



# Appeal Decision

Hearing Held on 12 October 2021

Site Visit made on 12 October 2021

**by Philip Mileham BA(Hons) MA MRTPI**

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

**Decision date: 03 DECEMBER 2021**

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**Appeal Ref: APP/X3540/W/21/3267667**

**Admirals Head Inn, Sandy Lane, Little Bealings, Woodbridge IP13 6LW**

- 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 & Mrs Jasmine D'Angelo against the decision of East Suffolk Council.
  - The application Ref DC/20/3514/FUL, dated 9 September 2020, was refused by notice dated 4 November 2020.
  - The development proposed is the change of use of a vacant public house to residential use.
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## Decision

1. The appeal is allowed and planning permission is granted for the change of use of a vacant public house to residential use at the Admirals Head Inn, Sandy Lane, Little Bealings, Woodbridge, IP13 6LW in accordance with the terms of the application, Ref DC/20/3514/FUL, dated 9 September 2020, subject to the conditions set out in the attached schedule at Appendix 1.

## Preliminary Matters

2. During the hearing, the Council's second reason for refusing the scheme in relation to effects on protected species was discussed. As the proposal would not result in the creation of a net new dwelling, the Council advised that it did not consider the proposal would have an adverse effect on protected species due to recreational pressure and would not wish to defend the appeal on this ground. I have no reason to conclude otherwise and as such, have not considered this matter further below.

## Main Issue

3. The main issue is whether the change of use of the public house to residential use would be justified having regard to local and national policy.

## Reasons

4. The appeal site is the former Admirals Inn public house which is a two storey brick building. The upper floor of the building is in residential use and the ground floor being the area associated with the public house, including a kitchen area along with the former dining and bar areas. The site occupies a prominent position in the centre of the village of Little Bealings at the corner of Sandy Lane and Station Road. The Admirals Inn ceased to trade in 2012 and was confirmed as an Asset of Community Value (ACV) in February 2018. The site lays within the village settlement boundary of Little Bealings which is

- identified as a small village in the adopted East Suffolk Council Local Plan (ESLP) (2020).
5. Policy SCLP8.1 of the ESLP indicates that proposals to change the use, or redevelop for a different use, a facility registered as an asset of community value will not be permitted. The Council indicated that the policy is a tool which is intended to provide maximum protection to designated ACVs for the benefit of community cohesion and community vitality. Policy SCLP8.1 effectively places a moratorium on the development of designated ACVs and as such, the policy does not set out any expectations for accompanying evidence if proposals came forward to change the use of a designated ACV.
  6. However, paragraph 8.5 of the supporting text to policy SCLP8.1 clearly indicates that the designation of an ACV does not provide protection against the change of use or redevelopment of an asset. There is a degree of tension between the policy and the supporting text as to its intentions, particularly in relation to the supporting text's description of the role of ACV legislation which does not provide protection against change of use or redevelopment. Nonetheless, by definition the appeal proposal by seeking to change the use of a designated ACV to residential use would be contrary to the policy text of SCLP8.1.
  7. Paragraph 84 of the National Planning Policy Framework (NPPF) states that planning decisions should support a prosperous rural economy through the retention and development of accessible local services and facilities including public houses. Whilst the NPPF supports the retention of facilities, it does not set out any moratorium approach to development proposals affecting community facilities. The NPPF also does not indicate any particular approach when seeking to retain a business that has not functioned as such for a considerable period. This is reflected in Paragraph 82 of the NPPF which recognises the need for flexibility to accommodate needs not addressed in local plans. Paragraph 8.7 of the supporting text to SCLP8.1 also recognises the need for flexibility to allow the change of use or redevelopment in certain circumstances including, amongst other things, where there is a lack of viability.
  8. Evidence contained within the feasibility report shows that despite diversifying the food offering and offering discounts and promotions, the public house appeared profitable for only one of the 3.5 years prior to its closure (2010- July 2012). The feasibility report also indicates that the overall level of turnover prior to the public house's closure was insufficient to sustain a viable business having regard to costs. This conclusion is not disputed by the Council, nor is there any viability evidence to the contrary. As such, the Admirals Head has not positively contributed to the local economy as a viable business since 2012.
  9. Little Bealings is a small village and due to the absence of future housing allocations in the Local Plan is unlikely to grow to any significant extent in the near future. The feasibility report indicates that there are a number of competing facilities within the catchment area but the relatively small village population was identified as a challenge in supporting any lunchtime trade which would be essential to maintain a viable public house. The feasibility study also indicates that there would be a significant need for investment in the public house in the form of refurbishment and in heating and plant in order to reopen which affects its value. Furthermore, the scale of trading area compared

