

23/09/0002

BISHOPSTON LTD

CHANGE OF USE OF GROUND FLOOR BAR (PUBLIC HOUSE) WITH ANCILLARY ACCOMMODATION ABOVE TO RESIDENTIAL USE FOR SINGLE FAMILY OCCUPATION AT THE WHITE HART, FORE STREET, MILVERTON

312091.125785

Full Planning Permission

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PROPOSAL

Permission is sought for the change of use of the White Hart at Milverton to a single residential dwelling. The submission includes existing and proposed ground floor plans and proposed first floor plans. The plans indicate a two bedroom dwelling with a dressing room, two bathrooms and formal drawing room at first floor level. The ground floor plans show a kitchen, wc, utility room, small drawing room and a garden room.

The supporting information states that permission is sought in its simplest form for a 'change of use application'. The applicant is not seeking permission for any external works. However, an accompanying letter from the applicant set out the following works which he considers are permitted development:-

- Removal of the metal fire escape and the outbuilding which contains the public house toilets.
- The roof will be stripped, decaying roof structure replaced, and newly felted battened and slated in natural slate.
- All timbers windows to be stripped, repaired/replaced and painted.
- All defective gutters and downpipes to be replaced, details to be agreed with the Conservation Officer.
- Removal of the signs and spotlights on the front elevation.
- The applicant notes that the original splitting of the White Hart Hotel provided only single skin construction of the party wall and the intention is to double the thickness of the party wall for sound insulation.

The applicant, at validation stage, was requested by officers' to provide a marketing report for the public house and the final three years of trading accounts. In response the applicant submitted a letter which reiterates that the previous owners went into receivership and is therefore unable to provide trading figures. The applicant states that there has been five different landlords since 2000, all of which failed to achieve a financially viable business. The statement highlights the plight of public houses across the country and the selling off of the rear barn, for which planning permission was granted, has reduced the profitability of the White Hart further.

The applicant has submitted a letter from Greenslade Taylor Hunt Chartered Surveyors who acted as marketing agents prior to and leading up to the sale of the White Hart. The following is an extract from that letter: -

'We were first instructed by Oakes CPS on the 22nd August 2008 to sell the building

following eviction of the previous occupier on 19th August 2008.

Our marketing campaign concentrated on the sale of the property as a public house and we did not undertake any viewing with parties we understood were interested in purchasing with a view to running it for this use. Throughout our campaign we received no serious interest or offers from any party other than those interested in converting the property into residential use and with the particularly depressed state of the public house and restaurant market at present (these types of premises are simply not selling as trade is extremely poor) we were not surprised by this.

In all honesty, had we not sold the property to you we feel we would have had little chance selling to a public house operator. The strong likelihood is that it would have sold to another party interested in residential use'.

SITE DESCRIPTION AND HISTORY

The application site is located in the centre of Milverton, along the main thoroughfare through the village. The site is within the designated Conservation Area and settlement limits of Milverton. The site is also located within an Area of High Archaeological potential. The village of Milverton has a good range of local services including the primary school, general store, post office, village hall and a health centre. The village contains many listed buildings and much of it is included within a conservation area; indeed it is designated in the Somerset Structure Plan as an Outstanding Heritage Settlement. The village core is characterised by buildings of local red sandstone and slate, and stone boundary walls provide a strong sense of enclosure.

The most recent applications for the site relate to a change of use of the public house to residential use, planning reference 23/1999/024, which was refused for the following reason: -

The proposed change of use of the public house to a residential property would result in the unacceptable loss of a village facility to the detriment of the vitality and viability of the local community, contrary to the Policy EC10 of the Taunton Deane Local Plan Deposit Draft.

Planning permission was also refused for the conversion of an outbuilding to the rear of the pub to be used as a dwelling, planning reference 23/1999/023. The application was refused on the basis that the barn and its curtilage were viewed as an integral part of the adjacent public house and contributed to the community facility it provides. It was considered that the conversion of the outbuilding to a dwelling would be likely to be detrimental to the vitality and viability of the public house, possibly leading to the ultimate loss of the pub.

However, permission was subsequently approved for the conversion of the outbuilding, above, to residential use in 2000, planning reference 23/2000/033

CONSULTATION AND REPRESENTATION RESPONSES

Consultees

PARISH COUNCIL – The Parish Council has no further comments to make.

CONSERVATION OFFICER – No objection (remove Permitted Development rights).

Representations

2 Letters of SUPPORT have been received. Summary of Support: - no adverse effect will be felt by the loss of a public house that has been very little patronized for years; there is the Globe to supply meals/drinks and the cricket ground club house has a license for drinking and entertainment; existing pub is dilapidated and run down - proposal should however be in keeping with the conservation nature of the village.

