



Appeal Decision

Hearing held on 26 March 2025

Site visit made on 26 March 2025

by **G Dring BA (Hons) MA MRTPI MAUDE**

an Inspector appointed by the Secretary of State

Decision date: 14 April 2025

Appeal Ref: APP/X3540/W/24/3342873

The Queen, The Street, Brandeston, Suffolk IP13 7AD

- 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 and Mrs M Cunningham against the decision of East Suffolk Council.
 - The application Ref is DC/23/4753/FUL.
 - The development proposed is change of use of public house (sui generis) to 1 no. dwelling.
-

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the change of use of the public house to residential use would be justified having regard to local and national policies.

Reasons

3. The appeal site is The Queen public house, a two storey detached property constructed of brick, with a pitched tiled roof. There is a public bar area and a dining area laid out. At the time of my site visit customer toilet facilities were present as was a commercial kitchen area, tap store and storage space. Externally there is a garden area and car park to the front of the building along with an outbuilding which is currently used for storage. It is located within the settlement boundary of Brandeston, a small village identified in the settlement hierarchy, set out in the Suffolk Coastal Local Plan Adopted 23 September 2020 (LP).
4. The business at the appeal property ceased trading in November 2022 while the property was being marketed for sale by the previous owners. The appellants submitted an offer in January 2023, which was accepted. The sale was completed in June 2023. At the hearing it was stated that the appellants moved into the first floor of the appeal property under a lease agreement until the sale was completed. The Queen has never re-opened as a public house under the appellants ownership, nor has it been used for any other alternative community use. Whilst it was suggested by the appellants that the intended use was an events business, there is no business plan, market research or any other information before me on this intended use and no evidence that suggests this alternative use was actively pursued.
5. Policy SCLP8.1 of the LP refers to community facilities and assets and states that proposals to change the use, or redevelop for a non-community use, a facility registered as an asset of community value, will not be permitted.

6. The appeal site is designated as an Asset of Community Value (ACV). Whilst I note the appellants requested that the Council remove the ACV designation from the appeal site, this request was rejected. It has been confirmed that the ACV designation will remain in place until November 2027. As such, the proposal for the change of use of the public house to a dwelling would be contrary to Policy SCLP8.1 of the LP. I do not consider that the remainder of the policy text set out, which refers to cases where a community facility is not registered as an ACV, is relevant to the case before me.
7. Nevertheless, whilst paragraphs 88 and 98 of the National Planning Policy Framework (the Framework) support the retention of community facilities, such as public houses, it does not state that community facilities should never be lost to other uses or redevelopment, rather that they should not be unnecessarily lost.
8. Paragraph 8.7 of the policy justification text that supports Policy SCLP8.1 also identifies, with regard to community facilities generally, that there needs to be flexibility to allow the change of use or redevelopment in certain circumstances, including where it is demonstrated that there is a lack of community need or viability.
9. I accept that there is some tension between Policy SCLP8.1, with regard to the moratorium approach to community facilities designated as ACVs, and the more flexible approach identified in the Framework. I am referred to an appeal decision¹ at the Admirals Head Inn, which is located in the same Council area as the appeal site before me. In that case the Inspector highlighted the same policy tension and went onto consider the material considerations raised by the parties including community need, viability and marketing. To my mind, this is a sensible approach to assessing whether there are circumstances present that would justify a change of use of a community facility to a non-community use contrary to Policy SCLP8.1.

Community need

10. Interested parties state that the appeal property provided a daytime and evening venue in the local community to drink, eat meals, socialise, hold family parties and other celebratory events. The importance of the social interaction opportunities that the premises provided, particularly for the older residents of the village, is acknowledged along with many identifying the pub as the hub of the village. It is contended that The Queen was also a destination venue, with a focus on locally sourced ingredients and good quality food that was popular with walkers, cyclists, parents dropping their children off at the local boarding school and those visiting the area on holiday. I note that the marketing brochures (MB) suggest similar characteristics, referring to the appeal property as an excellent destination venue. Some interested parties highlight its role as an establishment that provided employment in the village, particularly for younger residents. The enhanced community role that the appeal property played during the pandemic, being used as a shop and take away is also highlighted by local residents. I can find no substantive evidence to the contrary on this matter.
11. The Queen is the only public house in Brandeston and other facilities are very limited in the settlement, with only a village hall noted. I am referred to the operation of a pop-up pub in the village hall, which was introduced when The Queen ceased trading, in order to provide a temporary solution, until the appeal

¹ APP/X3540/W/21/3267667

property re-opened. The pop-up pub is only open once a month and whilst it does provide an opportunity for social interaction, to my mind, it does not provide the same opportunities as a traditional public house would. I am told that the pop-up pub is well supported by the local community, and whilst I accept that the more limited opening arrangements may mean that more people attend given the opportunity is scarcer, it does suggest that there is appetite in the village to support opportunities which foster the social wellbeing of the community.

