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# Appeal Decision

Site visit made on 24 January 2011

**by Jane V Stiles BSc(Hons)Arch DipArch RIBA DipLA MLI PhD MRTPI**  
an Inspector appointed by the Secretary of State for Communities and Local Government

**Decision date: 15 February 2011**

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**Appeal Ref: APP/D3125/A/10/2134643**

**Unicorn Public House, High Street, Great Rollright, CHIPPING NORTON, OX7 5RR**

- 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 A Prindiville against the decision of West Oxfordshire District Council.
  - The application Ref 10/0870/P/FP, dated 17 June 2010, was refused by notice dated 3 August 2010.
  - The development proposed is alterations & conversion of former public house to dwellinghouse with ancillary works.
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## Decision

1. I dismiss the appeal.

## Procedural matters

2. The Unicorn has not been in active use as a public house (PH) for about 20 years. Nevertheless, the building is fundamentally complete and other than falling into disrepair, it is available for the lawful use. Indeed it is still currently being marketed as such. There has been no intervening use of any kind that has any long term irreversible effect on its suitability for the lawful use. As such, its lawful use is as a public house, and I shall deal with this appeal on that basis.
3. The Unicorn PH is listed in Grade II. But, I am not aware of any application for Listed Building Consent for the proposed change of use which involves alterations to the interior of the building; albeit the Council has acknowledged that any internal changes would require Listed Building Consent.
4. Whilst not raised as an issue by the Council, it is my statutory duty under s66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
5. It is clear from the list description that the interior was not inspected at the time of listing. However, the description in the list is principally to aid identification. While list descriptions will include mention of those features which led English Heritage to recommend listing, they are not intended to provide a comprehensive or exclusive record of all of the features of importance, and the amount of information given in descriptions varies considerably. Absence from the list description of any reference to a feature

(whether external or internal) does not, therefore, indicate that it is not of interest or that it can be altered or removed without consent.

6. Accordingly, I find the appellant's statement that "*there are no internal features identified within the Listing itself as being of significance*" to be somewhat misleading. I do not consider that the appeal scheme is automatically acceptable simply because it involves only internal alteration.
7. It is clear to me from the floor plans submitted with the application that the proposal would involve alterations to the staircase and to internal partitions/walls and door openings. But I have not been provided with any details of those alterations. Neither have I been provided with any survey information or photographs of the parts of the building which are proposed to be altered. Furthermore, I was not able to inspect the interior of the appeal property at my site visit. The appellant's agent said that for health and safety reasons, it has been boarded up for some time.
8. Consequently, I am unable to adequately understand the extent of the impact of the proposal on the significance of the heritage asset from the application and supporting documents, which is sufficient reason by itself to dismiss the appeal. Nevertheless, I shall consider the representations before me.

### **Main Issue**

9. PolicyTLC12 of the West Oxfordshire Local Plan 2011 adopted June 2006 says that development proposals should not result in the loss of useful local services and facilities unless it can be demonstrated that: a) the existing use is not viable; or b) adequate and accessible alternative provision remains or will be provided. The supporting text indicates to me that the aim of the policy is to maintain facilities such as public houses in settlements and wherever practicable remaining facilities are to be maintained and every encouragement given to proposals that would improve provision.
10. Furthermore, part of the government's objectives for planning for the historic environment, as set out in PPS5, is to conserve England's heritage assets in a manner appropriate to their significance by ensuring that, amongst other things, wherever possible, heritage assets are put to an appropriate and viable use that is consistent with their conservation.
11. It follows that the main issue in this appeal is whether the appeal proposal would result in the loss of a local public house facility. And, if so, whether the existing use is viable; or whether adequate and accessible alternative provision would remain or be provided.

### **Reasons**

#### *The site and its surroundings*

12. Great Rollright is an attractive, sizeable village within an area punctuated by historic vernacular stone structures. For many tourists it would represent an archetypal Cotswold village with enormous historic charm and natural beauty. The Unicorn itself is the only PH in the village. Currently, the nearest available PHs are in Hook Norton, Chipping Norton and Long Compton, all some 10 minutes drive away. The Unicorn is an imposing stone structure in the street scene and the site is located within a network of public rights of way, one of which passes through the site. Furthermore, Great Rollright is within easy

access to the larger tourist destinations such as Woodstock, Stowe, and Chipping Norton.

