



Dear Mr Markwell

On behalf of my client David Murphy at the Golden Lion Royal College Street NW1, we wish to make further representations on the current application for A4 to A4 & C3 residential conversion.

From our telephone conversation last week, I gather that the applicants are waiting to receive these further comments before putting in their additional supporting documents. I would like to ask that we shall have the chance to comment on these before a decision is made.

I believe we agreed that all representations would be in the public domain and published with the other documents on Camden's planning website on the application page.

1. Appeal Decision Golden Lion NW1 APP/X5210/A/13/2199667 Made 12 December 2013

Inspector David Smith's decision to dismiss the appeal revolved entirely around the loss of a community facility as a public house meeting the description in Camden's CS and DPD 15.7 and supported by the NPPF. He described this as the 'overriding consideration'.

Significant aspects of this decision included

para 11 The London Irish and St Pancras Community Centres 'do not provide alternative provision to compensate for the loss of the pub' and 'there is a world of difference between centres such as this and public houses.'

para 12 Densely populated areas require greater numbers of community-centric pubs. The specific nature of the Golden Lion's 'old fashioned charm' gives it its own identity, making it 'popular' and 'cherished'.

paras 13 & 14 cover the alternative A4 premises in the vicinity and establish that they are not equivalent substitutes.

para 21 The loss of other public houses nearby, specifically that in Plender Street, 'could reasonably be said to increase the significance of the Golden Lion'.

para 40 The inspector finds that the Local List description does not contain any reference to use making a contribution to the significance of the Golden Lion as a heritage asset and concludes that the proposal, were it not for the loss of the community use aspect, would be acceptable. However, there are numerous other examples of decisions where inspectors have, including the Cross Keys case (a building not on a Local List but in a conservation area), described the loss of a use as harmful to the character of the pub itself. Several of these have been provided with the previous objection.

Our chief concern is with the retention of the Golden Lion as a community public house and alterations to its fabric affecting its long term viability through the reduction in trade floor space and the potential for the cellar basement to be lost through PD or change of use. No comment is offered therefore on other elements of the decision, which in any case it appears the inspector found largely acceptable.

2. Asset of Community Value Registration made 12th December 2013

The Golden Lion was listed by Camden Council as an ACV on the day of the publication of the inspector's appeal decision described above.

The Notice of listing establishes beyond doubt that the Golden Lion both currently and in the near future furthers the social well-being of the local community, satisfying Camden's local policy 15.7.

3. Further Planning Decisions:

RBKC Colombyer Kensington APP/K5600/A/13/2199870. (attached)

We should like to draw your attention to a new appeal decision dated 10th December 2013 for Le Colombyer Restaurant. The appealed proposal in the Royal Borough of Kensington and Chelsea was for a similar scheme of partial conversion to private residential (C3) on the upper floors with retention of part of the ground floor and alterations, including lowering the floor level in the basement cellar. The Inspector's main comments in dismissing the appeal relating to the reduction in floor space making the premises effectively unviable, and thus compromising a community facility contrary to local plan policy, are at paras 11-17.

The Bull Ring Inn, Hereford APP/W1850/A/12/2183572 20 Feb 2013 (attached)

The proposal was to build 2 houses on a secluded part of the car park and did not involve the PH premises themselves. The appeal was dismissed because the Inspector found that the loss of part of the appeal site to development in this way could harm the long term future of the Bull Ring by depriving it of potential to

improve its viability through the provision of ancillary facilities. Such development is promoted by CAMRA's Public House Viability Assessment.

This decision is especially significant because of the finding of the Inspector where he notes:

9. Within section 8 of the National Planning Policy Framework (the Framework), 'promoting healthy communities', is paragraph 70. In my view, this goes beyond the retention of existing facilities and requires local planning authorities to actively plan for their provision, use, development and modernisation to ensure that they play their role in enhancing the sustainability of communities and residential environments. Bullets one and three are especially relevant. While I do not believe that UDP policy CF6 conflicts with this policy stance, it does not embrace the inherently proactive approach. In accordance with the advice in paragraph 215 of the Framework, on this issue I therefore give considerable weight to the policy in the Framework.

Camden's policy likewise protects but does not provide the kind of protection the Inspector clearly feels is necessary under P70 of the Framework to be proactive in ensuring that decisions ensure the long-term viability and survival of community facilities especially public houses. Accordingly and unusually therefore he accords greater weight to the Framework than the Local Plan in dismissing the appeal.

We trust we have provided compelling evidence and defensible planning grounds that the application should be refused in its entirety. However, our previous comments on the application, including design, building and fire regs and conditions, stand.