12. The Savills Viability Study (VS) submitted by the appellants identifies that there are 13 other pubs within a 5 mile radius of the appeal property, with details of the six nearest included in the information provided. The pop-up pub in the village hall is identified along with the next nearest establishments being The Chequers Inn just over a mile away and The Cretingham Bell around 1.5 miles away. Whilst located in the next villages, given the nature of the roads in the local area, it is likely that people would drive to access these other facilities, rather than walk or cycle. I am told that these other facilities could be accessed by public transport, although there is no information before me on the public transport provision on offer. Whilst they may provide opportunities for eating, drinking and socialising they would not fulfil the role of the village hub for Brandeston, given they are located in other settlements.
13. The appellants suggest that the upgraded village hall has replaced The Queen in terms of being a hub for the village. However, whilst there may be some overlap in the opportunities provided in terms of social interaction, I do not find that a village hall use would compensate for a public house use, given they are different types of community facility which operate in different ways.
14. The appeal property was designated as an ACV in 2022. Considering this designation and the volume and content of the objections to the appeal proposal, the appeal property, is still perceived by many, as a valued community facility in Brandeston and the local area. I note that no community group has come forward to make an offer to buy the pub since its ACV designation, a matter which I will return to, nevertheless, this does not to my mind, negate the need identified by the community. I therefore find that The Queen has contributed to meeting the social, leisure, economic and recreational needs of the community for a considerable period of time, alongside catering for people visiting the locality from the surrounding area and from further afield. Based on the evidence before me, I do not consider that it has been demonstrated that there is no longer a community need for the public house.

Viability

15. I have been provided with financial information from 2018 to 2022 which indicates the previous owners made a loss during that period, albeit that loss was decreasing year on year. However, it is clearly stated in the MB that the previous owners operated the premises on limited trading hours and that they were trading with only basic knowledge, by their own admittance. It is suggested that the reason for the limited opening hours may be due to them not being busy enough to warrant opening at certain times or on certain days. However, there is very limited information before me to substantiate this. It is therefore unclear as to the financial viability of the premises previously, had it been operated as a full time business, and by someone who had more understanding of the trade. I do not find that this

evidence confirms that the use as a public house would be unviable moving forward.

16. The VS states that the appeal property has a small kitchen with limited internal cover numbers and as a result it is unlikely that it would attract much destination custom. However, the MB states that it is an excellent destination venue, a point which was supported and reiterated by interested parties at the hearing. It is suggested that other public houses in the local area are better located and have superior facilities. Whilst I have limited information before me on those alternative venues, having visited the appeal site, I find that the traditional building, its set back position, its setting within extensive grounds and its clear historical role as a public house does lead to an attractive site which does have prominence in the settlement. Whilst the other examples provided may have more roadside presence in some cases, the retained signage at the roadside clearly identifies the location of the appeal property and this would be readily visible by anyone passing or those looking to find The Queen.
17. Whilst different internal cover numbers are noted by the parties, the range in numbers identified are not significantly different. From my site visit I concur with these estimated figures. Whilst this number may be limited compared to some other public houses, there is generally more than one sitting, meaning that the overall numbers of those eating would not be limited to that for each lunchtime or evening service. On visiting the appeal property, I did not find that the commercial kitchen area, was so restricted in size that it would significantly hinder the commercial operation of the size of public house that it has previously served nor would it prevent The Queen from being a destination venue.
18. I note the outbuilding is highlighted as being used previously as additional space where people could eat under cover. I viewed the outbuilding during my site visit and note that it was characterful and rustic, but it is likely that works would be required to make this a more permanent space for additional covers. I am told by the appellants that planning was previously blocked for works to replace the barns to provide additional internal space for the public house, however, I have no substantive information before me on what was previously proposed, or the concerns raised by the Council in response. I find that the external space, without the use of the existing barn, would provide a substantial area for additional covers in the warmer months, and to my mind would provide significant opportunities to expand the service offering.
19. The appellants state that the amount of parking available to the public house has been reduced, however, the VS states that the car parking provision is reasonable. There are no concerns raised by the Council or the VS as to the amount of parking available should the public house use be reinstated.
20. It is stated that the operations at the appeal property have had to rely on the local population which has not supported the business sufficiently. However, there is very little evidence that the local population has not supported the use of the public house historically. The appellants did not re-open the appeal property as a public house on purchasing it, so there has been no opportunity for the local community to support the current use since June 2023. The support identified for the pop-up pub in the village hall, which is identified as being a temporary measure, suggests there is an appetite in the village to support such a use.

