alteration to the available space to accommodate soft landscaping could also result in significant changes to the layout of the proposals, potentially prejudicing interested parties who have not had the opportunity to provide comments. Furthermore, imposing such a condition would be contrary to the Procedural Guide⁴, which states that the appeal process should not be used to evolve a scheme. Therefore, I am not persuaded that such a condition would be suitably precise or that it would make the development acceptable in planning terms.
23. In conclusion, the proposal would harm the character and appearance of the surrounding area. It would not respect the distinctiveness of the local landscape and area, contrary to Policy EE5 of the LP and would not relate well to the existing local distinctiveness, both built and natural, contrary to Policy HQ1 of the LP. It would also not respect the local vernacular of the area, contrary to Policy M3 of the NP.

Highway Safety

24. The plans indicate that the car parking spaces would be divided into separate areas around the appeal site: car sales parking towards the rear; residents and customer parking at the front, and staff parking to the side of the building. A pavement for pedestrians lies between the appeal site and Clophill Road. This highway is narrow with very limited space for on-road parking. Therefore, any parking on Clophill Road in the vicinity of the appeal site has the potential to create hazardous conditions for vehicular traffic.
25. Policy T3 requires new developments to have regard to the car parking standards set out in the Central Bedfordshire Council's Design Guide and Parking Strategy. It is not contested between the parties that the convenience store/farm shop would require the provision of 11 car parking spaces. However, it is unclear what provision has been made for customers of the car sales business, as additional parking spaces will be needed. In any event, the plans indicate that at least 3 of the 11 front car parking spaces are designated for residents. Consequently, only 8 parking spaces would be available for customers of the convenience store/farm shop, resulting in an under provision of at least 3 spaces.
26. The under provision of parking within the site has the potential to lead to the displacement of parking, and potential for vehicular conflict within the car park

⁴ Paragraph 16: Procedural Guide – Planning Appeals – England (2024)

and on Clophill Road as drivers search for alternative spaces in an area where there is already limited provision. There is also a significant risk that during busy periods vehicles may be parked in hazardous or inappropriate locations, including along Clophill Road. This risk is compounded by the lack of clarity regarding the car parking provision for customers of the car sales business. Accordingly, the evidence before me is that the proposed car parking provision would be insufficient and there is the potential that this could have a detrimental effect on highway safety.

27. The plans also do not indicate vehicle turning areas within the site, including provision for larger vehicles such as fire tenders. Additionally, the submitted block plan does not appear to be to scale. As such, it is unclear whether there is sufficient space to allow vehicles to enter and exit the site in a forward gear. Taken together with the location of the parking area being close to the highway, there would be a heightened risk of vehicles colliding with walls or other vehicles while manoeuvring into or out of the appeal site. As the pedestrian footway is also located immediately outside of the appeal site, this also poses a significant danger to pedestrians who could be caught between a manoeuvring vehicle and surrounding objects.
28. I have considered the use of a planning condition to provide revised details of parking arrangements and turning areas on the site, noting the appellant's willingness to provide additional information. However, a condition to provide an updated parking and turning plan would not provide sufficient certainty that the issues identified would be overcome without substantial changes to the layout. This could in turn have implications for any soft landscaping. Again, as highlighted earlier on in this appeal decision, interested parties would not have had the opportunity to be consulted.
29. In conclusion, the proposed parking and access arrangement has the potential to have a harmful effect on highway and pedestrian safety. In that regard it would conflict with the highway safety requirements of Policy T2 of the LP. It also fails to pay due regard to the relevant car parking standards, contrary to Policy T3 of the LP.

Other Matters

30. I understand that the appeal site previously stood empty and was vulnerable to crime and vandalism. The appellant has brought the site back into use, by leasing the plot out to a separate company. However, the buildings are privately owned, and the security of the property is not contingent on the proposed development. As such, this is a consideration of limited weight.
31. The farm/convenience shop would provide nearby residents with convenient access to certain goods, albeit it is unclear whether the precise offer would be appealing to the local community. Additional planting could also help foster wildlife and promote biodiversity on the site. However, despite these potential benefits, they would not be of a sufficient magnitude to outweigh the harm identified in relation to the main issues.

Conclusion

32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in

accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR