
Appeal Decision

Site visit made on 23 January 2025

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 March 2025

Appeal Ref: APP/Y1138/W/24/3349585

Redwoods Inn, Uplowman, Tiverton, Devon EX16 7DP

- 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 Hayman against the decision of Mid Devon District Council.
 - The application Ref 23/01916/FULL, dated 12 December 2023, was refused by notice dated 8 February 2024.
 - The development proposed is change of use of public house to 3 dwellings.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published during the consideration of this appeal on 12 December 2024. The references in my decision to the paragraphs in the Framework relate to this new document.
3. For reasons of precision and clarity, I have taken the site address and the description of development from the Council's decision notice.

Main Issue

4. The main issue in this appeal is whether the proposed development would result in the unacceptable loss of a valued facility considered important to meeting the day to day needs of the local community.

Reasons

5. Policy DM23 of the Mid Devon Local Plan (MDLP) identifies that proposals which involve the loss of community facilities such as local public houses, will not be permitted where it is considered to damage the settlement's ability to meet its day to day needs or result in the total loss of such services to the community. Only in circumstances where the facility is proven to be no longer economically viable, including for alternative community uses, will applications for alternative use be considered acceptable.
6. The Framework seeks to retain local services and community facilities, including public houses, as set out in Paragraph 88(d) and at paragraph 98(c), identifying that decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

7. The existing public house is a two-storey building, with a single storey outbuilding containing a skittle alley, along with ancillary storage space. The pub is served by a parking area to the front, with a lawn and patio area to the rear. It is positioned in a central location within the village of Uplowman.
8. Along with the appeal site, Uplowman contains a Village Hall and Recreation Ground, St Peter's Parish Church and Uplowman Primary School.
9. It is well documented that the economic conditions for rural pubs are challenging, and the viability of such businesses often rests on a combination of good management, a diverse offer, a supportive local community and their location. The sales figures for 2022 show a reasonable level of sales, with similar levels replicated across the previous 5 years, albeit there was a considerable dip in 2020 due to the Covid-19 pandemic. The 2022 sales figures are the largest for the past six years and are reflected in a net profit of £59,299 for 2022. Previous years also show the business to be making a profit, albeit with some support in 2020 and 2021 from grants. Therefore, on the face of the accounts provided by the appellant, it would appear that the current business is, and has been for the past six years, operating at a profit.
10. Reference has been made in the evidence to the figures for 2023 being less than those for 2022, although no accounting details for this year are before me.
11. The position of the appellant is that, whilst the business may well be operating at a profit, they have not taken out a wage for their work during the accounting period provided. When an allowance for this is deducted from the accounts, in their view, this would remove any profitability of the business.
12. Any new operators of the public house are unlikely to run the business on the same basis as the appellants and are unlikely to have the benefit of alternative sources of income that the appellants currently rely upon. Should the owners decide to stop working and bring in staff to cover their current roles and responsibilities, this would be an additional cost to the business and, based on its current operation, these additional costs would likely make the business unviable. I also note the considerable increase in outgoings over the past years, including from lighting and heating, although this increase, along with the reduction in the level of business grants, does not appear to have prevented the business from making a profit in 2022.
13. Whilst, for the above reasons, the current business may be regarded as being economically unviable, I do not consider that this automatically means that any business operating from the public house would also be, especially given the increased sales figures reported in the most recent accounts. Furthermore, I also note that the public house benefits from the support of the local football team and a well-established skittles league. There is also evidence of considerable community opposition to the loss of the pub, which led to measures taken by the community to support and investigate options for its future retention. Taken together, these all indicate strong local support for the public house.
14. Uplowman is a rural community with a relatively small population to support the pub, however I do not find it to be in an isolated location. Redwoods Inn lies in an accessible location within the village, on a road that links a number of larger settlements. The village itself is also served by other community

facilities which, in their own right, are likely to generate associated activity, all of which are located a reasonable walking distance from the appeal site. From the evidence before me, a number of these facilities, such as the Village Hall, appear to be well utilised. This adds to my view that, with the existing level of community activity within the village, there is evidence that there is a realistic prospect of creating a viable pub enterprise at the appeal site.