21. The appellants identify the limited amount of funds raised by the pop-up pub and that this amount of revenue would not support a commercial operation at The Queen. Given the pop-up pub is run on a very different basis to a commercial operation, I do not find it useful to compare it, in terms of the revenue achieved.
22. I note that the population of Brandeston is limited, although on visiting the settlement it did have the appearance and feeling of a village, rather than a hamlet. The appellants identify there is an ageing population in the village and that there is limited support for any further development, both matters which would affect custom and the potential for staff recruitment. I accept that there would be reliance on The Queen being a destination venue, being used by other residents in the local area outside of the settlement, and by those visiting the area in order to support its use as a public house. As stated above, I can find no evidence as to why it could not be a destination venue.
23. The VS compares the attributes of The Queen to 'managed house' requirements and finds it deficient in most respects when comparing it to larger scale operations. It is my understanding that there are different business models, particularly in relation to independent public houses, and I do not consider that the VS has compared the offering at The Queen to these different approaches. I therefore find that whilst it would not meet the specifications of a larger chain 'managed house' establishment, this would not necessarily make the public house use unviable at the appeal property, particularly if an individual operator were to manage it.
24. The VS identifies that the condition of the property is average throughout and that around a £525,000 investment would be needed to refurbish the appeal property and prepare it for re-opening. Part of that figure is arrived at using the Building Cost Information Service (BCIS) for the rehabilitation/fitting out costs per square metre for public houses. I note that the lower quartile BCIS figure is used given that the building requires less significant works overall. The appellants suggest that there are areas of crumbling brickwork and serious dilapidation of wooden windows, nevertheless, there is no structural report before me which identifies any deficiencies in this respect and the VS does not refer to any specific structural defects.
25. I noted during my site visit that whilst there were some tired areas and specific works that would be required including remedying the walls as you walk through the front door which have been stripped back due to reported issues with the foundations of these internal walls, it did not appear run down or in a state of deterioration that would require significant refurbishment in order to reinstate its use as a public house.
26. The Queen appeared as a traditional rural public house. The bar was still in place and the lines into the tap store appeared to be present. The kitchen was still laid out as a commercial kitchen, albeit the equipment present was limited and would not support the operation of the business currently. There were tables and seating in the bar area and the dining room and the customer toilets were all still in situ. Therefore, whilst I accept that there would be some investment needed, I am not satisfied, without further substantive evidence including the particular works that would be required, that the amount of investment stated is necessary to reinstate the public house use in this case.

27. I note the lifestyle changes highlighted by the appellants and how the food offering of a venue is more important as well as the environment. Nevertheless, I am not convinced, based on the information before me, that a food led operation could not prevail at the appeal property, nor am I convinced that 'modern customers' would be put off by the layout and surroundings offered by the appeal property, subject to some works to tidy up the building.
28. The VS identifies an estimated Fair Maintainable Turnover below that advertised in the MB. Whilst I understand there is more detail provided in the VS on how the figures are calculated when compared to the other information provided, it is a hypothetical scenario, given the appeal property is closed and has not been operational since it was purchased by the appellants. Even if I were to agree with the figures provided in the VS, they suggest that if the appeal property was operated by the owner, with no rent payable, then they would be likely to achieve some profit on top of paying themselves a wage.
29. I understand that the appellants used the British Beer Pub Association cost guide to underpin assumptions about operational costs and I can see no evidence which suggests this is an inappropriate source to rely upon when conducting such an assessment. When setting out the estimations, the VS identifies a scenario where operators of The Queen would sell drink to local customers but would not generally attract those from outside the immediate area. I have concerns with this approach, given my conclusions above about the potential for the appeal property to be a destination venue.
30. I note the assessment against the headings set out under the Campaign for Real Ale (CAMRA) Viability Test, but for the above reasons, I do not find that it has been demonstrated, based on the information before me, that the use of the appeal property as a public house would be unviable.

