



Appeal Decision

Site visit made on 15 July 2019

by David Cliff BA Hons MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th August 2019

Appeal Ref: APP/R3650/W/18/3217089

The Bulls Head, The Street, Ewhurst, Cranleigh, GU6 7QD

- 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 N Porter (Allois Properties (Ewhurst) Ltd) against the decision of Waverley Borough Council.
 - The application Ref WA/2017/2388, dated 19 December 2017, was refused by notice dated 17 August 2018.
 - The development proposed is 'erection of a terrace of 5 dwellings (4 x 2 bedroom and 1 x 3 bedroom), demolition of an existing later extension to the pub and the skittle alley; a new extension to the pub, together with other alterations; the provision of a revised parking layout; and pub garden'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a terrace of 5 dwellings (4 x 2 bedroom and 1 x 3 bedroom), demolition of an existing later extension to the pub and the skittle alley; a new extension to the pub, together with other alterations; the provision of a revised parking layout; and pub garden at The Bulls Head, The Street, Ewhurst, Cranleigh, GU6 7QD in accordance with the terms of the application Ref WA/2017/2388, and subject to the conditions in the attached schedule.

Procedural Matter

2. Notwithstanding the description of development in the banner heading above which has been taken from the planning application form, the submitted plans also show the demolition of an existing outbuilding to the rear of the public house as well as the demolition of the existing extension. I have considered the appeal on this basis.

Main Issues

3. The main issues are:
 - Whether the proposed development would preserve or enhance the character and appearance of the Ewhurst Conservation Area, including consideration of the proposed built form, effects upon existing open space and trees within the site.
 - The effect upon the public house as an undesignated heritage asset.
 - The effect upon the use and viability of the public house.

Reasons

Built form, open space, trees and the effects upon heritage assets

4. The proposed residential terrace would be located on currently open land which forms part of the outdoor garden area to the existing public house. This open space, along with the trees within it forms a visually pleasant gap in the street scene between the public house and The Old Forge to the south. The proposal would significantly impinge upon this open space. However, this part of the Ewhurst Conservation area is predominantly characterised by its tighter development on both sides of the road and has less of a rural character than other parts of it. I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. Whilst the village green adjacent to several listed buildings opposite the site makes an important contribution to the significance of the conservation area, the role of the existing open space within the appeal site is much more limited. It is not an open space that is of significant importance to the character and setting of the conservation area and it is not recognised as such by the Ewhurst Conservation Area Appraisal 2016 (CAA). Whilst representations have been made regarding the effect on the open space, I consider that given its limited value and the layout of surrounding development, it is possible for new development to take place upon it provided that the development is of a quality of form and design that is in keeping with this part of the village.
6. The existing residential development fronting The Street in this part of the conservation area includes detached, semi-detached and terraced properties located on predominantly small plots. The proposed terrace would be of a height, massing and appearance that sensitively responds to the existing street scene. The design would incorporate traditional pitched roofs, gable frontages, timber cladding, oak timbers and natural brick. The varied articulation would add built form with visual interest to the streetscape that would be generally in keeping with the character and appearance of this part of the village.
7. Whilst the proposed terrace would result in further urban development within the street scene it would not be out of keeping with the existing form of development fronting The Street within the vicinity of the site. The separation distance from the front of the site would also be generally in keeping with existing development in this part of the conservation area and would not negatively impinge upon the open green on the opposite side of the road. A gap of approximately 10m would be retained from the north elevation of the proposed terracing to the facing flank elevation of the public house. Taking account of all these factors, the proposed development would not appear as being cramped within the street scene or detrimental to the character and appearance of the village or Conservation Area.
8. The proposed parking and vehicular accesses would involve substantial areas of hardstanding within the site. However, there are existing areas of hardstanding within the site. Taking account of the proposed landscaped areas within the scheme, including the area to the front of the public house, no adverse impacts would result upon the setting of the public house or the wider character and appearance of the area.
9. The appeal site contains several trees of varied species and form. The trees on the site are not referred to in the ECAA as being a feature of the Main Street

Character Area. However, collectively they do add to the general visual amenity of the area. The Appellant's arboricultural appeal statement (November 2018) reports that the two larger trees (No.7 Ash and No.20 Douglas Fir) are both structurally compromised and diseased/infected. It states that they will require removal in the foreseeable future. Although, it considers the trees to make a positive contribution to the character of the area, in its appeal statement the Council has not disputed the Appellant's arboricultural findings relating to the condition of these two trees. This leads me to the conclusion that they are not suitable for long term retention and therefore are unlikely to make a long-term visual contribution to the area.

