
Appeal Decision

Site visit made on 21 October 2014

by Jacqueline Wilkinson Reg. Architect IHBC

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

Decision date: 29 October 2014

Appeal Ref: APP/Q3115/A/14/2222161

Rose and Crown, 56 New Street, Henley-on-Thames RG9 2BT

- 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 W. H. Brakspear & Sons against the decision of South Oxfordshire District Council.
 - The application Ref P14/S0063/FUL, dated 9 January 2014, was refused by notice dated 16 April 2014.
 - The development proposed is change of use from public house (A4 use) to a dwelling (C3 use) with alterations. (As amended by drawing 03A accompanying agent's email dated 7th March 2014).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by W. H. Brakspear & Sons against South Oxfordshire District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are the effect of the proposed residential (C3) use on i) the vitality and viability of the local area and ii) whether the character or appearance of the Henley Main Conservation Area would be preserved or enhanced and if not, would there be a public benefit arising from the proposal which would outweigh the harm.

Reasons

4. In assessing this appeal I have found it necessary to clearly distinguish between the concerns of a number of respondents about the loss of the pub, which they state should be regarded as a community facility, and the wider issue of the loss of a commercial use and the effect of that on the vitality and viability of the town centre as a whole.
5. Although it was not cited in the reasons for refusal, the first question I must therefore address is: *Was/is the pub a valued facility? If so, would its loss reduce the community's ability to meet its day-to-day needs?*

6. A local resident has submitted evidence that the Rose and Crown has been in use as a public house under that name at least since the mid-nineteenth century. Letters from local residents speak of the pub being a pleasant traditional small pub in the 1990's with a pleasant ambience. The South Oxfordshire Branch of the Campaign for Real Ale (CAMRA) is concerned about the loss of a pub which served the local community and the loss of a traditional venue which also served the river front area and the theatre.
7. After a good perambulation around the town centre and the river front, I am not persuaded that the pub could be regarded as an essential community facility in the same way as for example, a village pub. Put simply, there are a number of pubs of different sizes and characters within reasonable walking distance which would be likely to cater for the day to day needs of the local community.
8. I therefore conclude that the loss of the Rose and Crown pub would not harm the community's ability to meet its day to day needs. In that respect the proposal would comply with the requirements of the National Planning Policy Framework (the Framework), paragraph 70. South Oxfordshire Local Plan (Local Plan) saved policy CF 1 (*Safeguarding community facilities and services*), which has similar aims, would also be satisfied.

Issue 1: The effect on vitality and viability of the local area

9. The Framework, Section 2: *Ensuring the vitality of town centres* states that local planning authorities should recognise town centres as the heart of their communities and pursue policies to support their viability and vitality. They should define the extent of town centres and primary shopping areas and secondary frontages and make clear which uses will be permitted in such locations. The Planning Practice Guidance (the Guidance) strongly encourages local planning authorities to pursue policies to support the vitality and viability of their town centres.
10. The town centre has two main areas of commercial and leisure activity, the Market Place on the one hand and the river front on the other. Whilst New Street is predominantly residential in character, it is also a main thoroughfare and it is a key route from the upper part of the town to the busy river front area. It is also the location for the town's theatre, a large hotel/pub, as well as some small independent shops and offices. Beyond the defined main shopping frontages this scattering of other uses within the residential streets is a distinctive feature of the town centre and contributes to its attractive, lively and interesting character.
11. South Oxfordshire Core Strategy (Core Strategy) policy CST 1 *Town Centres and shopping* aims to reinforce the local distinctiveness of the market towns, to improve their vitality and viability and encourage more visits. It states that town centres will be supported so that they continue to be the focus for local communities. The extent of primary and secondary shopping frontages has yet to be defined in the Development Management Policies DPD.
12. The appellants point out that New Street is not a primary frontage and there is no local plan policy to protect commercial uses in this street. However, I have not been directed to any policy which states that commercial uses will only be protected in the primary shopping frontages. The appeal site is outside the

currently defined primary shopping frontage¹, but it is within the defined town centre, where objectives of Core Strategy policy CST 1, would apply.

