

## Appeal Decision

Hearing held on 6 July 2017 and 3 October 2017

Site visit made on 6 July 2017

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

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

**Decision date: 14<sup>th</sup> November 2017**

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**Appeal Ref: APP/H1705/W/17/3169774**

**The Old House at Home, Tylney Lane, Newnham RG27 9AH**

- 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 Red Oak Taverns against Basingstoke & Deane Borough Council.
  - The application Ref 16/01315/FUL, is dated 13 April 2016.
  - The development proposed is the change of use from A4 public house to C3 residential dwelling house.
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### Decision

1. The appeal is dismissed and planning permission for the change of use from A4 public house to C3 residential dwelling house is refused.

### Procedural Matters

2. The Council has confirmed that had it been in a position to determine the application, planning permission would have been refused for reasons relating to the loss of the pub use and for harm to the Newnham Conservation Area.
3. The Hearing was adjourned to facilitate the consideration of a letter confirming borrowing approval which the Parish Council wished to present to the Hearing, and to enable the appellant to respond. At the Hearing an application for a partial award of costs was made by the appellant. This application is the subject of a separate Decision.

### Main Issues

4. From all that I have read, seen and heard, I consider the main issues to be:
  - whether the loss of the public house use and conversion of the building to a dwelling would unacceptably compromise the provision of community facilities in the area; and,
  - whether the proposed change of use would preserve or enhance the character or appearance of the Newnham Conservation Area.

### Reasons

#### *Background*

5. The Old House at Home appears as a dis-used, Victorian pub which stands close to the village green in Newnham, a village of around 500 inhabitants,
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which is located in the countryside between the towns of Hook and Basingstoke. The only pub in the village, which no longer has a post-office or shop, it ceased trading in February 2015 and was acquired by the appellant in December of that year. The building stands in the Newnham Conservation Area (CA) and is identified in the Council's Conservation Area Appraisal as a Building of Local Interest. It was registered by the Council as an Asset of Community Value (ACV) in July 2015. The appeal proposal seeks planning permission to change its use from a public house (use class C4) to residential dwelling house (use class C3). There are no external alterations proposed.

#### *Planning Policy*

6. The Basingstoke and Deane Local Plan (2011 to 2029) adopted 2016 (LP) permits new housing outside settlement policy boundaries where it concerns the re-use of a redundant or disused building subject to the provisos set out in policy SS6. These are that it does not require substantial rebuilding, does not result in the requirement for another building and that it leads to an enhancement to the immediate setting. The Council raises no objection against this policy as it describes its purpose as being to prevent physical intrusion into the countryside.
7. LP policy CN7 seeks to resist proposals which would result in the loss of essential facilities and services which meet community needs and support well-being. It includes pubs within this definition. Such proposals will only be permitted where it can be clearly demonstrated that:
  - a) the service or facility is no longer needed; or
  - b) it is demonstrated that it is no longer practical, desirable or viable to retain them; or
  - c) the proposals will provide sufficient community benefit to outweigh the loss of the existing facility or service, meeting evidence of a local need.LP policy EM11 requires all development to conserve or enhance the quality of the borough's heritage assets in a manner appropriate to their significance.
8. The National Planning Policy Framework (the Framework) says that 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*" (paragraph 70). It also advises that the positive contribution that the conservation of heritage assets can make to sustainable communities, including their economic viability, should be taken into account (paragraph 131).

#### *Whether it would unacceptably compromise the provision of community facilities*

9. As well as being a local meeting place, providing a place for local people to meet and socialise, I heard that the pub was popular with visitors from the surrounding area, including walking groups, and residents of the local nursing home. It also became a focus during social occasions such as cricket matches, fêtes and celebrations, bringing vitality to the village.
10. I acknowledge that an alternative pub, the Hogget, is within walking distance of Newnham Green, however, with its focus on food it is less suitable for impromptu gatherings and non-food related visits. There are other pubs in the wider area, though their distance a short drive away, would mean they serve

the local needs of this community less. I note the village hall which is used for social gatherings and activities; however, it requires booking in advance and provides a venue with a quite different facility and character to a pub.

