
Appeal Decisions

Site visit made on 5 September 2017

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

Decision date: 04 October 2017

Appeal A: APP/T2350/W/17/3175390

Dog & Partidge, Wigglesworth Road, Slaidburn BD23 4SQ

- 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 and Mrs Gridley against the decision of Ribble Valley Borough Council.
 - The application Ref: 3/2016/0708, dated 21 July 2016, was refused by notice dated 11 November 2016.
 - The development proposed is a change of use of a public house, owner's accommodation and bed and breakfast accommodation into two dwellings.
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Appeal B: APP/T2350/Y/17/3175395

Dog & Partridge, Wigglesworth Road, Slaidburn BD23 4SQ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr and Mrs Gridley against the decision of Ribble Valley Borough Council.
 - The application Ref: 3/2016/0709, dated 21 July 2016, was refused by notice dated 10 November 2016.
 - The works proposed are related to a change of use of a public house, owner's accommodation and bed and breakfast accommodation into two dwellings.
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Decision

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed and listed building consent is refused for a change of use of a public house, owner's accommodation and bed and breakfast accommodation into two dwellings.

Preliminary Matter

3. As the proposal relates to a listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

4. The main issues are:

- whether the proposal would preserve the special architectural and historic interest of a Grade II listed building, the Dog & Partridge Public House;
- whether the proposal would conserve the scenic and natural beauty of the Forest of Bowland AONB; and
- the effect of the proposal on the rural economy and vitality of the local area.

Reasons

5. The appeal property lies within the settlement boundary of Tosside which is an isolated, high-altitude hamlet to the east of Gisburn Forest, some considerable distance to the north of the market town of Clitheroe. The property is situated on the southwestern approach to the hamlet and occupies a prominent position that fronts onto the B6478. The proposal would lead to the creation of two residential dwellings of differing size.

Principle of development

6. Tosside has been designated a Tier 2 settlement in key statement DS1 of the Ribble Valley Borough Council Core Strategy 2008-2028 (2014) (CS). It establishes that any development in the settlement needs to meet a defined local need or deliver regeneration benefits. This is further refined by policy DMG2 of the CS which sets out a number of specific exceptions where development may be permitted under such circumstances. On the basis of the evidence before me, I am satisfied that none of these exceptions apply. I am also satisfied that this policy carries full weight given the relatively recent adoption of the development plan and the presence of deliverable 5.73 year housing land supply.
7. However, the appellants are of the opinion that policy DMG2 of the CS does not apply to the conversion of existing buildings, the proposal is supported by DMH4 of the CS and that the development plan is inconsistent with paragraph 55 of the National Planning Policy Framework 2012 (the Framework). I note that the wording of policy DMG2 of the CS simply refers to development with only one reference to new development which relates to schemes in the open countryside. Section 55(1) of the Town and Country Planning Act 1990 (as amended) states that: ‘“development,” means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land’. Consequently, I find the first contention unfounded and not based upon a proper interpretation of the wording of this policy.
8. Turning to the second point, policy DMH4 has four tests that apply to all building conversions. Whilst the proposal would conform to the first three, this would not be the case for the final test which requires that: ‘the building has a genuine history of use for agriculture or another rural enterprise.’ I acknowledge the fact that the building has served other purposes but it is clear from the evidence before me that the established, long term use of the building primarily relates to its function as a public house. As such, I am not satisfied that any enterprise exclusively related to its rural setting has persisted for any length of time at this location. Consequently, the proposal gains little support from this policy.

9. Turning to the third point, planning law¹ requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is clearly one such consideration. However, I place significant weight on the fact that the CS is of recent origin and has been found sound by an examining Inspector. Moreover, whilst I accept that the special circumstances of paragraph 55 are not entirely reflected in the CS, this is of little relevance in these appeals because the building is within the settlement boundary and not within the open countryside.
10. Given the above, I conclude that the principle of development has not been adequately established and that the proposal would be contrary to policy DMG2 of the CS. As a result, the proposal would not be in accordance with the development plan.