10. The retained Horse Chestnut tree would be located within the rear garden of the proposed dwelling on plot 3 and would be a very prominent feature when viewed from this and the other adjacent proposed properties. Nevertheless, I am satisfied that sufficient distance would be retained from the canopy of this tree to the rear elevations of the terraced properties in order not to result in the likelihood of future pressure for the removal of or for significant works to this tree.
11. Subject to a condition requiring the approval and implementation of a proposed landscaping scheme, the loss of existing trees from the site would not result in significant adverse impacts upon the character or appearance of the conservation area.
12. The main parties agree that the existing public house is a non-designated heritage asset. The positioning and set back of the terrace from the front of the site would retain the principal views of the public house from public vantage points. Moreover, the space retained around this existing building, including the separation with the proposed terrace, would retain an appropriate setting for the building. Its setting would also benefit from the proposed replacement of existing paving adjacent to its front elevation by a landscaped area. I am satisfied that no harm would result to the setting and significance of this non-designated heritage asset.
13. I have also considered the demolition of the existing out building and extension to the public house. Whilst being partially visible in the streetscene, from my observations at my site visit and the evidence provided with the appeal, there is no compelling case that these make a significant contribution to the character and appearance of the conservation area or to the significance of the public house as a non-designated heritage asset.
14. Taking account of the existing layout of frontage development in this part of the village, my conclusions on the acceptability of the design of the new development and the good level of separation between the development proposals and the listed buildings adjacent to the village green, I am satisfied that no harmful impacts would result upon their setting.
15. Taking all the above matters into account, I conclude that the proposed development would preserve the character and appearance of the Ewhurst Conservation Area. It would also not result in any harm to the overall character or visual amenity of the village or the setting and significance of the public house. It would accord with the relevant design and heritage aims of policies TD1 and HA1 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites 2018 (LPP1), saved policies D1, D4, D6 and HE8 of the Waverley Borough

Council 2002 and the National Planning Policy Framework 2018 ('the Framework').

Use and viability of the public house

16. Although the parties disagree on whether the public house should be considered as a cultural asset there is agreement that it is a community asset. It is also listed as an Asset of Community Value. Paragraph 83 of the Framework seeks to enable the retention and development of accessible local services and community facilities, including public houses. Paragraph 92 stresses the need for planning decisions to provide social, recreational and cultural facilities in accordance with community needs.
17. The proposal would retain the main part of the existing public house and provide a new single storey rear extension. It would result in the loss of an existing extension providing a function room/skittle alley but there is no evidence to suggest that the retention of this is needed to ensure the future viability of the public house. Taking account of the overall enhancements proposed to the public house, the use of the function room/skittle alley does not appear to be on such a regular basis that its loss would be harmful to the overall offering of the public house to the local community. From the evidence provided, including the Appellant's viability report, the proposed alterations to the public house would be part of its overall refurbishment and would be likely to improve rather than harm the overall viability of the public house. I agree that proposals such as the refurbishment of the trading area and the improvement of the kitchen facilities should provide improvements to the functioning of the public house and the experience of its users.
18. The proposed residential development would result in the loss of a large area of the existing pub garden. Balanced against this, the remodelling of the external areas close to the public house would provide for consolidated outdoor seating areas. These would be able to be more conveniently managed than the existing arrangement where informal seating is provided across the site. Whilst the size of the external area available for customers would be substantially reduced, there is no evidence to suggest that this would affect the overall viability of the public house.
19. The evidence provided indicates that whilst the proposed development would not undermine the viability of the public house, it is not essential to its viability. There is no compelling evidence before me that leads me to consider that the public house would be at risk of closing as a result of the proposal. Therefore, a condition or agreement for the different parts of the development to be linked as suggested by interested parties is not necessary in this case.
20. Any future proposals in connection with the public house would need to be considered on their merits against the relevant planning policies.
21. I am therefore satisfied that the proposed development would not be detrimental to the use and viability of the public house. In addition, the proposals would not harm the existence of the public house as an Asset of Community Value. The development would satisfactorily accord with the provisions of paragraphs 83 and 92 of the Framework.

