
Appeal Decision

Site visit made on 7 August 2015

by **Gary Deane BSc (Hons) DipTP MRTPI**

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

Decision date: 25 August 2015

Appeal Ref: APP/W0530/W/15/3010681

The Pear Tree Inn, High Street, Hildersham, Cambridgeshire CB21 6BU

- 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 Mrs H Moroney against the decision of South Cambridgeshire District Council.
 - The application Ref S/0040/15/FL, dated 3 January 2015, was refused by notice dated 27 February 2015.
 - The development proposed is the change of use of the shop and ancillary residential use (Use Class A1) to a 4-bedroom family dwelling (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural matter

2. At the site visit, I viewed the site from Silverwood with the consent of the occupiers of this adjacent residential property and did so unaccompanied.

Main issue

3. The main issue is the effect of the proposed development on the provision of community services and facilities in the local area.

Reasons

4. The proposal is primarily to convert The Pear Tree Inn, which is a largely 2-storey building that lies within the village of Hildersham, to form a self-contained 4-bedroom dwelling. The store at the back of the main building would also be demolished and removed to make way for a new single storey pitched roof extension to the rear of the proposed dwelling.
5. The Pear Tree Inn was in use as a public house with ancillary residential accommodation at first floor level for some considerable time before its acquisition by the appellant in April 2012. The appellant continued to operate the premises as a public house although the business ceased trading and closed in July or August 2013. The public house was designated as an Asset of Community Value (ACV) in October 2013 and it still retains this status.

6. In April 2014, the Council issued a lawful development certificate¹ for the change of use of the public house (Use Class A4) to a shop (Use Class A1). The appellant states that the premises were opened for trading as a shop with items of furniture available for sale although it is unclear from the evidence exactly over what time period(s) this took place. At the site visit, there was no obvious indication that the premises were in use at that time as a shop.
7. The site lies within the Hildersham Conservation Area (CA), which covers part of the village and contains areas of open space and buildings that vary in style, size and type. I have paid special attention to the desirability of preserving or enhancing the character or appearance of the CA, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
8. Policy SF/1 of the South Cambridgeshire Local Development Framework Development Control Policies DPD 2007 (DPD) aims to protect village services and facilities where their loss would cause an unacceptable reduction in the level of community or service provision in the locality. Village services are said to include shops and village pubs and so both the current and previous use of the premises would be regarded as such. This policy also sets out the matters to be considered in determining the significance of the loss. These matters include the established use; its existing and potential contribution to the social amenity of the local population; the presence of other village services and facilities; and the future economic viability of the use including, where appropriate, financial and marketing information.

The established use of the premises

9. On the available evidence, The Pear Tree Inn has not functioned in a manner normally expected of a public house for about 2-years. Its current and lawful use appears to be that of a shop. The Council also accepts that an application for planning permission would be required to revert from a shop to a public house. The Council states that it would support such a proposal. However, securing planning permission for a change of use to a public house is not necessarily a foregone conclusion given that an application could only be properly assessed in the light of relevant development plan policies and the circumstances prevailing at that time.
10. Even so, assessing the use of the premises solely as a shop is, to my mind, too narrow and simplistic. As objectors point out, if the last use was taken as the sole determinative criterion, changing a use from a public house to a shop through the exercise of permitted development rights could be a way of circumvent policy restrictions that seek to prevent the loss of public houses as community facilities. DPD Policy SF/1 itself notes that in addition to considering the established use of the premises, regard must also be had to its potential contribution to the social amenity of the local population. In this regard, interested parties refer to the role that The Pear Tree Inn played as a meeting place to socialise with others, which is underlined by its ACV status.
11. Given that the appeal property was a public house, and notwithstanding the need for planning permission and appropriate investment, there must at least be the potential for it to be returned to that use. In that context, and given the

¹ Ref S/2535/13/LD dated 8 April 2014

specific terms of DPD Policy SF/1 (criterion 2a), I am unable to share the appellant's opinion that the use of the building as a public house can be put to one side because it is not a valid fallback position or a material consideration.

