



Appeal Decision

Site visit made on 5 July 2025

by **A U Ghafoor BSc (Hons) MA MRTPI ACMI fCMgr**

an Inspector appointed by the Secretary of State

Decision date: 15th July 2025

Appeal Refs: APP/W3520/C/24/3345755/56

The Six Bells Inn, High Street, Gislingham, Eye, IP23 8JD

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 ("the 1990 Act").
 - The appeal is made by Mr Aaron Whatling (Appeal A) and Ms M Woodrow (Appeal B) against an enforcement notice issued by Mid Suffolk District Council.
 - The enforcement notice was issued on 3 May 2024.
 - The breach of planning control as alleged in the notice is the change of use of public house building with ancillary residential accommodation (a sui generis use) to use as a dwelling-house.
 - The requirement of the notice is to cease the use of the building or any part of the building as a dwelling-house except for residential occupation ancillary to the primary use of the building as an active public house.
 - The period for compliance with the requirements is 12 months.
 - The appeals are proceeding on the grounds set out in section 174(2) (b), (f) and (g) of the 1990 Act. Since the prescribed fees have not been paid within the specified period, the appeal on ground (a) and the application for planning permission deemed to have been made under section 177(5) of the Act as amended have lapsed.
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Decisions

1. The enforcement notice is quashed.

Ground (b)

2. The Six Bells Inn is a detached public house (PH) with residential accommodation at first floor. A barn is used for holiday accommodation and benefits from planning permission. The PH is an asset of community value.
3. The appellants' argument is a simple one, namely, the alleged matters have not in fact occurred. The nub of the Council's argument is that, during the period leading up to the issue of the notice and at the date of issue, the whole property was used as a dwellinghouse.
4. A Planning Contravention Notice (PCN) was issued. In response to searching questions the appellants list their residence as the appeal property. Since the purchase of the property in 2021, residents have consistently reported the PH has not operated at all. The Council seem to argue that when evidence about the current occupation and use of the whole building is considered in the round, a material change of use has occurred because the only active primary use is residential in nature.

For the following reasons, I disagree.

5. Although each case needs to be assessed on its individual merits, it is not uncommon for an ancillary or incidental residential use being part and parcel of a drinking establishment or PH. However, it does not automatically follow that a material change of use occurs if the latter stops operating or trading for a considerable period. During uncertain economic times,

a PH might not be functioning yet the flat above remains in active residential use. In a similar vein, the flat would not cease to be in residential use if it was occupied by somebody who had no connection with the PH business.

6. Existing use rights can be extinguished by a material change of use. I acknowledge that an attempt was made by the appellants to convert the ground floor into a veterinary¹. However, planning permission was refused, and no such change has in fact occurred. It appears to me that the Council is unnecessarily fixated on establishing, or disproving, an ancillary link between the PH operation as a business and the residential use of the building. The investigation erred as it was too narrow, and it focussed on the claimed functional links. The evidence collated attempts to demonstrate the lack of interconnectivity between the residential flat and PH. The claim is that that functional link has been severed because the PH no longer operates or functions as a drinking establishment, but that does not necessarily mean the whole property is in a residential use.
7. The starting point is the planning unit and the use of that unit. The available information indicates to me that the appeal property forms a single unit of occupation. Clearly, the property has been used as a PH and its status as an asset of community value further reinforces that approach. However, usually a self-contained residential use is a primary use, and it is rare for it to be regarded as incidental or ancillary to some other primary use. The residential accommodation at Six Bells Inn is accessible via a lockable door at ground floor level. The unchallenged evidence is that the flat contains viable facilities for day-to-day living. Given the available facilities for independent cooking, washing and sleeping accommodation, in theory, at least, the flat could be separately occupied without changing the use of the ground floor as a drinking establishment.
8. The flat may have been occupied by the previous landlord, but there is no firm evidence to demonstrate a functional link between the PH operation and residential use. Each are separately used for different purposes even if the user of the PH lived upstairs. In my assessment, the single planning unit is in a mixed or composite drinking establishment and residential use. Both are primary uses neither truly incidental nor ancillary to each other. So, the notice wrongly describes the residential use as ancillary accommodation. However, the allegation does not necessarily need to get exactly right the description of the previous use, because the notice targets the residential use of the planning unit as a single dwelling. To me the correct question to ask is this: does the evidence presented clearly show that the alleged change to dwellinghouse had in fact occurred by the date of issue?
9. There is no evidence before me to indicate that the appellants have given up the possibility of using the ground floor as a PH. Equally, apart from replies to the PCN, interested party representations and the fact that the drinking establishment has not operated since 2021, the quantum of the evidence does not show residential use of the ground floor. For example, the ground floor has not been physically converted. Its interior is characteristic of a PH setting. The main entrance remains in place and leads to a bar area on the right-hand side and open plan seating area to the left. The bar furniture and fittings remain as do the furnishings and art deco. There are separate washrooms, which remain intact.
10. I saw that the car park serves the building and the advertisement for the PH remains in place. There is a beer garden and picnic tables on display. The air conditioning unit remain, but plant, machinery or equipment usually found in a PH cellar have been removed. However, that does not indicate a residential use of the ground floor. Although the large hall

¹ Council ref DC/21/06315.

to the rear has a dining table with seating, the space can still be used for functions, and it can be accessed via the side entrance.

11. I find that, when existence of furniture and fittings used in connection with the PH are taken together with the lack of actual use of the whole building as a single dwellinghouse, the evidence presented does not clearly show the alleged breach had in fact occurred at the date of issue. As I have already said elsewhere, the appeal parties heavily focus on establishing or disproving ancillary links between the PH and residential use, but the Council should and could have focussed its investigations on the use of the unit of occupation. Having correctly identified the planning unit and its primary uses, it may have come to the inescapable conclusion that, based on the evidence in its possession at the time, the building was not in primary residential use as a single dwellinghouse at the date of issue. Ground (b) succeeds.

Overall conclusions

12. Having regard to all other matters raised, I conclude that the appeals against the enforcement notice succeed on legal ground (b) and the appeals on grounds (f) and (g) do not therefore need to be determined. For completeness, I draw attention to second-bite provisions set out in s171B(4)(b).

A U Ghafoor

INSPECTOR