Other Matters

22. Policy ALH1 of the LPP1 allocates a minimum of 100 new homes for Ewhurst. A previous appeal decision¹ at Firethorn Farm has resulted in 115 new homes being permitted in the village. The current proposal would increase this by a further five dwellings. The Council has not objected on this basis, and taking account of the modest increase in housing numbers that would result from this proposal, along with the location of the site within the village and close to local services, I do not consider that it would materially conflict with the Council's spatial strategy or lead to any excessive pressure on services in this location. It also accords with the aim of the Framework to boost the supply of housing.
23. With regard to habitats and ecology, the Appellant's evidence states that the availability of high-quality commuting and foraging habitat within short distances of the site suggests that the impact of any marginal loss of habitat from the loss of trees is likely to be extremely low and of negligible consequence. There is no detailed evidence before me which contradicts this assessment. Conditions are suggested regarding ecological mitigation and bat protection. With the imposition of these conditions, I do not consider that any significant harm would result in terms of the ecological and habitat value of the site, including from the loss of existing trees.
24. The proposal includes a satisfactory level of parking and vehicle turning provision for both the commercial and residential elements. It also includes separate vehicular accesses with appropriate visibility. The County Highway Authority find such arrangements to be acceptable subject to conditions. I consider that no adverse impacts would be likely to result in respect of highway safety and local highway conditions.
25. The separation distances to and juxtaposition with neighbouring properties, along with existing boundary screening, would ensure that no unreasonable impacts would result upon the living conditions of the occupiers of neighbouring properties, including privacy, outlook and sun/daylight effects.
26. The Council has confirmed that the proposal does not trigger a requirement for affordable housing and no objections are made to the proposed housing mix. Noting that four of the proposed properties consist of only two bedrooms, I agree that no harm would arise from the proposed form of housing proposed.
27. The Ewhurst and Ellen's Green Neighbourhood Plan is currently the subject of Regulation 14 consultation. Given its fairly early stage of preparation, it currently carries minimal weight and does not alter my conclusion on the issues considered in this appeal.

Conditions

28. An approved plans condition is necessary for the avoidance of doubt as to what has been permitted. Conditions 3, 4, 5, 17, 18 and 20 are necessary in order to achieve a satisfactory external appearance of the development and to preserve or enhance the character and appearance of the Conservation Area. Conditions 13, 14, 15 and 16 are necessary in order to safeguard and promote ecological interest at the site. Conditions 8, 9, 10 and 11 are necessary in order to provide for satisfactory parking and access provision and to safeguard highway safety and local highway conditions. Condition 12 is required in order to

¹ APP/R3650/W/18/3217089

- promote alternative methods of transport to the private car. Condition 6 is necessary in order to ensure there is satisfactory provision of services to the site. Condition 7 is necessary in order to ensure there is appropriate investigation and safeguarding of any archaeological interest at the site.
29. Given the need for good quality design in order to preserve or enhance the character or appearance of the Conservation Area, along with the proximity of the development to the retained Horse Chestnut tree, there is particular justification in this case for the removal of certain permitted development rights (condition 19). However, I have not included Class B as development under this Class is not permitted in any case within a conservation area.
30. The Appellant has provided its written approval of the pre-commencement conditions. Each of these need to be resolved pre-commencement as they include measures that address impacts that may arise from site development and construction works.
31. I have not included the Council's suggestion that all new partitions shall be scribed around existing ornamental mouldings as the meaning of this requirement is not clear, nor is it clear as to which part of the development it relates to. It therefore fails the test of precision. I have not imposed the Council's suggested condition requiring a parking management plan for the public house as from the reason provided, I am unclear as to why it is reasonable or necessary to make the development acceptable. I have also not imposed the Council's suggested condition regarding the use of the second floor of the public house. This is because any future change of use of the public house would be subject to the normal planning control and regulation regarding changes of use and therefore it is unnecessary for the planning permission granted here which does not include a change of use of the public house.
32. I have made alterations to the wording of several conditions from that suggested by the Council in the interests of clarity and precision, though these changes do not alter the essence of such conditions.

