
Appeal Decisions

Site visit made on 8 November 2016

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

Decision date: 02 December 2016

Appeal A: APP/G2245/W/16/3154060

'The Rock' Public House, Hoath Corner, Chiddingstone Hoath, Edenbridge, Kent TN8 7BS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr John Coldman against Sevenoaks District Council.
 - The application Ref SE/15/03839/FUL, is dated 4 December 2015.
 - The development proposed is demolition of outbuildings and construction of new part two storey extension to north/east of the original Grade II listed public house to provide fully accessible bar, kitchen, dining and toilet space and improved manager's residential accommodation at first floor level.
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Appeal B: APP/G2245/Y/16/3154062

'The Rock' Public House, Hoath Corner, Chiddingstone Hoath, Edenbridge, Kent TN8 7BS

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr John Coldman against Sevenoaks District Council.
 - The application Ref SE/15/03840/LBCALT is dated 4 December 2015.
 - The works proposed are demolition of outbuildings and construction of new part two storey extension to north/east of the original Grade II listed public house to provide fully accessible bar, kitchen, dining and toilet space and improved manager's residential accommodation at first floor level.
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Decision Appeal A

1. I allow the appeal and grant planning permission for demolition of outbuildings and construction of new part two storey extension to north/east of the original Grade II listed public house to provide fully accessible bar, kitchen, dining and toilet space and improved manager's residential accommodation at first floor level, 'The Rock' Public House, Hoath Corner, Chiddingstone Hoath, Edenbridge, Kent TN8 7BS in accordance with the terms of the application, Ref SE/15/03839/FUL, dated 4 December 2015, and subject to conditions 1) to 8) on the attached schedule.

Decision Appeal B

2. I allow the appeal and grant listed building consent for demolition of outbuildings and construction of new part two storey extension to north/east of the original Grade II listed public house to provide fully accessible bar, kitchen, dining and toilet space and improved manager's residential accommodation at
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first floor level, at 'The Rock' Public House, Hoath Corner, Chiddingstone Hoath, Edenbridge, Kent TN8 7BS in accordance with the terms of the application, Ref SE/15/03840/LBCALT dated 4 December 2015 and the plans submitted with it, and subject to conditions 1) to 5) on the attached schedule.

Application for Costs

3. An application for costs was made by Mr John Coldman against Sevenoaks District Council. This application is the subject of a separate Decision.

Main Issues

4. In Appeal A the main issues are;
 - Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies.
 - The effect on the openness of the Green Belt.
 - The effect of the proposal on the significance of the listed building and its setting within the Hoath Corner Conservation Area and the High Weald Area of Outstanding Natural Beauty, and this issue concerns Appeal B in addition.
 - Would the harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations. If so, would this amount to the very special circumstances required to justify the proposal.

Reasons

Background and Policy

At the Sevenoaks District Council Development Control Committee meeting held on 8th September 2016 the Members of the Committee resolved not to defend the planning appeal but to defend the listed building consent appeal. With regard to the planning appeal, the minutes record that Members discussed the extent to which very special circumstances had been made out for the extension and considered the comments from the speaker in favour of the application that there had been 5 failed tenancies in the property since 1999 and that expansion was a condition of a particular potential tenant taking occupation. That resolution was contrary to the advice of Officers who had put forward a recommendation that the proposal was inappropriate development in the Green Belt with no very special circumstances to justify the grant of planning permission.