Marketing

31. There is some dispute about the asking price contained within the marketing details. No comparative figures are provided to identify what other public houses have sold for in the local area. The appellants suggest that given the variation in the circumstances of public houses, they are assessed on a case by case basis and that the figure was arrived at by suitably qualified individuals. Without any information to the contrary, I can find no evidence to suggest that the final asking price was significantly out of touch with the market.
32. The appeal property has not been marketed since it was purchased by the appellants in June 2023. In the case of that marketing exercise that led to the purchase by the appellants, it appears it was successful. This is because the property was clearly marketed as a public house and there is no suggestion anywhere in the marketing evidence provided that there was any permission in place for any other use. The appellants identified at the hearing that the amount paid was an appropriate and realistic price for a public house such as The Queen. Therefore, regardless of what the appellants intentions were in terms of the use of the appeal property once they had purchased it, it was sold as a public house well within the 12 month marketing period timeframe. I am not therefore satisfied that the marketing carried out demonstrated that there was no demand for the appeal property as a public house.

33. I note that the marketing exercise continued after the appellants offer was accepted in January 2023 until after the moratorium period required by the ACV designation in June 2023. The Marketing Report identifies 15 viewings between February 2022 and 24 January 2023 but none after the offer was accepted. The total amount of additional enquiries is stated as 42 but there is no breakdown of how many were before and how many were after the offer was accepted. I find that it is possible that anyone else interested in the appeal property would have been deterred from viewing it or making an offer after the appellants offer was accepted in January 2023. In any case, for the reasons above, I find that the marketing exercise demonstrated that there was demand for the appeal property as a public house, as it was sold for that use within the marketing timeframe, at a realistic price for that use.

Asset of Community Value

34. The ACV designation process falls outside of the planning system, nevertheless, it is a material consideration. As stated above, the appeal site remains a designated ACV currently. The appellants assert that the weight attributed to the ACV designation in this case should be considered in the context of it having passed through the moratorium period with no attempt from the nominating body to put a bid together to try and purchase the appeal property.
35. Nevertheless, interested parties identify that there was appetite to buy the appeal property as a community owned public house, but due to an offer being made and accepted for the appeal property as a public house during the marketing period, no further action was taken by the community to try and purchase it. I do not think this is an unreasonable approach by the community. I was told at the hearing that the appellants offered interested parties the chance to rent the public house but the terms and conditions that were identified would not have been achievable for a community run group. I do not have those full terms and conditions before me. It does however identify a community interest in trying to ensure the re-opening of the public house.
36. I am referred by the appellants to an appeal decision² at Pinkuah Arms that was determined earlier this year. However, in that case the ACV designation was not in place when the appeal was determined, given it had not been reimposed by the Council on that particular property. It is therefore different to the case before me now. I therefore find that the designation as an ACV is a material consideration that weighs against the proposal in this case.

Concluding comments

37. For the above reasons, I find that it has not been demonstrated that there is no longer a community need for the public house. I am not satisfied, based on the evidence before me, that it has been demonstrated that the use as a public house is unviable now or that it would be in the longer term. I find that the marketing exercise that the appellants rely upon, that was carried out by the previous owners, identified that there was demand for a public house, with it being sold for that use within the 12 month marketing timeframe. Consequently, I find that the proposal would result in the unnecessary loss of a valued community facility. The proposal would therefore be contrary to paragraphs 88 and 98 of the Framework, the aims of which are set out above.

