



Appeal Decision

Site visit made on 13 August 2019

by Mr W Johnson BA(Hons) DipTP DipUDR MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 September 2019

Appeal Ref: APP/J1860/W/19/3230170

The Anchor Inn, 69 Main Road, Kempsey, Worcester WR5 3NB

- 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 Punch Partnerships (PML) Ltd against the decision of Malvern Hills District Council.
- The application Ref 18/00636/FUL, dated 30 April 2018, was refused by notice dated 29 April 2019.
- The development proposed is described as: 'Retention of the existing public house (Use Class A4) and the erection of a convenience store (Class A1) and associated works including the reconfiguration of the car park and outdoor amenity areas'.

Decision

1. The appeal is dismissed.

Procedural Matter

2. For clarity and precision, I have inserted 'Worcester' into the address in the banner, as it is listed on the appeal form.

Application for costs

3. An application for costs was made by Punch Partnerships (PML) Ltd against Malvern Hills District Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on heritage assets, with particular regard to Colne House (CH) which is Grade II Listed, The Anchor Inn (the AI) which is a non-designated heritage asset, and to the Kempsey Conservation Area (KCA).
 - the effect of the proposal on highway safety, with particular regard to the proposed arrangements for off-street parking provision, deliveries and ensuring a safe and suitable environment for all users.

Reasons

Designated heritage assets

5. The appeal site is located within the KCA which was originally designated as a conservation area in 1978, and between CH and the AI. The appellant in their submitted Heritage Statement¹ (HA) has also identified a number of additional

¹ Heritage Statement for land at The Anchor, Kempsey April 2018

designated heritage assets in the locality, namely: 63 Main Street; West Royd Stores (WRS); Old Vicarage (the OV); Oakfield and the Talbot Public House (the TPH), which are all Grade II listed. I observed all of these properties during my visit.

6. The setting of a heritage asset is defined in the Glossary of the National Planning Policy Framework (the Framework) as: 'The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral'.
7. With regard to No 63 and WRS, I find that the presence of CH and the distance from the site provide sufficient mitigation against any harm to their setting. The same also applies to Oakfield, which has a number of buildings, mature trees and vegetation between it and the site, including the AI. During my visit, I also undertook a site visit at No 1 the OV from within its curtilage and the building itself, which now comprises 2no. properties. However, I noted that due to the dense vegetation and mature trees surrounding this property, views into and from the OV were limited. Additionally, the site would be located across the road from the OV at an oblique angle which provides further mitigation against any harm to the setting of this listed building.
8. Both main parties agree that The AI is a non-designated heritage asset, and this is reinforced by its identification in The Kempsey Conservation Area Appraisal and Management Strategy 2008 (KCAAMS) as an unlisted building of merit. I acknowledge that the AI and its curtilage has been the subject of alterations, especially since it became a public house. However, I find that the adjacent historic listed buildings and their historic significance, along with the contribution of the AI to the historic building line on Main Road to be important elements of this building's significance. Although the site is now a car park, it nevertheless provides an element of historic value to the open character of the AI. Whilst the scheme generally respects the scale, massing, and appearance of the AI, I find the proposal to generate some harm to the significance of this non-designated heritage asset, through the loss of historic context.
9. Turning to the effect on the setting of CH, the listing identifies the property to date from the early to mid-19th Century of a Stucco style with tile roof, with a symmetrical composition of three storeys, with single-storey one-bay wings with parapets to each side. At first floor level there is an iron balcony and giant pilasters that extend to sill level, dividing the bays, and flanking the façade. The fenestration of the property comprises sashes, with the windows above ground floor having glazing bars, apart from the central French windows at first floor. I find that the proposed development falls within the setting of CH, due to its proximity. Accordingly, the resultant increase in development on the site from a car park as a result of the proposed development would be notable.
10. The KCAAMS identifies the site as an 'opportunity for enhancement', which I note, especially as this area currently comprises a large car park with a tarmac surface. However, both the main parties acknowledge that no further details are provided on the type of opportunity for enhancement that exists. I recognise that the HA was submitted with the original scheme that was then subsequently amended during the assessment of the application, incorporating, amongst other things, alterations to the ridge height, a reduction in footprint,

alteration to the proposed building line and the inclusion of a shop front. Nevertheless, I find the HA to represent a material consideration in the determination of this appeal.