11. Since it closed, there has been a sustained and popular campaign to save the use of the pub with a petition signed by around 1,200 people. Furthermore, the pub's listing as an ACV under the Localism Act 2011 formally recognises that the resumed use of the building would support the well-being and the social interests of the local community. The strength of support for its retention indicates how valued the pub is as an important local community facility which is still very much needed.
12. The pub is comparable in size to other pubs in the wider area and its condition would not prevent it being refurbished and reused. I can identify nothing which suggests it is no longer practical to retain its use. No conflicts of use were raised at the Hearing, and there is no evidence of any issues that suggest it is undesirable to retain the use.
13. Policy CN7 gives no guidance on what is an appropriate measure of viability. Notwithstanding this, the appellant, the Council, and the Parish Council have, on the basis of numerous reports, using different assumptions of borrowing costs, various trade data, turnover predictions, and renovation estimates, set out 4 different conclusions on the viability of the pub.
14. At one end of this range of predictions, the Council-commissioned review of viability concluded that only a gastro-pub trading model was viable. It was critical of the pub's current configuration to sustain this. However, the Parish Council has indicated how the building could be altered to improve the food offering, and there appears to be sufficient space in the car-park and surrounding area to manage those visiting by car. More significantly, this model focuses only on a traditional, commercial operation. It does not take into account the more community-based, wet-led alternative model proposed by the Parish Council, to which I return below.
15. At the other extreme is the model commissioned by the Parish Council. It suggests an optimistic trading future for the pub based on a fair maintainable trade of £375,000 per annum generating an income of £36,500 per annum. However, it relies on rateable value assessments from 2008 to predict future turnover. These follow the introduction of the smoking ban in pubs in 2007, and the figures are now dated. While I note the statutory declaration recollecting some turnover figures, there are no trading accounts to substantiate them; this reduces their significance. The level of trade in this forecast may well be an objective to aspire to, but it is not a sufficiently certain outcome for me to accord it significant weight.
16. In the centre ground are the projections of the appellant and the Parish Council. The Parish Council proposes a not-for-profit, community-owned, untied model using benchmark data from the British Beer & Pub Association. It estimates a similar fair maintainable trade as the appellant; £260,000 pa. Both sets of projections reach similar totals of profit before finance costs, of £23,000 for the Parish Council, and £22,000 for the appellant. I have taken into account that the tenants' remuneration of £22,000 in the Parish Council model is less than the £30,000 allowed in the appellant's model. However, there is considerable value in the 2-bedroom flat above the pub which would boost the value of the tenancy for the occupiers.

17. Assuming a notional acquisition price of £350,000, and only £20,000 on renovations and inventory, the appellant's figures show a loss of £11,000 pa, after making a mortgage payment of £33,000. This model shows the pub as unviable. However, the Parish Council has been offered a loan from the Public Works Loan Board of up to £500,000 which has a substantially lower finance cost than the mortgage assumed in the appellant's forecast.
18. The Parish Council's model, with a finance cost of £20,000 pa, would result in a profit of around £3,000. While the appellant's expert describes this as 'marginally' viable, it is nonetheless viable. I appreciate that the precise rate of borrowing will not be known until the funds are drawn. This could increase the size of repayments and reduce the profit. Equally, there is no certainty that the notional acquisition cost indicated by the appellant of £350,000 for the building, which represents the bulk of the loan, would not be subject to negotiation, including in a downwards direction. Moreover, the Parish Council has indicated that any profits after costs would be re-invested into the pub, including as contingency. In any event, all the models are limited in their certainty to some degree.
19. The Framework requires careful attention to viability and costs in decision-taking, and that costs should take into account the normal cost of development and provide competitive returns. The financing under the Parish Council model may not be commonplace, nor is its operating model. It is nonetheless a means of funding their project which it has found in the market, and as such is not abnormal.
20. The appellant's expert considers the model only marginally viable. However, I consider the factors influencing its viability have been fully considered by the Parish Council in a robust plan with contingency and room for growth that would provide a competitive return. The Parish Council has been actively pursuing the purchase of the building, and has secured a loan offer from the Public Works Loan Board. This demonstrates that the use of the building as a pub is a viable proposition.
21. I conclude that it has not been clearly demonstrated that it is no longer practical, desirable or viable to retain the public house use. While the proposed change of use may lead to additional housing which would be a form of community benefit, the precise amount is uncertain, as is the local need for it. It would not outweigh the loss of the pub use. The proposal would therefore unacceptably compromise the provision of community facilities in the area. It would conflict with LP policy CN7 and the advice in paragraph 70 of the Framework.

*Preserve or enhance the character or appearance of the CA*

22. The Council's Conservation Area Appraisal describes the Old House at Home as a nineteenth century Building of Local Interest, occupying a prominent corner facing the village green. It describes the village as having developed as a stopping place for drovers of livestock to rest, and to water at the village ponds, one of which is close to the pub.
23. It raises no objection to the proposed change of use in terms of its effect on the fabric of the building or its appearance. There are no external alterations proposed. I can identify no harm to the appearance of the CA.

