



Appeal Decision

Site visit made on 16 July 2013

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 August 2013

Appeal Ref: APP/F1230/A/13/2196058

The Rivers Arms, Cheselbourne, Dorchester, Dorset, DT2 7NW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against the failure of West Dorset District Council to give notice of its decision within the appropriate period.
 - The appeal is made by Mr & Mrs Raymond and Gwen Higgins.
 - The application, Ref 1/D/12/001126, was dated 31 July 2012.
 - The development proposed is described as the change of use of part of existing building to holiday cottage and accommodation as a subordinate part of a scheme for employment, tourism and community use with reduced parking and additional landscaping (existing use retained).
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Decision

1. The appeal is dismissed.

Preliminary and procedural matters

2. The planning application form does not, in my view, describe the proposed development with sufficient clarity. The main parties agree, however, that the proposals involve the conversion and change of use of a vacant public house to a two bedroomed holiday cottage; a three bedroomed open market dwelling and what can best be described as a café/bar with a linked one bedroomed flat above. I shall proceed on this basis.
3. The Council takes the view that three distinct planning units would be created. The appellants have not seriously disputed this, and suggest that the three elements should be treated separately with funding in mind, although a level of joint use is anticipated for the proposed holiday let & café/bar.
4. The appeal was made on the grounds of non-determination, but the Council says that if a decision had been made, the original application would have been refused, and it has provided the reasons why. The appellants have taken the opportunity to comment on the Council's 'reasons for refusal'.
5. Some months prior to the appeal's submission, the appellants submitted amended plans. In view of the relatively minor changes proposed, I shall treat these as the appropriate appeal plans.

Planning policy

6. Having regard to the representations made on policy and the main issues identified below, I consider the most relevant development plan policies to be those contained in the West Dorset District Local Plan (LP), namely policies SS3, SS4, C5, C6 & DA6. I attribute significant weight to these policies having

regard to their high degree of consistency with the policies and guidance of the *National Planning Policy Framework* (the Framework) on similar subject topics.

Main issues

7. The main issues are: (a) the appropriateness of the proposed conversion and change of use in the light of local and national policy, and (b) if inappropriate, whether the necessary justification exists for a departure from local and national policy.

Reasons

Appropriateness of the change of use

8. The proposed change of use relates to a property last used as a public house (pub) about 5 years ago, since when it has remained vacant. A previous proposal to redevelop the pub was refused permission recently on appeal¹, the outcome of which is material to my considerations.
9. The previous Inspector found that the open market dwelling proposed then was contrary to LP policies SS3² & SS4³. There have been no material changes in adopted development plan policy since, and I have no reason to disagree with my colleague's reasoning. The appellants argue that the proposed dwelling is compliant with policy SS4, but whilst I recognise that the scheme would not involve substantial rebuilding or extension, I concur with my colleague's view, that the proposal fails the requirement of the fifth criterion of the policy.
10. Where changes of use to existing rural building may be permitted, LP policy SS4 sets out in decreasing order of preference the type of uses deemed acceptable. Since the two other facets of the proposals involve tourism or employment uses, they rank highly in the terms of the policy.
11. The Council has not seriously suggested that either of the two proposed tourism related uses would be inimical to local policy, but considers the café/bar's viability as dubious. The Council, accordingly, views this aspect of the development as a form of Trojan horse in the sense that it considers that future pressure would inevitably arise, were the appeal allowed, to convert it into residential accommodation.
12. LP policy C6 is directed to the retention of local community services, and provides that planning permission will not be granted for proposals, including changes of use, resulting in the loss of local community services, including pubs, where it would result in an unacceptable decline in the standard of services for local people and visitors.
13. The public house has not been available to the local community for about five years, and it is apparent from the representations received, including those of the Parish Council, that the loss of the facility has been widely felt. The Parish Council, in particular, considers that the pub, given proper management, could be run on a profitable footing and would like to see its retention and

¹ Ref APP/F1230/A/11/2167420

² Directed to regulating development outside defined development boundaries

³ Directed to the adaptation and change of use of rural buildings

14. re-instatement. In this respect reference has been made to the pub in the neighbouring village of Dewlish, where its proposed closure and change of use was resisted, and the pub now appears to be trading successfully.
15. The appeal property remains physically capable of being used as a pub with ancillary residential accommodation, but this development would put paid to that prospect. The irretrievable loss of a pub from the village could in my view be reasonably and appropriately regarded as resulting in an unacceptable decline in the standard of service for local people in the terms of development plan policy. The Framework also advises⁴ that planning decisions should guard against the unnecessary loss of valued facilities.
16. I therefore conclude that the permanent loss of the pub and the creation of an open market dwelling would conflict with those provisions of LP policies SS3, SS4 and C6 that in combination are directed to ensure that development, particularly residential development in the countryside is strictly controlled, and the loss of community facilities is resisted.