13. How these broad objectives are to be achieved in Henley is set out in more detail in Core Strategy Policy CSHEN 1, *Strategy for Henley-on-Thames*. This policy resolves to strengthen commerce in the town centre through retail-led mixed use development and by identifying additional retail and leisure floor space, and to improve the attraction of Henley for visitors. Paragraph 10.11 states that Henley would benefit from a greater range of town centre uses to make sure that it maintains its market share. Paragraphs 10.13 and 10.14 encourage mixed uses and visitor accommodation.
14. Table 8.1 *Amount of existing floor space and quantitative need for additional floor space* shows that Henley will need to provide 9,200 m² of new floor space in the Use Class A1 (shops) to A5 (pubs) in the plan period 2007 to 2027. Table 10.1 *Henley floor space needs*, shows a 2,500 m² growth for Henley in the A3/4/5 Use class (restaurants, cafes and bars). These are figures based on a study updated in 2010. These figures were published after the initial impact of the recession and I accept that they may need updating. However, I have no other evidence before me that would dispute the general assumption that more space would be needed. The loss of the commercial use at the appeal site would therefore be at odds with these stated aims.
15. The appellants point to recent changes of use in New Street, which they state have set a precedent. Local residents point out that the existence of the Rose and Crown was a factor which was taken into account when the Horse and Groom was allowed to close in 2013. An office adjacent to the appeal site has also been allowed to change use to residential. However, I have assessed this appeal on the basis of the current circumstances and in the light of the Government's most recent Guidance, which I have quoted above.
16. The appellants have not made the case on viability grounds that the property could not be used for an unencumbered commercial use. The Rose and Crown is a Grade II listed building, with an 18th century facade with an earlier timber framed structure behind, on a narrow burgage plot. In common with so many historic buildings, the interior has both its limitations and attractions, but it has the potential to be used imaginatively and flexibly.
17. Listed building consent has been granted for the relatively minor changes that would be required to convert the building. The appellants make the case that residential use would provide the optimum viable use and would generate the funds necessary to upgrade the building.
18. The test of the Framework, set out paragraph 134, applies when a proposal would result in less than substantial harm to the building, which is not the case here. I have no evidence before me that residential use would be the only use which would provide the optimum use for the building.
19. Letters of support have also been received, some from nearby residents who would welcome the improvement to their amenity. Whilst I accept that some residents have experienced problems with noise and smells, the pub has been in this mixed use town centre location for more than 150 years and other

¹ South Oxfordshire Adopted Policies Map, Henley Inset, 2012.

legislation can deal with statutory nuisance. I give this benefit very limited weight.

20. I therefore conclude that the proposal would harm the vitality and viability of the town centre.

Issue 2: Would the character or appearance of the Henley Main Conservation Area be preserved or enhanced and if not, would there be a public benefit arising from the proposal which would outweigh the harm.

21. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Generally this requirement is interpreted in a purely visual way and I accept that as there would be no change to the appearance of the building, the appearance of the conservation area would be preserved.
22. However, in assessing the issue of the change of use, walking around the town I observed that the overall character of the historic town centre (which is for the most part within the conservation area) stems not only from its substantial collection of historic buildings and its traditional streetscape, but also from its vibrant market town character, with diverse uses and activities in its streets and along the river front. The loss of the commercial use of the appeal building would not preserve this character and it would not be neutral. I therefore attribute some harm to the character of the town centre and the conservation area.
23. I therefore conclude that the proposal, as it would harm the character of the Henley Conservation Area, would fail to comply with the terms of the Act and the requirements of the Framework and the similar aims of Core Strategy policy CSEN3 and saved Local Plan policy CON7.
24. I am required to assess whether the harm I have identified to the character of the conservation area would be justified by a public benefit. As I have concluded above, there would be no particular benefit to the listed building. The benefit in amenity terms to the neighbouring residents would be very limited and hardly public. The gain of one house would be of very limited benefit to the supply of housing in the district. I see no other public benefit, however small, arising from the proposal and I am required to give great weight, under paragraph 132 of Framework, to the conservation of the heritage asset.
25. I therefore conclude that the harm to the character of the conservation area would not be outweighed by a public benefit.

Overall conclusions

26. Listed building consent has been granted for the relatively minor works and I conclude that the special interest of the listed building would be preserved.
27. I have concluded that the broad aims of Core Strategy policies CST 1 and CSHEN 1 would not be supported by the unjustified loss of a commercial use in this location.
28. I place great weight on the need to support the economic vitality and viability of the town centre as a whole and conclude that notwithstanding that the

proposal would not harm the ability of the community to meet its day to day needs, this would not outweigh the harmful impact on the vitality and viability of the town centre through the loss of a commercial use.

29. I have also concluded that the harm to the character of the conservation area would not be outweighed by a public benefit. This adds to my conclusions that the appeal should not succeed.
30. For the above reasons and having taken into account the responses, both for and against the proposal, at the application stage and the appeal stage I conclude that the appeal should be dismissed.

Jacqueline Wilkinson

INSPECTOR

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