² APP/Z1510/W/24/3352799

Other Matters

38. The appellants suggest that the assessment used by the Council, who referred to 'beyond reasonable doubt', was an arbitrary threshold and that the Council could have instructed an independent party to assess the viability of the public house use. It was clarified at the hearing that the Council used this particular test, given the loss of the appeal property as a community facility would be final, and therefore the evidence needed to justify its loss would need to meet a very high bar. I agree that if the appeal were allowed and the change of use occurred, it would be very unlikely that a replacement public house would be provided in Brandeston in the future. Given the very limited number of community facilities within the village, its loss would be significant.
39. The appeal site lies within the Brandeston Conservation Area (BCA) and is identified by the Council as a non-designated heritage asset (NDHA). The Council has not concluded that the proposal would result in harm in these respects. The significance of the BCA lies in the linear arrangement of low density built form, the traditional character and design of buildings and the presence of open spaces, trees and hedgerows. The proposal would in the main result in internal changes only which would have a very limited effect on the appearance of the building and as a result the character and appearance of the NDHA and BCA would be preserved.
40. The appellants suggest that the change of use to a dwelling would ensure the retention of the NDHA in the longer term. However, there is no evidence before me that suggests that a residential use is the only type of use that would ensure the retention of the appeal property. As such, based on the evidence before me, I only attribute limited weight to this as a benefit.
41. Whilst the proposal would not provide an additional dwelling to the housing supply, given part of it has historically been in residential use, it would contribute a larger property. There would be economic benefits through the use of trades to carry out the conversion works, but these would be temporary and limited in scale.
42. The appellants state that they were told that changing the use of the public house to a bookable venue was a simple process after the moratorium ended. I do not have this information before me, or the specific details of who offered this advice. Nevertheless, a bookable venue is not the proposed use before me now and I must assess the appeal proposal based on its individual merits.
43. I am referred to the appeal decision³ at the Admirals Head Inn. Whilst the evidence submitted in that case is not before me, it appears from the appeal decision, that the public house had been closed for a more significant period, and that the marketing exercise was not successful in that case. It is therefore not directly comparable to the case before me now. I also note the reference to the appeal decision⁴ at Pinkuah Arms. That example was in a different area and subject to a different policy context and I do not have any substantive information before me on the condition of the building in that case. In addition, marketing information has been submitted in support of the appeal proposal before me now, which appears to be a different scenario to that at the Pinkuah Arms.

³ APP/X3540/W/21/3267667

⁴ APP/Z1510/W/24/3352799

44. The appellants raise the potential infringement of their human rights, referring to the right to peaceful enjoyment of property under Article 1 of the First Protocol of the Human Rights Act 1998. However, this is a qualified right, and any interference may be justified where it is in accordance with the law and is necessary in a democratic society, applying the principle of proportionality. In this case, whilst dismissal of the appeal would prevent the change of use of the ground floor into additional residential accommodation, the appellant could remain living in the first floor accommodation which is already residential in use. I find that there are legitimate and well-established planning policy aims to protect community facilities from unnecessary loss. Dismissal of the appeal would therefore be necessary and proportionate and would not result in the violation of the appellants human rights.
45. I note that the relationship between the appellants and some members of the community have become strained as a result of the planning proposals. I also understand the concerns raised by the appellants as to the relationship between a previous member of the Parish Council and Mr Thirkell who provided a response to the VS. However, whether the various parties have taken actions deemed objectionable by others, this is not a determinative matter. I have considered the appeal, without prejudice and based on the planning merits of the case. I acknowledge the significant number of representations received in this case, including a number in support of the proposal. Nevertheless, based on the evidence before me, I do not find that the loss of the community facility has been justified in this case.

Conclusion

46. The proposal conflicts with Policy SCLP8.1 of the LP. Whilst the majority of SCLP8.1 is in accordance with the aims of the Framework, in terms of supporting the retention of community facilities, the part which discusses community facilities that are designated as ACVs is not entirely consistent with the Framework, given its more restrictive approach. However, even if I were to only consider the appeal proposal against the policies of the Framework, I have found that paragraphs 88 and 98 would not support the appeal proposal as it would result in the unnecessary loss of a valued community facility. I have not found there to be any other material considerations that would outweigh the conflict with the LP or the Framework. The appeal is therefore dismissed.

G Dring
INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jack Wilkinson	Planning Consultant
Francis Meredith	Savills
Adam Bullas	Savills
Kate Cunningham	On behalf of the appellants
Felicity Sutton	On behalf of the appellants

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Milligan	Principal Planning Officer
Ben Woolnough	Head of Planning and Building Control

INTERESTED PARTIES:

Rachel Summers	Chair of Parish Council
David Wolfe	Interest in the retention of public houses
Kathy Churchill	Save The Brandeston Queen Group
Vince Langdon-Morris	District Councillor
Peter Thurlow	Brandeston resident
Mr Tassell	Brandeston resident
John Brodholt	Brandeston resident