11. The HA identifies that the proposal would occlude sections of the curtilage listed wall and outbuildings to the rear of the asset, which would still be the case with the amended scheme. This substantial historic brick wall, having buttressing, varied coping details and incorporating the gable ends of two ancillary buildings within the grounds of CH is a notable feature in the street scene, especially when travelling in the direction of CH from the AI. In this direction of travel, the proposed development would be clearly read in conjunction with CH, and whilst the proposal has been designed to be subservient in scale to CH, respecting the domestic residential character of the area, it will nevertheless obstruct a large proportion of the historic wall from public view, which I find currently contributes to the significance of CH.
12. I have a statutory duty under Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires me to have special regard to the desirability of preserving or enhancing a listed building or its setting or any features of special architectural or historic interest which it possesses. I consider the proposed development would not accord with this duty.
13. The site whilst forming part of a large car park, is prominent in the street scene. I accept that due to the tarmac surfacing of the car park that it no longer represents a 'green gap' on Main Road. However, I find that this gap and the subsequent views that it enables of the CH and its historic wall and outbuildings to make a positive contribution to the character and appearance of the KCA. The site forms part of a generous plot relative to the size of the AI, creating a spacious setting, which I find expressive of this part of the KCA.
14. I consider that the proposed scheme through its design, siting and location to constitute an excessive form of development that would significantly alter the character and appearance of the appeal site. Although, I note the misgivings in the current appearance of the car park, I find that the proposal, through the significant increase in bulk and massing of development that would be introduced to the site would be at odds with the prevailing character of this part of the KCA. This would be contrary to a key issue for the Main Road South Zone in the KCAAMS, which is to control new development and infrastructure to uphold the density and quality of the area.
15. Having regard to the above, I conclude that the proposed development would fail to preserve or enhance the character or appearance of the conservation area. It would, therefore, not comply with the statutory duty under Section 72(1) of the Act concerning the desirability of preserving or enhancing the character or appearance of the conservation area.
16. The appellant has referenced various approved planning applications for the AI obtained from both the Council and the County Council, which I note. Additionally, the appellant has provided a copy of an appeal decision² in support of their submission. However, relatively little detail has been provided regarding the particular planning backgrounds to this scheme and I do not know what evidence was before the Inspector at the time of his decision.

² APP/R0335/W/18/3217673

Consequently, I cannot be sure that this is entirely representative of the circumstances in the appeal before me. In any event all appeals are judged on their own individual merits and where appropriate the relevant legislative provisions. Accordingly, that is how I have assessed this appeal scheme.

17. For all of these reasons, I therefore conclude that the proposed development would not accord with the heritage, design, character and appearance aims of Policies SWDP6 and SWDP24 of the South Worcestershire Development Plan 2016 (DP), Policy K5 and K9 of the Kempsey Neighbourhood Plan 2017, and guidance contained within the KCAAMS. Additionally, the proposed development would not conserve the heritage assets in a manner appropriate to their significance in line with the Framework. I find that the proposed development would result in "less than substantial" harm to the KCA and the setting of CH for the purposes of paragraph 196 of the Framework and would adversely affect the significance of the AI.
18. The proposal would add a further facility for use by the community, through the provision of an additional convenience store. The site is located in an accessible location, close to other facilities including the AI, which the proposal could effectively support through an increase in activity and footfall. Additionally, the proposal would result in some limited economic and social benefits, including the creation of a number of employment opportunities, amongst other things. However, as public benefits, these would not outweigh the less than substantial harm to the significance of the KCA and the setting of CH.