Sincerely

Dale Ingram
Director

Appeal Decision

Site visit made on 18 November 2013

by **J L Cheesley BA (Hons) DipTP MRTPI**

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

Decision date: 10 December 2013

Appeal Ref: APP/K5600/A/13/2199870

Le Colombier, 145 Dovehouse Street, London SW3 6LB

- 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 Morad Arefin for DOW Properties Limited against the decision of the Council of the Royal Borough of Kensington and Chelsea.
 - The application Ref /PP/12/03220, dated 29 August 2012, was refused by notice dated 11 January 2013.
 - The development proposed is the erection of an additional storey and creation of three No. one bedroom residential units including internal and external alterations.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has submitted a signed and dated Unilateral Undertaking with regard to on-street parking and local infrastructure. The Council has confirmed that this undertaking addresses the third and fourth reasons for refusal. As I have dismissed the proposal on other matters, it is not necessary for me to consider this matter further.

Main Issues

3. I consider the remaining main issues to be

the effect of the proposal on the character and appearance of the host building and the Chelsea Park Carlyle Conservation Area; and

the effect of the proposal on the availability of services to meet the community needs.

Reasons

4. The *Planning (Listed Buildings and Conservation Areas) Act 1990* imposes duties requiring special regard to be had to the desirability: at Section 72(1), of preserving or enhancing the character or appearance of a Conservation Area.
-

5. The National Planning Policy Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
6. The appeal site lies within the Chelsea Park Carlyle Conservation Area, a designated heritage asset. The Conservation Area comprises a mix of development including the large Royal Brompton Hospital premises adjacent to the appeal property and characteristic terraces of residential properties.
7. The appeal property is an inter-war former public house at the corner of Dovehouse Street and South Parade. The Chelsea Park Carlyle Conservation Area Proposals Statement refers to the building as sitting *oddly though effectively between two older gables*. This statement and Policies CD44 and CD45 in the Kensington and Chelsea Unitary Development Plan (UDP) 2002 (revised 2007) resist additional storeys and roof level alterations, particularly on buildings that already have a mansard.
8. In this particular instance, I consider that these policies are broadly in accordance with the Framework as far as they meet the Framework's core principles; particularly that planning should be seeking to ensure high quality design.
9. The appeal property is significantly lower in height than the adjacent buildings. The proposal includes the removal of the existing roof and replacement with a vertical rise at second floor level, with a mansard roof above. The resultant building would not reach the height of adjacent buildings or the retained gable end of the former building on the site. It would have the same number of floors above ground level as the adjoining terrace in Dovehouse Street, but the fenestration and roof height would not accord with, or align with, this adjoining terrace.
10. The proposed extension would appear as an incongruous addition and the distinct contrast between the larger buildings either side and the appeal property would be lost. In addition, the resultant increase in bulk would overwhelm the scale of the existing building and would be an unacceptably prominent addition in this corner location. This would be to the detriment of the character and appearance of the building and would not preserve the character or appearance of the Conservation Area, but this would be less than substantial harm as set out in the Framework.
11. Revised Core Strategy Policy CK2 resists the loss of restaurants outside Higher Order Town Centres as part of the Council's policy to 'make life local' throughout the Borough. Revised Policy CL3 seeks to resist the change of use of any building where the current use contributes positively to the character of the surrounding area and to its sense of place in a Conservation Area. These policies were part of a partial review of the Royal Borough of Kensington and Chelsea Core Strategy (2010) and have been found sound at a recent Examination in May 2013. Therefore, I have attributed considerable weight to these policies in my determination of this appeal.
12. At my site visit, I viewed each floor of the property and it was clearly apparent that all available space was being used as part of the restaurant business. The proposal would confine a restaurant to the ground floor and basement, with part of the ground floor providing access to the proposed flats above. Whilst

there would be similar dining space and the basement would be excavated to a greater depth, the preparatory space and storage areas would be severely curtailed. It may be possible for a restaurant to function in such limited preparatory space, but a business on the scale of the existing restaurant would be severely restricted.

