



Appeal Decision

Site visit made on 9 June 2020

by **O S Woodward BA(Hons.) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 15 July 2020

Appeal Ref: APP/J0405/W/20/3245096

8 Churchway, Haddenham HP17 8AA

- 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 James Collins of Oxygen 56 Limited against the decision of Buckinghamshire Council – Aylesbury Area.
 - The application Ref 19/03535/APP, dated 1 October 2019, was refused by notice dated 14 January 2020.
 - The development proposed is the change of use to single residential dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal application was for the change of use of the property, and no external works were applied for. There is some dispute between the parties as to whether drawing Ref U.2/11 rev 00 should be part of the appeal file, because the drawing was not included with the original application. However, the drawing does not depict any proposed external or internal works, merely detailing the existing external elevation. I have therefore accepted it as part of the appeal file because this does not prejudice the interests of the interested parties.
3. The Haddenham Neighbourhood Plan 2013-2033 (the HNP) was made in 2015. Policies in relation to housing matters have been quashed by a High Court judgement, but other policies remain and have full weight, including Policy HWS2.
4. The emerging Vale of Aylesbury Local Plan 2013-2033, November 2017 (emerging LP), is at a relatively late stage in its preparation, but is still under examination, and therefore may be the subject of further modifications. I place moderate weight on the policies of the plan.
5. Aylesbury Vale District Council, along with four other Councils, merged into a single Unitary Authority called Buckinghamshire Council on 1 April 2020. The name of the new local planning authority is Buckinghamshire Council – Aylesbury Area.

Main Issues

6. The main issues in this case are:

- whether or not the proposed change of use from a public house to a dwelling would be acceptable, with particular regard to the acceptability of the loss of a pub in this location, the viability of the continued use of the property as a pub, and the adequacy of the marketing of the property; and
- whether or not the proposed change of use would preserve or enhance the character or appearance of the Haddenham Conservation Area, and whether or not the proposed change of use would harm the architectural or historic significance of the grade II listed appeal property.

Reasons

Loss of pub

7. There is only one other pub in this part of the village, the Rose and Thistle, which is itself also currently vacant. There are two existing and operating pubs in the village, The King's Head and The Rising Sun. Only The King's Head offers food in the evening. There are a number of other non-pub food and drink establishments in the village, but none have the same offer as a pub and only one, the Indian restaurant, offers food in the evening. The majority of these are in the northern part of the village, or on the outskirts of the village. The appeal site is therefore an important location for the provision of a pub, to serve the surrounding part of the village. The village of Thame provides a number of eating and drinking establishments, but this is not safely or easily walkable from Haddenham and use of facilities in Thame would increase the need to travel for residents of Haddenham, either by bus or car.
8. Therefore, although the Asset of Community Value on the property was lifted in 2019, a pub in this location, particularly one serving food, provides an important community facility that reduces the need to travel, both within and without the village. The proposal therefore fails to comply with Policy HWS2 of the HNP and Policies GP.32 and GP.93 of Aylesbury Vale District Local Plan 2004 (the LP) which, amongst other things, seek the retention of pubs where there is a demonstrable local need. It also fails to comply with Paragraphs 83 and 92 of the National Planning Policy Framework (the Framework) which, amongst other things, seek the retention of pubs in accessible locations.

Viability

9. Both the appellant and the Council have commissioned viability reports which have concluded that the use of the appeal building as a pub is not viable.
10. Both reports discuss the negative factors weighing on the pub market, such as changing consumer behaviour. However, neither report adequately grapples with the importance of specific business models tailored appropriately to the local market to the potential success of a pub. The appeal site is an attractive building, in a good state of repair, in a setting of high quality, traditional properties arranged around a village green and pond. It may not benefit from high footfall. However, the evidence before me does not demonstrate that the pub could not operate as a destination for village residents, particularly if it were to provide evening food for which there are very limited alternatives in

the village. Importantly, neither report has provided sensitivity testing to assess what the effect on viability would be from a reasonable alternative business model, such as high-quality evening food.

11. I acknowledge that the existing internal arrangement limits the number of covers that could be offered, and the grade II listing of the pub and the cost of significantly re-arranging the internal layout could prove prohibitive. However, limited assessment of the effect of these potential changes has been provided in either viability assessment. It has not been conclusively demonstrated that a food-based pub offer could not be viable, either utilising the existing trading areas, or through a more comprehensive internal re-arrangement.
12. In addition, the emerging LP allocates Haddenham as a 'Strategic Settlement', an area where a large amount of growth is to be focussed. It is allocated 1,051 new homes during the plan period, 601 of which were already committed as of March 2017. On my site visit I saw a large housing estate partially occupied and partially under-construction a short distance to the east of the site, running up towards Stanbridge Road. It is therefore clear that Haddenham is undergoing a significant increase in population, a significant proportion of which is located within easy walking distance of the appeal site. However, whilst both reports acknowledge the growth of the village, it is not clear in either report that the potential increase in custom and therefore turnover that this is likely to result in has been factored in. Nor has sensitivity testing been provided to account for the ongoing increase in population.
13. I acknowledge that the current circumstances surrounding the Covid-19 pandemic are likely to have worsened the forecast for the viability of pubs. However, the pandemic is a temporary situation, and should not be used to govern the assessment of the long-term viability of a pub, or to influence decision making on important matters such as the retention of community facilities that would serve and support communities for decades.
14. Consequently, it has therefore not been demonstrated that a viable pub could not operate from the appeal building. The proposal therefore fails to comply with Policy HWS2 of the HNP and Policies GP.32 and GP.93 of the LP which, amongst other things, state that proposals involving the loss of pubs will not be permitted unless it can be demonstrated that they are no longer financially viable. It also fails to comply with Paragraphs 83 and 92 of the Framework which, amongst other things, seek to guard against the unnecessary loss of valued community facilities.