The case for a departure

17. Whilst the thrust of LP policy C6 aims to protect local community facilities, it also recognises that changes of use may be allowed if it can be demonstrated that there is no local need for the facility or the retention of the facility or that it is not economically viable. The appellants have not seriously argued that there is no need for a pub in the village, but assert that a pub would not be economically viable, and no interest has been shown in re-establishing it, even by the Parish Council, to whom the property has been offered.
18. A footnote to LP policy C6 provides that the assessment of viability is likely to require the submission of trading accounts, valuation considerations and the marketing of the business or property, which is expected to have been advertised for sale at a reasonable price for a minimum of 12 months, during which time no reasonable offer has been received.
19. The appellants could not be expected to produce trading accounts, but have produced a letter from the previous owners, which says that despite extensive marketing of the property from about January 2011 there was only one viewing and no offer was ever received. The letter does not provide any information as to the price at which the property was marketed at that time. However, I note from the decision letter on the previous appeal that the marketing price was £750,000, albeit that this reflected a value for the scheme then proposed.
20. No valuation evidence has been produced which may assist in determining whether the price sought by the previous owner was reasonable. However, it seems to me, taking account of the price paid by the appellants for the property about two months following the date of the previous appeal decision, that £750,000 could not reasonably be regarded as a reasonable price.
21. Although the appellants say that they have received no offers for the property since they acquired it, there is no indication before me that they have seriously advertised its sale, or contemplated reopening the pub. No viability

⁴ Paragraph 70

- exercise for a pub has been produced, which, in the prevailing policy context, is considered a notable omission. Instead, a venture is proposed that would partly replace the community facility lost. The small size of the café/bar, providing 12 internal 'covers' could not realistically be compared with the pub as a community facility, which offered far more space for local people to meet and socialise, particularly during the winter.
22. The appellants' business plan contains no cash flow projections, no information on construction and the associated costs of bringing the scheme to fruition, or on the costs of borrowing that the appellants say would be required independently for the three proposed elements. No valuation is provided on the finished product, from which a judgment could be made as to the viability of the development/investment, taking account of the costs of construction and borrowing, and the purchase price paid. I consider these elements to be essential ingredients of a realistic business plan.
23. The appellant says that the raising of mortgage funding at affordable rates is essential to the success of the plan, but no indication has been provided as to whether any financial institution has been approached to provide funding for the various elements of the scheme, and if so, whether or not they have seen and approved the business plan. If this has been done, it would provide greater confidence that the appellants' financial plans were based on a sound business footing.
24. The only financial information provided for the proposed holiday let is the estimated annual rental income. No provision appears to have been made for its running costs. More information is provided for the proposed café/bar, but even if the estimated turnover was regarded as realistic, which the Council doubts, the profitability of the facility relies heavily on the operation of a mobile fish and chip van.
25. Although the appellant suggests that *'this concept has already been tried and tested'*, no comparative information or marketing exercise has been provided to demonstrate the reliability of the anticipated turnover or the need for the service. However, even if a gap existed in the local market, the use of the appeal property as a base is clearly not essential.
26. All in all, the appellants' business plan displays such serious deficiencies or omissions that I share the Council's concerns as to its worth. Far more compelling evidence than has been provided would be needed to convince me that the replacement community facility proposed had a realistic chance of ever seeing the light of day, and even if it did, of surviving as a viable entity. The concept of enabling development is well established in planning practice, but the scant financial information provided leaves considerable doubt that the benefits normally associated with enabling development would arise.
27. I note the Council's concerns as to possible issues concerned with privacy, noise & disturbance and smells arising from the close juxtaposition of the proposed uses. However, whilst I do not consider that the effects on residential living conditions would be sufficient to warrant withholding permission, they would undoubtedly affect valuations and have a bearing on the scheme's viability.
28. I conclude that the appellants have failed to demonstrate that a departure from the provisions of local or national policy is either warranted or justified.

Other matters

29. The inherent difficulties of running or re-establishing a pub or appropriate replacement community facility in the building in difficult economic times are acknowledged. I recognise too, that an attractive and prominent building stands empty, and that its condition is likely to deteriorate unless an acceptable and viable use is made of it. Whilst the appellants' proposals would not damage the landscape of the Dorset Area of Outstanding Natural Beauty, the appeal property, if further neglected, would undoubtedly leave a scar.
30. However, the appellants have not approached the policy requirements or impediments to their proposals sufficiently comprehensively. If that were done, since the relevant policies are not wholly inimical to the loss of community facilities in particular circumstances, the outcome could well be different.
31. A unilateral undertaking has been produced⁴ to address the effects of the development on local infrastructure, but in view of my conclusions on the main issues, it does not overcome the fundamental planning objection to the scheme.
32. The appellants' comments on the Council's administration of the application are noted, but it would be inappropriate for me to comment further. The references to policies contained in the emerging development plan⁵ have been noted, but the policies of the existing development plan, in view of the degree of compliance with the Framework provides the appropriate policy context.
33. I have taken account of all other matters raised in the representations, but none is of such significance as to outweigh the considerations that led me to my conclusions.

G Powys Jones

INSPECTOR

⁴ Under section 106 of the Town and Country Planning Act 1990 (as amended)

⁵ The draft West Dorset, Weymouth & Portland Borough Council Local Plan.