



Appeal Decision

Site visit made on 15 November 2022

by S Crossen BA (Hons) PgCert PgDip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 May 2023

Appeal Ref: APP/W0530/W/22/3299641

The Jolly Millers, 73 High Street, Cottenham CB24 8SD

- 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 Gary Jackson against the decision of South Cambridgeshire District Council.
 - The application Ref 21/02117/FUL, dated 7 May 2021, was refused by notice dated 25 January 2022.
 - The development proposed is Change of use of public house (SG) with flat to dwelling (C3), demolition of existing annex/outbuildings, erection of detached dwelling and creation of amenity space, bin storage and parking and manoeuvring for 2 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Several parking layouts have been submitted over the course of the application. The Council made its decision against Drawing no. 1384/1B which was submitted in response to an objection from the Highway Authority. My decision is therefore based on this amended plan which proposes to retain an existing parking area and two car parking spaces for the proposed detached dwelling to the rear.

Main Issues

3. The main issues are the effect of the proposed development on:
 - protected species, notably bats.
 - community or service provision within Cottenham;
 - the character and appearance of the Cottenham Conservation Area (CCA); and
 - highway safety on the High Street, with regard to parking and access;

Reasons

Protected species

4. The appellant provided a Bat and Nesting Report (BNR), dated 3rd December 2021 which in respect of birds does not require any mitigation or further survey work. The report concludes that the site has a low suitability for bat roosting and moderate habitat connectivity and suggests that further survey work is required to determine whether bats are present. The Council has suggested a

pre-commencement condition which requires further survey work to be undertaken and this is supported by the appellant.

5. I am mindful that Circular 06/2005 advises that it "is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision". The circular goes on further to say "developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development." In this case the BNR states that the building to be removed has a low roosting suitability for bats which means there is potential for a bat roost, and states that the building has a moderate habitat connectivity which indicates there is continuous and connected habitat linking to a wider landscape which could be used by bats. Consequently, the BNR in respect of bat species is not conclusive and any necessary avoidance or protection measures cannot be determined.
6. I conclude that the proposed development does not adequately demonstrate that impacts on protected species and the extent they might be affected can be avoided or mitigated and compensated. It is therefore contrary to Policy NH/4 of the LP, and chapter 15 of the Framework. These policies amongst other things seek to resist proposals which do not include mitigation and compensation for loss of biodiversity.

Community or service provision

7. The appeal building is known as The Jolly Millers and is a disused public house. Above the public house is a flat and there is a residential annexe to the rear. It is located along the High Street, towards the northern edge of the built-up area of Cottenham and outside of the village centre. There are two other pubs within half a mile of the appeal site, one of which is closed, and a third public house is within a mile. All are in the village centre. The appellant also lists the Curry Palace, Cottenham Club and newly opened Cottenham Village Hall as other open licenced premises which serve the local area, and this information is not disputed by the Council. Other commercial premises are listed by the appellant in their appeal statement which serve food and drink, including a fish shop, coffee shop, baguette shop and various other community facilities but these are not licensed premises so provide different services to that of a public house. Consequently, they do not provide directly comparable alternative provision.
8. The application was submitted with a viability report which concluded that the premises is not capable of operating as a commercially viable trading entity and has been closed since 2017. The Campaign for Real Ale (CAMRA) state that trading ceased no earlier than the midpoint of 2018. Although there is some dispute about the date and the impact of Covid, the public house has now been shut for over 4 years. The Council does not contest the findings of the viability assessment and based on the evidence before me, I am not persuaded that the business would be viable in the current post-Covid economic climate.
9. Policy SC/3 of the South Cambridgeshire Local Plan 2018 (LP) seeks to protect village services and facilities by refusing proposals which would result in an unacceptable reduction in the level of community or service provision. Part 2 of the policy sets out the matters that will be considered in determining the

significance of the loss, and notably this includes matters of viability and alternative service provision.

10. The Council's evidence provides information about population growth to justify the need to retain the site as a pub. Four large housing sites are identified and, these collectively result in 460 new dwellings. The appellant has provided a breakdown of recent financial contributions for community facilities following previous approved planning applications which have resulted in the opening of Cottenham Village Hall, which is also licenced and can provide a similar community and service provision as The Jolly Millers. This evidence demonstrates that Cottenham is already well served by community facilities, and if any further provision was required to serve new development, which itself provides community infrastructure funding, more centrally located options are better suited to serve it.
11. Overall, I conclude that the loss of the appeal building as a public house would not reduce community or service provision in Cottenham to an unacceptable level and as such the proposal does not conflict with policy SC/3 of the LP or paragraph 93 of the National Planning Policy Framework (the Framework). These policies seek, amongst other things, to provide sustainable communities and prevent unacceptable reductions in community or service provision.