Other village services and facilities

12. DPD Policy SF/1 notes that consideration should be given to the presence of other village services which provide an alternative with convenient access by good local public transport services, or by cycling or walking. Although Hildersham has a village hall, some outdoor recreation facilities and a church, with the opportunity to provide a community focus, its services and facilities for local residents are clearly limited.
13. Linton and the Abingtons are the nearest villages to Hildersham, within which there are a number of public houses, convenience stores and shops amongst other things. Within a wider area, the appellant states that there are 11 public houses within 5km of the site. From what I saw, it cannot be reasonably assumed that local residents would regularly walk or cycle the considerable distance to any of these destinations along roads often with no separate footway or lighting, especially in inclement weather or after dark. There are, however, reasonably frequent bus services that run along the A1307, to the south of the village, to Linton and the Abingtons on most days. For those with access to a car, most of these destinations and others would be within convenient reach.
14. There is, therefore, a choice of services and facilities available to local residents that are accessible mainly by car and bus if the proposal were to be approved. As such I find no material conflict with DPD Policy SF/1 (criterion 2b).
15. In reaching this finding, I also recognise that other public houses, shops and community meeting places would be away from the village and their location would tend to act against these becoming an alternative social hub for the village compared to a public house or shop sited in the village confines. As such, the loss of a shop, or a potential public house, would still be felt, which is borne out in most of the objections raised to the proposal.

Viability

16. The appellant has submitted information to show that the use of the premises as a public house was not economically viable, which is supported by a detailed personal and operational statement from the appellant. As a result, the appellant considers that it is highly unlikely that the premises will ever revert to a public house. According to the appellant, a shop is also not a viable proposition although few financial details are given to substantiate this claim.
17. While I do not underestimate the challenges faced in setting up and successfully operating shop or a public house in a rural location, it does not necessarily follow that because the appellant was unsuccessful that any business within these use classes would not, therefore, be viable.
18. In contrast, the Council and others have made submissions suggesting that a public house at this location was and is viable. In particular, reference is made to the financial records provided by the previous owner over a 3-year period,

2010-2012, and the considerable length of time that the public house operated from the site.

19. While the submitted accounts reveal that a net profit was achieved for each of the 3 years stated, in my view it is too simplistic to say that a public house is therefore a viable enterprise. To reach that conclusion, it seems to me that the financial return should be adequate to provide an owner or operator with appropriate remuneration, with funding to cover loan interest and capital repayments for site purchase and essential investment. Few details of these costs and other essential investment to run a business are before me. Furthermore, as the property has not traded as a public house for some time and the economic climate has changed in the interim, simply extrapolating from the historic trading record of the former business is not necessarily a reliable indicator of future performance.
20. Even so, despite the failure of the most recent public house and retail businesses, there is nothing before to clearly show that a viable business could not operate from the premises. The Pear Tree Inn is reasonably well located and it has a car park, covered storage space, ancillary accommodation and considerable local support. Despite the need for investment to remodel the internal space and to re-equip the premises, I am persuaded that a viable public house operation or a retail business could be created at this location.

Marketing

21. DPD Policy SF/1 requires that consideration be given to the results of any efforts to market the premises for a minimum of 12 months at a realistic price. It is unclear from the evidence whether the property has been actively marketed or, if it has, the terms on which it has been offered, and to whom and over what time period.
22. It may be, as the appellant suggests, that an early take-up of the appeal property for use as a shop or a public house is unlikely. I also acknowledge that several factors may subdue demand from prospective occupiers and purchasers such as the modest size of the premises; the building's appearance; access to similar facilities elsewhere; the ability of the church and village hall to provide related services; the limited number of households in the village; and a location away from a busy road. However, other prospective business operators may not be deterred by these factors.
23. The absence of marketing information to show the efforts to secure interest in the premises, when taken together with my findings in relation to viability, results in a material conflict with DPD Policy SF/1 (criterion 2c).