4 Letters of CONCERN have been received. Summary of concerns: - poor quality plans; potted history is full of inaccuracies; planning officer not visited the site; developer only visited neighbour on request; White Hart has been gutted in a week bearing in mind there are no party walls between the site and Red Cottage; sorrow at the loss of another local amenity disappearing – the village needs these places to keep the community alive; as nobody has come forward to purchase the pub and keep it running as a pub the only thing to do is for someone to live in it; concern for the plundering of an ancient building, dating back to 1640, just because it is not listed is worrying – are TDBC officials aware of this? Interior has been gutted destroying anything of any historical interest; there is scaffolding on the roof and the contractors are destroying the rest of the building; little point having a consultation period if developers carry on regardless; is it one rule for developers and one for the rest – is the Council going to let it be bullied by the developer into giving consent retrospectively?.

PLANNING POLICIES

Section 72 of the Planning (Listed Buildings & Conservation Areas) Act 1990 imposes a general duty on Local Planning Authorities in the exercise of planning functions within Conservation Areas as follows: ‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’.

Policy 14, - Archaeological Strategies

PPS1 - Delivering Sustainable Development,

PPS3 - Housing,

PPS7 - Sustainable Development in Rural Areas,

PPG15 - Planning and the Historic Environment,

RPG10 - Regional Planning Guidance for the South West,

EC15 - TDBCCLP - Associated Settlements/Rural Centres/Villages,

EN14 - TDBCCLP - Conservation Areas,

EN15 - TDBCCLP - Demolition Affecting Conservation Areas,

EN23 - TDBCCLP - Areas of High Archaeological Potential,

M4 - TDBCCLP - Residential Parking Provision,

S1 - TDBCCLP - General Requirements,

S2 - TDBCCLP - Design,

S7 - TDBCCLP - Outside Settlement,

S&ENPP9 - S&ENP - The Built Historic Environment,

S&ENPP49 - S&ENP - Transport Requirements of New Development,

STR1 - Sustainable Development,

S&ENPP33 - S&ENP - Provision for Housing,

S&ENPP48 - S&ENP - Access and Parking,

DETERMINING ISSUES AND CONSIDERATIONS

The principal issues for consideration relate to the loss of a community facility in the form of a public house; impact on the Conservation Area; and, sustainability.

Local Plan Policy EC15 is the pertinent policy in relation to the determination of the application.

Policy EC15 states 'The range of shopping and service facilities serving the associated settlements, rural centres and villages will be maintained and enhanced as follows:

- (A) proposals to provide new rural services, including shops, public houses and surgeries will be permitted within the defined settlement limits;
- (B) applications which seek to improve the viability of existing services through refurbishment, conversion or extension will be permitted; and
- (C) proposals which would result in the loss of shops or other community services will not be permitted where this would damage the viability of a settlement or increase car travel by local residents as a result of a significant or total loss of such services to the community.

National and local planning guidance recognises the need to take measures to combat rural service decline. PPS7 emphasises the need to 'facilitate and promote sustainable patterns of development and sustainable communities in rural areas'. The Local Plan recognises that services such as public houses, post offices, village halls and shops provide important facilities in rural areas in their provision of basic goods, their social and community focus, their contribution to the appearance and character of the rural scene and sources of local employment.

The objective of Local Plan Policy EC15 is to halt the continuing trend of the loss of facilities, such as a public house, from small communities where this would damage the viability of a settlement, or increase car travel by local residents as a result of significant or total loss of that type of facility to a settlement. The supporting text to Policy EC15 acknowledges that occasionally a business is economically unviable and will remain so in the longer term. Preventing a reasonable alternative use in this instance would run the risk of leaving an empty property which may suffer from lack of investment and eventual dereliction. Accordingly, if it can be shown that there is little likelihood of a business being viable in a particular location, then the policy may be set aside and an alternative use accepted.

Factors that will be considered when determining whether the business is still viable include assessing what measures have been introduced to increase local support, the number of other pubs in the area, the marketing of the pub and whether the asking price is either overly optimistic or instead realistically reflects its use as a public house such that new occupiers would not face over-large set up cost and letters of support for the retention of the pub from local residents.

The applicant has submitted anecdotal evidence regarding the viability of the public house. It would appear there have been difficulties over recent years, with declining patronage and the selling off of the outbuilding to the rear limiting the viability of the

public house. The White Hart has been closed for a number of months during the marketing exercise although no compelling information has been submitted for scrutiny. The decision as to whether the viability of the public house is an overriding factor will be informed by the strength of public support to the retention of the public house. It is accepted that sometimes a public house may add to the charm of a Conservation Area or appear a tourist attraction in itself. However, the White Hart is in a poor state of repair and it is considered that the village would not be a less vital or attractive place without it. The Conservation Officer does not object to the proposed change of use application.

In order to engage the community and inform the decision-making process the Parish Council were contacted and an advert placed by the Parish Council in their newsletter. The advert sought the views of Milverton residents to the loss of the public house. This action was taken in addition to the statutory publicity provisions for the application. The previous application for the change of use of the White Hart to residential, in 1999, was accompanied by a 227 signature petition and two further letters of objection. However, this application has not resulted in any significant public interest to the loss of the facility. On that basis and the fact that the village would still be provided with alternative facilities nearby which will cater for any demand it is not considered necessary to request further viability or trading account information.

Without strong public support for the retention of the public house there is a distinct likelihood of the building being unused and undermining the character of the conservation area. Moreover, residents in the village do not appear to have been seriously disadvantaged by its closure. The lack of objections to the proposal and the provision of alternatives lead to the conclusion that there is no longer any need for the building as a public house. Furthermore, due to the provision of alternative uses, within the village, it is considered that the loss of the White Hart would result in little difference in terms of traffic generation and therefore the change of use application would not be contrary to sustainability objectives.

Other matters

Despite permission being sought for a 'change of use' of the White Hart – it has been brought to officers' attention that demolition work has been carried out to the rear of the property. The demolition works are considered 'substantial' and require Conservation Area Consent for which no application has been submitted. The rebuilding of the rear elevation and roof structure, among other proposed alterations, would also require express planning permission. The applicant has been issued, on the 18th March 2009, with a temporary Stop Notice (28 days) to cease work on site.

During the consultation process there has been concern raised locally as to the historic interest of the building and implications for archaeology. The building is not listed. With regards to archaeology - the change of use application will not require the submission of an archaeological report. However, the re-building of the rear elevation, due to the requirement for foundations etc, may well impact upon archaeology. A note is therefore advised if Members are minded to approve the change of use application that in addition to the detailed submission of elevation drawings an archaeological report will be required.

The advice in PPG15 (1994) Para 4.27 is that applications for demolition should not be considered unless details of the replacement buildings are available since the

characteristics of what is to follow is an important material consideration in determining whether demolition should occur, the PPG states that the local planning authority will need to have information about what is proposed for the site after demolition. Consent for demolition should not be given unless there are acceptable and detailed plans for any redevelopment. It has been held that the decision maker is entitled to consider the merits of any proposed development in determining whether consent should be given for the demolition of an unlisted building or substantial demolition, in this case, in a conservation area.

Normally, if redevelopment is to be allowed within a designated conservation area one or more of the following circumstances must pertain; a) the buildings to be demolished are of poor visual quality or in an unviable structural condition; b) the character of an area is already irretrievably compromised by other redevelopment; the replacement buildings proposed are such good design and respectful of the amenity of neighbours and the character of the area that, in the balance of decision making, no harm to the character of a conservation area may be identified, or; d) the cohesive character of the conservation area has more to do with its sylvan landscape than with the particular buildings set within it.

The applicant is required to seek retrospective Conservation Area Consent for the demolition works and for any further demolition required. In addition detailed elevation drawings for the rebuilding and any other alterations must accompany the application. Those works will also require planning permission.

Conclusion

Officers' now consider that the loss of a local facility in the form of a public house, whilst regrettable, is now acceptable. It is considered, informed by public consultation, that there is no overriding support for the retention of the use of the building as a public house and there are alternative facilities within the village which would not require residents to be more reliant on the use of the car. The Conservation Officer does not object to the principle of the 'change of use' and as such the proposal would not adversely affect the character or appearance of the Conservation Area. It is recommended that 'Permitted Development Rights' are withdrawn, by condition, in light of the unauthorised works undertaken and to control future development of this building, located in a Conservation Area, and to protect the amenity of adjoining residents. Whilst the unauthorised works require both Conservation Area Consent and Planning Permission it is considered permission should be granted for the 'change of use' application.

RECOMMENDATION AND REASON(S)

Recommended Decision: Conditional Approval

The proposal would enhance/maintain the character and appearance of the Conservation Area and would not harm either visual nor residential amenity. Accordingly, the proposal does not conflict with Taunton Deane Local Plan Policies S1 (General Requirements), S2 (Design), S7 (Outside Settlement), EN14 (Conservation Areas) and EC15 (Associated Settlements/Rural Centres/Villages).

RECOMMENDED CONDITION(S) (if applicable)

1. The development hereby permitted shall be begun within three years of the date of this permission.

Reason: In accordance with the provisions of Section 91 Town and Country Planning Act 1990 (as amended by Section 51(1) of the Planning and Compulsory Purchase Act 2004).

2. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 1995 (“the 1995 Order”) (or any order revoking and re-enacting the 1995 Order with or without modification), no development of the types described in Schedule 2, Part 1 Class A, B, C, D, E & G of the 1995 Order other than that expressly authorised by this permission shall be carried out without the further grant of planning permission.

Reason: In order for the Local Planning Authority to assess the impact of such development on the character and appearance of the Conservation Area and amenity of local residents in accordance with Policy S1 (D) of the Taunton Deane Local Plan.

Notes for compliance

1. The applicant is advised that Conservation Area Consent is required for the demolition works that have been undertaken and any further works which are required as part of the conversion. In addition Planning Permission is also required for the rebuilding of the rear elevation, changes to windows, rebuilding of the roof structure etc and is requested to submit full elevation drawings of the existing and proposed elevations together with a structural report to demonstrate the requirement to carry out such works. The application should also be accompanied by an archaeological report as the site is located within An Area of High Archaeological Potential and any works may have implications for Archaeology.

In preparing this report the Planning Officer has considered fully the implications and requirements of the Human Rights Act 1988.

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