



Appeal Decisions

Site visit made on 14 August 2019

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8th October 2019

Appeal A Ref: APP/B3410/W/18/3213194

Land at the Brookhouse Hotel, Brookside, Rolleston on Dove, Burton on Trent DE13 9AA

- 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 HDA Property Ltd against the decision of East Staffordshire Borough Council.
 - The application Ref P/2016/01659, dated 15 November 2016, was refused by notice dated 22 May 2018.
 - The development proposed was originally described on the application form as "conversion of former hotel and ancillary building to 10 residential units and the erection of 8 new dwellings, also to include access and parking arrangements and the demolition of an existing outbuilding".
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Appeal B Ref: APP/B3410/Y/18/3213200

Land at the Brookhouse Hotel, Brookside, Rolleston on Dove, Burton on Trent DE13 9AA

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by HDA Property Ltd against the decision of East Staffordshire Borough Council.
 - The application Ref P/2016/01663, dated 15 November 2016, was refused by notice dated 22 May 2018.
 - The works proposed were originally described in the same way as Appeal A.
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Decision Appeal A

1. The appeal is dismissed.

Decision Appeal B

2. The appeal is dismissed insofar as it relates to the demolition of the existing outbuilding. The appeal is allowed insofar as it relates to internal and external alterations to facilitate the conversion of former hotel and coach house to 10 residential units, including the demolition of the existing conservatory, the erection of a single storey rear extension, the creation of and alterations to window and door openings and the demolition of wall. Listed building consent is granted for internal and external alterations to facilitate the conversion of former hotel and coach house to 10 residential units, including the demolition of the existing conservatory, the erection of a single storey rear extension, the creation of and alterations to window and door openings and the demolition of wall at Land at the Brookhouse Hotel, Brookside, Rolleston on Dove, Burton on Trent DE13 9AA in accordance with the terms of the application, Ref 2016/01663, dated 15 November 2016, and the plans submitted with it, so far

as relevant to that part of the works hereby permitted, and subject to the following conditions:

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) The works hereby permitted shall be carried out in accordance with the following approved plans: 15.3208.56, 15.3208.57, 15.3208.58, 15.3208.59, 15.3208.60, 15.3208.61.
- 3) No works shall take place until samples and details of all materials to be used externally, ensuring the product name and manufacturer is provided, 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.
- 4) All works of alteration and making good of the existing fabric of the building shall be carried out in materials to match the existing building.
- 5) No works shall take place until details of the mortar mix for any brickwork repairs, pointing or repointing 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.
- 6) No works shall take place until a 1m square sample panel of brickwork to show the proposed coursing, bonding and pointing/repointing has been prepared for inspection and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 7) All guttering and downpipes shall be cast metal with a black finish and guttering shall be fixed direct to the brickwork on rise and fall metal brackets unless otherwise first agreed in writing with the local planning authority.
- 8) All new windows shall (unless otherwise first agreed in writing by the local planning authority):
 - a. be constructed in timber;
 - b. be set back from the outer face of the wall by a minimum of 50mm;
 - c. be traditionally constructed so that opening casements are flush with the frame;
 - d. have segmental brick arches (unless they are located directly underneath the eaves);
 - e. have a traditional cill detail not integral timber cills; and
 - f. have glazing bars with a maximum overall width of 18mm and a maximum outer nosing width of 6mm.
- 9) External doors shall be set back from the outer face of the wall by a minimum of 50mm and have traditional stone or segmental brick arches unless otherwise first agreed in writing by the local planning authority.

Procedural Matters

3. Amended plans were received and accepted by the Council during the lifetime of the original applications and were subject to public consultation. This required changes to the description of development for the planning application

(Appeal A) to “construct three detached dwellings and convert former hotel and coach house to create 10 residential units also including construction of a single storey rear extension and demolition of an existing outbuilding and conservatory”. It also required changes to the description of works for the listed building consent (Appeal B) to “internal and external alterations to facilitate the conversion of former hotel and coach house to 10 residential units, including the demolition of existing outbuilding and conservatory, the erection of a single storey rear extension, creation of and alterations to window and door openings and demolition of wall”. Therefore, I have considered the appeals on the basis of the amended descriptions and plans.

