



Appeal Decision

Hearing held on 18 September 2012

Site visit made on 18 September 2012

by **Ian Radcliffe BSC (Hons) MCIEH DMS**

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

Decision date: 1 November 2012

Appeal Ref: APP/Q0505/A/12/2174210

292 Mill Road, Cambridge CB1 3NL

- 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 Bennell Developments Limited against the decision of Cambridge City Council.
 - The application Ref 11/0872/FUL, dated 18 July 2011, was refused by notice dated 20 December 2011.
 - The development proposed is residential development - the erection of 5 houses and conversion / extension to provide student accommodation (16 units).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are;
 - whether the proposal would result in the loss of a local facility important in sustaining the social life of the community; and if it would, whether such a facility would be viable to operate;
 - the effect of the proposal on the character and appearance of the area; and,
 - the effect of the proposal on local services and facilities.

Reasons

Principle of development and use of the building

3. The appeal site is occupied by a purpose built Victorian public house called 'The Royal Standard' closed in 2007. Utilising permitted development rights it reopened the same year as a restaurant (use class A3) before last year changing use once more to operate as a charity shop (use class A1).
4. A presumption in favour of sustainable development is at the heart of the government's National Planning Policy Framework (the Framework). The proposed development is located within a residential area close to the centre of Cambridge and would result in the redevelopment of the site for housing. As a result it is not a matter in dispute that it is a sustainable location for development. Policies 3/1 and 5/2 of the Cambridge Local Plan support the conversion of non residential buildings into self contained dwellings in order to make efficient use of land and assist in meeting the housing targets for the city.

5. However, paragraph 70 of the Framework also advises that planning decisions should enhance the sustainability of communities by planning positively for community facilities, such as public houses, and guard against their unnecessary loss. Policy 5/11 of the Cambridge Local Plan, which seeks to prevent the loss of community facilities, fails to identify public houses as such a facility. The Local Plan is therefore in conflict with the Framework. However, as the Framework is an important material consideration and a more recent publication than the Local Plan I attach significant weight to it and I shall treat public houses as a community facility. The question therefore is whether the premises which has not operated as a public house for 5 years is such a facility. It is to that matter which I now turn.
6. In response to the loss of public houses and the silence of the Local Plan on this matter the Council has prepared an Interim Planning Policy Guidance on the Protection of Public Houses in the City of Cambridge (IPPG). Public consultation has closed on this document and subject to minor amendments it is due to be adopted by the Council in October this year. Whilst not part of the development plan it is a practical document which provides a useful approach to assessing applications for a change of use of public houses and I attach moderate weight to it.
7. The IPPG recognises that the use of public houses can be changed to other Class A uses without the need to apply for planning permission. As a consequence, it applies the same development management principles to assess applications for a change of use of such premises to housing as it applies to public houses which are currently in use as drinking establishments. I concur with the findings of another Inspector in appeal reference APP/W0530/A/11/2167619. He found in the absence of such guidance in another local planning authority area that to adopt the approach that a public house use of a site has been lost if it was no longer in use as a drinking establishment would be to take a view that is too narrow and simplistic. For these reasons, I therefore find that the appeal premises is a community facility.
8. The liquor licence for the premises lapsed this year. Whilst planning permission may be readily gained for use as a drinking establishment (class A4 use) the Council's licensing policy has a presumption against issuing new licences on Mill Road. The appellant argues that as a result it is unlikely that the building could re-open as a public house. However, each application would be assessed by the Council on its merits. Given the long history of use of the building as a public house, and that well run public houses do not add to anti-social behaviour or crime, the risk that the premises may not gain a liquor licence is not a matter of such significance as to mean that the building could not reopen as a drinking establishment.

Value of the facility to the local community

9. The premises are located in an urban part of the city that is characterised by terraced housing. Redevelopment of nearby sites such as the former school to the west with terraced housing and flats has increased the amount of housing in the area in recent years. As a result of the high density of development there are a comparatively high number of people living in the area.
10. For a facility to be of value to a local community it needs to be within reasonable walking distance. The Cambridge Pub Study commissioned by the Council has used a distance of 400m to assess accessibility. The appellant

believes that a distance of up to 800m would be more suitable measure. In order to cater for the mobility of all sections of the community I believe that a distance closer to 400m is more appropriate. On this basis there are 2 alternative public houses towards the edge of Romsey within a reasonable walking distance of the appeal site. The first, 'The Brook', is a sports orientated public house. The second, 'The Empress', is aimed at young people. As a consequence, both are niche drinking establishments that do not aim to serve the wider local community. The Royal Standard in contrast has gardens and is centrally located in Romsey. As a result, it is within easy walking distance for all residents of this local community and has the potential to cater for a broader market than the other 2 public houses.

11. A petition with 455 signatures was submitted to the hearing seeking the retention of the building and its gardens for use as a public house or another community use. This supports the contention that the Royal Standard is a facility that is valued by the local community. Whilst the loss of the Royal Standard would not reduce the local community's ability to meet its day to day needs I therefore find that it would result in the loss of a facility that is of value to it.

