

Appeal Decision

Hearing held on 28 June 2016 and 26 July 2016

Site visit made on 26 July 2016

by J J Evans BA (Hons) MA MRTPI

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

Decision date: 04 November 2016

Appeal Ref: APP/W0530/W/16/3144471

**The Three Tuns Public House, 30 High Street, Guilden Morden,
Cambridgeshire SG8 0JP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Florin Interiors Ltd against South Cambridgeshire District Council.
 - The application Ref S/1527/15/FL, is dated 17 June 2015.
 - The development proposed is the change of use from A4 (drinking establishment) to C3 (single residential dwelling house).
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Decision

1. The appeal is dismissed, and planning permission is refused.

Procedural Matters

2. If the Council had been in a position to determine the application, planning permission would have been refused for reasons relating to the reduction in the level of community and service provision in Guilden Morden.
 3. The listing description refers to the property as the Three Tuns public house. Both the Council and the appellant refer to the property as 30 High Street and also as the Three Tuns public house. From the evidence before me including what I saw at my visit, it is the same building. For the avoidance of doubt, and with the agreement of the Council and appellant, I have referred to the property as the Three Tuns public house.
 4. The Three Tuns is a grade II listed building, within the Guilden Morden Conservation Area. There are other listed buildings nearby. As required by Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have paid special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.
 5. The application form described the proposal as being the change of use from A4 / A2 to single residential dwelling house (C3). The appellant's appeal form described the proposal as being the change of use from A4 (drinking establishment) to C3 (single residential dwelling house). At the hearing the main parties explained that the description of the proposed development had
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been altered and agreed when the application was validated, and that it should be the change of use from A4 (drinking establishment) to C3 (single residential dwelling house). With the agreement of the main parties I have referred to that description above. As the application was considered by the Council on that basis I do not consider this would breach natural justice.

Main Issue

6. The main issue is the effect of the loss of a community facility in the form of the Three Tuns public house on the provision of community services and facilities in the village.

Reasons

Background

7. The Three Tuns is a detached render and tiled building with a large garden and generous parking provision. There are two bars on the ground floor of the property, along with associated store rooms and a commercial kitchen, and a basement cellar below. The upper floor provides residential accommodation. Centrally positioned within the village of Guilden Morden the former public house is surrounded by residential development, including some properties that are listed.
8. Policy SF/1 of South Cambridgeshire District Council's Local Development Framework Development Control Policies (2007) (DCP) seeks to protect village services and facilities where such loss would cause an unacceptable reduction in the level of community or service provision in the locality. The policy includes public houses within the list of services and facilities. In determining the significance of the loss the policy requires the consideration of the established use of the premises and its existing and potential contribution to the social amenity of the local population, the presence of other services and facilities which would be an alternative with convenient access, and the future economic viability of the use, including financial information and efforts to market the premises.
9. The aims of this policy are broadly consistent with objectives of the National Planning Policy Framework (the Framework). A core planning principle of the Framework is that sufficient community facilities and services should be delivered to meet local needs. Paragraph 69 seeks to facilitate social interaction and inclusive communities, whilst paragraph 70 states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Community facilities include public houses. A requirement of paragraph 28 is that planning policies should support the promotion and retention of local services and community facilities in villages.

Established Use

10. Since the public house's closure part of one of the ground floor rooms has been converted to provide an office for the appellant's interior design business. The rest of the property remains as it was left when the business closed. From my visit to the property it was apparent that a floor-ceiling height partition had been erected around the bar so as to separate it from the office. Whether this

partial change of use and associated alterations requires planning permission or listed building consent would be a matter for the Council to address. Nevertheless, at the hearing it was agreed by the main parties that the property is a vacant public house. Having regard to the evidence before me, I have no reason to disagree and have considered the appeal on this basis. Given this, I shall consider the other matters identified in DCP Policy SF/1.

Village Services and Facilities

11. Local residents have described the Three Tuns as having offered an opportunity for family friendly dining, and a place where individuals and community groups could meet. In addition it appears there was permission in the 1960s for the siting of three caravans within the public house's garden. Whether this is an extant use was not clear but on the basis of the evidence provided the premises offered wet trade and food on a daily basis, including both lunchtimes and in the evenings.
12. Having considered the differing evidence between third parties and the appellant as regards the nature of events held at the public house, their frequency and last occurrence, it appears that in addition to the wet trade and food, a range of other services were offered, including takeaways, a place for informal socialising, and as a venue for a variety of events, ranging from barbeques to vintage vehicle gatherings. When open the Three Tuns would have provided a valued village facility, meeting a number of community and individual needs. Its designation as an Asset of Community Value reflects its value within the community.
13. There is another public house within the village, and after the closure of the appeal property, the Edward VII has provided an alternative venue, with some of the events and meetings held in the Three Tuns now being held there. The Edward VII is located centrally in the village, close to the village recreation ground and hall, and unlike the other public houses in the surrounding villages could be accessed by many local residents without having to travel by car. Whilst The Edward VII may not provide an experience suited to everyone's tastes or offer daily food, it does provide an opportunity to accommodate some of the village activities that were occurring at the Three Tuns. There is also a village hall close to the Edward VII, and this in itself could provide a venue for meetings and activities. As such there is an alternative public house conveniently located to many residents that makes a contribution towards the social amenity of the local population.