13. Although somewhat neglected, The Unicorn has an extensive garden to the side and rear which would have the potential to attract custom, especially families. As such, the PH is exactly the sort of useful local facility that Policy TLC12 is seeking to maintain. Furthermore, it would have the potential to provide an attractive tourist destination for walkers and leisure tourists and potentially for bed and breakfast stays (in the main building or the barn if converted, as suggested in the 1992 appeal decision). However, the proposed change of use would result in the loss of The Unicorn as a public house.

#### *Viability*

14. The appellant says that he has inherited the appeal property from his parents. His father appears to have bought the Unicorn Public House in 1987, and to have closed it at some time around 1989. The appellant claims that it did not survive due to un-viability and since that date the premises have been empty.
15. From the planning history and from the previous appeal decisions, the appellant's father made a small profit in each of his 2 years of operation despite employing staff to run the pub for at least a significant proportion of the time before he ceased trading. Between 1989 and 1991 the appellant's father submitted 6 applications for various proposals, all involving residential redevelopment of the site but in different ways. All of these applications were refused and 4 of them were dismissed on appeal. Two of the proposals involved the change of use of the PH, both of which were dismissed on appeal for reasons which included the loss of the village pub.
16. The appellant's father (together with the rest of his family) vacated the site in the early 1990s and subsequently the property has been left empty. The appellant's father was unable to demonstrate lack of financial viability back in 1991, and the appellant has provided no further information to enable me to arrive at a different conclusion.
17. It is not clear to me when the appellant inherited the property from his parents. But, in any event, it is hard to understand why no attempt appears to have been made by the relevant building owner to sell or lease the property as a PH for the 20 year period 1989-2009 during which time there were periods when the economy generally was more buoyant and the possibility of selling the premises as a PH were far better and easier than at present. As such, there was a deliberately imposed period of dormancy for 20 years. Moreover, in the absence of regular maintenance and repair, whether by the appellant or by his father, the property has fallen into serious disrepair which I am bound to conclude amounts to deliberate neglect.
18. The success or otherwise of a public house can change markedly with a change of personnel or management, or type of fare or cuisine, or facilities being offered. As I have already identified, The Unicorn is an attractive period property which lies in a good tourist location. It has 2 floors of residential accommodation and a generous garden area. Accordingly, there is considerable scope to develop it not only as a village pub with facilities for families, but also as a restaurant, or for tourist accommodation. But there is no evidence to suggest that alternative formats have been trialled without success. It appears that there are many rural PHs that are successful, several of which are in the

local area. So, I see no reason why The Unicorn should not have the potential to enjoy the same success.

