
7. FULL APPLICATION - RETENTION OF SPA IN BASEMENT WITH NEW ENTRANCE AREA AND CONVERSION OF UPPER FLOORS INTO TWO APARTMENTS AND SIX TOWNHOUSES AT SPA BUILDING, RUTLAND MEWS, BAKEWELL (NP/DDD/0716/0622, P954, 422050/368566, 06/07/2016/ALN)

APPLICANT: MR D G M HOLLAND

Site and Surroundings

The application site lies between the River Wye and the Agricultural Business Centre, to the east of the Rutland Mill complex. The site is within the Bakewell Conservation Area but outside of Bakewell's Development Boundary (policy LB1). The mill leat runs along the south western boundary of the site and there is a public right of way to the east.

A two and a half storey building, constructed as a health club following planning permission in November 2003, occupies the majority of the site, with an area of open 'curtilage' land to the west and south. The building is L shaped in plan form and is constructed in natural limestone under a blue slate roof.

Vehicular access to the site is from the north, off Coombs Road. Access to and from the town's two main public car parks is to the south via a bridge over the leat. There are currently 9 parking spaces within the application site. These are arranged in a row along the eastern side of the site, in front of the building and within a shared parking area.

The application site lies within the Environment Agency's flood risk zone 3 i.e. land assessed as having a high risk of flooding (1 in a 100 or greater annual probability).

Proposal

Planning permission is sought for the change of use of the three floors of the building above ground, to eight open market dwellings, consisting of two apartments and six townhouses. Both apartments and two of the townhouses would have two bedrooms and the remaining townhouses would have three bedrooms. The residential conversion would largely take place within the shell of the existing building except for a modest single storey extension at the southern end of the building.

A shared residential courtyard and garden would be provided in the area between the building and the mill leat. One parking space for each unit would be provided, plus one disabled parking space.

The basement area is significantly larger than the above ground building footprint, extending beneath the whole of the application site (around 370 sqm). This area would be retained as a spa and would incorporate spa treatment areas, gym, beauty treatment rooms, changing rooms, relaxation room and coffee shop/juice bar. A single storey extension would be constructed off the west facing gable end of the building to provide an entrance lobby and stairs/lift down to the basement. Access to the space would be via new pedestrian gate through the high wall that currently runs along the western boundary of the site. This would give access to an enclosed entrance courtyard area (separated from the residential garden area by a new high stone wall).

As part of the development it is proposed to construct a new pedestrian footbridge across the mill leat, running alongside the eastern flank of the parapet wall to the existing road bridge. The plans show an identical design to that approved as part of the original application in 2004. The bridge deck would be constructed in hardwood boarding and would be 1800mm wide. An 1100mm high painted steel balustrade would stretch along its eastern side. The submitted plans also show that a new 1800mm wide footpath in bound gravel would be created, linking the southern end of the bridge to a gateway and footpaths that lead to the town centre.

RECOMMENDATION:

That the application be **APPROVED** subject to the following conditions:

1. 3 year implementation time limit.
2. Adopt amended plans.
3. The basement of the premises shall be used for a spa and for no other purposes (including any other purpose in Class D2 of the schedule to the Town and Country Planning (Use Classes) Order 1987 or in any order revoking and re-enacting that order).
4. The spa shall be open to customers no earlier than 9am and no later than 8pm on any one day.
5. Hard and soft landscaping scheme to be submitted and agreed in writing. Thereafter the scheme shall be fully implemented
6. All mitigation measures detailed in the submitted flood risk assessment to be carried out prior to first occupation of the development hereby approved, including that finished floor levels shall be set no lower than 120.80m above Ordnance Datum (AOD).
7. The premises the subject of the application shall not be taken into use/occupied until the proposed footbridge and linking footway have been provided in accordance with approved drawing numbers 15/07/1A and 15/07/2.
8. The premises the subject of the application shall not be taken into use/occupied until on-site parking (including secure covered cycle parking) has been provided in accordance with the application drawings and maintained thereafter free from any impediment to its designated use.
9. Remove permitted development rights for alterations, extensions, outbuildings and boundaries.
10. Details of the finish for the steelwork, the design and finish of the balustrading and timber decking and the materials for the footpath surfacing shall be submitted and agreed. Thereafter the bridge and path shall be constructed in accordance with the agreed details.
11. New window and door frames to be dark grey aluminium in accordance with submitted sample.
12. All new window and door frames to be recessed a minimum of 100mm (approx. 4 inches) from the external face of the wall.
13. Rooflights to be fitted flush with the roofslope.
14. All pipework to be internal.
15. Details of the position, design and finish of meter boxes to be submitted and agreed.