5. With regard to the listed building appeal the Committee resolved that had jurisdiction stayed with the Council, the reason for refusal would have been *'The proposed works would lead to less than substantial harm to the historic fabric, integrity and character of the listed building. There were no public benefits in this instance, including securing its optimum viable use, to weigh against this harm. The proposal therefore failed to accord with the Planning (Listed Buildings and Conservation Areas) Act 1990, the National Planning Policy Framework, policy SP1 of the Sevenoaks Core Strategy and policy EN4 of the Sevenoaks Allocations and Development Management Plan'*

6. However, on making the appeal, the jurisdiction passed from the Council and there is a need to consider the proposals as if the application had been made to the Secretary of State in the first instance. As a result, a further round of submissions from the parties was requested to ensure that full information was available with regard to the height of the kitchen roof, its effect and any benefits resulting.
7. Protecting the Green Belt is the subject of section 9 of the Framework and paragraph 79 makes clear the importance that the Government attaches to Green Belts; the essential characteristic of Green Belts is their openness and permanence. The construction of new buildings is considered inappropriate development in principle in paragraph 89, but an exception is the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
8. Core Strategy Policy LO7 lists settlements where development may take place and refers to some smaller villages having Green Belt boundaries, which does not appear to be the case at Hoath Corner, which should be considered to fall within the Policy LO1 statement that in other locations priority will be given to protecting the rural character of the District. Development will only take place where it is compatible with policies for protecting the Green Belt and the High Weald and Kent Downs Areas of Outstanding Natural Beauty, where relevant.
9. The Green Belt Policy GB8 of the Allocations and Development Management Plan concerns the limited extension to non-residential buildings, as proposed here and refers in the supporting text to paragraph 89 of the Framework. In order to be permitted, the local policy requires the existing building to be lawful and permanent in nature and that is agreed now; and the design and volume of the proposed extension, taking into consideration the cumulative impact of any previous extensions, would be proportional and subservient to the 'original' building and would not materially harm the openness of the Green Belt through excessive scale, bulk or visual intrusion.
10. The Council have adopted the Supplementary Planning Document '*Development in the Green Belt*' and with regard to the consideration of non-residential extensions and the operation of Policy GB8 states that the volume, scale and bulk of an extension or replacement building should not result in a large, bulky or intrusive building which would adversely impact on the character of the countryside or the openness of the Green Belt. The impact of the development on the countryside is clearly greater if located in a highly visible location. However, the test of impact still applies even if there are limited or no public views of it as, if allowed, the argument could be repeated, with a potentially more serious cumulative impact on the openness of the Green Belt and the urbanisation of the countryside and for these reasons would be unacceptable. In some locations any extension or replacement building may be inappropriate.
11. With regard to the Area of Outstanding Natural Beauty, the Council refers to the Countryside and Rights of Way Act 2000 and the need to conserve and enhance, and Framework paragraph 115 states that great weight should be given to conserving landscape and scenic beauty in Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty.

12. The building is listed Grade II and is within the Hoath Corner Conservation Area. Sections 16(2) and 66(10) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the same Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Policy SP1 of the Core Strategy and Policy EN4 of the Allocations and Development Management Plan seek the protection of heritage assets.
13. Paragraph 132 of the Framework states 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. The courts have determined that considerable importance and weight should be given to harm found to the significance of listed buildings.

Green Belt

14. The building as it presently stands consists of the main rectangular framed structure, two-storey to the front elevation, with a deep 'cat-slide' roof as set out in the listing description, ending at a ground floor eaves level. To that shape has previously been added a single-storey projection to the roadside housing the men's toilet, a projection at two stories on the opposite end housing the women's toilet and stairs to a corridor above that leads back into the main block, and the single storey kitchen the roof of which continues the plane of the 'cat-slide'. A low brick store and timber shed, together with a connecting lobby, complete the ensemble to the rear.
15. The proposed development consists of the removal of the women's toilet, kitchen and stair projection, and replacing them with a two-storey extension to the first floor accommodation over an extended bar area, and replacing the lobby, brick store and timber shed with a single service range housing a new kitchen and toilets, including disabled person's facilities, under a wide roof form, with a further attached roofed area for a store and the rear of the toilets. The present men's toilet would become partly an access to the rear garden from the existing bar, and partly an office accessible from behind the bar. The Council provide a planning history which refers to additions and alterations from 1951 to 1956 and whilst not providing full details to correlate against the various additions seen at the site inspection, it appears that at least some of the additions post-date what should be considered as the 'original' building referred to in Policy GB8 and paragraph 89 of the Framework.
16. The appellant has provided various calculations on plan form and volume, and the Officer's Report gives a commentary of where the differences in their interpretation lie, whilst the appellant's appeal statement gives detail of what existing in 1948. It does appear to be the case that some parts of the building that are not 'original' have been included as such. The Council put forward a calculation of a 74% increase in floor area, although having looked into the attic, it is unclear quite what its status should be; it is boarded in parts but has a low headroom, albeit lit by a window. On the basis that one of the essential characteristics of Green Belts is their openness, the Council's approach of not including the cellar in the volume calculations appears reasonable, although the Officer accepted the limitations of the comparison with the appellant's figures.