24. Notwithstanding this, the spatial arrangement of Newnham is characterised by the village green and the loose connection of the buildings around its edges. They enclose it and they bear on it to varying degrees. Though most buildings are now residential, there are two which must have contributed to the daily activity and colour of the village; the church and the pub, the former off a side spur and the latter at the neck of Tylney Lane.
25. While the building does not bear centrally on the village green, it nonetheless stands as a visual destination, and I have heard it provided a functional focus from within the village green. In this context, the use of the building as a pub would provide a balance to the character of the CA which would otherwise be dominated by residential use. I appreciate that the pub has been disused for some time, and that an unoccupied building contributes little to the area. However, given my conclusion above on viability and the efforts of the Parish Council to acquire the site, I am satisfied that the building would be put back into use as a pub. Returning the active use of the building to a pub would restore the activity and vitality that has been part of the significance of the CA, whereas the permanent loss of the use would harm its character as a whole.
26. Paragraph 134 of the Framework requires that where a development would lead to less than substantial harm to a heritage asset, this should be weighed against the public benefits of the proposal including securing its optimum viable use. Though there would be some public benefit from the additional residential accommodation which would add to housing supply and choice, this is limited by the likely scale of the benefit. It does not outweigh the harm of the proposal to the heritage asset, which carries significant weight.
27. For the reasons set out above, I conclude the proposal would fail to preserve the CA in accordance with the requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, the special attention to which, the Courts have determined, I am required to give considerable importance and weight. I conclude on this issue that while the change of use would result in no harm to the appearance of the CA, the loss of the public house use would harm its character. There would therefore be conflict with LP policy EM11 and paragraph 131 of the Framework.

## **Conclusion**

28. The change of use would result in some economic benefits from the conversion works and from the future spending of future occupiers in the local economy. It would also have some social benefit from the additional accommodation which would be provided. However it would unacceptably compromise the provision of community facilities in the area, and it would harm the character of the CA.
29. It would thus conflict with the policies of the development plan, and with the advice in the Framework. I have not found any other material considerations of sufficient weight to overcome these conflicts. I therefore determine that the appeal should be dismissed, and that planning permission be refused.

*Patrick Whelan*

INSPECTOR

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mrs Leanne Buckley-Thomson	Counsel for the appellant No 5 Chambers
Mr Woodward- Court	Plainview Planning
Mr Stuart Parsons	Fleurets
Mr Andrew Crutchley	The Environmental Dimension Partnership

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mrs Stephanie Baker	Senior Planning Officer Basingstoke & Deane Borough Council
Mr Brian Conlon	Senior Planning Officer Basingstoke & Deane Borough Council
Mr Daniel Ayre	Senior Conservation Officer Basingstoke & Deane Borough Council

### **FOR THE PARISH COUNCIL:**

Mrs Dale Ingram	Historic Buildings and Planning Consultant, Planning for Pubs
Mr Anthony Miller	Chartered Building Surveyor, GVA
Mrs Susan Turner	Clerk to Newnham Parish Council
Mrs June James	Chairwoman, Newnham Parish Council
Mr Peter Lumley	Local resident

### **INTERESTED PERSONS:**

Mr Nigel Bell	Local resident
Mr Richard Fouracre	Local resident
Mr Bob Scott-Kerr	Local resident
Mrs Joanna Bell	Local resident
Councillor Onnalee Cubitt	Basingstoke & Deane Borough Council
Councillor Michael Wilson	Newnham Parish Council
Councillor Paul Gaskell	Basingstoke & Deane Borough Council

## **DOCUMENTS SUBMITTED AT THE HEARING**

By the appellant:

1. Statement of Common Ground, 3 July 2017
2. Tithe map 1842 & 2 pages of Tithe Records
3. Closing submissions
4. With an application for costs:
  - Extracts from the Planning Practice Guidance
  - Communities and Local Government Circular 03/2009

By the Council:

5. Closing remarks

By the Parish Council:

6. Loan application covering letter, 31 May 2017
7. Redacted letter from DCLG to Newnham Parish Council, 15 June 2017
8. Unredacted letter (same as 7.) from DCLG to Newnham Parish Council, 15 June 2017
9. Letter from GVA to Red Oak Taverns, 6 July 2017
10. Letter from Red Oak Taverns to GVA, 4 July 2017
11. Addendum Report by Mr Anthony Miller, 21 December 2016