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## Appeal Decision

Site visit made on 27 March 2018

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

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

**Decision date: 15 May 2018**

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**Appeal Ref: APP/X1925/W/17/3188915**

**Maiden's Head Public House, 67 High Street, Whitwell,  
Hertfordshire SG4 8AH**

- 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 S Coleman (Haut Limited) against the decision of North Hertfordshire District Council.
  - The application Ref 17/00442/1, dated 21 February 2017, was refused by notice dated 15 September 2017.
  - The development proposed is change of use of the Maiden's Head Public House from Class A4 (Drinking Establishment) to use as a single dwelling house Class C3 (Dwelling House); ground floor rear extension, demolition of modern rear extension, shed and front porch, consequential internal and external alterations to facilitate change of use and refurbishment of building.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use from Class A4 (Drinking Establishment) to use as a single dwelling house Class C3 (Dwelling House); ground floor rear extension, demolition of modern rear extension, shed and front porch, consequential internal and external alterations to facilitate change of use and refurbishment of building at the Maiden's Head Public House, 67 High Street, Whitwell, Hertfordshire SG4 8AH in accordance with the terms of the application, Ref 17/00442/1, dated 21 February 2017, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14B06-S1 Land Survey, 14B06-F1 Existing Floor Plan Survey, 14B06-E1 Existing Elevations, 14B06-F2 Floor Plans Outbuildings, W601A Site Plan, W602A Proposed Internal Layout Plan, W603A Proposed External Elevations, W606A Proposed Rear Extension following demolition of Lean-to, Location Plan.

### Application for costs

2. An application for costs was made by Mr S Coleman (Haut Limited) against North Hertfordshire District Council. This application is the subject of a separate Decision.

## **Main Issue**

3. The main issue is the effect of the loss of a community facility, in the form of the Maiden's Head Public House, on the provision of services and facilities in the village.

## **Background**

4. The Maiden's Head public house is vacant having ceased trading in 2014. The building is Grade II listed, located in the older part of the village and within the Whitwell Conservation Area. There are other village services nearby along High Street including a general store, a medical centre and another public house which is operational. The building is set back from the road with a forecourt available for car parking. A previous application in 2015 for the change of use sought had been withdrawn following the Council's subsequent listing of the appeal property as an Asset of Community Value (ACV).
5. The ACV listing had provided the 6 month moratorium during which the Maidens' Head could not be sold other than to the relevant community interest group. The group had evidently not been successful in having a bid accepted to purchase the premises as a public house during this period. The ACV listing cannot now dictate the sale and selling price of the premises.

## **Reasons**

6. Paragraph 70 of the National Planning Policy Framework (the Framework) states that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and 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. Community facilities include public houses. The three dimensions to sustainable development cited in paragraph 7 include supporting strong, vibrant and healthy communities, with accessible local services that reflect the community's needs and support its health, social and cultural well-being.
7. Paragraph 28 of the Framework seeks that local and neighbourhood plans promote the retention and development of local services and community facilities in villages, such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship. The Council's decision refers only to Framework paragraph 28 and the current development plan<sup>1</sup> has not been advanced as specifically addressing these aims. However, Policy ETC7 of the emerging Local Plan<sup>2</sup> (ELP) is drawn to my attention in this regard. The ELP is yet to be adopted, and therefore cannot be given full weight, but is currently under Examination and reaching an advanced stage. Policy ETC7 is consistent with paragraphs 28 and 70 of the Framework in respect of the aim to preserve valued and accessible village services.
8. Policy ETC7 addresses scattered local shops and services in towns and villages. Such services would include village pubs and the intention of this policy is to prevent their loss wherever possible, particularly due to the reliance on these by the less mobile and also to the overall need to minimise travel. The supporting text in paragraph 5.35 recognises that the high value of residential land provides pressure for the change of use of such facilities. The following

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<sup>1</sup> North Hertfordshire District Local Plan No 2 with Alternations (Saved Policies 2007)

