

From: Naomi Waddington
Sent: 09 May 2018 17:15
To: 'planning@jenniferhubbard.co.uk'
Subject: Planning application 18/01087/FUL The Henry Jenkins Kirkby Malzeard

Categories: Egress Switch: Unrestricted

Dear Ms Hubbard

I refer to the planning application you have submitted in connection with the above, and would refer you to the requirements of Local Plan policy CFX is which is aimed towards retaining sites and buildings for community facilities by re-use or redevelopment, in order to ensure people have good access to a range of services and thereby maintain viable and sustainable communities. Retention of the existing community facility is the priority and, if this is not viable, alternative community uses should be fully explored. Planning permission which would result in the loss of a building or premises in community use will only be granted if at least one of the three policy criteria is met.

Policy CFX states that proposals involving the loss of land or premises in community use, including community halls, schools, colleges, nurseries, places of worship, health services, care homes, libraries and public houses will not be permitted except where it can be shown that:

- A) continued community use would cause unacceptable planning problems; or
- B) a satisfactory replacement facility is provided, in a suitably convenient location for the catchment served, prior to the commencement of development; or
- C) there is no reasonable prospect of:
 - i) the existing use continuing on a viable basis with all options for continuance having been fully explored, as a priority and, thereafter,
 - ii) securing a satisfactory viable alternative community use.

The guidance document Policy CFX: Guidelines for Development Control, published in January 2004, sets out how the policy will be applied. Paragraph 3.1 states that the policy will be applied to all planning applications which propose the loss of buildings or premises that are currently, or were last in, community use regardless of their condition and appearance. Planning permission which would result in the loss of a building or premises in community use will only be granted if at least one of the three policy criteria is met.

The application does not indicate that continued community use of the building would cause unacceptable planning problems and therefore criterion A is not met.

With regard to criteria B the guidance document advises that a replacement facility could be provided either off site or on site as part of a mixed use development. The replacement facility must be a new facility. The existence of a similar community facility located elsewhere (e.g. another public house in the settlement) will not be considered as a satisfactory replacement.

The application does not propose a replacement community facility either on site or off site and therefore criterion B is not met.

Criterion C relates to viability and requires that all options which would enable the existing community use to be retained should be fully explored. The guidance document sets out, in paragraphs 5.1 and 5.2, the marketing evidence required to support a planning application:

- copy of the sales particulars;
- details of the original price paid and the new guide price;
- schedule of the advertising carried out, with copies of the advertisements and details of where and when the advertisements were placed along with an estimate of the expenditure incurred from advertising;
- the confirmed number of sales particulars distributed, along with a breakdown of where the enquiries resulted from;
- details of the number of viewings;
- resulting offers and why they were dismissed;
- details of the period when a For Sale/To Let board was displayed;
- timetable of events from the initial appointment of agents to current date.

In the case of licensed premises, the following information will also be required:

- the last three years trading accounts;
- where a dining facility is provided, details of the market aimed at and the number of covers available;
- who the licence is currently held with and when it is due for renewal;
- the opening times for the premises.

The recent appeal decision to which you refer in your submission letter fully considered whether the proposed development would result in the loss of a community facility. With regard to the requirements of CFX C1, the Inspector commented at paragraph 13 "I remain to be convinced that the potential re use of the HJ as a going concern has been sufficiently investigated to either prove there is no demand or that it can continue as a viable business. There may be a possibility that it would not survive as a public house in the longer term when one considers the known struggles that rural public houses face but based on what I have seen and heard, I am not satisfied that the HJ was given sufficient chance to adequately prove that beyond the doubt in my mind".

With regard to CFX C2 the Inspector commented at paragraph 17 "In effect, there seems to be a very real possibility on the strength of what I have seen that there are options to re-use the HJ in a sustainable way and to give this limited weight in the consideration of this appeal would not only be unreasonable but would be contrary to what CFX is trying to achieve for rural communities"

The Inspector concluded at paragraph 24 "it is my conclusion that the proposed development would lead to the unjustified loss of a community facility. Such that it would lead to clear conflict with the development plan and the Framework."

Circumstances have not changed since the appeal decision was issued. Given the above the Local Planning Authority is unable to offer support for the proposal. Please advise should you wish to withdraw the application. You will appreciate this is officer opinion only and is given without prejudice to the formal decision of the Council on the submitted application.

Yours sincerely

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Please note my normal working hours are Wednesday to Friday 8:30 – 17:15