Viability

12. The Royal Standard was a local facility of service to the community for over 125 years until it ceased trading as a public house 5 years ago. When the public house was trading it was tenanted. The appellant stated that the landlord of the public house was unable to operate the business at a profit. This supports the view that whilst it has been a valued local facility it struggled in the years prior to its closure as a public house.
13. Several local residents stated that the public house was poorly managed in its latter years. Furthermore, landlords of tenanted public houses, unlike freehold landlords, are restricted in terms of the beers that can be sold and have less incentive to invest in a building they do not own. These considerations may well have affected the attractiveness and thus popularity of this community facility.
14. In my assessment, based upon the policies of the Framework, in order to discover whether a change of use of the building is justified it should therefore first be marketed as a public house in accordance with sensible criteria such as those contained within the IPPG. This approach would also be consistent with how applications for changes of use in relation to other local community facilities are dealt with under policy 5/11 of the Local Plan. The proposal would therefore be contrary to the objectives of the Framework and the general thrust of policy 5/11 of the Local Plan.

Character and appearance

15. The appeal site lies within the Mill Road Area of the Central Conservation area. The Conservation Area Appraisal identifies that Romsey town along the side streets off Mill Road is characterised by narrow 2 storey terraced housing set on the back edge of the pavement. This has resulted in a fine grain of urban development. Buildings of Local Interest, which policy 4/12 of the Local Plan seeks to protect, include the Royal Standard. These buildings are predominantly located along Mill Road the main thoroughfare through the area.
16. The proposed side and rear extensions to the Royal Standard would be subservient in height to the building and would not unduly obscure its

chimneys from public view. In terms of design the inclusion of a gable in the front of the side extension would complement the main elevation of the building. In addition, the pitch of the mansard roofs would match that of the existing building. I recognise that the vast majority of the side garden would be occupied by the side extension, but it is a feature of this urban part of the Conservation Area that the full width of sites, including corner plots, are usually occupied by buildings. The proposal therefore would not adversely affect this Building of Local Interest. The rear garden and car park are present in glimpsed views from Mill Road and do not in my view make an important contribution to the character and appearance of the Conservation Area.

17. The proposed terrace would be set close to the back edge of the pavement on Malta Road and in terms of height, width and architectural features would complement the existing terrace. Conditions requiring the provision of a replacement tree to the side of the Royal Standard, the value of which is identified by the Character Appraisal, and the use of appropriate materials would assist in ensuring that the appearance of the development complements the locality.
18. Taking all these matters into account, I therefore conclude that the proposed development would preserve the contribution of the appeal site to the character and appearance of the Conservation Area. In doing so the proposal would comply with policy ENV/7 of the East of England Plan and policies 3/10, 3/12, 4/11 and 4/12 of the Cambridge Local Plan. These policies require the protection of the character and appearance of a locality, including conservation areas, through high quality design that respects local design features.

Other matters

Local services and facilities

19. Policy 5/14 of the Local Plan provides the policy basis for contributions towards the provision of open space, community development, waste, waste management and education. The contents of the obligation are uncontested and a properly completed section 106 agreement was submitted to the Council to secure such provision prior to the hearing. However, as the proposed development is unacceptable for other reasons it is not necessary to assess the contributions sought in relation to the tests in paragraph 204 of the Framework, or the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.

Split decision

20. Should it be deemed appropriate a split decision was suggested by the appellant allowing the appeal in relation to the proposed terrace, but dismissing it in relation to the conversion of the Royal Standard. Whilst these 2 aspects of the scheme are physically and functionally separate such a decision would result in the communal outdoor area of the Royal Standard wrapping around the side and rear of the back garden of the nearest of the proposed terraced houses. As this would be the sole private amenity space to this house if the Royal Standard once more was used as a community facility this has the potential to result in unacceptable noise and disturbance for future occupiers. Furthermore, a public house with a car park and outdoor amenity space is a far more attractive proposition than a public house without these facilities. In the interests of maximising the opportunity for the facility to return to community

use and safeguarding the living conditions of the occupiers of the end terrace a split decision therefore would not be appropriate in this instance.

Conclusion

21. While the site is in a sustainable location and the proposal would make an efficient, well designed use of the site to provide additional housing (including for students), I consider that any presumption in favour of development is clearly outweighed by the comprehensive harm the proposal would cause by virtue of the loss of a valued community facility. For these reasons, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Kratz	Birketts LLP
BA(Hons) solicitor LARTPI	

FOR THE LOCAL PLANNING AUTHORITY:

Mr Evans	Cambridge City Council
Planning Officer	

Mr Waller	Cambridge City Council
Senior Planning Policy Officer	

INTERESTED PERSONS:

Mr Bell	Cambridge Past, Present & Future
Mr Cook	Cambridge & District Campaign for Real Ale
Mr Boucher	local resident
Mr O'Malley	local resident
Miss Walker	local resident
Miss Jeffery	local resident
Mr Bourke	County Councillor

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Letter of notification detailing the time, date and location of the hearing together with a list of persons notified.
- 2 Petition supporting retention of the public house.
- 3 Cambridge City Council Statement of Licensing Policy.
- 4 Report on the key issues arising from Public Consultation on the IPPG on The Protection of Public Houses in the City of Cambridge, dated 11 September 2012.
- 5 Mill Road Area Conservation Area Appraisal.
- 6 Completed Section 106 agreement.
- 7 Planning Officer report at the Planning Committee on 22 August 2012 on the residential redevelopment of 169 - 173 High Street Application No 12/0705/FUL.
- 8 E-mails from the County Council regarding contributions sought towards education.

PLANS SUBMITTED AT THE HEARING

- A Plan showing the location of local section 106 projects in the vicinity of the appeal site.