<sup>2</sup> North Hertfordshire Submission Local Plan 2011-2031

- paragraph 5.36 does state, however, that where it can be shown such facilities are no longer needed and not viable, then permission may be granted for a change of use.
9. The future use of the property is a matter for an assessment against planning policy rather than being based on the ACV listing. However, the latter can be a material planning consideration with the weight given being at the discretion of the decision-maker. ELP Policy ETC7 is the most relevant planning policy in this assessment. Criterion *a* would permit the change of use of the Maiden's Head to a dwelling since there is another public house within a convenient walking distance. Amongst the services along the High Street the majority of other properties are in residential use. Consequently the change of use proposed would complement the function and character of the area and also satisfy Criterion *b*.
  10. Therefore I conclude that the proposal would accord with the aims of Policy ETC7 to resist the loss or change of use of a village service unless there is another within a convenient walking distance and the replacement use would complement the function and character of the area. Whilst the ELP is yet to be adopted the Council has not made me aware of any unresolved objections to this policy. As the plan is reaching an advanced stage and the policy is consistent with the Framework it can be given significant weight in this decision. The accordance with Policy ETC7 tips the balance in favour of the proposal and it is necessary to consider whether other material considerations indicate otherwise.
  11. Neither of the main parties has submitted with the appeal the viability evidence referred to. However, the Council's officer reported to the Council the conclusion of the viability report required from the appellant at the application stage. This had found that the business would not be commercially viable as a public house serving food. Also reported was the outcome of an independent review of this viability report. Whilst critical of the methodology, this nonetheless arrived at the same conclusion. I have no reason to doubt the veracity of these viability conclusions as reported to the Council by its officer.
  12. From the Committee minutes submitted it is apparent that in resolving to refuse planning permission the Council had preferred the evidence presented by the Society for the Protection of Pubs in Whitwell (SPPW). Having considered the evidence from SPPW, and that of the other interested parties including the Parish Council, I am in no doubt over the high value placed on the service that had been provided to the community by the Maiden's Head as a functional business. I also accept that there is a viable business plan, with funding pledged, for the Maidens' Head to be operated through a Community Interest Company should it be acquired. However, this evidence does not necessarily equate to the premises remaining viable as a commercial venture and neither do I consider it sufficient to outweigh the contrary viability arguments reported.
  13. I am not entirely persuaded that the Maiden's Head is viable as a commercial business. The reasons for this likely relate to a combination of factors, such as changing consumer behaviour and spending patterns, up-front refurbishment costs, available and potential floorspace, car parking provision and competition from existing public houses in the surrounding area. The viability evidence would therefore not weigh strongly against the change of use proposed.

14. Balanced against these factors is the ACV listing which, by definition, means the Maiden's Head is of high value to the community. The proposal would result in harm through the loss of its potential to resume use as a public house. Whitwell is to accommodate some growth and the proposal would reduce the food and drink choice available to existing and future residents within walking distance. Public houses play an important role in providing social cohesion and interaction and the proposal would leave this reliant on the sole remaining outlet.
15. The proposal would satisfy the relevant policy in the Council's ELP. There would clearly be quite significant harm in the loss of a valued social outlet within this village. However, the Council has not substantiated its position that a viability case has not been demonstrated by the appellant. Consequently, I do not find that material considerations indicate that the proposal should be decided other than in accordance with emerging planning policy.

### **Other Matters**

16. Consideration has been given to the other matters raised by interested parties at both the application and appeal stages. Refurbishment on the property could impact negatively on a habitat for swifts and bats. However, any future use would likely involve building works and so this consideration does not weigh disproportionately against this proposal. Regarding highway safety and the loss of a bus pick up location I accept that the forecourt to the appeal property is private land and has no formal role in this regard.
17. I am not persuaded the proposed side access would pose any structural harm to the adjacent listed cottage at No 69. A residential change of use would not result in material harm to the neighbouring occupiers in respect of loss of privacy, particularly in comparison with the previous use of the building.

### **Conditions**

18. I have considered the conditions recommended in the officer's Committee report. For this change of use proposal I find it necessary to apply only the standard time limit for commencement and, in the interests of certainty, a condition specifying the plans approved. The Council retains further controls over the development with the pending application for listed building consent.

### **Conclusion**

19. I am conscious of the importance placed on village pubs and that there remains one in this village might be inadequate consolation for many interested parties. However, the evidence would weigh in favour of the proposal which accords with the emerging development plan. For the reasons set out above, having taken into consideration all other matters raised, I therefore conclude that the appeal should be allowed.

*Jonathan Price*

INSPECTOR