Other matters

24. There would be no change to façade of the main building and the new rear extension would largely replace an existing storage building, away from the site's highway frontage. Consequently, there would be no significant change to the local street scene with the new built form in place. While villagers would feel the loss of a village facility, as a shop or a potential public house, the predominant residential character of the CA would remain if the proposal were to come forward. To my mind, a change of use from a shop to a dwelling, as proposed, would, in overall terms, have a neutral effect on the character and

- appearance of the CA. Therefore, I find no conflict with the statutory test because the character and appearance of the CA would be preserved.
25. The Hildersham Pub Committee has been set up to oppose the loss of the public house, which indicates a strong local desire to reinstate The Pear Tree Inn as a community facility. While informal pub nights are run every 2 to 3 months at the village hall, I doubt this infrequent arrangement would fully compensate for a public house that about half the respondents to a local survey indicated they would use at least weekly if it were to reopen.
 26. The proposal would make an efficient use of the property. It would add to the local stock of housing and contribute to the local economy during the construction phase and thereafter as future occupiers would be likely to use and thus support local services, facilities and public transport. All of these matters weigh in support of the appellant's case. I also note that the appellant claims that the Council is unable to demonstrate a 5-years supply of deliverable housing sites although few details are provided to elucidate this opinion. Consequently, I am unable to reach a definitive conclusion, either way, on this particular matter.
 27. On the other hand, the National Planning Policy Framework (the Framework) states that to promote a strong rural economy, local services and community facilities in villages, including local shops and public houses, should be retained and developed. To deliver the social, recreational and cultural facilities and services the community needs, paragraph 70 of the Framework states that planning decisions should, amongst other things, guard against the unnecessary loss of valued facilities and services, especially where this would reduce the community's ability to meet its day-to-day needs.
 28. To support this approach, the Framework notes that planning authorities should involve all sections of the community in planning decisions and those decisions should aim to achieve places that promote opportunities for community members to meet. Although the Framework is clear that applications for alternative uses of land or buildings should be treated on their merits having regard to market signals, it goes on to state that regard should also be had to the relative need for different land uses to support sustainable local communities. When read as a whole, it seems to me that the balance of policies within the Framework do not support the appellant's case.
 29. Two appeal decisions² have been drawn to my attention. However, as these cases predate the Framework and are located in different Local Authority areas to the site, there are notable differences in terms of their location and planning policy context. These differences effectively preclude any direct comparison with the development before me. In any event, each proposal should be assessed on its own merits, as I have done in this instance. Therefore, I attach limited weight to these appeal decisions in support of the appellant's case.
 30. Interested parties raise several additional objections to the appeal scheme including privacy, visual impact and the potential damage and disruption to the adjacent property, Silverwood, during the construction phase. I also note the appellant's opinion that the proposal would comply with 'DCP Policy ET/6',

² Refs APP/Y2430/A/06/2024940 and APP/G3110/A/06/2027265

which aims to ensure that sites are retained to provide local employment unless specific factors indicate otherwise. These are important matters to which I have had regard along with all of the evidence before me. However, given my findings in relation to the main issue, these are not matters on which my decision has turned.

Conclusion

31. Although The Pear Tree Inn has not been a public house for some time, the proposed conversion from a shop to a self-contained dwelling would still deprive the village of a service under the terms of DPD Policy SF/1. It is true, as the main parties suggest, that there are alternative services and facilities in the locality, which are accessible mainly by car and bus for local residents. However, the physical attributes of The Pear Tree Inn make it suitable for use as a public house or a shop, and both of these could be viable propositions. Moreover, few details are given to clearly show that the property has been marketed in accordance with DPD Policy SF/1 (criterion 2c).
32. That the loss of a village service and a community facility would be acutely felt by a substantial part of the local community is beyond doubt. The submitted representations are testimony to the strength of local feeling even though a public house has not operated from this location for about 2-years. Furthermore, the value of The Pear Tree Inn as a community asset is recognised through its ACV status, which remains in place.
33. Taking all of these considerations into account, I conclude that the loss of The Pear Tree Inn as a potential contributor to the social amenity of the village would be unacceptable. As such, the proposal would result in a reduction in the level of service provision in the local area, in conflict with DPD Policy SF/1. For the same reasons, it is also at odds with Policy SC/3 of the draft South Cambridgeshire Local Plan (LP), which takes a similar approach to that of DPD Policy SF/1, and paragraph 70 of the Framework.
34. Overall, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Gary Deane

INSPECTOR