Marketing

15. The evidence before me is that the pub was only fairly recently sold to the current owner, for £455,000 in 2019. Since shortly after that transaction, the pub has been marketed, both for lease and for sale. There is some ambiguity in the evidence regarding if purchase offers have been made, but it is clear that no purchases have completed. The marketing has been undertaken at an asking price of £495,000. No convincing evidence has been provided to justify the asking price being £40,000 higher than the very recent transaction. This may therefore have been a part of why no successful bids have been made to purchase the property.
16. No successful leasehold offers have been made. However, limited information has been provided of the one offer that was received, or justification provided

for why it was not accepted, other than that funding was tied in other projects. If this were the case for rejecting the offer, it does not preclude the offer itself being at an acceptable price point, therefore suggesting that there may be the potential for further offers to be made in the future from applicants with more acceptable funding backgrounds.

17. It has therefore not been demonstrated that all reasonable steps have been taken to secure a successful sale or lease of the property. Consequently, the proposal fails to comply with Policy HWS2 of the HNP which, amongst other things, requires that all reasonable steps have been taken to retain a pub in its present use as a viable concern. It also fails to comply with Paragraphs 83 and 92 of the Framework which, amongst other things, seek to guard against the unnecessary loss of valued community facilities.

Heritage assets

18. The appeal property is a grade II listed building which is located within the Haddenham Conservation Area. I note Haddenham Parish Council and interested parties raise concerns regarding the effect of the proposal on the character and appearance of the conservation area. In my judgement, the proposed change of use would alter the character of this part of the Haddenham Conservation Area. The significance and character of this part of the conservation area is positively influenced by the operation of the building as a pub, providing an important role as a social focus for the community. This would be lost with the proposed change of use.
19. I acknowledge that the external appearance of the building would be identical, and that a condition could be imposed to ensure the retention of a public house sign in order to acknowledge the history of the building. The proposal would therefore preserve the special architectural and historic interest of the listed building. However, these factors relating to the physical works do not overcome the harm to the character of the conservation area that the change of use would cause. Therefore, although the proposal would preserve the appearance of the conservation area, it would not preserve or enhance the character of the conservation area.
20. I assess that the harm to the conservation area would be less than substantial, as defined in Paragraph 193 of the Framework. Paragraph 196 of the Framework states that this harm should be weighed against the public benefits of the proposal. The public benefits from the proposed change of use would include temporary economic benefits during the refurbishment of the building, and long-term benefits from the additional use of local services by the future occupants of the dwelling. The new dwelling would also contribute to the Council's housing land supply. However, the benefits would be limited because only one dwelling is proposed. As set out in Paragraph 193 of the Framework, I place great weight on the less than substantial harm that I have identified, and this outweighs the limited public benefits.

Other Matters

21. The Council acknowledge that policies relating to housing supply in the LP are out-of-date. However, a number of the other policies in the LP remain consistent with the Framework. I consider that the policies which are most important for determining the appeal, ie Policies GP.32 and GP.93, are not out-of-date. This is because the policies seek the retention of community facilities,

including pubs, which is consistent with the Framework, particularly as set out in Paragraphs 83 and 92. Paragraph 11d of the Framework is not therefore engaged.

22. The property is vacant. It is in a good state of repair, but there is a danger that if vacant for a longer period it could deteriorate. However, I am not persuaded it would remain vacant for a long time and no convincing evidence has been provided that the listed building is in imminent danger of significant deterioration.

Planning Balance and Conclusion

23. The proposed change of use to a dwelling would bring temporary economic benefits during the refurbishment of the building, and long-term benefits from the additional use of local services by the future occupants of the dwelling. The new dwelling would also contribute to the Council's housing land supply. These factors weigh in favour of the proposal, but the benefits are limited because only one dwelling is proposed.
24. I place great weight on the loss of the pub in a location that reduces the need to travel and where it has not been demonstrated that the building could not continue to viably operate as a pub. This is because the protection of pubs is strongly set out in Policy HWS2 of the HNP and Policies GP.32 and GP.93 of the LP. Paragraphs 83 and 92 of the Framework also seek to guard against the unnecessary loss of pubs and community facilities. I also place great weight on the harm to the character of the conservation area that I have identified. This is because Paragraph 193 of the Framework states that great weight should be given to the asset's conservation. These factors therefore significantly and demonstrably outweigh the limited benefits set out above.
25. For the reasons above, I conclude that the appeal be dismissed.

O S Woodward

INSPECTOR