Highway safety

19. The appeal site is accessed from Main Road. During my visit, I noted that a number of cars were parked on the AI car park. The appellant has submitted a Transport Statement³ (TS) to support their application. Additionally, I recognise that details of a speed survey were also submitted to the Council during the course of the application.
20. A total of 35no. car parking spaces would be provided as part of the proposal that would be shared between the AI and the proposed convenience store. The TS acknowledges that the proposed development is likely to result in an increase in traffic generation to the site but will not result in any detrimental impact on the existing network. I note that concerns have been raised by the Council in respect of whether the function room was taken into consideration during the parking survey. However, the appellant confirms that the function room was taken into consideration.
21. In any event, I note the findings obtained between 12:00hrs and 00:00hrs on Friday 23rd March 2018 to Sunday 25th March 2018, where the highest recorded peak demand was for 16 spaces on Saturday 24th March 2018. Although, the survey was for only a limited amount of time, it was undertaken over the weekend period where demand is likely to be greater than during the week. Therefore, in the absence of any data to the contrary, I consider the findings in the submitted TS to be a material consideration that I attach significant weight.
22. On the submitted drawings, I note that 2no. electric charging points, a number of bicycle hoops in covered and uncovered locations, and 4no. motorcycle

³ Transport Statement undertaken by Transport Planning Associates April 2018

parking spaces are shown near to the proposed entrance. Whilst concerns have been raised by the Council to the provision of electric charging points and bicycle / motorcycle spaces on the submitted plans, I find that it would be possible to address these concerns through the imposition of a suitably worded condition.

23. Additionally, I note on the submitted drawings that a dedicated delivery bay would be located adjacent to the proposed store. I consider that such a facility within the site would allow for deliveries to be made safely to both the store and the AI. There would be good visibility within the car park and footpaths around both the AI and the store, thus further reducing any potential conflict between vehicles and pedestrians. I also find that through the imposition of a suitably worded condition requiring the submission and approval of a servicing management plan would ensure that deliveries to both the proposed store and the AI could be appropriately managed to avoid any unnecessary conflict.
24. For all of these reasons, I therefore conclude that the proposed development would not unacceptably harm highway safety, with particular regard to the proposed arrangements for off-street parking provision, deliveries and ensuring a safe and suitable environment for all users. Therefore, the proposal would accord with the amenity and highway safety aims of DP Policy SWDP21 and the Framework, including paragraphs 108 and 110.

Other Matters

25. Representations from local residents and Kempsey Parish Council have also expressed a range of concerns on the application including, but not limited to the following: living conditions of neighbouring occupiers, effect on trees and the viability of the AI, amongst other things. However, I note that these matters were considered where relevant by the Council at the application stage and did not form part of the reason for refusal, which I have dealt with in the assessment above. Whilst I can understand these concerns, there is no compelling evidence before me that would lead me to come to a different conclusion to the Council on these matters.
26. I have also had regard to concerns raised by the appellant about the way that the Council handled the application, including events at planning committee where there is an assertion that no discussion took place to consider public benefits to be weighed in a balancing exercise, but this does not affect the planning merits of the case. I have considered this appeal proposal on its own merits and concluded that it would cause harm for the reasons set out above.

Planning Balance and Conclusion

27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires this appeal to be determined in accordance with the development plan unless material considerations indicate otherwise.
28. I have found that the proposal does not create any significant harmful effects from a highway safety point of view. However, this is a neutral matter in the overall planning balance. Whilst the proposal would seek to provide an additional convenience store for the community and its associated benefits, this would not significantly and demonstrably outweigh the significant harm that would be caused to the KCA, CH and the AI.

29. The proposal would be contrary to the development plan when taken as a whole, and there are no other considerations which outweigh this finding. It would also be at odds with the requirements of the Framework. Therefore, taking all matters into consideration, I conclude that the appeal should be dismissed.

W Johnson

INSPECTOR