to a number of the other larger destination public houses would adversely affect the attractiveness of the public house for prospective commercial purchasers. As a result, there would be insufficient local passing trade to sustain a viable public house in this location and its scale does not lend itself to other larger public house or restaurant operators.

10. The public house's catchment has been identified in the appellants' feasibility report as being approximately a 5 mile radius 'as the crow flies' from the Admirals Inn. Whilst the existing community facilities in the village support a range of activities including a 'pop-up pub', there are no other shops or services in Little Bealings itself. The 5 mile catchment would also include parts of the nearby town of Woodbridge which has a more extensive range of facilities as a key settlement in the area. Beyond the catchment my attention was directed to large-scale residential developments planned in Ipswich and at the former British Telecom site at Martlesham Heath. However, these schemes are further away than facilities in Woodbridge and are likely to take a considerable time to be fully developed. As large-scale residential sites, they will also likely include their own local services and facilities close to the new homes to serve their own population. There is limited evidence to indicate that these residential sites would have any beneficial impact on sustaining the public house. As such, I consider there would be significant challenges in seeking to reopen the public house again after such an extended period of closure against the backdrop of very strong levels of local competition in the catchment of the public house. Seeking to retain the public house in anticipation of a commercially viable business being re-established would not be justified and I attach significant weight to the evidence in this regard.
11. Concerns have been raised as to the price that the public house was marketed for during the right to bid period. Third parties commissioned a valuation in accordance with the Royal Institute of Chartered Surveyors (RICS) 'Red Book' which provided a valuation of £275,000 which was significantly lower than the price of £375,000 the public house was reduced to in January 2020. Although the public house was marketed in the first instance slightly above Fleurets recommendation of £375,000, the Council indicated that it did not raise any concerns in respect of the marketed price and confirmed it had not undertaken any independent testing of the price. Whilst I note that there are different views between the appellant and the community on the valuation of the property, I consider the summary of marketing evidence demonstrates that the public house's value was within the range of comparable examples of public houses in the area that had sold or were for sale including those that required significant investment. The public house has been marketed for sale from March 2019 for approximately 24 months, and during that time 3 offers were received ranging from £275,000 to £315,000, with the higher offers remaining significantly below valuation. Although the latter part of the marketing period coincided with restrictions due to the coronavirus pandemic, the majority of viewing activity took place in the first 12 months with offers received prior to periods of lockdown in 2020. I therefore consider that there is clear evidence that there has been a suitable attempt made to sell the public house over an extended period which has been unsuccessful.
12. The community exercised a right to bid during the marketing period; however, their offer of £275,000 was not accepted by the owners as it was not sufficiently close to the marketed price. Further evidence from third parties provided at the hearing indicates the community submitted a higher offer of

£315,000 in February 2021. However, this was not included in the appellant's evidence, and nonetheless, was not accepted. It is noted that the community's second offer was at the same price level as another documented bid from another prospective purchaser which was also declined. There is no evidence to suggest that this would have been accepted or that a higher bid from the community was forthcoming. I attach significant weight to the findings of the marketing evidence which provides clear evidence that reasonable efforts have been demonstrated to sell the property as a public house and this has been unsuccessful.