Potential Contribution

14. DCP Policy SF/1 also requires consideration of the potential contribution to the social amenity of the local population. The Three Tuns was a tied public house, and was closed by the brewery Greene King before its purchase by the appellant. Evidence of the previous business is limited, but sales and profits were falling before closure. Nevertheless, I cannot be sure whether the previous business operated to its full potential. Whilst it is considered that the property may struggle as a commercial business and / or community public house, this does not preclude other uses for the property or ways of being managed and operated. This could include, as suggested by local residents and the Council, a catering company or as a non-profit operation run by the community. It does not follow that other owners and / or the uses would experience the same problems as experienced by Greene King.

Future Economic Viability

15. There has been little investment in the property since its closure, nor is it clear what occurred before this or what opportunities were taken to promote and diversify the business. I accept there would be costs in starting a new business particularly following one that had been closed, and that the property's former business history may deter some purchasers. Some maintenance repairs would be required, but the appellant's Building Survey Report refers to a number of works that are not essential, whilst other costs, such as an extension, would be a matter for future occupiers to consider.
16. Moreover the operation of a tied public house would be very different to one that was free of a tie. I accept the public house industry can be difficult, but the Council have pointed out that the industry is changing, and I have no reason to disagree with this. The Three Tuns has a central position within the village, generous gardens and parking, as well as living accommodation. Even though the public house has been closed for some time, this does not determine that other businesses would fail, or that re-opening the Three Tuns would cause the closure of the Edward VII.

Marketing

17. DCP Policy SF/1 also requires that consideration is given to the results of any efforts to market the premises for a minimum of twelve months at a realistic price. The Council consider the marketing of the property as a public house for £295,000 was a realistic price, and based on the evidence before me, I have no reason to disagree.
18. The public house closed in January 2013, and was purchased by the appellant in August 2013 for £300,000. This is much less than the minimum time period required by DCP Policy SF/1. As an Asset of Community Value this would have included a six week moratorium period for the local community to respond. In the absence of any such interest, the property was purchased by the appellant with an offer being accepted by Greene King in early June 2013. The brewery would have sought to maximise purchase price, but despite the limited information regarding other offers, there was at least one other from a business that sought to purchase the property as a public house. Nor can I be sure whether the rapid sale of the property would have denied others an opportunity.

Conclusion

19. There is another public house in the village that offers an alternative for some of the services and facilities formerly provided by the Three Tuns. The appeal property was offered at a realistic price, but the marketing was for a much shorter time than that required in DCP Policy SF/1. This would have restricted the opportunity for the property to re-open. Accepting the costs and investment required to re-open the public house, the potential to vary and adapt the business has not been fully explored. For these reasons the proposed change of use would conflict with the requirements of DCP Policy SF/1 and those of the Framework.

Conservation and Listed Building Matters

20. The Three Tuns is a grade II listed building within the Guilden Morden Conservation Area. This detached two storey building has an L-shaped plan

form, with modern side and rear extensions and a front entrance porch. To the front are historic casement and sliding sash timber windows. Although externally rendered and painted, internally the timber frame is evident in several rooms. The age of the building, its construction and form, and its location in the village are part of the special interest and significance of this listed building.

21. Guilden Morden has a settlement pattern largely defined by its roads and lanes. The presence of gardens and a number of mature trees gives a verdant and spacious nature to the conservation area. The large garden of the appeal site, along with the trees within it contributes towards this character. Whilst surrounded by mostly residential properties of varying styles and ages, the property forms an attractive building on a corner position within the village. Its former use as a public house would have given it a functional focus, which in itself would be part of the significance of the listed building.
22. The Framework requires that planning applications should be supported by a description of the proposal on the significance of a heritage asset. The appellant did not provide a heritage statement. Whilst the main parties consider the proposal would not affect the character and appearance of the conservation area or the architectural or historic interest of the listed building, I have a statutory duty to consider the requirements of Sections 66 and 72 of the Act, whilst DCP Policies CH/3 and CH/5 require planning applications to be determined in accordance with legislative provisions and national policy.
23. Even with the appellant's structural survey, limited information has been provided as regards the impact of the proposal on the significance of designated heritage assets. Nor was anyone at the hearing able to provide information concerning the building's history including how long it had been in use as a public house. The Council's recent inspection of the building found it to be weather tight, and it was also apparent from my visit that many of the fixtures and fittings of the former use remain.
24. In the absence of any detailed assessment of the impact of the proposal on the listed building, the degree of harm cannot be accurately assessed. Whilst the Council have no objection to the removal of the bars within the building, I do not share that certainty as no historical assessment of the works have been undertaken, including whether any historic fabric would be lost. On the basis of the evidence before me, and in light of my findings above with regard to the use of the building, a precautionary approach must be taken. It would be remiss of me to assume that the proposal would mean there was no harm to the listed building, or that its optimum viable use would be as a dwelling.
25. Furthermore, the former use of the building would contribute to its significance and to the character and appearance of the building and that of the conservation area. In addition to being an attractive historic property within the village that contributes towards the charm of the area, its former use would have been very different to that of a residential dwelling. I accept the building is mostly surrounded by residential properties, but its use and location within the village would have made it a focus.
26. I have considered the benefit of having a use for the building, and I note the Council considers this to be an important matter. I agree that it is better to have a use for a building rather than for it to be vacant, but the Framework makes it clear that where a building has been neglected, this should not be

taken into account in any decision. Having another public house operator within the property would retain the significance of the listed building and its contribution towards the character and appearance of the conservation area. In light of my decision above and the requirements of the Framework I have to give this great weight.

27. The change of use would be less than substantial harm to the significance of the listed building and conservation area, due to the size of the conservation area and the level of change and proposed alterations to the listed building. However, the public benefits of having a residential use within the building would not outweigh the harm I have found. For the reasons given the proposal would be contrary to the statutory duties of the Act, the historic environment policies of the Framework, and those of the DCP referred to above.
28. To the south of the appeal property are other listed buildings, and taken together with the appeal property, these form a cluster of historic buildings within the conservation area. However, the appeal property is set apart from these, and in view of this separation, the change of use would have a neutral impact on the settings of the nearby listed buildings.
29. Concern has been raised by local residents that a partial change of use and works to the listed building have already occurred. As the appeal scheme is solely for the change of use albeit with the removal of the bars, I have considered it on that basis. Any development and / or works that have occurred without the benefit of planning permission or listed building consent would fall to be pursued by other means separate from my consideration of the appeal proposal and are not therefore matters for me to consider.

Other Matters

Emerging Development Plan

30. The Council have referred to policies within an emerging development plan, the South Cambridgeshire Local Plan proposed submission (2013). However, whilst I have considered the policies referred to, the plan has not yet been examined in public, and this limits the weight that can be attached to them.

Additional Housing

31. Local residents have referred to an application for 36 new homes within the village that would increase the local population. However, the application has not yet been determined by the Council, and even if it gains permission the population increase would be some time in the future. As such this matter has had little bearing on my consideration of the appeal.

Conclusion

32. For the reasons given above and having considered all other matters raised, the appeal is dismissed and planning permission is refused.

J J Evans

INSPECTOR

APPEARANCES

FOR THE APPELLANT

Beverley England	Appellant
Matthew Hare	Agent
Justin Cain	Pinders

FOR THE LOCAL PLANNING AUTHORITY:

Sarah Ballantyne-Way	Consultant acting on behalf of South Cambridgeshire District Council
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INTERESTED PARTIES:

John Harrison ACIS	Local resident
Lesley Harrison	Local resident
Rebecca Ward	Local resident
Patricia Dellar	Local resident
John Dellar	Local resident
Graham Dellar	Local resident
Brian Haines	Local resident
Doreen Mitchell	Local resident
William Sanger	Local resident
Michael Berry	Local resident
Sally Birrell	Local resident
Dennis Tear	Local resident
C F Paget-Wilkes	Local resident
Maggie Paget-Wilkes	Local resident
Ken Lock	Local resident
Sophie Johnston	Local resident
Jacqueline Lock	Local resident
Colin Beales	Local resident
Jane Boyd	Local resident
Jane Friedlander	Local resident
Kirk Saban	Local resident

Graham Walker	Local resident
Alan Boyd	Local resident
Sarah Fryer	Local resident
Barry Holme	Local resident
Cllr C Murfitt	Councillor
Dale Ingram MSC CHE FRSA	Planning For Pubs
Scott Stemp	Counsel

DOCUMENTS

Statement of Common Ground, dated 21st June 2016.

Email dated 7 July 2015, concerning the application description.

Neighbourhood Statistics from the Office for National Statistics concerning car or van availability, 2011 for the Mordens.

Site location plan for 2 Foxhill Road, Guilden Morden.

Policies DP/1, DP/2, DP/3, DP/4, DP/5, DP/7, CH/2, CH/3, CH/4, CH/5, CH/6 and SF/1 of the South Cambridgeshire District Council Development Control Policies (2007)

Policies S/3, S/4, S/7, S/8, S/10, S/11, NH/13, NH/14, SC/2, SC/3 and SC/4 of the South Cambridgeshire Local Plan Proposed Submission (2013).

Decision Notice and site location plan for SC/65/465.

Listings for 4 Silver Street, 32, 36, 39, 41 and 43 High Street, and barn south of 39, 41 and 43 High Street.

Appeal decision ref: APP/W3520/W/16/3143123

Promap Site area, scale of 1:1250

Letter from N Hamilton, dated 23 June 2016

Email dated 14 January 2016, from Bob Whittle

Policy ST/6 of the South Cambridgeshire District Council Local Development Framework Core Strategy (2007)

Application form and drawings 2_REV_1 and 1.REV_9

Email dated 22 July 2016, from Beverley England