16. **The boundary between the external spa seating area and the residential courtyard shall be a 2m high natural drystone wall to match the adjacent walls unless otherwise agreed.**
17. **The existing opening on the north side of the existing boundary wall shall be blocked off using natural limestone to match the adjacent wall.**
18. **All new external walls shall be in natural limestone with half round gritstone copers to match the adjacent walls**

Key Issues

1. Whether, in accordance with Core Strategy Policy HC1 C II, the proposed housing is required in order to achieve conservation or enhancement.
2. Whether it has been demonstrated that it would not be financially viable for the scheme to address identified local need.
3. Flood Risk Issues.
4. Impact on Residential amenity.

History

There is a long and detailed planning history in relation to the wider site at Rutland Mill. Those of particular relevance to the current proposals are as follows:

- 1998 - planning permission granted to convert Rutland Works into 7 business units (Use Class B1), erection of a house and garages on the current application site and improvements to the island car park.
- November 2000 – planning permission granted on the current application site for erection of business unit for use as offices (NP/DDD/0300/094).
- January 2004 – planning permission granted for new build health club subject to a condition that a pedestrian footbridge is constructed prior to the health club being taken into use (NP/DDD/1003/0690).
- January 2006 – planning permission granted for formation of basement area to new build health club (NP/DDD/1105/1080).
- July 2015 – pre-planning enquiry with regard to the potential conversion of the upper floors to residential use. Enquirer advised that there may be an opportunity for enhancement but that a viability appraisal would be required to demonstrate why affordable housing could not be accommodated. Also advised to carry out a flood risk assessment and provide evidence of marketing.

Consultations

Highway Authority – As the proposals are for townhouses as well as retaining the commercial spa, it is considered that in the interests of pedestrian safety the bridge should be installed prior to first occupation. Whilst there is minimal on-site parking for a commercial spa, there is plenty of public car parking and the site is well linked to the town centre. However the increase in pedestrian movements along this road and the potential increase in conflict with vehicles accessing the car park as a result leads to the requirement for improvements for pedestrians using this route. Therefore no objections subject to conditions requiring the provision of the

footbridge prior to occupation and provision of maintenance of on-site parking and cycle storage.

District Council – No response

Town Council – Recommends approval. The development of a building that has stood empty for many years is to be welcomed. The Town Council approves the design and proposed uses of the building. We welcome the offer to install and maintain a footbridge and footpath access which will improve safety in this area and acknowledges this as an appropriate community contribution.

Environment Agency – No objections subject to conditions that the development is carried out in accordance with the submitted Flood Risk Assessment and the mitigation measures contained within it.

Representations

Bakewell Civic Society - We welcome the proposal for a footbridge over the millstream next to the road bridge leading to Smiths Island car park. When planning the area, this footbridge was envisaged as part of a public pedestrian route east of the river linking the foot of Station Road with the Agricultural Business Centre area. People from the east of Bakewell could reach the town centre without using the narrow footways of the ancient bridge.

One letter has been received from a local resident supporting the proposals in principle, given that the building has stood empty for 5 years. Housing density is higher than might have been envisaged. Welcomes the inclusion of a pedestrian bridge and footpath. This may be the last opportunity for the Authority and the relevant owners to make the private road safer: despite the site notices it is heavily used by non-resident pedestrians and there needs to be some form of enforceable prohibition and separation from legitimate wheeled traffic. Car parking space on-site is limited but there are public car parks nearby.

Main Policies

Relevant Core Strategy policies: GSP1, GSP2, GSP3, DS1, HC1, L3, E1, CC5, T3, T6

Relevant Local Plan policies: LC4, LC5, LH1, LH2, LT11, LT18, LT21, LB1

National Planning Policy Framework

The National Planning Policy Framework (The Framework) is a material consideration which carries particular weight where a development plan is absent, silent or relevant policies are out of date.

Paragraph 55 of the Framework says that housing should be located where it will enhance or maintain the vitality of rural communities.

Paragraph 115 of the Framework says that great weight should be given to conserving landscape and scenic beauty in National Parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight. Paragraph 115 refers to the National Parks and the Broads Circular which states that Government Policy is that the National Park should encourage affordable housing to meet local need and that the Parks are not suitable locations for unrestricted housing and therefore does not provide general housing targets.

Assessment

Issue 1: Whether, in accordance with Core Strategy Policy HC1 C II, the proposed housing is required in order to achieve conservation or enhancement.

Core Strategy policy HC1 sets out the Authority's policy on the provision of new housing in the National Park and is therefore the starting point for consideration of the current proposals. The policy makes it clear that provision will not be made for housing solely to meet open market demand. Exceptionally new housing can be accepted where it A. addresses eligible local needs; B. provides for key rural workers; or C. is required to achieve consideration or enhancement of either I. a valued vernacular or listed building or II. a settlement listed in policy DS1.

In this case the proposals are for eight open market houses and so the proposals do not comply with HC1 A or B, in that they would not address eligible local needs nor provide for key rural workers. The building in question is not listed and although it is built in traditional materials, the fact that it was constructed only around 15 years ago means that it is not considered to be a 'valued vernacular building' in the context of the meaning of HC1 C I. The site is, however, within the Conservation Area within Bakewell, (a settlement listed in policy DS1.) so the key consideration is whether the proposals could meet the objectives of HC1 C II, by achieving conservation or enhancement.

As background, following the grant of planning permission for the health club building in 2002 and later the basement spa in 2004, work commenced on the development to the point where the shell of both the building and the basement were complete. The pedestrian footbridge and footpath were not started. The submitted Design and Access Statement explains that construction work (being carried out by the previous owner) ceased in 2011, since when the building has stood empty. Bank repossession took place in March 2012. As a result of standing vacant, the building has started to deteriorate *'mainly due to missing guttering and windows and substantial ingress of water has occurred into the building, and particularly into the basement area.'*

A marketing report/demand overview by Fox Lloyd Jones (a firm of Chartered Surveyors) has been submitted with the application. This explains that the property was marketed as a 'going concern' from July 2012 until February 2016, when an offer from the applicant was accepted. The campaign included mailings (sent out twice) to existing health club operators in the UK; advertisements in local and national press (including the Sheffield Star, Yorkshire Post, Derbyshire Times and Derbyshire Life); leaflet flyers in the Bakewell Show programme; and a large advertisement board on the site. The report explains that the marketing brought about a limited number of interested parties, but that these resulted in two aborted sales.

The building is located in a prominent position within the Bakewell Conservation Area. It is clearly visible from a range of public vantage points on the various thoroughfares through this part of the town. Officers are satisfied that the property has been adequately marketed as a spa/health club for four years, without success, and as such it is reasonable to assume that without an alternative viable use, the building is likely to become increasingly derelict, causing harm to the valued character of the Conservation Area. Although the building is of recent construction it is of a high quality and harmonises well with its surroundings. Its form and massing reflect the larger scale of the mill buildings to the west and the use of local materials means that the structure is sympathetic to other buildings in the area. It is therefore considered that the building is worthy of retention through conversion to an alternative use.