15. It is clear that the appellant has been seeking to sell the business and the building for a considerable period of time, with marketing commencing in July 2012. In this respect, I am satisfied that the property has been marketed for a sufficient period of time and that the reach of the marketing has been sufficiently comprehensive.
16. During this time no offers have been received, with the appellant identifying that potential buyers were concerned about the trading potential and viability of the business, concern over the location of the pub, along with potential competition from other pubs in the surrounding area. Concerns were also raised in relation to likely high running costs due to the size of the building.
17. Therefore, on the face of it, this lack of interest in purchasing the pub would possibly suggest that there is little or no market for it to be retained as a pub in any form. However, whilst I do not take issue with the feedback provided, there is no evidence before me to suggest that the price sought has been amended or changed to reflect the feedback received. Given the length of time the property has been marketed for, along with the feedback received, I consider it would have been reasonable to test the market's appetite with alternative figures. Neither is there any evidence before me to demonstrate that the asking price is reasonable for a business and building of this type and there are no comparable examples before me to lead me to conclude this to be the case.
18. As a consequence, I therefore find that, whilst the business has been marketed for a considerable period of time, on the basis of the evidence before me, I am unable to conclude that this has been done actively enough to demonstrate that there is no demand for the property to be sold as a public house.
19. Whilst policy DM23 does not make specific reference to assessing other potential options for the existing business, I consider that the purpose of considering other options is to look at whether there are any other income streams or alternative approaches to running the business that would support its overall viability. Therefore, to my mind a consideration of other options is encompassed within the consideration of overall economic viability that clearly forms part of the tests set out in policy DM23.
20. In terms of other options, there is little in the way of evidence to show what other potential avenues have been explored. Whilst I agree that it may be the case that a number of alternatives may be unviable or just not deliverable due to existing constraints or the personal needs of the appellants, without any substantive evidence to show both what has been considered and why they are no longer viable, I am unable to conclude with any certainty, that other potential options do not exist that would support the business.
21. The appeal site represents the only pub within the village. I have been referred to the presence of other nearby public houses which in the view of the appellant, provide alternative locations which would be available to local

- residents. From the information before me, whilst there are a reasonable number of alternatives, only one is located within 2 miles of the appeal site. Considering the guidance provided in Manual for Streets, the vast majority are beyond a reasonable walking distance.
22. I note the presence of a network of footpaths and whilst these may provide acceptable routes during the day, due to their rural nature, I do not find them to be particularly attractive routes after dark. A number of the alternatives are within an easy cycle distance of Uplowman and, as a result, I find this is likely to be an attractive option. However, given the rural nature of the surrounding roads, this is only likely to be a viable option for those within the community who are competent in cycling along such routes. Therefore, whilst alternative transport options may exist, I do not find them to be sufficiently realistic and, as such, accessing other nearby pubs is most likely to require the use of private vehicles.
23. I recognise that in rural areas it is often the case that the potential to provide for alternative means of transport to access nearby locations is often limited, but in this case, I do not find that the suggested alternative locations are close enough, or accessible enough to outweigh the loss of the public house. On this basis, I conclude that the proposed development would damage the settlement's ability to meet its day to day needs.
24. It has been put to me by the appellant that the existing Village Hall would provide a suitable alternative within the village. To my mind however, I consider that, whilst there may be some opportunity for the village hall to act as a replacement facility for some activities, they are seeking to serve different needs of the community. The Village Hall provides an open and accessible space to meet the needs of specific groups or activities, with the existing public house providing a more informal community meeting point for socialising, potentially after activities at the Village Hall have finished. There is therefore a symbiotic relationship between the two community uses, with each potentially providing support to the other, but neither being able to fully replace the community services they specifically provide. As such, I do not find that the Village Hall to be the type of facility that would provide an adequate replacement for the loss of the public house.
25. Drawing all of this together, on the basis of the evidence before me, I conclude that the proposed development would result in the loss of a public house which would damage the settlement's ability to meet its day to day needs and it has not been sufficiently demonstrated that it is no longer economically viable and, in these respects, would be contrary to Policy DM23 of the MDLP and the Framework.

Other Matters

26. I have been referred to the specific needs of the appellant in relation to planning for their retirement. I do not seek to bring this into question, nor do I doubt their overall aims for wishing to sell the business. Whilst I fully appreciate these aims and objectives, I do not find that these personal aims to be sufficient to outweigh the policy conflict I have found.
27. I also note from the submissions that the appellant may be forced to close the public house should they be unable to undertake the proposed development. I accept that the closure of the public house would undoubtedly have an adverse

effect upon the village. That said, I note that there is strong local support for the continued use of the pub and that there have been moves made by the local community to investigate alternative ways for its retention. As such, whilst I accept there would be harm caused from the closure of the existing public house in these circumstances, I have attributed this little weight

28. Reference has also been made by the appellant to the need for significant repairs to be undertaken to the existing building. Given the age of the building, I do not doubt this to be the case, however there is limited evidence before me to show the details of what works needs to be undertaken, their cost and what the impact would be upon overall viability, or alternatively, whether these works, could have a positive effect upon the existing business or provide improvements which would help to increase profitability. As such, given the lack of evidence, I have given this little weight.
29. The appellant has referred to a number of other appeal decisions in support of their case. However, I find that each one of these deals with specific, unique circumstances that apply to each of those cases and that the use of specific paragraphs is not overly helpful or relevant to the current case. In any event, I am required to consider the application on its own merits.

Conclusion

30. For the above reasons, I conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR