



Appeal Decisions

Hearing Held on 13 June 2023

Site visit made on 13 June 2023

by Matthew Jones BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/Y3940/W/22/3313477

King's Head, Chitterne BA12 0LJ

- 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 K. Stone against the decision of Wiltshire Council.
 - The application Ref PL/2022/00563, dated 22 January 2022, was refused by notice dated 24 May 2022.
 - The development proposed is change of use from public house to single detached residential dwelling including minor internal alterations and demolition of flat roof rear extension.
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Appeal Ref: APP/Y3940/Y/22/3312123

King's Head, Chitterne BA12 0LJ

- 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 K. Stone against the decision of Wiltshire Council.
 - The application Ref PL/2022/00784, dated 22 January 2022, was refused by notice dated 31 May 2022.
 - The works proposed are change of use from public house to single detached residential dwelling including minor internal alterations and demolition of flat roof rear extension.
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Decisions

1. The appeals are dismissed.

Procedural Matter

2. During the appeal the Council submitted revised plans it had agreed with the appellant. They clarify a drafting error in relation to a window and reduce the extent of fabric loss relating to a proposed internal opening. Given that these changes would be modest and reduce the extent of the proposed works, I had regard to the revised plans in my decisions without prejudice to any party.

Main Issues

3. The King's Head is a Grade II listed building and public house within the village of Chitterne. It is currently closed but listed as an Asset of Community Value (ACV). Within this context the main issues are:
 - whether or not the proposal would result in the unacceptable loss of a community facility; and,
 - the effect of the proposed works on the special architectural and historic interest of the Grade II listed building The King's Head.

Reasons

Community facility

4. The starting point for decision making is the development plan. As the only public house in Chitterne, The King's Head is a community facility pursuant to Policies CP48 and CP49 of the Wiltshire Core Strategy (adopted 2015) (WCS). These policies seek to safeguard rural community facilities. They are consistent with Paragraph 84 of the National Planning Policy Framework (the Framework) insofar as it seeks policies to enable the retention of the same.
5. Policy CP48 vi) supports schemes for the change of use of a community facility where it is necessary to allow a viable continued use. The appellant purchased the pub in 2011 and I am led to believe that during the first two years of its operation it was popular and well frequented. The appellant has submitted accounts from 2015 to 2020 which show the King's Head making annual losses by that period. While these accounts, at first blush, may suggest an inherent viability issue for the pub, it is clear that certain circumstances prevailing during that time were not conducive to its successful operation.
6. The card payment system was removed around 2018. I do understand why that happened, but people tend to carry less cash today, particularly following the Covid pandemic and as smart phones have become a medium for fiscal transactions. A reliance on cash to use the pub is likely to have decreased its footfall, as spontaneous or unplanned visits would have been curtailed. The discussed pattern of irregular opening hours would have similarly affected footfall. Despite the obvious endeavours of the appellant, and due to a series of circumstances beyond his control, the food offer at the pub was reduced and then largely withdrawn during this period. The absence of a reliable food offer is likely to have significantly impacted both local and passing trade.
7. The appellant apports much of the deteriorating financial situation at the pub to an alleged reduction in passing trade caused by the 2013 redesignation and truncation of the A344 at Stonehenge. However, any reduction in traffic is not well substantiated. Chitterne is close to Warminster, the A36 and Longleat, and the highway network which includes the village still connects Stonehenge to Bath. The Parish Council told me at the hearing that significant vehicle movements have been recorded in Chitterne by a traffic /speed survey.
8. I acknowledge that there has been a high churn of landlords at the pub prior to the appellant's tenure. However, from what I heard at the hearing, this is likely more down to poor working conditions associated with the previous brewery's custodianship, rather than a lack of viability for The King's Head itself.
9. With regard to any perceived trade competition between The King's Head and Chitterne village hall, the latter does not have a permanent alcohol licence, village halls and pubs present a different ambiance, and their social functions are not entirely analogous. I would suggest that in Chitterne these facilities are more likely to work in harmony because it is in the community's interest for them to do so. When the village hall hosts wider events, such as Pilates classes, this seems to me more likely to draw passing trade to the pub.
10. The Chitterne Community Pub Group (CCPG) has a business plan for the operation of The King's Head if the CCPG were to purchase it. I understand that the plan was instrumental in the CCPG securing a substantial Public Works

Loan. Whilst the terms of the loan will require reappraisal by the end of July, it is fair to deduce that the loan would not have been agreed had the Public Works Loan Board not considered the CCPG's business plan robustly credible and adequately viable at the time. The terms of the loan appear supportive and the CCPG's plans are flexible and proactive, incorporating a possible pop-up retail element and a prescription pick up service. This further endorses my opinion that the pub is not moribund; a change of use is not demonstrably necessary to secure a viable continued use of this building at this time.