Furthermore the approved use of the site falls within use class D2 of the Town and Country Planning (Use Classes) Order 1987 – (Assembly and Leisure) and as such is not a 'business use' that under Core Strategy policy E2 might be safeguarded.

It is notable that the site is outside of the Bakewell Development Boundary. Saved Local Plan policy LB1 seeks to contain the future development of Bakewell within its boundary. A material consideration is the fact that the boundary also excludes the Agricultural Business Centre (ABC) as it was drawn before the ABC was built. Officers consider that it is reasonable to make an exception to this policy in this case due to this anomaly and the fact the application site sits

between the development boundary and the ABC. In fact this issue was recognised in 2004 when permission was first granted for the erection of the spa building.

In principle, it is considered that a mixed scheme for housing and a spa could be considered to be in compliance with HC1 C I. However this must be subject to considerations with regard to whether the detailed design of the submitted scheme would achieve the necessary conservation objectives and whether the impetus of open market values is 'required' to secure conservation and/or enhancement.

Core Strategy Policy L3 requires that cultural heritage assets are conserved. Saved Local Plan policy LC4 expects a high standard of design and LC5 seeks to protect the character and appearance of Conservation Areas. The submitted plans show that the proposed development use would be carried out largely within the shell of the existing building, other than a small extension off the north facing gable end and a further extension on the west facing gable to provide an entrance area for the spa. Both extensions would be single storey and would be hidden from public view by parapet walls and in any case would conserve the character of the host building. Existing opening would be re-used and some additional openings inserted. These details follow negotiation with officers and the plans now show an arrangement that would retain the overall character of the building by maintaining the existing high 'sold to void' ratio. Some existing rooflights would be removed, some re-positioned and new rooflights are proposed on all of the roofslopes. Officers are satisfied that their number and size are appropriate in that they reflect the pattern of rooflights seen on the other converted buildings at Rutland Mill.

Externally the shared domestic curtilage proposed for the residential use together with a small outside area for use by customers of the spa would be contained by the existing buildings, boundary walls and the mill leat. As such, and due to the presence of trees to the south of the site, this area would not be prominent or harmful to the setting of the building or the Conservation Area.

The proposed pedestrian bridge would be lightweight and fairly discreet, being located alongside the existing bridge and consequently, subject to conditions with regard to its finish it is considered that it would be sympathetic to its surroundings.

In conclusion therefore the proposed scheme would conserve a building of some value, which might otherwise fall further into disrepair and would conserve and enhance the character of the Conservation Area in accordance with adopted policies.

Issue 2 - Whether it has been demonstrated that it would not be financially viable for the scheme to address identified local need.

Policy HC1 C states that any scheme proposed under CII that is able to accommodate more than one dwelling unit must also address identified eligible local need and be affordable with occupation restricted to local people in perpetuity unless it is not financially viable, although the intention will still be to maximise the proportion of affordable homes within viability constraints, or if it would provide more affordable homes than are needed now and in the near future, in which case financial contribution will be required towards off site affordable housing.

A Parish Needs survey report for Bakewell was published in July 2015. The survey identified 119 households in housing need. It is clear therefore that a scheme for 8 dwellings would not provide more affordable homes than are needed. Instead the applicant has submitted a detailed Financial Development Appraisal by a firm of Chartered Surveyors. This identifies that the principal abnormal cost in the project is the construction of the new footbridge and footpath which would bring a capital cost of around £255,000 to the project plus ongoing maintenance costs.