Listed building

11. The Dog & Partridge Public House was listed in 1984 and dates from the late 18th century, with later additions. It is constructed from squared, water-shot sandstone and has a stone slate roof. It has a simple, vernacular architectural form originally comprising a single, rectangular range with two stories and four bays. The original form of the building is still clearly apparent with its strongest expression associated with its front elevation, southern roof slope and gable ends. This is also apparent from the openings in the rear elevation that have either resulted from, or been incorporated into, later additions. These additions include an enclosed stone porch on the front elevation and a number of projections on the rear elevation.
12. The rear projections comprise two single storey, lean-to extensions and a two storey outrigger that is joined to the rear elevation of the original building by a glazed, subservient connecting structure incorporating one of the earlier extensions. External stone steps, of modern construction, are also present that lead to a first floor doorway. The newer part of the building incorporates three, en-suite bedrooms with a café area on the ground floor with an entrance and foyer area. The original part of the building has retained its historic pattern of use up until relatively recently with a public house on the ground floor and residential accommodation on the upper floor. The public house operated limited opening hours in recent years and finally closed in the summer of 2016.
13. The prominent location of the building, at the historic centre of the hamlet, and its largely intact front elevation and gable end make a significant contribution to local character through its understated, vernacular architectural features and uncluttered frontage. Its position on the main route through the hamlet and established use, as a public house, gives rise to a significant depth of historic continuity, as indicated on the earliest maps of the area. Unsustained periods when it may have served other functions also indicates its role as a building strongly associated with the day to day life of the hamlet and surrounding farmsteads. Given the above, I find that the special interest of the listed building, insofar as it relates to this appeal, to be primarily associated with the historic legibility of the form and function of the building with special regard to its communal and historic value.

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 (as amended)

14. The appellants maintain that there would be little harm to the listed building because the conversion would only make limited changes to its fabric. These would comprise blocking three openings between the original building and the newer, rear extension as well as the removal of the signage on the front elevation and enclosure of the resulting residential curtilages. Subject to appropriate conditions, I accept that the fabric and layout of the most significant parts of the building would be maintained by the proposal and that the appearance of the main elevation would not be significantly altered. Furthermore the use of conditions would allow the retention of the signage which is of clear evidential value. However, the special interest of listed buildings goes beyond the physical features identified in their listings because these are primarily for identification purposes and do not provide an exhaustive or complete description of the special interest.
15. Moreover, to merely reduce a listed building to its architectural form and fabric ignores the range of inter-related heritage values that may be attached to a place. These values range from evidential, which is dependent on the inherited fabric of the building, through historical and aesthetic, to communal values which derive from people's identification with the building and its setting. Although the Heritage Asset Statement considered such values and identified a high impact on the historic and communal value of the building, the appellants sought to undermine their own evidence during the Hearing by suggesting that the was produced by a graduate building surveyor who lacked the appropriate expertise. Notwithstanding this fact, I agree with its conclusions with regard to the identified impacts. I therefore find that the proposal would fail to preserve the special interest of the listed building and I give this harm considerable importance and weight in the planning balance of this appeal.
16. Paragraph 132 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. It goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets. Given the complete loss of its historic and communal value that would result from its residential conversion, I find the harm to be substantial in this particular instance and consistent with a previous Inspector's view² of the building's significance. The appellants contend that only less than substantial harm would result because the appearance and fabric of the building would be largely unaltered and because the building has not been in continuous use as a public house. To this end they have relied upon incomplete evidence and the conclusions of a heritage statement they themselves called into question during the course of the Hearing.
17. Whilst I acknowledge that the building has been labelled as a post office on one historical map and alternative uses have been highlighted in a parish magazine, I find this evidence incomplete as it ignores an earlier map from around 1850 that clearly shows the building as the Dog & Partridge public house. Furthermore, I am not satisfied that the Tosside Parish Magazine represents a satisfactory or complete, publicly-accessible, dynamic source of information about the local historic environment as required by the Planning Practice Guidance 2014 (as amended). As such, I do not find that it constitutes a robust Historic Environment Record in the absence of other corroborative

² APP/T2350/A/13/2193965

information and given the fact that such publications do not benefit from systematic peer review or consistent editorial standards.

18. I also note that the use of the building as a donkey sanctuary is not corroborated by the press cuttings that I have before me which merely indicate that the sanctuary was 'a combination of three farms with separate accommodation and buildings'. Even if the periods of closure and dereliction brought to my attention at the Hearing are taken into account, I find that the gaps and alternative uses are few and relatively minor. Consequently, I am satisfied that the overall continuity of use as a public house has been established and that the proposal would amount to substantial harm, despite the limited impact of the proposal on the appearance and fabric of the building.
19. Under such circumstances, paragraph 133 of the Framework advises that consent should be refused unless the proposal would achieve substantial public benefits capable of outweighing any harm or if specific circumstances apply. The appellants are of the opinion that substantial public benefits would arise from securing the future of the building. However, it was established at the Hearing and through my own observations that the building is in good condition and has been maintained to a high standard since it has been in the ownership of the appellants. Notwithstanding the viability of the different business models they have adopted, there is no risk to the building's special interest in the short term if the current proposal is not implemented as the building is not in a parlous condition and its potential use as a public house would remain, even when closed. In the longer term, whilst I accept that proposal would secure the future conservation of the building's form and fabric, this does not amount to a substantial public benefit at the current time.
20. Given the above, whether or not the substantial harm is justified falls to be considered against the specific circumstances of the building. Paragraph 133 of the Framework sets out four tests. These tests are met if: the nature of the asset prevents all reasonable use; no viable use can be found in the medium term through appropriate marketing; conservation through public ownership is demonstrably not possible; and the harm is outweighed by the benefit of bringing the building back into use.
21. Turning to the first test, it is clear that the appellants have adopted a number of different business models over the last 14 years which have sought to keep the historic use of the building viable despite its remote location and sparse catchment area. Given the presence of two other establishments in the hamlet selling alcohol, namely the Tosside Community Centre and the Old Vicarage Tea Room, as well as the significant shift in the communal focus of the settlement to the former, I find the viable function of the building, as a public house, highly questionable at the current time. I also find that the circumstances are materially different to the previous appeal decision³ not least because of the passage of time which indicates continuing losses and marginal profits. In particular, I note the net losses in two out of the four years leading up to the closure of the public house.
22. Whilst I accept that the opening hours of the Dog & Partridge have been reduced over time and that the opening hours of the other establishments in the hamlet are restricted, the fact remains that the potential catchment for the continued operation of a public house at this particular location is extremely

