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## Appeal Decision

Site visit made on 6 January 2020

**by Alison Partington BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 20<sup>th</sup> January 2020**

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**Appeal Ref: APP/L3245/W/19/3238673**

**Tankerville Arms, Shrewsbury Road, Longden, Shrewsbury, Shropshire  
SY5 8EX**

- 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 Richard Dixon against the decision of Shropshire Council.
  - The application Ref 19/00344/FUL, dated 21 January 2019, was refused by notice dated 13 August 2019.
  - The development proposed is the erection of three terrace houses following removal of existing single storey extensions.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in the appeal are:
  - Whether or not the proposal would be likely to result in the unnecessary loss of a valued community facility;
  - The effect of the proposal on the character and appearance of the area; and
  - The effect of the proposal on the significance of a non-designated heritage asset.

### Reasons

#### *Planning policy background*

3. The development plan for the area consists of the *Shropshire Core Strategy (adopted March 2011)* (SCS) and the *Site Allocations and Management of Development Plan (adopted December 2015)* (SAMDev). The latter provides proposals and policies to help deliver the vision and objectives of the SCS up to 2026. The appellant has suggested that the development plan is out of date because both documents pre-date the *National Planning Policy Framework (February 2019)* (the Framework). Therefore, it is suggested that Framework is more relevant for the determination of the application.
4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 indicates that applications for planning permissions should be determined in accordance with the development plan unless material considerations indicate otherwise. Whilst the Framework is a material consideration, paragraph 213 of the Framework makes clear that existing policies should not be considered out-of-date simply

because they were adopted prior to the publication of the Framework. It goes on to say that due weight should be given to them, according to their consistency with the Framework.

5. Moreover, the Council have confirmed that they can presently demonstrate a 6.89 year housing land supply and this has not been disputed by the appellant. As such, this is not a situation that would indicate that policies are out of date either.
6. Therefore, I have determined the appeal in accordance with Section 38(6).

#### *Loss of Community Facility*

7. The appeal site relates to part of the Tankerville Arms Public House and the car park associated with it. The buildings are single storey extensions at the side of the main building that are used as a dining area and a pool/games room. It is proposed to remove the extensions and replace them with three houses. I note that in 2016 permissions were granted for the erection of 4 terraced houses on part of the car park behind the public house and the creation of a dwelling through the conversion of another part of the public house<sup>1</sup>.
8. Policy CS8 and CS15 of the SCS seek to protect facilities such as public houses that contribute to the quality of life of residents and visitors. Paragraph 92 of the Framework indicates that public houses are one of a range of community facilities that enhance the sustainability of communities and residential environments. It goes on to state that planning 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.”
9. Whilst the policies of the SCS seek to protect all existing facilities and services rather than “valued” ones, they are broadly consistent with the Framework. The Framework does not provide any guidance as to what makes a facility “valued” and I note that there are letters from the local community both supporting and objecting to the proposal. Nevertheless, the Tankerville Arms is the only public house and so is an important asset in the village.
10. The proposal would not result in the loss of the public house as a whole but a reduction in its size. Nevertheless, consideration has to be given to the consequence of the proposal for the remaining public house and whether it would significantly increase the likelihood of the remaining facility being lost.
11. The appellant has indicated that in its current form the public house is too large and not viable and the reduction in size would make a more friendly, welcoming atmosphere as well as reducing overheads and fixed costs so helping the viability of the remaining pub. To this end a number of financial documents were submitted by the appellant which he states show that the public house is not viable. These documents are the accounts for a pub called the Bull in the Barne and a list of expenses that appear to relate to both the Tankerville Arms and the Bull. However, as none of the financial documentation relates solely to the Tankerville Arms the profitability or otherwise of this particular public house cannot be seen.
12. Moreover, the appellant’s evidence indicates that in order to make a profit at least 32 patrons are required. Whilst he suggests that the remaining building

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<sup>1</sup> Application References 15/04590/FUL and 16/03347/FUL

would provide around 40 seats, the plans indicate it would only be capable of having around 16 seats, which is significantly less than the number stated to be needed to be profitable. In addition, no business plans have been submitted to show the likely viability of the smaller public house. Given this, it is uncertain as to whether the proposal would actually result in the remaining public house being capable of being a viable enterprise. As such, I am not persuaded that the proposal would ensure the retention of this community facility.

13. Whilst it is stated that the appellant is the third owner of the public house in 5 years, there is no evidence to show that the public house has undergone any marketing exercise to ascertain whether there might be others able to operate the public house in a different format that might be capable of being viable. I note that the appellant highlights that there are 2 other public houses within 5 miles of the village and that the village hall also provides some "competition" for the public house.
14. Bringing these points together, public houses are often a valued part of a village community, and the letters of objection from third parties show that there are people in the village that do value this facility. Whilst it is only proposed to reduce the size of the existing public house, I have not been provided with adequate evidence to show that the existing public house is unviable, that attempts have been made to secure an alternative future as it is, or that the proposed smaller public house would be viable.
15. Consequently, I consider that the proposed reduction in size of the facility would be likely to result in the unnecessary loss of a community facility, contrary to Policy CS8 and CS15 of the SCS and paragraph 92 of the Framework outlined above.