13. The size of a restaurant business cannot only be determined by the number of covers. Due to the reduced scale in the floor area for the restaurant business, the proposal would constitute the loss of a restaurant and its replacement with a smaller restaurant and residential accommodation. This would be a material change of use of the building, which would not accord with revised Policy CK2.
14. The quality of a restaurant depends to a large extent on the operator rather than the size of the establishment. There have been a number of representations objecting to the possible loss of the existing Le Colombier restaurant business, if this appeal were to be allowed. That is a commercial matter outside of my jurisdiction. However, it is clear that a similar restaurant facility would require the use of the whole building.
15. The loss of a considerable part of the operational space would significantly reduce the scale of the restaurant facility, which is a community facility. This would reduce the availability of services to meet the community needs. Therefore, I consider this loss would be to the detriment of the character of the surrounding Conservation Area and to its sense of place. As such, the proposal would be contrary to revised Policy CL3.
16. The proposal would provide a restaurant and residential accommodation and therefore would provide a small level of public benefit. Having regard to the Framework, I find that the harm I have identified above would not be outweighed by any public benefit.
17. In reaching my conclusion, I have had regard to all other matters raised upon which I have not specifically commented. I conclude that the proposal would be to the detriment of the character and appearance of the building and would not preserve the character or appearance of the Conservation Area and would reduce the availability of services to meet the community needs.
18. For the above reasons, the proposal would be contrary to guidance and policies already referred to above and contrary to Core Strategy Policies CL1, CL2, and C05 where these latter policies refer to a requirement for development to take opportunities to improve the quality and character of buildings and the area. In this particular instance, I consider that these policies are broadly in accordance with the Framework as far as they meet the Framework's core principles; particularly that planning should be taking account of the different roles and character of an area and should be seeking to ensure high quality design.

J L Cheesley

INSPECTOR



Appeal Decision

Site visit made on 11 February 2013

by Brian Cook BA(Hons) DipTP MRTPI

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

Decision date: 20 February 2013

Appeal Ref: APP/W1850/A/12/2183572

Bull Ring Inn, Kingstone, Hereford, Herefordshire HR2 9HE

- 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 Nigel Braithwaite (The Kingstone Partnership) against the decision of Herefordshire Council.
 - The application Ref S113564/F, dated 18 December 2011, was refused by notice dated 16 May 2012.
 - The development proposed is change of use (land) from Use Class A4 Drinking Establishment to Use Class C3 Dwellinghouses. Construction of 2 new dwellings and a public footpath.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by the appellant against Council. This application is the subject of a separate Decision.

Background and Main Issues

3. The building and grounds of the Bull Ring Inn lie between Mitch Place and Green Lane. The Inn itself occupies a corner plot at the junction of Mitch Place and an unnamed road while the surfaced car park and the elevated rough grass area beyond cover the rest of the plot towards Green Lane. The roadside boundary of the site is thickly hedged and there is no footway to either side over much of the highway.
4. The appeal proposal would entail the erection of two detached dwellings on the elevated grass area and part of the car park with a new access to serve them both. A length of footway would be provided on the roadside boundary of the site in association with the required visibility splays.
5. The appeal site is wholly within the defined settlement boundary for Kingstone. The principle of residential development at the site is broadly supported by saved policy H4 of the Herefordshire Unitary Development Plan (UDP) adopted in March 2007 and no objection is raised by the Council to the design of the dwellings themselves. Having seen the context of the site and the nature of the buildings in the immediate vicinity of it and having regard to the UDP design policies as a whole, I see no reason to disagree with this assessment.
6. The Planning Committee did not accept the officers' recommendation for conditional approval. In response, the appellant has submitted three further

expert reports, two on the viability of the Inn and one on highway visibility issues, which were not available to the Committee. The main issues in the determination of this appeal are therefore the effect of the appeal proposal on:

- (a) the availability of a community facility; and
- (b) the safety of users of the highway with regard to the visibility that can be achieved at the proposed site entrance.

Reasons

The availability of a community facility

Context and policy

7. The single reason for refusal states in part that 'the proposal will result in the loss of part of an existing community facility that would undermine the viability of the public house.' In its appeal statement the Council explains that its principal concern is the loss of the land to the proposed housing. This land serves two functions for the community. Directly, it provides car parking space for the land-locked village church very close by, a view confirmed by local residents, and space for informal recreation uses associated with the public house. Indirectly, it provides space to enable the expansion of the public house by allowing a reconfiguration of the site should the owners wish to aim the operation at a different market segment.
8. Saved UDP policy CF6 aims to retain existing facilities that contribute to the needs of the community. Proposals that would result in the loss of an existing facility will not be permitted unless certain criteria are met. The second of these states that 'the facilities can best be enhanced or complemented through the development of a small part of the site.' Although the supporting text (UDP paragraph 13.5.2) says that UDP policy CF6 complements UDP policy TCR14 neither party makes reference to this.
9. Within section 8 of the National Planning Policy Framework (the Framework), 'promoting healthy communities', is paragraph 70. In my view, this goes beyond the retention of existing facilities and requires local planning authorities to actively plan for their provision, use, development and modernisation to ensure that they play their role in enhancing the sustainability of communities and residential environments. Bullets one and three are especially relevant. While I do not believe that UDP policy CF6 conflicts with this policy stance, it does not embrace the inherently proactive approach. In accordance with the advice in paragraph 215 of the Framework, on this issue I therefore give considerable weight to the policy in the Framework.