13. Third parties had indicated that there has been interest in reviving the public house by members of the community. However, evidence from the parish survey was not submitted into the appeal process. Whilst I was advised of the communities' bid to acquire the property, no detailed information in relation to any business case to reopen it as a public house was provided. As such, whilst there may be an aspiration for the community to reopen the public house, there is nothing before me that suggests there would be sufficient support or a robust plan to sustain it on an ongoing basis even if the public house had been acquired by the community.
14. Concern was raised by third parties that the appellant's feasibility evidence was not up to date; however, it covers a suitable trading period prior to closure and demonstrates that the public house was unable to sustain a suitable level of trade regularly at that point for the reasons given above. Further, the effects of the coronavirus pandemic since 2020 have significantly impacted the hospitality industry. As such, I consider that the evidence indicates that it would be unfeasible for the public house to reopen on a commercial basis. Therefore, whilst the NPPF seeks to retain public houses, the lack of viability, length of closure and scale of investment required is such that would not be justified to seek to retain a facility that would be unlikely to viably trade and contribute to the economy in the foreseeable future.
15. My attention was drawn to other public houses in the area operating as 'destination pubs' including the Turks Head at Hasketon. However, the hearing heard that the Turks Head was acknowledged as having significantly different circumstances to the appeal proposal in that it had been subject to an approved enabling scheme to provide new housing in order to cross-subsidise investment in that particular public house which is a Listed Building.
16. Despite extensive marketing, the public house has not been sold. Therefore, whilst there may be a community aspiration to reopen the public house, there is insufficient evidence that this would be feasible even if the community were to be able to acquire the property, to which there is no certainty. As such, no robustly evidenced alternative proposal to reopen the public house has been demonstrated.
17. In light of the above, the change of use of the public house to residential would conflict with local policy. It would therefore fail to accord with Policy SCLP8.1 of the ELP which does not permit the change of use of registered assets of community value. However, in this particular case the public house has been shut since 2012, with site specific evidence provided to demonstrate that due to the cost of refurbishment, the size of the village and the presence of competing facilities nearby, the future reuse of the building as a village public house would be unviable. The lack of viability is recognised in paragraph 8.7 of

the supporting text of SCLP8.1 as one of the matters to which there is a need for flexibility to allow the change of use or redevelopment. Whilst noting the aspirations of the local community to take the public house on, the evidence provided in support of the appeal also demonstrates that the public house has been marketed at a reasonable and fair market value with no bids matching the value of the property as determined by independent Chartered Surveyors over an approximately 2 year period. As a result, there is no realistic prospect that the site is going to be reused as a public house and the other material considerations justify taking a decision not in accordance with the development plan.

### **Other Matters**

18. The development falls within the recreational disturbance Zone of Influence for the Orwell Estuary Special Protection Area (SPA) and Ramsar site and the Deben Estuary SPA and Ramsar habitats Sites (European designated sites) in East Suffolk as set out in the Suffolk Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS). However, as the appeal proposal seeks only to extend the appellants living accommodation into the former public house area, that there is established residential use of the upper floor of the building and no net new dwelling created, the Council has confirmed that there would be no adverse effect on the integrity of the SPA as a result of the appeal proposal, and I concur with that assessment.
19. Third parties raised concerns regarding the future use of the former parking area for the public house which is included in its ACV listing. However, the land on which the former car park is sited does not form part of the appeal scheme before me. As such, the consideration of its future use is not a matter that is within the control of this appeal and therefore has not altered my conclusions in relation to the main issue.
20. The conversion of the public house would provide some economic benefit through the construction and use of materials used. The outdoor area of the public house is currently in a poor state of repair and is becoming overgrown and the change of use would provide some enhancements to the appearance of the area through the repurposing and maintenance of the existing outside area as residential garden. Whilst these benefits would be limited due to the small-scale nature of the proposal, I afford them moderate weight in my decision.

### **Conclusion**

21. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

### **Conditions**

22. The Council has suggested conditions which the appellant has had the opportunity to comment on. I have considered these against the advice in the NPPF and the Planning Practice Guidance and have only imposed them where I consider them to meet the tests, amending them where necessary for the sake of clarity and precision.
23. In addition to the standard time limit, in the interests of certainty I have imposed a condition specifying that the development is carried out in accordance with the submitted plans.