Character and appearance of the Cottenham Conservation Area

12. The existing pattern of development is defined by linear rows of houses facing the High Street which have narrow, deep plots extending back towards open countryside, many with numerous single storey ancillary buildings. Also contributing to the character of this part of Cottenham is a single-track lane which runs alongside the public house and provides access to a row of houses which do not face the High Street but face the side boundary to the pub. The rear former beer garden where the new house is proposed to be located, although wider shares some characteristics with neighbouring plots in terms of its depth and having existing ancillary structures.
13. An existing annexe at the rear would be removed and beyond the extent of that building a 1.5 storey gabled house is proposed with private garden space and parking, the same orientation along the adjacent lane which the new building would directly adjoin. Tall planting defines the rear boundaries of the appeal site and neighbouring buildings, and forms the landscape edge, beyond which are fields.
14. The new building to the rear would be closely related to and subservient to the former public house, sustaining the existing character of buildings at the rear of houses along the High Street and the lane, most of which are in residential use. Public views of the proposal would be limited, and any views of the new house would be seen in the context of existing similar adjacent development which extend much closer to the landscape edge than the new building would. Consequently, there would be no harm resulting from this additional building which would preserve the character and appearance of this part of the CCA.
15. The appeal building is a detached two storey building which sits within a linear row of residential properties facing the highway. The most significant change to the appearance of the public house would be the removal of a galvanised flue on the side of the building which is visible from the public realm and is harmful to the appearance of the CCA.

16. The appeal building is not currently in use and has not been so since at least 2018. The last active use of the appeal building as a public house also made a positive contribution to the historic character and significance of the CCA providing a community facility.
17. The conclusions of a submitted viability report are that the use of the building as a public house is not viable. The conversion of the building to residential would bring the site back into use, demonstrated by the appellant to be a viable use. The proposed removal of a galvanised flue would also have a positive effect on the appearance of the CCA.
18. Less than substantial harm arises from the change of use. However, taking account that the public house has been closed for some time and that a viable use would ensure that the building is retained, and that the significance of the building could be preserved through conditions which retain features indicating its previous use, such as a condition to retain signage, the public benefits of bringing this building back into use and providing two new homes would outweigh the limited harm from the loss of the public house as a community facility.
19. Overall, the public benefits of the proposal would outweigh the less than substantial harm to the significance of the CCA which results from the loss of a public house. Furthermore, the demolition of the annexe would not harm the character or appearance of the CCA. As such there is no conflict with policies HQ/1, NH/2 and NH14 of the LP, policies COH/1-2, COH/1-4 and COH/1-5 of the made Cottenham Neighbourhood Plan 2021, (NP) or paragraph 202 of the Framework, or the Framework as a whole. These policies seek, amongst other things, to ensure development is of good design that is sustainable and appropriate to its location, scale and function and in relation to conserving and enhancing the historic environment.

Highway safety.

20. The appeal building has existing hard surfacing to the rear and access from the highway, with enough space at the time of my site visit for the parking of at least two cars, but with potential to park further cars on non-consolidated areas. The plans propose two car parking spaces, one for the change of use of the public house and one for the new detached dwelling. The access between the appeal building and neighbouring property would not allow two cars to pass. Most properties in the area rely upon on-street parking.
21. The Council considers that an under provision of parking at the site would lead to residents parking on the High Street which would impair visibility to those exiting the site from the rear parking area. However, this is an existing issue for the current public house use, flat and residential annexe which already have car parking spaces to the rear and unrestricted parking on the High Street. It is reasonable to expect that the current use results in parked vehicles on the High Street from those making deliveries, visiting or living at the public house, at times throughout the day as well as peak times. Having regard to the comments raised about whether future occupants would have parties and that at such times there might be more than two cars, Figure 11 of policy TI/3 of the LP indicates that the existing public house has a larger parking provision requirement than the proposed residential use. So the highway impact overall would be less than is currently the case.

22. The retention of the existing tarmac area and proposed parking space for each house, would not result in a severe impact on highway safety and is sufficient to serve the development. As such there is no conflict with policies HQ/1 and TI/3 of the LP or paragraph 111 of the Framework which amongst other things requires that car parking provision will take into consideration the site location, type and mix of uses, and that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

Other Matters

23. The Council is satisfied that there would be no loss of privacy for users of neighbouring gardens, subject to mitigation being secured through conditions, I agree with this approach. Private covenants are matters between interested parties. Although third parties have raised concern about the capacity of local doctors, schools and electricity supply, the Council raises no concern and as there is no net increase in dwellings the likely impact on these services would be negligible. Concern raised about future planning applications for housing at this site is speculative and would require separate permission. The Council states that several trees had gained consent for their removal prior to the application. This application proposes additional tree planting representing a net gain to the current situation.
24. I note the complaint by the appellant that they were unable to speak at the planning committee, but this has no bearing on my decision and is a matter between the appellant and the Council.

Conclusion

25. The proposal would not cause material harm in respect of the loss of a community facility, the CCA and highway safety. However, I have found harm in relation to protected species. This would bring the scheme into conflict with the development plan taken as a whole. Notwithstanding the benefits of housing delivery and bringing the vacant building back into use, there are no material considerations of such strength as to justify a decision other than in accordance with the development plan.

S Crossen

INSPECTOR