



Appeal Decision

Site Visit made on 13 April 2021

by R Sabu BA (Hons), BArch, MA, Pg Dip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 4th May 2021

Appeal Ref: APP/J0405/W/20/3260807

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 against the decision of Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 20/02543/APP, dated 28 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is described as, 'change of use to single residential dwelling'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use public house to single residential dwelling at 8 Churchway, Haddenham HP17 8AA in accordance with the terms of the application, Ref 20/02543/APP, dated 28 July 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: U.2/01, U.2/04, U.2/05 Rev 01, U.2/06 Rev 01, U.2/07 Rev.01, U.2/08.
 - 3) No windows other than those shown on the approved drawing Nos. U.2/05 Rev 01, U.2/06 Rev 01 and U.2/07 Rev.01 shall be inserted in the building that is the subject of this application.
 - 4) The development hereby permitted shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. For hard landscape works, these details shall include; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas and hard surfacing materials. For soft landscape works, these details shall include new trees and trees to be retained showing their species, spread and maturity, planting plans; written 'specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers / densities. These works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned and the hard landscaping shall be retained as approved thereafter, and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner.

- 5) Any tree or shrub which forms part of the approved landscaping scheme which within a period of five years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a species, size and maturity to be approved by the local planning authority.
- 6) The existing signage attached to the front of the building shall be retained in situ and shall not otherwise be altered or re-sited without prior agreement in writing of the local planning authority.

Preliminary Matters

2. An appeal for a similar proposal at the appeal site was dismissed in July 2020. The appellant submitted further evidence in the subsequent planning application which is the subject of this appeal. Accordingly, I have had regard to the evidence before me including the previous Inspector's comments in assessing this appeal.
3. I note the Vale of Aylesbury Local Plan 2013-2033 Proposed Submission Plan (November 2017) as Proposed to be Modified (October 2019) (emerging LP). However, since there is no certainty that the policies within will be adopted in their current form, I attribute them moderate weight.
4. While I note the description of development as stated in the application form, I have used the description in the decision notice in the decision above as it more precisely describes the development.

Main Issues

5. The main issues 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 Haddenham Conservation Area.

Reasons

Viability

6. The site is located near a historic and attractive part of the southern side of the village. There is one other pub in this vicinity, and a small number of other pubs and dining establishments in other parts of the village that serve food in the evening such that this site does not constitute the only location for a pub to serve the surrounding residential areas. While some of these are not a walkable distance such that the residents of Haddenham would be largely reliant on the private vehicle for use of these facilities, there are nevertheless other eating and drinking establishments in the village and wider area.
7. I note the evidence regarding the designation of the building as an Asset of Community Value until December 2020. While a pub in this location is an important community facility, I am mindful that both the appeal site and the

- nearby pub have remained closed for a number of years such that there is an indication of reduced demand for a pub in this location.
8. The appellant and the Council both commissioned viability reports which concluded that the use of the appeal building as a pub is not viable. I note the comments of the previous Inspector regarding the reports. The updated viability statement by Bruton Knowles explored alternative business models of the provision of a higher ratio of food to drinks and high-quality evening food.
 9. The internal and external business layout plan indicate a limited area within the building for dining. The distance from indoor areas to the outdoor garden is also such that outdoor dining with the current layout would be likely to be problematic. An increased food offering would result in a higher annual wage bill, and the current layout would accommodate fewer covers for a high-quality food provision. Accordingly, a higher food provision with the current layout would be likely to result in a lower turnover and lower profits.
 10. While the Grade II listing of the building would not mean that it would be impossible to increase the building footprint, it would be likely to restrict the extent of any demolition or replacement of existing parts of the building. The option of moving the kitchen to create more space has been explored and would result in a limited increase in covers such that it would not make the pub viable. In addition, the location of the fireplace and shape of the building at the rear would limit the possibilities for improving the layout of the pub such that comprehensive internal re-arrangement would be unlikely to make the pub viable.
 11. While the building may have been in a good state of repair at the time of the previous Inspector's visit, there were clearly areas in need of maintenance which I observed during my site visit including the windows and some mould on the walls internally. The estimated figure for repairs stated in the report only add to the cost of renovating the building and would negatively affect the viability of the pub. I note concerns that the building is being allowed to deteriorate deliberately. However, even if the building was in a good state of repair, given the limited area and awkward layout of the internal space as well as the listed status of the building, the pub would still be unlikely to be viable.
 12. Haddenham is a strategic settlement as allocated in the emerging LP, undergoing a period of significant growth, and a large housing development to the east of the site was under construction at the time of my site visit. I note that there is a footpath which provides access from the new development to the site. However, the increase in the number of dwellings built would be unlikely to directly translate to increased footfall due to changing consumer habits. Since the current layout would be likely to result in profits significantly lower than the average national wage, and given the limited internal space, any uplift in footfall as result of the new development would be unlikely to make the building viable as a pub.
 13. From the evidence the site has been continuously marketed since 2019 though initially at a price significantly higher than the most recent sale price. Since the previous application, a small number of offers were made on the property. The reasons for refusing these offers included a low market rent offer and no or low deposit. I note the annual rent that the property was marketed at. However, from the evidence, even if a lower annual rent was set to reflect a normal percentage of turnover, the business would still be likely to make a profit

significantly lower than the national average wage. Given the amount of kitchen equipment and furniture in the premises, it is also not unreasonable for a deposit to be required.