19. Merely by closing the doors to the public and not offering the property for sale or rent as a public house does not demonstrate to me a lack of viability as a PH. Furthermore, allowing the building to fall into serious disrepair does not, by itself, demonstrate lack of a beneficial use. In this case, I have no evidence that any alternatives were trialled without success to increase trade as a public house. Instead, it is more a case of the building having been deliberately been kept from active use.
20. The appellant says that the property was marketed from September 2009 for 10 months prior to the subject application in order to establish whether there was a genuine demand for the previous use to be reactivated. Whilst a longer period might have been more appropriate in the current economic climate, I acknowledge that the property has remained on the market, so that it has now been on the market for a period in excess of 12 months.
21. However, the appellant has used only one agent (albeit the Council considers that agent to be bona fide). I cannot therefore rule out the possibility that had the appellant used multiple agents, he might have improved his chance of a sale. But, since, I find no evidence to suggest that he actually wanted to sell, but rather that he wanted to demonstrate that it could not be sold, it might be more a case of there being a greater possibility of finding a serious 'potential' buyer had he used multiple agents.
22. Moreover, a number of factors in the agent's particulars might have put a negative spin on the property and affected the inability to find a buyer. First, the garden and parking area were not advertised as being sold with the pub. Gardens can provide an attractive feature to draw trade, especially families and their importance has increased in the more recent past for smokers. Clearly the parking area would be important for visitors from the wider area, for tourists, and for anybody staying overnight. Accordingly, the absence of a garden and a parking area could both reduce the viability of the pub. PPS5 makes clear that the land being offered needs to be sufficient to provide necessary infrastructure.
23. Whilst these are matters which might have been open to negotiation with the vendor, the particulars do not specifically say so and the extent of the land available would only have been apparent to the few potentially interested persons who visited the site (6 formal viewings were undertaken), or those with local knowledge. Had a buyer come forward for the PH, the likelihood is that the appellant would have pursued his father's aspirations in developing the balance of the site for residential purposes, so he is likely to have wanted a high price for the land. Accordingly, such negotiation would have been likely to have led to an increased price.
24. Secondly, no clear information was given as to the extent of repairs which would be necessary, and potential buyers were unable to inspect the interior to make their own assessment. As such, it would have been hard for them to assess whether the asking price was realistic or not and they would be likely to be mindful of the fact that the building is listed and so repairs could be both difficult and costly.
25. Thirdly, the agent's particulars refer to the pub having been closed for several years and there are 2 references to the fact that it has been closed since 1989.

As a matter of fact, this is true. However, it is somewhat misleading given that there is no acknowledgement of the fact that no attempts had been made to re-open or to market the property as a PH for that 20 year period.

26. Finally, there is an uplift clause which would apply for a 25 year period and which would require the purchaser to pay 80% of the increase in value following the grant of planning permission for an alternative use. Whilst on the one hand, this might seek to ensure the long term use of the property as a PH, on the other, it is quite onerous. In combination with the factors outlined above, it might have acted as a further disincentive to potential purchasers and a further factor reducing the value of the property below the asking price.
27. As to the marketing strategy, there are other factors which might have counted against finding a buyer: it is not clear to what extent the property was marketed in newspapers; there was no 'For Sale' board at the site; there is insufficient information to demonstrate to me that the asking price was reasonable; and there is no indication that the asking price has been reduced to reflect changes in market conditions or the economic climate. PPS5 says that a price which does not fairly reflect the market value of a heritage asset will deter enquiries. It goes on to say that to adequately test the market the price may need to be low or even zero. I am therefore unable to ascertain whether there was a lack of interest; or a lack of interest because the asking price was an unrealistically high price.
28. In summary, my starting point is that the lawful use of the building is as a public house. The appellant's father ceased to trade of his own volition. He was unable to prove his case on lack of viability in 1991 and no attempts were made by the appellant or his father over the following 20 year period to enhance or diversify the business, or to offer it for sale or for rent as a PH. During this period there were times when the general economy and the possibility of selling (or renting) the premises as a PH were far better and easier than the present time. Instead, the property was vacated, left empty and not maintained. By the time the property was offered for sale, it had fallen into serious disrepair, the economic climate was not favourable and I am in some doubt as to whether the asking price was reasonable or whether the agent's particulars presented it in the most positive way to attract a buyer.
29. As such, there is no clear evidence that the lawful use of the property as a public house is not viable. Furthermore, I have been provided with no evidence to suggest that adequate and accessible alternative provision remains or will be provided. The nearest PHs are all in neighbouring villages, which are at best a 10 minute drive away. Therefore the proposal would be in conflict with PolicyTLC12 of the West Oxfordshire Local Plan 2011 adopted June 2006.

### **Material considerations**

30. Given that I have found that The Unicorn has been the subject of deliberate neglect, I am unable to attach much weight to the appellant's contention that the appeal proposal would preserve the Listed Building in the longer term (PPS5 Policy HE7.6).
31. By contrast, the strength of local opinion which was positive about regaining a PH, adds weight to my view that the lawful use of The Unicorn as a PH should be retained to enable it to come back into active use.

32. I have considered all other matters raised in this appeal but there is no matter sufficient to outweigh the considerations leading me to my decision to dismiss the appeal.

*Jane V Stiles*  
INSPECTOR