Main Issues

4. The main issue for both appeals is whether the proposal would preserve the Grade II listed building known as Brookhouse Inn or any features of special architectural and historic interest it possesses.
5. The main issues for Appeal A only are:
 - (a) the effect of the proposal on the character and appearance of Rolleston on Dove Conservation Area;
 - (b) whether the proposal would provide a suitable location for housing having regard to the character and appearance of the area; and
 - (c) the effect of the proposal on flood risk and the safety of future occupants.

Reasons

Listed building

6. Brookhouse Hotel (known as Brookhouse Inn on the list description) is a Grade II listed building dating from the early to mid-18th century. It is a tall three storey red brick building with a modern conservatory on one corner at the rear. The hotel is closed and the internal condition of the building is poor with damage caused by leaks and vandalism. Some internal historic fabric and layout has been lost following the conversion to a hotel by the 1960s.
7. There is a lower gabled wing to one side of the main building which projects south and then east to provide an archway and coach house. Internally, there is little historic fabric. Along the eastern site boundary are outbuildings including a two storey structure that appears to date from at least the 1880s based on historic map evidence and surviving features.
8. The special interest and significance of the listed building is informed by its architectural detailing, particularly externally, but also by its history as a former farmhouse. The rear elevation of the main three storey building is plainer than the grand and symmetrical front elevation, but contributes positively to the listed building due to its scale and survival of historic fabric. The gabled wing and coach house also lack the grandness of the front elevation, but have some architectural interest and reveal the expansion and evolution of the building over time.
9. There is dispute between the main parties as to whether the two storey outbuilding forms part of the listed building as a curtilage structure. Map evidence suggests that it formed part of the wider Brookhouse Farm site up to the point that the former farmhouse was listed. The evidence is less clear in

terms of past and present ownership and use/function. As such, I have taken a precautionary approach and assumed that the outbuilding is curtilage listed for the purposes of Appeal B in particular.

10. Nevertheless, even if the outbuilding is not listed by virtue of being within the curtilage of the listed building, its proximity means that it falls within the listed building's setting as part of the surroundings in which the listed building is experienced. As a historic structure of similar materials and design to the listed building, and in a relatively sound condition, it makes a positive contribution to the setting and significance of the listed building.
11. The setting of the listed building also includes land to the north of the rear elevation. There is a rather plain lawn and car parking area associated with the hotel use which make little contribution to the setting of the listed building. However, a paddock and wider countryside to the north provide an open and rural backdrop that contributes more positively to the setting. Modern housing to the east on Alderbrook Close provides some enclosure at the rear, but the openness remains to the north.
12. There are no objections from the Council to the conversion and alteration of the listed building into residential units as part of the proposal in Appeal A or B. I have no reason to disagree. The proposed three detached dwellings on the existing car park that form part of the Appeal A proposal would have a reasonable separation from the listed building due to the retention and enhancement of the existing lawn area. As two storey properties, they would not be as tall as the listed building and the degree of set back into the site means that they would be subservient in scale and character to the listed building. However, they would block views of the paddock and wider countryside and enclose the listed building to the north, reducing its open setting. As a consequence, there would be harm to the setting and significance of the listed building as a result of the Appeal A proposal.
13. The demolition of the two storey outbuilding for car parking that forms part of both appeal schemes would remove a historic structure situated close to the listed building. This loss would harm the setting and significance of the listed building. The appellant has provided an illustrative site plan as part of the appeal process to show the retention of the outbuilding and revised parking arrangements. This would prevent any harm to the setting and significance of the listed building. The appellant states that a revised site layout plan could be required by condition that retains the outbuilding. However, the appeal process should not be used to evolve a scheme and I cannot be certain that a revised layout plan would be acceptable to the Council.
14. For Appeal B, the retention of the outbuilding would make the proposal acceptable and it would preserve the special interest of the listed building. The works to convert and alter the listed building are clearly severable from the demolition of outbuilding. Therefore, I intend to issue a split decision for Appeal B, granting listed building consent to all elements in the description of works apart from the demolition of the outbuilding.
15. The harm to the listed building from the new dwellings in Appeal A would be less than substantial, but nevertheless important given the change to its setting. Paragraph 196 of the National Planning Policy Framework (NPPF) states that such harm should be weighed against the public benefits of the proposal including, where appropriate, securing the optimal viable use of the designated

heritage asset. NPPF paragraph 194 requires clear and convincing justification for any harm.