17. Percentage figures can only take the consideration a certain distance and analysis of the spatial effect is essential, particularly as the quoted Policy GB1 does not apply to this building. The roof plan on drawing SK02B shows a wide span to the proposed kitchen and toilet roof, and the elevations on drawing SK03C show the extent to which this overlaps and covers the 'cat-slide' roof. Comparison with the existing elevations at drawing SY03 shows the amount of additional development at height and width to cover the plan form of the kitchen and toilets. Similarly with the side extension, there would be a significant increase in the width of the building when seen from the car park where no building exists at present.
18. The architectural and historic effects will be considered later, but in addition to the floor area and volume calculations, and even allowing for some middle ground between the Council's and the appellant's figures, or even more towards the appellant's figures, there would be significant addition of scale and bulk to the rear of the original building.
19. To conclude on this issue, the proposed extensions are disproportionate additions over and above the size of the original building, as set out in the Framework, Policy GB8 and the Supplementary Planning Document, and as such the proposal is inappropriate development in the Green Belt.
20. As stated in paragraph 87 of the Framework inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Substantial weight should be given to any harm to the Green Belt and very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. This Decision will now move on to consider whether there is any other harm, before looking at other considerations and whether they amount to the very special circumstances necessary to permit inappropriate development.

Openness

21. Many of the comments that go before regarding the spatial effect of the side addition and the roof to the kitchen and toilets apply in this consideration. Whilst built form exists at a lower level with the brick store and timber shed, the width and resulting height of the ridge, taken over the length to meet the 'cat-slide' roof, would erode openness, compared with the low roofs presently in place. The proposed larger two storey part over the new bar and extension of the first floor accommodation would also erode openness.
22. These are matters of fact and as stated in the Supplementary Planning Document do not rely on a public view. By placing built form where none exists at present at roof level and in the case of the side extension, beyond the present extent of built form, the present openness of the site would be reduced, undermining an essential characteristic of the Green Belt in this location.
23. There are public views of open space above and beyond buildings, that would be stopped-off, and this adds weight to the findings, however, the full extent of the kitchen roof in particular is less obvious due to the fall in the ground to the north and east. Nevertheless, harm would be caused to the openness of the Green Belt, in addition to the harm by reason of being inappropriate development.

