
Appeal Decisions

Site visit made on 14 September 2016

by Paul Jackson B Arch (Hons) RIBA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 September 2016

Appeal A: APP/B1930/W/16/3151472

Appeal B: APP/B1930/Y/16/3151469

The Red Cow PH, Westfield Road, Hertfordshire AL5 4ND

- The appeals are made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission and under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeals are made by Paratrend Ltd against the decisions of St Albans City & District Council.
 - The applications Refs 5/2015/3548 & 5/2015/3590LB dated 14 December 2015, were refused by notices dated 1 March 2016.
 - The development proposed is construction of a rear extension, part demolition of rear extension, alterations and revised parking layout.
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Decisions

1. The appeal is allowed and planning permission and listed building consent are granted for construction of a rear extension, part demolition of rear extension, alterations and revised parking layout at The Red Cow PH, Westfield Road, Hertfordshire AL5 4ND in accordance with the terms of the applications, Refs 5/2015/3548 & 5/2015/3590LB dated 14 December 2015, and the plans submitted with them, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are as follows:

Appeal A

- The effect of the proposed development on the character and appearance of the area;
- Whether the amount of car parking would be adequate; and
- The effect on the setting of the building, which is listed at Grade II.

Appeal B

- The effect of the proposed development on the architectural character and historic interest of the building, which is listed at Grade II.

Reasons

Policy background

3. The development plan for the area includes saved policies of the St Albans District Local Plan Review of 1994 (LP). Within areas primarily residential in character, policy 9 says that the Council will not normally disturb lawfully existing non-residential uses, provided such activities are environmentally
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acceptable in terms of visual impact, noise, smell, safety, health or traffic generation. Policies 34 and 39 have the effect of setting out parking standards (updated in 2002). Policy 69 seeks a high standard of design and advises that the materials used should normally relate to adjoining buildings. According to policy 72, amongst other things, extensions should relate to the domestic scale character and appearance of the street, with architectural treatment that is appropriate to the original building; extensions also should not seriously diminish the private space around the original building. With respect to listed buildings, policy 86 includes the requirement that alterations involving the removal, obliteration or encasing of internal or external features of architectural or historic interest, will not be permitted in the absence of exceptional circumstances.

4. The National Planning Policy Framework (NPPF) of 2012 advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). The NPPF has at its heart the achievement of sustainable development, which has economic, social and environmental dimensions, to be sought simultaneously. Paragraphs 18 and 19 emphasise the need to encourage economic growth, advising that planning should operate to encourage and not act as an impediment to sustainable growth; significant weight should be placed on the need to support economic growth through the planning system. Paragraph 28 promotes the retention and development of local services and community facilities including public houses.
5. Paragraph 70 says that to deliver the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
 - Plan positively for the provision and use of shared space, community facilities (such as public houses amongst others) and other local services to enhance the sustainability of communities and residential environments;
 - 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;
 - Ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable, and retained for the benefit of the community; and
 - Ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.
6. The NPPF indicates at paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. As heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building, park or garden should be exceptional. Paragraph 134 says that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. This is a different approach to that in LP policy 86 and in this case takes precedence.

7. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker 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. The preservation of setting is to be treated as a desired or sought-after objective, and considerable importance and weight attaches to the desirability of preserving the setting of listed buildings when weighing this factor in the balance.

Character and appearance

8. The Red Cow is a public house originally dating back to the 16th or 17th century. It was clad in brick in the 18th century and substantially altered and extended in the 20th century, principally with side and rear extensions. It benefits from a relatively large area of land at the rear, currently vacant and largely covered in gravel and other hard materials. A new extension to the rear is proposed which would provide additional covers, new kitchen accommodation and office and staff space, increasing trading floor space and enabling a more varied food and drink offering. The pub is listed as an asset of community value.
9. The pub lies on the edge of the built up area of Harpenden. The character of the area now generally derives from 20th century housing which has developed in varied forms, including a very recent scheme to the east side and rear of the pub. A terrace of 19th century houses lies immediately to the west. In the street scene, the pub provides a distinct link to the past, the front elevation being of obvious age. It defines the character of the immediate area and contributes to a noticeable sense of place at the bottom of a hill.
10. The proposed extension would be of substantial floor area but would be partly dug into the ground and as a result, would not project above the existing roof line. Recessed behind the existing side elevations, it would be difficult to see from any public viewpoint. It would be of fairly simple design, the clay tiles and brick elevations reflecting the materials used on the existing building. There would be plenty of natural light available through the windows along each side. A glazed link would separate the extension visually from the existing pub building, in an attempt to avoid a sense of the new extension 'crashing' into the existing.
11. It was evident at the site visit that the existing pub has limited seating and is very short of space for storage, food preparation and staff. The proposed additional space would be provided in a way which would significantly enhance these aspects without appearing dominant; indeed the existence of the rear extension would not be apparent to anyone unless they were entering the building or the car park. It would not be conspicuous from any neighbouring property. Despite its floor area and bulk, it would appear subservient to the existing building in purpose and design.
12. The car park at the rear would operate on a 'one way' basis around the perimeter of the extension and would be relatively spacious. Although there would be large areas of hardstanding, much of the existing rear area is neglected, already covered with concrete or gravel and has been for many years. Landscaping and planting in the immediate environs would provide the opportunity to improve the appearance of the area generally. This could be achieved by imposing a suitable planning condition. Overall there would be a distinct improvement in the quality of the environment at the rear of the pub.