The report confirms that the scheme would produce a Gross profit to Gross Development Value of 15.19%. It is accepted that for most speculative schemes a target return is in the range of

20% to 24%. Despite the gross profit being less than the target yield normally expected of a housing scheme, the report writer considers that the project remains viable because of the applicant's intention to retain and operate the spa himself. The report concludes that because of the high cost of the planning burden to provide a safe pedestrian route, the project would not be viable if further burdened with any additional planning obligation should as affordable housing or other off site contributions. Officers are satisfied that the viability appraisal has been carried out by a suitable qualified expert and is likely to be a fair reflection of market conditions, so there is no reason to believe that its findings cannot be relied upon.

With regard to the need for the bridge, the Highway Authority is clear that securing the construction of the bridge is necessary in order to make the development acceptable in planning terms. Whilst there is some on-site parking to meet the need of the proposed dwellings, the customers and staff using the spa would have to rely on nearby public car parks, the largest of which are directly to the south of the application site at Smith's Island. At present pedestrians and two-way vehicular traffic both use the bridge over the leat. The width of the carriageway is limited and there is no defined footpath and consequently pedestrians have to walk within the carriageway. Officers have observed that this leads to conflicts and congestion. Any intensification of pedestrian use would cause a danger to highway users contrary to Saved Local Plan policy LT18 and the Framework which seeks to secure safe and suitable access for all.

Saved Local Plan policy LT21 states that measures should be taken to improve the footpath network. In these respects, as well as making the development currently proposed acceptable in highway terms, the provision of the bridge would also bring additional community benefits by alleviating congestion and conflict for existing users. The bridge is heavily used by the general public walking to and from the town centre towards the District Council car park and on-street parking areas on Coombes Road. The provision of a separate, discreet route for pedestrians can be seen to help offset the lack of affordable housing provision within the scheme.

In conclusion, the bridge and footpath are a necessary element in the proposals which would also bring wider planning benefits, but it has been demonstrated that largely because of the bridge it would not be financially viable for the scheme to address identified eligible local needs. Consequently the provision of open market housing, in this instance, is in accordance with Core Strategy policies HC1 C I and L3 and Local Plan policies LC4 and LC5.

Issue 3: Flood Risk Issues

Core Strategy policy CC5 states that development proposals which increase flood risk will not normally be permitted.

As the site falls within flood risk zone 3 and housing is a 'more vulnerable use, pre-application discussion were held between the applicant and the Environment Agency and a Flood Risk Assessment has been submitted with the application. This demonstrates that the development would be safe and would not increase flood risk to others by incorporating a number of mitigation measures. These include raising the ground floor levels within the building by 170mm to 120.80 AOD; blocking off the double door opening in the north facing boundary wall; reducing doorways to windows on the ground floor of the north elevation with 800mm high cills; and other flood restraint construction techniques.

The proposals are supported by the Environment Agency subject to conditions requiring the recommendations of the FRA to be implemented and requiring that the juice bar/café is not licensed. Given that the juice bar/café would be ancillary to the spa, officers consider that it is unlikely that issues with alcohol and the affect this may have on people's ability to escape during a flood would be significant. As a result this condition would not meet the 6 tests for conditions as it would not be necessary and reasonable.

Issue 4: Impact on Residential Amenity

Core Strategy policy GSP3 requires that impact on living conditions must, amongst other things, be considered and saved Local Plan policy LC5 requires that attention must be paid to amenity and privacy.

The nearest residential properties to the application site are the 'Rutland Riverside Apartments' which are located on the opposite side of the access road to the west of the site. The front facing elevations of these properties are around 18m away from the east facing gable end of the spa building. The east facing gable end of the spa building would remain blank other than the insertion of two new 600mm wide windows on the first floor. One would be a secondary window serving a landing area and the second would serve a bedroom. The generally accepted separation distance between habitable room windows is around 22m so the distance in this case is somewhat deficient. However, the window in question is small, would not be the main window to the bedroom and would face an internal stud wall to an en-suite bathroom making it unlikely that opportunities to overlook the properties at the Rutland Riverside apartments would be significant.