11. Policy CP49 focuses on the marketing of community facilities. Amongst other things, marketing should be comprehensive and establish appropriate prices, reflecting local market value, the current use and the condition and location of the premises. Only when it is demonstrated that all preferable options are exhausted will a change to a non-community use be considered. When marketing of The King's Head was taken on by Sydney Phillips in 2016, the pub was put on the market at £340,000 as a going concern. This asking price has fluctuated over time, including reductions, but broadly around that price and I understand the pub is still on the market for around that price.
12. At the hearing I learnt that an independent valuation of The Kings Head by the Plunkett Foundation valued it at £350K as a going concern, £295k if in default, and £245K if closed. Considering the market downturn due to the pandemic and given that the pub closed in 2020 and is no longer a going concern, it is logical to surmise that the marketed value of The Kings Head should have been lower than as latterly advertised. This leads me to the conclusion that, whilst the ACV listing may well have dampened interest in some cases, the pub has not been marketed at an appropriate price since its closure. Moreover, the appellant was not able to explain at the hearing why the pub has not been advertised in industry specific publications since 2019. This indicates that the more recent marketing has also not been comprehensive.
13. Policy CP48 requires that community facilities be protected from loss until such time as the community has had a realistic opportunity to take control of the asset. In August 2021 the CCPG made offers of £315K and £325K, both of which were rejected, following which the asking price was hiked to £350K. This is despite the appellant accepting an offer of £320K from a third party in April that year. At the hearing the appellant conceded that these actions were largely driven by emotion, given a perception that the conduct of the CCPG and ACV status had prevented the selling of the pub. Consequently, whilst the appellant is not obliged to accept any offer, it is evident that the community, represented through the CCPG, has been denied a realistic opportunity to take on The Kings Head, contrary to the requirements of the development plan.
14. I must therefore conclude that the proposal would result in the unacceptable loss of a community facility. It would conflict with the relevant objectives of Policies CP48 and CP49 of the Wiltshire Core Strategy, and the Framework.

Listed building

15. The significance of the King's Head in its current guise is largely drawn from its historic fabric of 19th Century origin, its plan form, and the composition of its façade, with a chequered flint and limestone core range and a surviving, dressed limestone bay to the right. The works, insofar as they would transform the form and layout of the historic public house to that of a private dwelling, with modest associated historic fabric loss, would harm its significance. There

would be enhancements through the reinstatement of a window and the removal of a flat roof rear extension, but overall, the scheme would result in less than substantial harm to the significance of the listed building, albeit at the lower end of a sliding scale of that harm.

16. Paragraph 199 of the Framework explains that great weight should be given to the conservation of designated heritage assets. Paragraph 202 requires decision makers to weigh any less than substantial harm to a designated heritage asset against the public benefits of the scheme, including securing its optimum viable use. Here, that exercise takes place in the context of s.16(2) and s.66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which set a strong presumption against a grant of planning permission or listed building consent if a scheme would cause harm to the special interest of a listed building.
17. There would be modest social and economic benefits through the provision of a dwelling in the village. However, given my findings above, it has not been properly established that the proposal would secure the optimum viable use of the designated heritage asset. Without that, the public benefits of the scheme fall short of justifying the harm that would be caused; harm that must be given considerable importance and weight in the balancing exercise¹.
18. Accordingly, the proposed works would have an unacceptable effect on the special architectural and historic interest of The King's Head in conflict with the heritage objectives of Policy CP58 of the WCS and the Framework.

Other Matters

19. The site is also in the Chitterne Conservation Area (the CA). Given that the external alterations proposed are predominately to the rear of the proposed dwelling and would be largely concealed from the public realm, I consider that the character and appearance of the CA would be preserved.

Conclusion

20. The proposed development conflicts with the development plan when read as a whole and the other considerations before me do not indicate that I should make my decisions other than in accordance with the development plan.

Matthew Jones
INSPECTOR

¹ This finding is consistent with the position as set out in the signed Statement of Common Ground, Para 2.1.2

APPEARANCES

FOR THE APPELLANT:

Peter Grist	Agent
Kenton Stone	Appellant
Susan MacLaurin	Appellant

FOR THE LOCAL PLANNING AUTHORITY:

Verity Giles-Franklin	Senior Planning Officer
Angela Ellis	Senior Planning Officer

INTERESED PERSONS

Richard Hendrickse	Chitterne Community Pub Group
Charles Horsfall	Chitterne Parish Council
John Dillon	Chitterne Parish Council
Jane Bell	Chitterne Parish Council

Local Residents

Murray Kent	Pam Kent	Charles Micklem
Anthony Knyvett	Tana Knyvett	Brian Lee
Susan Lee	Pete Sawyers	Jan Sawyers
Mike Lucas	Ann Moody	Angela Milne
Kathryn O'Driscoll	Richard Johns	Barry Ricketts