The NPPF seeks a high quality of design but does not attempt to impose architectural styles or particular tastes or unsubstantiated requirements to conform to certain development forms or styles. The rear of the existing building, to which the extension would be attached, was constructed in a piecemeal manner in the 20th century and displays nothing of particular heritage interest; it does not relate well to or complement the original historic building. In practical terms, the extension would represent an improvement in the appearance of the whole site. Accordingly, it would not conflict with the aims of LP policies 9, 34, 69, or 72. Moreover, the development would facilitate modernisation in a way that is sustainable and of benefit to the community, whilst retaining and enhancing job opportunities. These are aims of the NPPF.

Parking

13. The revised LP parking standards of 2002 are agreed to be of limited usefulness, given the advice in the NPPF of 2012. The standards are in any case stated to be maxima, not to be exceeded, rather than a minimum provision. It is reasonable to assume that a fair proportion of customers for the enhanced facilities will come from the local neighbourhood and will walk to the premises, especially if they intend to consume alcohol. Moreover, spaces exist in residential streets within walking distance of the pub that are likely to be used if the car park is full. I noted at the site visit that the pub lies on several bus routes. Taking all the evidence into account, the proposed provision of 19 spaces, including a space for the disabled, is likely to be sufficient for the needs of staff and customers. In considering this matter, I have taken into account the Council's uncertainty over what would be an appropriate provision in discussions with the appellant; and the fact that the Highways Authority has no objection. No conflict is found with the aims of policies 34 or 39 or the NPPF in respect of parking provision.

The listed building and its setting

14. The significance of the Red Cow in heritage terms stems mainly from its architectural and historic interest. Whilst the whole building is listed, there is very little remaining heritage interest at the rear, if any, everything visible having been built in the 20th century in a nondescript style. Although the phases in which a listed building develops over time are always of interest, there is very little that is of architectural or historic merit at the rear. The new extension should be regarded as a further phase in the evolving economic story of this particular building.
15. Its special heritage interest can now only be properly appreciated from the street and internally, where some timbers, finishes and walls remain. The new extension and the creation of a new car park at the rear would improve the rear elevation and the setting of the whole. It would not cause any significant harm to any aspect of remaining heritage significance, including the building's setting. Having said that, the 20th century rear alterations were comprehensive, but the proposed interior alterations could potentially affect heritage significance in that a new opening is proposed leading to the rear, on one side of the bar. Without further intrusive investigative works, which would affect the current operation of the pub, the extent of remaining timber frame and early fabric that could be lost, if any, is difficult to establish.
16. The NPPF requires that in cases where 'less than substantial harm' occurs to a listed building, as in this proposal, the harm should be weighed against the

public benefits. This pub provides an important service on the edge of a residential area in a town, acknowledged by its designation as an asset of community value. Its future economic prosperity is in the interests of the local community and would comply with LP policies and national policies that seek sustainable growth. Providing that any remaining historic fabric that is exposed in the wall behind the bar and the stairs is carefully revealed and preserved or properly recorded during the works, the benefits of the scheme would significantly outweigh any harm. Any archaeological interest in the rear area excavation could also be established and recorded by imposing a suitable condition.

17. Historic England does not object. I conclude on this issue that with suitable conditions, the proposed works would comply with the heritage protection aims of the NPPF.

Other matters

18. The appellant advises that declining 'wet' sales over the years and limited indoor seating capacity has affected the viability of the business. The Council does not dispute that the proposal would offer scope to enhance the viability of the public house, but queries the efforts made to develop the existing operation. In my view, the limited internal floor space available for customers, the restricted kitchen facilities and the declining sales year on year indicate that substantial new investment is likely to be necessary if this public facility is to continue to provide a service in this area of Harpenden. The suggested use of the site in marketing for residential purposes indicates the development pressures that public houses such as this can face.
19. I have taken account of the concerns of some local residents that the enhanced and enlarged Red Cow may impact on levels of noise and disturbance and cause parking problems. However there is no evidence that the increased level of use of the rear restaurant area would cause an unacceptable increase in noise, or that car parking in the local area would be an issue, given that the proposed car parking on site would be very significantly enhanced.