There are also residential properties to the north of the application site, across the shared car park at Rutland Mews. The habitable room windows of these properties would face towards the large openings in the north wall of the spa building, which would also be habitable rooms. Nonetheless the front facing elevations of these properties are some 28m away from the north facing elevation of the spa building and therefore the separation distances are within acceptable limits. The agent has submitted a section that shows that it will not be possible to overlook the front of the properties from the rooflights proposed on the second floor of the spa building.

In conclusion it is not considered that there would be any significant harm to privacy and amenity of neighbouring properties over and above the consented use of the building as a spa, in accordance with GSP3 and LC4.

It is also necessary to consider whether the juxtaposition of the basement spa with the eight residential properties would in itself give rise to amenity issues. There would be a separate entrance to the spa, separated from the residential courtyard and gardens by a 2.7m high stone wall, which would effectively prevent overlooking and would provide a sound barrier. It is also proposed to separate the outside seating area for the spa from the residential courtyard and garden with a fence. It is considered that a high wall, similar to the existing wall would be more appropriate, but otherwise in this town centre location the relationship of the two uses is not considered to be unreasonable, subject to a condition to limit the opening hours of the spa to between 9am and 8pm.

Other Issues

Access and Parking

Saved Local Plan Policy LT11 states that the design and number of parking spaces associated with residential development must respect the valued character of the area, particularly in Conservation Areas. LT18 states that the provision of safe access arrangements will be a prerequisite of any development.

Only one on-site parking space per unit would be provided which is below normal standards. However the Highway Authority has confirmed that with the proposed improvements to pedestrian links to the nearby car park and the town centre, it is not considered to be unreasonable. Car parking in relation to the spa would be off site but given the central location and the provision of the footbridge and path, this is considered to be acceptable.

It is unlikely that there would be any intensification in use of the access onto Coombs Rd over and above the previously permitted use of the whole building as a spa.

The proposed development would therefore be served by a safe and suitable access and parking provision, within the pre-existing parking spaces would respect the character of the Conservation Area, in accordance with LT11 and LT18.

Permitted Development Rights

The National Planning Policy Guidance states that conditions restricting the future use of permitted development rights or changes of use will rarely pass the test of necessity and should only be used in exceptional circumstances. In this case a spa is considered to be a low key use that could sit alongside the adjacent residential uses without undue harm to amenity and can be accommodated within the building in a way that conserves its character. Other uses within the same use class (D2) e.g. a cinema/concert hall/sports hall could, for example, have more significant impacts on residential amenity and potentially create demands for changes to the fabric of the building. It is therefore considered that exceptional circumstances exist to justify limiting the use of the basement to a spa and to no other use within use class D2.

Additionally, the approved open market housing is justified on the basis that it is necessary to secure conservation objectives within the Conservation Area. Uncontrolled alterations to the building, extensions, outbuildings or boundary features could result in deterioration in the character and appearance of the building and the Conservation Area and therefore the removal of permitted development rights for such development is considered to be justified.

Conclusion

The application demonstrates that the proposals would serve to conserve and enhance a prominent building within the Bakewell Conservation Area. The submitted Financial Development Appraisal establishes that due to the abnormal costs of the pedestrian footbridge and path, which are required to make the development acceptable in planning terms, the scheme would not be viable if an additional burden were placed on the development by way of an affordable housing restriction of a commuted sum. Consequently it is considered that the proposals accord with subsection C II of Core Strategy policy HC1. The proposed pedestrian bridge and footway would also constitute an improvement to existing footpath links in the town for the general public in accordance with Saved Local Plan policy LT21.

It has been demonstrated that subject to appropriate conditions, flood risk issues can be addressed and there is unlikely to be a significant impact on residential amenity.

The proposals therefore meet with the requirements of the National Planning Policy Framework and the Development Plan and are recommended for approval.

Human Rights

Any human rights issues have been considered and addressed in the preparation of this report.

List of Background Papers (not previously published)

Nil