Listed Building

24. The Council object to the opening-up of what is at present the wall between the bar and the women's toilet where the later chimney breast and chimney would be removed to provide steps down into the proposed new Bar 3 and a short section of open studwork, all as shown on a visualization provided. This is undoubtedly the line of the historic outer wall of the building, and the section of framing to the south-west would remain as outer wall over the cellar flap. The existing door to the toilet appears of some age and significance to the building and is proposed to be re-used elsewhere; this could be secured by condition.
25. Having mind to the nature of the fireplace and chimney, and as shown by exposed brickwork and cement mortar by the door, it is not at all certain that historic fabric still exists in this area. The opening up would provide a pleasant ambience to the proposed new bar area and would integrate the new extension with the remainder of the operation, whilst still delineating old from new. The proposed extension to allow the formation of Bar 3 and the room above would not interfere with the original lines of the building and would appear sufficiently different as to not undermine the architectural or historic significance of the main building.
26. Whilst harm may be caused, it would be limited and that caused by the works would be outweighed by benefits such as the increase in trading area and the opening-up of the studwork section would allow supervision and the integration just referred to. In the balance required by paragraph 134 of the Framework, the works in this area are justified by the public benefits.
27. The first main issue has found the roof over the kitchen and toilets as part of the reason why the new works were found to be a disproportionate addition to the building when considering the Green Belt provisions at national and local level. It is also partly that size of roof that erodes openness as a matter of fact, when compared with the present low roofs here. When considering the effect on the listed building, the 'cat-slide' roof is an attractive element of the significance of the building, both architectural and historic, and presents a pleasing feature of the building that is hardly affected by the later additions of the present kitchen, brick store and timber shed, with the lobby being a low, unassuming link.
28. The new roof over the kitchen would overlap and cover a section of the 'cat-slide' roof, and instead of it being seen as a complete plane as at present, albeit extended by the present kitchen roof, it would be changed to appear more part of the modern arrangement, separated only by a valley gutter. Section SK05B shows a double height volume over the proposed kitchen and this is stated to be required for ventilation plant.
29. The appellant's Assessment attributes this rear part of the building to the late 17th and early 18th centuries, clearly of historic significance. The Assessment refers to the rear outshot having moderate illustrative value, whilst the value of the public house as a community asset, albeit not formally identified as such, is high, as is the historic association and continued use of the building. There appear compelling reasons why a modern well-serviced kitchen is required to ensure the public house remains part of the community, and compelling reasons why the size of roof proposed is required, to locate the essential services. The alternative would appear to be exposed plant which would detract from the listed building and the conservation area far more directly.

30. The introduction of the new roof abutting and removing part of the plane of the 'cat-slide' would cause some harm to the listed building and the character and appearance of the conservation area as designated heritage assets. The level of harm is 'less than substantial'. Set against that harm are the benefits of more certainly securing the future of the building in its present use; the benefits of placing plant out of sight, and avoiding harm by reason of its visibility with a ready high-level link to the front part of the building for service runs; and notwithstanding the effect on the cat-slide, the complete composition would be more pleasing than any attempt to maintain the cat-slide intact by separating the kitchen roof structure from the older part.
31. On balance, the works to the listed building are justified by allowing the continued preservation of its historic use and public access and the limited losses are significantly outweighed by the benefits. In total the works satisfy the tests in the 1990 Act and accord with guidance in the Framework, and Policies SP1 and EN4. Harm to the listed building, the conservation area and the Area of Outstanding Natural Beauty therefore do not feature in the Green Belt balance which follows.

Other Considerations

32. Harm has been found in principle through being inappropriate development in the Green Belt, together with harm to openness. The matters put forward for consideration as to whether they amount to the very special circumstances necessary to permit such development will be looked at now.
33. *No harm to the listed building.* For the reason set out above, this claim is agreed with. Although 'lack of harm' is rarely accorded significant weight in Green Belt considerations as a positive aspect, the continued preservation of a listed building is a public benefit.
34. *Modern requirements for disabled people, circulation and surveillance by staff.* Weight does attach to these improvements, and the appellant has put forward arguments as to why the plan form to accommodate these features translates into the building form proposed.
35. *First floor accommodation would be improved, difficulty in recruiting and retaining a licensee chef.* Again, the need for and method of providing this improved accommodation is accepted, and the rationale of covering the kitchen with the proposed bulk of roof has been adequately justified.
36. *Economic viability.* Paragraph 4.20 of the appellant's appeal statement sets out a recent history of some concern with regard to the public house continuing to function. A prospective operator is only willing to take the lease if a new kitchen can be provided and an additional 10 covers accommodated. The proposed kitchen is stated to be the smallest that can be provided in view of modern standards, and the Council do not contest this. The servicing requirements to provide an attractive environment for patrons and staff, and hence the assists viability, justify the works.
37. *Local need for community use and level of support given.* There has already been the loss of the shop, Post Office and village hall, and from the letters of support it is clear that the Rock provides a focal point for the settlement. Clearly financial viability as just discussed is central to the continued provision of this community use.