³ APP/T2350/A/13/2193965

limited. This not only applies to local residents but also visitors due to the limited number of bed and breakfast places available in the hamlet. I acknowledge the presence of holiday accommodation at Bowland Fell Park and significant recreational opportunities associated with Gisburn Forest but note that the former is already served by an on-site public house, the Crowtrees Inn, whilst the latter is served by Gisburn Forest Hub Café which is open seven days a week. Given the above, I am satisfied that the nature of the asset, in terms of its location, prevents all reasonable use as a public house thus satisfying the first test.

23. Turning to the second test, it was established at the Hearing that the property has been for sale as a public house and bed and breakfast since the 30 May 2017 and that no viewings or offers had been made despite an interest registered by Tosside Community Link with Ribbles Valley Borough Council. I acknowledge evidence of lower asking prices for similar properties in the local area. However, it was established at the Hearing that these were not similar in all respects, particularly in relation to the high-quality fabric of the Dog & Partridge, generous family accommodation and modern ancillary service areas.
24. It was also established that the asking price had been based on two independent valuations for the most recent period of marketing whilst three had been obtained for the preceding period of marketing between 20 April 2014 and 2 November 2015. As one of the latter valuations was higher than the asking price, I am satisfied that it was reasonable not to reduce the asking price during either of the marketing periods. I also find that the use of alternative estate agents, as suggested by the Council, has no basis in policy nor is the fact that the property was withdrawn as a result of a family health issue prior to the application sufficient evidence of inadequate marketing.
25. The original period of marketing had resulted in two expressions of interest which failed to progress beyond an initial stage. The lack of interest was ascribed to the isolated location of the property and restrictions relating to its listed status. Given the above and bearing in mind the use of a firm of commercial property consultants, I am satisfied that no viable use for the building has been found through appropriate marketing thus satisfying the second test.
26. Turning to the third test, there is a clear opportunity for public ownership of the Dog & Partridge given its notification as an Asset of Community Value (ACV) on the 15 November 2016. As the period for the acceptance of bids remains open, I am not satisfied that the potential for public ownership has been fully explored at the current time. Moreover, I have no evidence before me that the appellants have approached any charitable foundations, national or local amenity societies or any preservation trusts to establish whether they are willing to maintain the historic and communal interest of the building. Given the above, the potential for its conservation through public ownership remains unresolved, thus failing the third test.
27. Turning to the fourth test, the building is still in use as a bed and breakfast and provides family accommodation for the appellants. Although the public house has been closed to non-residents, the building is nevertheless still in use and has not been mothballed. As such, it cannot be brought back into use. Given this fact, the benefit of bringing the asset back into use cannot outweigh the

substantial harm that would be caused by its residential conversion, thus failing the fourth test.

28. In the absence of any substantial public benefits, I conclude that the proposal would fail to preserve the special historic interest of the Grade II listed building and that only some of the specific circumstances have been met which would justify the harm that I have identified. This would fail to satisfy the requirements of the Act and paragraph 133 of the Framework. It would also conflict with policies DMG1 and DME4 and key statement EN5 of the CS that seek, among other things, to ensure that all development protects, conserves and enhances heritage assets. As a result, the proposal would not be in accordance with the development plan.