Community use of the grassed area

10. This area is privately owned. Its use by the community for any purpose not associated with the Inn is therefore with the agreement or tolerance of the landowner. While I appreciate that its loss as a result of the development proposed would be felt by the community, in the circumstances it is a matter to which I can attribute very little weight.

Loss of car parking for the Inn

11. Including four spaces at the front of the Inn a total of 21 spaces would be retained. These would be marked out under the appeal proposal enabling a more efficient use of the current surfaced area. Of the other public houses

examined by the appellant, roughly half have larger car parks while the other half have smaller parking areas available. The appellant's expert evidence is that the retained parking would be sufficient for the market segment that the Inn provides for and I have no contrary evidence to dispute that contention. The small reduction in surfaced parking area is therefore not a matter to which I attribute much weight.

The viability of the Bull Ring Inn

12. In summary, the expert evidence of the appellant is that the existing and future function of the Inn is and will remain as a 'local' catering principally for the village community. Trade is and will be predominantly from 'walk-in' custom with the larger balance of the trade coming from wet sales rather than food. The design and layout of the premises, especially the kitchen, and its location both of itself and in comparison with other establishments makes the development of a destination eating house unlikely. The appeal site is remote from the premises and the site topography exacerbates issues of surveillance of that area from the building in the absence of CCTV or similar. This raises a Licensing issue and leads the expert evidence to conclude that the proposed development of the appeal site would have no effect on the future viability of the Inn.
13. However, both reports describe a public house that over several years has been run by temporary tenants, has suffered from a lack of investment, is operating below its potential and '...is only just a viable business.' It is quite clear that investment is needed to improve what is described as a dated, shabby and relatively unappealing public house with the kitchen being assessed as vulnerable on inspection to charges of a breach of food processing requirements under current food hygiene regulations.
14. The implication of the appellant's evidence is that when the property was purchased in December 2010 there was never any intention to operate the Inn directly. In fact, the site less the development land was immediately offered back to the unsuccessful rival bidder for a sum lower than the total purchase price which tends to suggest that the development value was in the order of £60-70,000. It is equally clear from the evidence of what happened in March 2012 that on planning permission being secured the retained public house and external facilities will be sold. The valuation placed upon it then was £170,000, some £65,000 less than the price paid for the whole site.
15. The appellant argues that at this price or, say, £160,000, the new owner will achieve a substantial discount on the original sale value of the property as a whole to invest in the required refurbishment. However, this argument appears flawed since the indications are that appellant has always considered the value of the property without the development land to be in the order of £160,000-170,000. I do not believe therefore that under this scenario the appeal development would release any funds to help secure the future viability of the Inn. For this reason I conclude that the appeal proposal would conflict with the objectives of paragraph 70 of the Framework and those underpinning saved UDP policy CF6 (2).

The safety of users of the highway

16. The proposal is to remove a section of the boundary hedgerow and carry out earthworks to provide a visibility splay in both directions of some 43m including

a roadside footpath which is also part of the appeal proposals. The Council's highways officer supported these proposals but, following a site inspection, elected members considered that the difference in levels between the appeal site and the road meant that a safe means of access could not be achieved. Furthermore, they believed that land outside the appellant's control was required to achieve the requisite visibility to the north.

17. The further expert evidence of the appellant has confirmed that the visibility splays shown on the application drawings can be achieved and I have no contrary expert evidence to dispute this. I saw during my site inspection that there was some uncertainty about the extent to which a nearby resident had planted on land in either the appellant's control or on highway land. Even if some of the land required to achieve the necessary splay is, in fact, outside the control of the appellant (and there is no firm evidence that it is), this is a matter commonly dealt with by way of a Grampian-type condition. Suitably worded, the Council's suggested condition 6 would achieve this and while the detailed wording is disputed by the appellant, the principle is not.
18. I therefore conclude that on this issue there would be no conflict with saved UDP policies DR3 and T8.

Other matters

19. I saw during my inspection of the area that pedestrians have to walk along the carriageway itself over a considerable length of the road passing by the public house car park and the appeal site. The hazard that this presents is exacerbated by the bend in the road and the height of the boundary hedging on the appeal site side. While the loss of the hedge would have some local landscape effect the provision of the footpath along this stretch of road would be of benefit to the community. However, this does not outweigh my conclusion on the first issue.
20. I have had regard to the appeal decision¹ referred to by Herefordshire CAMRA and the Council. The Inspector notes that the main entrance of the public house faced the appeal site and the car park. This appears to have been material to his conclusion on the noise and disturbance that residents of that appeal development would experience as customers arrived and left in the late evening. In the appeal before me I consider the separation distance between the nearest proposed dwelling and the car park exit would be such that the same concern would not arise.

Conclusions

21. For the reasons given above I conclude that the appeal should be dismissed.

Brian Cook

Inspector

¹ APP/J1860/A/06/2020307