38. *Conversion to residential use.* The appellant states that if converted, additions could be allowed the 50% set out in Policy GB1. However, no application has been made for such conversion, and there would be no certainty of it being granted.
39. *Architectural cohesion.* There are clearly other ways of providing the required accommodation, but the design of the building would lead to a more attractive architectural arrangement that does not strike at the heart of the listed building and integrates the new accommodation in an appropriate way. As a building in the conservation area and Area of Outstanding Natural Beauty, the integration of the kitchen roof with the cat-slide is attractive and avoids the risk of a disjointed and unattractive appearance. The removal of unattractive and poor quality additions is a benefit.

Planning Balance

40. In the balance required of Green Belt considerations, the matters put forward, and particularly the need for additional bar room and kitchen accommodation, together with improvements to the residential spaces, do clearly outweigh the harm, including that by reason of inappropriate development.
41. The Green Belt balance and the listed building consent balance coincide in that the enhanced kitchen, staff and public accommodation would be justified by the benefits. The other considerations put forward do amount to the very special circumstances necessary to permit inappropriate development. Consequently planning permission and listed building consent can be granted.

Conditions

42. The Council had suggested conditions in each case and the appellant had objected to the one to provide a sample panel and the fixed parking layout. On the former, it would be reasonable to require the panel during the works and before external materials are incorporated, and it should remain on site for the duration. The parking should be provided but need not be a formal layout in order to optimise the use. Conditions are required on materials generally, including joinery items and in view of the reasoning that leads to these Decisions, full details of servicing and the re-use of the door are required.
43. Lastly a condition is required naming the drawings, because otherwise than as set out in this decision and conditions, it is necessary that the development shall be carried out in accordance with the approved plans as this provides certainty. This is not required in the listed building consent as the provision for greater flexibility in planning permissions does not apply there.

Conclusions

44. Whilst there is some harm to openness and also to aspects of the listed building, in addition to the harm by reason of inappropriate development, the harm is clearly outweighed by public benefits as provided for in the Framework. Very special circumstances exist and for the reasons given above it is concluded that both appeals should succeed.

S J Papworth

INSPECTOR

Schedule of Conditions Appeal A, Planning Permission

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15/05/SP01, 15/05/SP02B, 15/05/SK01 Rev.C, 15/05/SK02 Rev.B, 15/05/SK03 Rev.C and 15/05/SK05 Rev.B.
- 3) No development shall be carried out until full details of the external treatment of the extensions hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The details shall include samples of the materials together with details of mortar mix and pointing method. The development shall be carried out using the approved materials.
- 4) No external walling and roofing material shall be incorporated into the development until a sample panel of such materials has been made available on the site for the inspection and written approval of the Local Planning Authority. The development shall be carried out in accordance with the approved sample panel which shall be retained on site until that part of the development is complete.
- 5) No development shall commence until full details of the servicing to the kitchen and bars, including pipe and duct runs, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out as approved.
- 6) No development shall be carried out until all door and window details, at a scale of not less than 1:10 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.
- 7) The parking arrangements as set out at Gateway TSP Tab 28 shall be in place on completion of the development and shall be retained thereafter.
- 8) The first floor windows in the south-eastern front elevation of the approved extension shall be obscure glazed and non openable at all times, unless above 1.7m above the internal floor level.

Schedule of Conditions Appeal B, Listed Building Consent

- 1) The works hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No works shall be carried out until full details of the external treatment of the extension hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The details shall include samples of the materials and details of mortar mix and pointing method. The works shall be carried out using the approved materials.
- 3) No external walling and roofing material shall be incorporated into the works until a sample panel of such materials has been made available on the site for the inspection and written approval of the Local Planning Authority. The works shall be carried out in accordance with the approved sample panel which shall be retained on site until those parts of the works are complete.

- 4) No works shall commence until full details of the servicing to the kitchen and bars, including pipe and duct runs, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out as approved.
- 5) No works shall be carried out until all door and window details, including the re-use of the women's toilet door, at a scale of not less than 1:10 have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.