Conclusion

33. Having regard to all matters raised, I have found that the proposed development would accord with the development plan when considered as a whole and there are no material considerations that have led me to find that permission should be withheld. I conclude that the appeal should be allowed.

David Cliff

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. Unless varied by any of the following conditions, the development hereby permitted shall be carried out in accordance with the following approved plans: 1717-P001C, 1717-P105C, 1717-P106C, 1717-P107C, 1717-P108C, 1717-P109C, 1717-P110C, 1717-P111C, 1717-P112C, 1717-P303C, 1717-P304C, 1717-P305C, 1717-P306C, 1717-P309C, 1717-P002D, 1717-P101D, 1717-P102D, 1717-P104D, 1717-P301D, 1717-P302D, 1717-P003F, 1717-P004F, 1717-P005F.
3. No relevant construction shall take place until samples of the materials to be used in the construction of the external surfaces of the development and any hard surfacing hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
5. No development shall commence until a scheme of landscaping (including details of trees scheduled for retention and details of hardstandings) has been submitted to and approved in writing by the local planning authority. The landscaping scheme shall be carried out no later than the first planting season following the occupation of the buildings or the completion of the development, whichever is sooner. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size or species.
6. No development shall commence until details of any services to be provided or repaired on the site, including drains and soakaways, 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. No development shall commence until a written scheme of archaeological investigation has been submitted to and approved in writing by the local planning authority. No development shall take place other than in accordance with the approved scheme.
8. No development shall commence until a Construction Transport Management Plan (CTMP) has been submitted to and approved in writing by the local planning authority. The Plan shall include details of:
 - a) parking for vehicles of site personnel, operatives and visitors,
 - b) loading and unloading of plant and materials,
 - c) storage of plant and materials,
 - d) programme of works (including measures for traffic management),
 - e) provision of boundary hoarding behind any visibility zones,
 - f) HGV deliveries and hours of construction,

- g) vehicle routing,
- h) measures to prevent the deposit of materials on the highway.

The approved CTMP shall be adhered to throughout the construction period of the development.

9. The development shall not be first occupied until the proposed site accesses onto The Street and Ockley Road have been provided with 2.4m x 43m visibility splays in accordance with the approved plans, and thereafter the visibility splays shall be kept permanently clear of any obstruction above 0.6m.
10. The development shall not be first occupied until the existing accesses from the site to The Street and Ockley Road, made redundant as a result of the development, have been permanently closed and any kerbs, verge, footway, fully reinstated.
11. The development shall not be first occupied until space has been laid out within the site in accordance with the approved plans for vehicles to park and turn. Thereafter the parking and turning areas shall be retained and maintained for their designated purposes.
12. The development shall not be first occupied until facilities for the secure parking of bicycles have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The bicycle parking shall thereafter be retained and maintained.
13. The development shall be carried out in accordance with Section 5 of the Outline Mitigation strategy contained within the submitted Bat Survey Report produced by David Archer Associates dated June 2018.
14. Prior to the commencement of development, a precautionary working method statement to protect Great Crested Newts shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved statement.
15. Prior to the commencement of development, a precautionary method of working statement in line with the recommendations of paragraph 5.1.3 of the submitted 'Updated Ecology Appraisal' produced by David Archer dated November 2017 shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved statement.
16. Prior to the commencement of the development hereby permitted, details of measures, including a programme of implementation, for the eradication of Japanese Knotweed shall be submitted to and approved in writing by the local planning authority. The eradication measures shall be implemented in accordance with the approved details.
17. No development above ground works (slab level) shall commence until details of the following parts of the development have been submitted to and approved in writing by the local planning authority (with drawings to a scale not smaller than 1:5):
 - a) New windows and external doors,
 - b) Roof details (including section drawings), and
 - c) Chimneys.

The development shall be carried out in accordance with the approved details.

18. Rainwater goods (including gutters, downpipes and hopper heads) and external soil pipes shall be of cast iron or cast effect plastic.
19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no extensions or alterations as defined within Part 1 of Schedule 2, Classes A, C or D shall be made to the dwellinghouses.
20. Notwithstanding the details on the submitted plans, prior to the first occupation of the development hereby permitted, details of all means of enclosure shall be submitted to and approved in writing by the local planning authority. The means of enclosure shall be constructed in accordance with the approved plans prior to the occupation of the relevant part of the development.