24. In the interests of ensuring the satisfactory appearance of the proposed development, a condition is imposed to secure details of the materials to be used.
25. In the interests of protecting future users from the risk of contamination, a condition to notify the LPA if unexpected contamination is found during construction is required.
26. In the interests of highway safety, a condition is required ensuring sufficient parking spaces are provided, maintained, and laid out. I have amended the condition to require this prior to residential occupation of the public house as residential use is already present in the upper floor of the building.
27. Due to the site's position and lack of public footway in the immediate vicinity of the building, in order to ensure recycling and refuse bins do not adversely affect highway safety, a condition is required to specify the location of refuse/recycling bins. I have further amended the condition to recognise the need for this to reflect the residential occupation of the ground floor as residential use is already present in the upper floor.
28. The Council has suggested the imposition of a condition which seeks to remove Permitted Development Rights within Part 1 Classes A, AA, B, C, D, E, F, G and H and Part 2 Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 by revoking provisions that might allow for alterations and extensions to buildings including the roof, porches, flues, chimneys, pipes, satellite dishes and the erection of walls, fences or means of enclosure. Due to the prominent position of the building in the village and the clear legibility of the building's former use as a public house, in order to avoid harm to the character and appearance of the building and the area, in this exceptional circumstance I consider it is necessary to remove permitted development rights by condition in order to ensure control over alterations and extensions, outbuildings and means of enclosure to avoid future harm to the character and appearance of the area. However, I do not consider it necessary to restrict rights for classes F and H, as significant hard surfacing is already present within the curtilage, and the addition of an aerial would not adversely impact the character of the area. As such, I have amended the condition in this regard.

*Philip Mileham*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANT:

Mr Ben Willis BA (Hons) PG/DIP MRTPI - Agent  
Mrs Jasmine D'Angelo  
Mr Rosario D'Angelo

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Ben Woolnough BSc MSc MRTPI – Planning Manager – East Suffolk Council  
Mr Grant Heal BSc (Hons) MSc MRTPI – Planning Officer – East Suffolk Council

### INTERESTED PARTIES:

Mr Iain Ransome – Little Bealings Parish Council  
Mr Chris Mason – Chair of Friends of the Admirals Head (FoTAH)  
Ms Kelly McLoughlin  
Mr Francis Dunlavey  
Cllr Denise Head

### DOCUMENTS received during and after the hearing:

Comment from Friends of the Admirals Head Community Group  
Suffolk Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS)  
Habitat Regulation Assessment (HRA) Record

## **Appendix 1**

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Site location plan (received 9 September 2020)
  - 0302 Rev. P01 (Floor plans as proposed)
  - 0301 Rev. P02 (Elevations as proposed)
  - 0101 Rev. P01 (Site layout plan as proposed)
  - 0300 Rev. P02 (Floor plans and elevations as existing)
  - 1661-2 (Elevations as existing)
  - 0102 P01 (Site layout as existing)
- 3) The materials and finishes shall be as indicated within the submitted application and thereafter retained as such.
- 4) In the event that contamination which has not already been identified to the Local Planning Authority (LPA) is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority. Unless agreed in writing by the LPA no further development (including any construction, demolition, site clearance, removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety.

An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS 10175:2011+A1:2013 and CLR11) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

Where remediation is necessary a detailed remediation method statement (RMS) must be prepared and is subject to the approval in writing of the Local Planning Authority. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works. Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the LPA.
- 5) The ground floor residential use shall not commence until the area(s) within the site shown on drawing no. '0101 Rev. P01' for the purposes of manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

- 6) Before the ground floor residential use is occupied, details of the areas to be provided for storage and presentation of Refuse/Recycling bins shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be carried out in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.
- 7) Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) [or any Order revoking or re-enacting the said Order] no development of any kind specified in Part 1, Classes A, AA, B, C, D, E and G, and Part 2, Class A of Schedule 2 of the said Order shall be carried out.