Forest of Bowland AONB

29. In their first reason for refusal, the Council maintain that the proposal would have a detrimental effect on the character and appearance of the Forest of Bowland Area of Outstanding Natural Beauty (AONB) as a result of the harm to the special interest of the listed building. Even though I have found the harm to be related to the historic and communal significance of the building, rather than its architectural significance, the potential domestication of its setting poses some potential issues.
30. Despite being within the settlement boundary, the building is situated at the edge of the hamlet in a highly prominent position marking a transition between the rural and settled environments. As such, the subdivision and domestication of its curtilage would mark a significant change in appearance and inevitably lead to more clutter around the front elevation and western gable end of the building. Whilst I acknowledge that some control of curtilage structures and boundary features would be possible through the use of suitable conditions, this would not be the case for domestic paraphernalia in the absence of any planning obligation to the contrary.
31. Consequently, there would be a small impact on the landscape and scenic beauty of the AONB. This would be contrary to policy EN2 of the CS that seeks to among other things, to protect, conserve and enhance the landscape and character of the AONB. As a result, the proposal would not be in accordance with the development plan.

Rural Economy

32. In their second reason for refusal, the Council maintain that the proposal would harm the rural economy and vitality of the local area. This would be through the loss of employment generating potential, commercial floorspace and associated services. I note that there has been a marked decline in the economic potential of the hamlet with permissions being granted for the redevelopment of Smithy Garage and the conversion of the former post office to residential use. I accept that the conversion of the Dog & Partridge would continue this trend.
33. Despite being a property that might lend itself to the development of a 'destination' venue, the fact remains that no offers have been made during the two periods over which it has been advertised. I accept that the remote, high-altitude, location and inherent restriction placed upon any future use by its listed status are such that the range of potential commercial opportunities

are clearly limited and subject to local competition, as already discussed. The degree of diversification is consequently limited and any high-worth business incorporating the sale of drinks and food would be inherently risky at this particular location and not directly comparable to the examples that were discussed at the Hearing. I therefore find that the contribution that would be made by the building towards the future vitality and rural economy unsubstantiated in the absence of any concrete proposals or directly credible comparators.

34. Turning to the present situation, it is clear that the proposal would not lead to a loss of jobs or significantly affect the current vitality of the hamlet. This is because the Dog & Partridge is no longer functioning as a public house and the services that were once offered have largely been taken over by the other two establishments. Furthermore, the loss of just three bedrooms would not have any significant effect on the wider tourist economy nor would there be any job losses given the absence of salaried staff involved in this business.
35. Given the above and bearing in mind paragraphs 20-22 of my decision, I conclude that the change of use would not have a negative impact on the existing or future rural economy and vitality of the local area. The proposal would therefore be consistent with policy DMB1 of the CS which seeks, among other things, to ensure that the conversion of sites with employment generating potential only occurs where the necessary criteria are met.

Other Matters

36. The appellants have highlighted a potential fallback position where permitted development rights would allow a change of use from an A4 drinking establishment use to an A1 shop use. However, this is not available at the current time because Part 3, Class A, Section A.1 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) indicates that this change of use will not be permitted for 'specified buildings'. Section A.3(a) goes on to identify these as buildings that have been entered onto a list of ACVs maintained by a local authority under section 87(1) of the Localism Act 2011. Whilst I accept that the 'right to bid' will come to an end on the 24 November 2017, the property will nevertheless remain on the list for five years under the terms of section 87(3) of the above Act. Consequently, the fallback position would not be available or likely for some considerable time and I therefore give this matter little weight in the balance of these appeals.
37. The appellants have drawn my attention to a number of planning permissions that have been granted elsewhere in the Borough for the conversion of public houses to residential use. Whilst I accept some similarities I do not find them the same in all respects. This is because none of them are listed buildings and all but one pre-date the current development plan. Furthermore, the Eagle and Child was not the only public house in Hurst Green. Given the above and bearing in mind that each case should be determined on its individual merits, I give this evidence limited weight in the balance of these appeals.
38. The appellants went to some considerable length to link the planning history of the site with the strategic thinking and specific circumstances of past owners. However, it was established at the Hearing that there had been no direct contact with previous owners over such matters. Consequently, I find the conclusions that have been drawn are largely based on unsupported

supposition rather than fact. Given the above, I give this evidence negligible weight in the balance of these appeals.

Conclusion

39. For the above reasons and having regard to all other matters raised I conclude that the appeals should be dismissed.

Roger Catchpole

INSPECTOR

APPEARANCES

For the Appellants

Mr C Sharpe	Planning Consultant, Gary Hoerty Associates
Mr G Hoerty	Managing Director, Gary Hoerty Associates
Ms C James	Managing Director, Trevor Dawson
Mr T Gridley	Owner
Mrs G Gridley	Owner

For the Council

Mr R Major	Principal Planning Officer, Ribble Valley Council
Mr A Dowd	Principal Planning Officer, Ribble Valley Council
Mr C Matthews	Regeneration Officer, Ribble Valley Council

Interested Persons

Mr D Lumb	Local Resident
Ms S Sinclair	Local Resident
Cllr R Sherras	Elected Member, Gisburn-Rimington