14. The updated marketing report from Sidney Philips indicates that, since the decision of the previous Inspector, the building has been marketed with a reduced freehold asking price modestly higher than the previous sale price to stimulate further interest. I acknowledge the timing of the change in sale price during the Covid-19 pandemic and the period between the previous Inspector's decision and the planning application subject of this appeal as well as the limited information relating to historic trading. However, from the evidence, given the limited internal space, the likely profits from a pub use would be significantly lower than the national average wage such that it would be unlikely to be attractive to prospective buyers even if it had been marketed at a lower price for a longer period of time. Furthermore, given the evidence submitted as part of this appeal relating to the viability of a more food-based offer and configuration of the internal layout, it is unlikely that further reasonable offers from applicants would be forthcoming.
15. Accordingly, since the site has been marketed for some time via a range of avenues, I am persuaded that the steps reasonably necessary to market the property have been taken.
16. While the Covid-19 pandemic is likely to have worsened the forecast for the viability of pubs, it is a temporary situation. I have therefore not taken this factor into account in assessing the appeal. Rather, I have made my decision based on the evidence before me which is based on non-Covid times and from the evidence, all reasonable steps have been taken to retain its present use and community value.
17. Consequently, 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.
18. Therefore, it would not conflict with Policy HWS2 of the Haddenham Neighbourhood Plan 2013-2033 Referendum Version – May 2015 (HNP) and Policies GP32 and GP93 of the Aylesbury Vale District Local Plan Written Statement Part 1 January 2004 (LP) which together resist proposals involving the loss of pubs unless it can be demonstrated that they are no longer financially viable. The scheme would also not conflict with the aims of the National Planning Policy Framework (Framework) in this respect.

Conservation area

19. The appeal building is a Grade II listed building sited in Haddenham Conservation Area (HCA), the significance of which lies in the evidence of historic vernacular architecture and the development of a large village over several centuries. The appeal building lies near to the more historic part of the village and while in need of some maintenance, it nevertheless has an attractive historic character and appearance which provides a positive contribution to HCA. Furthermore, given the location of the site near the historic heart of the village, its operation as a pub provides a social focal point for the community and therefore provides a positive contribution to the significance and character of HCA in this respect.

20. The proposed scheme would not alter the external appearance of the building and I note the previous Inspector's comment that a public house sign could be secured via suitably worded condition to acknowledge the building's history. However, while the significance of the listed building would be preserved, the conversion of the pub to a private residence would result in the loss of a social focus for the community at the historic heart of the village, adversely affecting the character of HCA.
21. Consequently, the proposal would not preserve or enhance the character or appearance of HCA and would adversely affect its significance. Therefore, it would conflict with the aims of LP Policy GP53 which among other things, resist development that would cause harm to the character or appearance of Conservation Areas.

Planning Balance

22. The harm to the significance of HCA would be less than substantial in the terms of paragraph 196 of the Framework.
23. While a pub in this location provides an important community asset, the evidence indicates that the use of the site as a pub would not be viable. Given the limited internal area and listed status of the building, it would be unlikely to have any other viable use as a community asset such as a shop, food outlet or commercial service. Therefore, from the evidence, the proposal represents the optimum viable use of the site which would constitute a public benefit. Accordingly, since the optimum viable use of the site would benefit the long-term future conservation of HCA, I attach great weight to this public benefit.
24. The proposed dwelling would contribute to the local housing supply and future occupiers would contribute to the local community. There would also be some temporary economic benefit during the construction phase. However, since a single dwelling is proposed, these benefits would be limited.
25. The proposal would not alter the appearance of HCA but would change the character of the area by removing a social focus for the community. Since the pub has been closed for some time, and given my finding that it is no longer viable, it is likely that the building would remain vacant in the long term. I therefore consider that the harm in this respect lies at the lower end of the less than substantial harm categorisation.
26. Therefore, in this particular case, the public benefit of securing optimum viable use would outweigh the less than substantial harm to the significance of HCA that would result from the adverse effects of altering its character.

Other Matters

27. I note local concerns including those regarding the terms of sale such as overage. I also note the history of the site, the evidence relating to a community interest group and interest in the site as a pub. However, I have limited substantial evidence in these respects and from the viability reports commissioned by both the appellant and the Council, the overage charge would not be a prohibitive factor for prospective buyers.
28. I acknowledge concerns regarding the timing of the application during the pandemic. However, from the evidence and for the reasons given above, I am persuaded that the pub would be unviable even during non-Covid times.

29. I acknowledge the evidence regarding other sites owned by the appellant. However, I have necessarily assessed the appeal based on its planning merits and these matters have not altered my overall decision.
30. I note the comments of other Inspectors for the cases at various sites. However, there is limited further information before me and the cases are generally in London or some distance from the site such that they do not form a direct comparison with this appeal. In any event, each case must be determined on its individual merits.

Conditions

31. The conditions relating to commencement of development and specifying plans are necessary in the interest of certainty. Conditions relating to windows and landscaping are necessary to safeguard the character and appearance of the area and the condition relating to signage is necessary to safeguard the character of the listed building.

Conclusion

32. For the reasons given above, the appeal should be allowed.

R Sabu

INSPECTOR