#### *Character and Appearance*

16. The village comprises a varied mix of housing, including detached, semi-detached and terraced dwellings. These vary in age, design and materials, but are generally set in spacious plots. Even the smaller houses such as the terraced houses opposite the appeal site have long front gardens that contribute to a sense of spaciousness.
17. The three proposed dwellings would occupy the same footprint as the existing extensions to the public house but would have a greater height and mass. They would have no front gardens and small rear gardens, particularly plot 3. This limited plot size would give the development a cramped appearance that would be out of keeping with the general character of housing in the village.
18. Whilst I note the modern houses that have been built to the rear of the public house also have uncharacteristically small plots, their position to the rear of the site means visibility of them is limited. Unlike these houses, the proposed dwellings would be far more prominent in the street scene and so their incongruity would have a much greater detrimental impact on the character and appearance of the area.
19. Therefore, the proposal would unacceptably harm the character and appearance of the area. Accordingly, it would conflict with Policies CS6 of the SCS and MD2 of the SAMDev which require developments to have a high quality of design that respects and reflects local characteristics. It would also

be contrary to paragraph 127 of the Framework which requires developments to have a high quality of design that adds to the overall quality of an area and are sympathetic to the local built environment.

### *Heritage Asset*

20. The public house is located within the core area of the village, close to the church and post office / shop. The Council's evidence indicates that the public house has been there since at least the mid-nineteenth century. The building contributes to the character of the village and helps to evidence the village's historic built form. Notwithstanding the appellant's view, given these characteristics I agree with the Council that it is a non-designated heritage asset.
21. Paragraph 197 of the Framework indicates that in making decisions the effect of an application on the significance of a non-designated heritage asset should be taken into account, and that a balanced judgement will be required having regard to the scale of the harm or loss and the significance of the heritage asset.
22. No heritage assessment was submitted with the application or the appeal. Whilst I note the appellant's comments in this regard, as a heritage asset, albeit a non-designated one, the Framework (paragraph 189) indicates that the applicant should describe the significance of the heritage asset affected by a proposal, providing sufficient information to understand the potential impact of the proposal on the asset's significance. As a non-designated asset, I consider that the building has moderate historical significance.
23. Whilst the extensions that would be demolished do not appear to be original, there is no evidence as to when they date from or to be able to assess the impact that would result from their demolition. Nevertheless, in the absence of any evidence to the contrary, as the proposal would result in the total loss of part of a heritage asset, I consider the resulting harm to its significance would be considerable.
24. Whilst the proposed houses would have a similar footprint, their volume and mass would be significantly greater than the existing buildings. As such, they would compete with, and detract from the remaining part of the building in a way that the current extensions do not. Moreover, their clearly domestic character would adversely impact on the character of the area surrounding what would remain of the public house. The introduction of a hipped roof to the end property would also be out of keeping with the rest of the building.
25. Paragraph 192 of the Framework states that in decision making account should be taken of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation. The appellant has indicated that although consideration was given to the conversion of the existing buildings rather than demolition, dwellings created from conversion would not be able to benefit from the same carbon neutral features as the new build dwellings.
26. However, there is no evidence to indicate that consideration has been given as to whether any other viable use could be found for this part of the building, and as outlined above the evidence submitted is insufficient to show that the existing use of the building as a public house is itself unviable. As a result,

there is no evidence to show that there are not other potential viable uses that would not necessitate the loss of this part of the heritage asset. In the light of the considerations set out in paragraph 192 of the Framework, the loss of part of the building would not be justified.

27. Bringing this all together to apply the balanced judgement required by paragraph 197 of the Framework, the proposal would result in economic benefits during the construction period and spend by future occupiers would benefit the local economy. Whilst the appellant has suggested the proposal would enable the continued provision of a public house in the village, with the associated economic benefits this would bring, there is insufficient evidence to support this assertion.
28. The proposal would contribute to the supply of housing in the area in a village which forms part of a community cluster where the SAMDev expects between 10 and 50 houses would be built up to 2026. The Council have stated that at present 20 houses have already been built within the cluster and another 43 have permission. Given this, and the fact that the Council can demonstrate a 5 year housing land supply, limits the weight I give to this benefit.
29. The appellant has stated that the new houses are designed to be low energy buildings built from sustainable materials and so would be considerably more environmentally sustainable than the existing buildings they would replace. Moreover, the proposal would utilise previously developed land.
30. However, in the light of paragraph 192 of the Framework, the loss of the building is not justified. In the absence of any evidence that there are not other potential viable uses of the site that would not require the demolition of the building, and which could also share some of these benefits, I consider that the benefits of the proposed development would not outweigh the loss of the non-designated heritage asset.
31. As a result, the proposal would be contrary to the Framework as well as to Policy MD13 of the SAMDev which seeks to protect, conserve and enhance heritage assets.

### **Conclusion**

32. For the reasons set out above, I conclude the appeal should be dismissed.

*Alison Partington*

INSPECTOR