Conclusion

20. The benefits of the proposed extension and alterations significantly outweigh the potential for harm to the architectural character or the fabric of the listed building. It has not been shown that the rear extension would dominate the existing building or that it or the car park would be unacceptable in terms of character and appearance or the setting of the listed building. The potential increase in trade in a popular local pub in a sustainable location has economic and social benefits. The development would comply with planning policy read as a whole.

Conditions

21. Apart from the usual time limitations, conditions are imposed to require details of the materials to be used and details of the extension where it meets the existing building, in the interests of the character of the area and the architectural quality of the finished project. Materials used are to match those in the existing building, except where otherwise indicated or approved, in the interests of the architectural character of the listed building. Details of internal fixtures and fittings need to be approved for the same reason. Hard and soft

landscaping needs to be approved in the interests of the character of the area and the architectural quality of the finished project, including the necessary retaining walls at the rear and the means by which rear restaurant windows are to be protected from damage by vehicles. The car parking and circulation layout need to be retained for that purpose to avoid congestion on the public highway. A time limit on working hours is appropriate in view of the proximity of residential dwellings. Whilst no archaeological monitoring condition is requested by the local authority, the extent of excavation at the rear and the longstanding use of the site suggest that there may be items of interest revealed that should be recorded. The internal works may also reveal historic fabric which needs to be properly recorded.

22. Finally, the development should be carried out in accordance with the approved drawings, for the avoidance of doubt and in the interests of proper planning.
23. For all the above reasons, the appeal should be allowed.

Paul Jackson

INSPECTOR

Schedule of conditions

Appeal ref APP/B1930/W/16/3151472

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 3) No development shall take place until details of the junction between the new rear extension and the existing building at a scale of not less than 1:20 have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include (a) proposed finished levels and contours; (b) means of enclosure including retaining walls; (c) car parking layouts; (d) other vehicles and pedestrian access and circulation areas; (e) hard surfacing materials; (f) furniture, refuse or other storage units, signs and lighting); (g) existing trees to be retained; and (h) the means by which windows at the rear are protected from vehicles manoeuvring.
- 5) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the

- commercial use of any part of the development or in accordance with a programme agreed with the Local Planning Authority.
- 6) The approved car parking and circulation layout shall be permanently retained for that purpose and no other; and made freely available for customers, staff and occupiers of the first floor flat of the Red Cow Public House.
 - 7) No demolition or construction works relating to this permission shall be carried out on any Sunday or Bank Holiday nor before 08.00 hours or after 18.00 hours on any days nor on any Saturday before 08.00 hours or after 13.00 hours.
 - 8) The developer shall afford access at all reasonable times to any archaeologist nominated by the local planning authority, and shall allow that person to observe the excavations and record items of interest and finds.
 - 9) Any historic or archaeological features not previously identified which are revealed when carrying out the development hereby permitted shall be retained in-situ and reported to the local planning authority in writing within 1 working day of their being revealed. Works shall be immediately halted in the area/part of the building affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to and approved in writing by the local planning authority.
 - 10) The development hereby permitted shall be carried out in accordance with the following approved plans: 12705/03D, 12705/04B, 12705/05B, 12705/06C, 12705/07C, 12705/09C.

Appeal ref APP/B1930/Y/16/3151469

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Any historic or archaeological features not previously identified which are revealed when carrying out the works hereby permitted shall be retained in-situ and reported to the local planning authority in writing within 1 working day of their being revealed. Works shall be immediately halted in the area/part of the building affected until provision shall have been made for the retention and/or recording in accordance with details that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 3) All new external and internal works and finishes and works of making good shall match the existing original work adjacent in respect of materials used, detailed execution and finished appearance, except where indicated otherwise on the drawings hereby approved or as required by any approval of details by the Local Planning Authority subject to conditions attached to this consent.
- 4) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted, including boundary walls, have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

- 5) No works shall be carried out on the site until details of fixtures and fittings including floor finishes, tiling, insulation and services, have been submitted to and approved in writing by the Local Planning Authority, and the work shall then be carried out in accordance with those details.
- 6) The works hereby approved are only those specifically indicated on the approved drawings: 12705/03D, 12705/04B, 12705/05B, 12705/06C, 12705/07C, 12705/09C.