16. The Appeal A proposal would provide a total of 13 new dwellings to help boost local supply and support local services and facilities, which would represent a moderate public benefit. It would also re-use previously developed land (see below), but as it has not been demonstrated that the land would be suitable, it is not possible to give this substantial weight as indicated by NPPF paragraph 118(c). Instead, I only afford modest weight to this public benefit.
17. One of these dwellings would be an affordable unit with a commuted sum of £60,000 towards another half unit. This would be secured by a completed unilateral undertaking UU that has been submitted as part of the appeal documents. The Council's statement argues for two affordable units on site and a contribution of £20,000. Notwithstanding the differences, the proposal via the UU would represent a small public benefit in terms of affordable housing provision. The UU would also make financial contributions towards improving open space and education provision in the local area. These would represent modest public benefits.
18. The proposal would also result in the refurbishment and re-use of the listed building. However, it has not been adequately demonstrated that the three detached dwellings are necessary in order to secure the future of the listed building. Therefore, only moderate weight can be given to this public benefit.
19. The public benefits of the Appeal A proposal would carry no more than moderate weight and would be insufficient to outweigh the harm to the listed building. Concluding on this main issue, the Appeal A proposal would not preserve the special interest and significance of the listed building. Therefore, it would not accord with Policies SP1, SP25, DP5 and DP6 of the East Staffordshire Local Plan 2015 (LP) which, amongst other things, require development to conserve and enhance heritage assets and their settings. The proposal would also not comply with Section 16 of the NPPF which seeks to conserve and enhance the historic environment.

Conservation Area

20. Rolleston on Dove Conservation Area includes the historic core of the settlement. Its character and appearance is informed by numerous historic buildings of differing ages and styles, as well as green space and waterways such as along Brookside. The countryside comes up to the edge of the conservation area in places, providing an open and rural setting. The above features contribute positively to the conservation area's significance.
21. The vast majority of the appeal site lies within the conservation area. The hotel buildings at the entrance off Brookside are an attractive ensemble, particular the three storey element. As such, these buildings contribute positively to the conservation area. To the rear, the lawn and car park are plain and utilitarian, flanked by housing on Alderbrook Close to the east. This somewhat lessens the contribution of the rear part of the site to the conservation area. Nevertheless, the openness of the paddock and countryside to the north makes a positive contribution to the conservation area in terms of its rural setting.
22. The detached dwellings would be positioned at the rear of the site with a sufficient gap to the hotel buildings and retention of the lawn. Moreover, their

scale, character and design would not compete with the hotel buildings or look at odds with the architectural variety within the conservation area. However, by blocking views of the wider countryside to the north and reducing the open setting, there would be harm to the significance of the conservation area.

23. The harm to the conservation area from the Appeal A scheme would be less than substantial and no more than moderate in scale given only one small part of the conservation area would be affected. Nevertheless, as with the harm to the listed building, NPPF paragraph 196 requires such harm to be weighed against the public benefits. The public benefits are the same as for the listed building and carry no more than moderate weight. Therefore, they would not outweigh the harm to the conservation area.
24. Concluding on this main issue, the Appeal A proposal would not preserve the character and appearance of the conservation area. Therefore, it would not accord with LP Policies SP1, SP25, DP5 and DP6 or Section 16 of the NPPF as set out above.

Suitability of location

25. The appeal site straddles the settlement boundary, with the car park and part of the lawn to the rear of the hotel buildings within the countryside. LP Policies SP2 and SP4 seek to direct new development within settlement boundaries, while LP Policy SP8 sets out the categories of development which would be permitted outside of such boundaries. A number of the categories are not relevant, while it has not been demonstrated in the 4th category that it would represent development under the Rural Exception Sites policy. The conservation of a feature of acknowledged importance in the 7th category could apply to the refurbishment and re-use of the listed building. However, it has not been demonstrated that the public benefits would outweigh the harm. Therefore, the proposal would not accord with LP Policies SP2, SP4 and SP8.
26. The appellant refers to the rural housing section of the Planning Practice Guidance (PPG) which states that blanket policies restricting housing development in some types of settlement requires robust evidence. As Rolleston on Dove is a Tier 1 Strategic Village where development is permitted, I am not convinced that this section of the PPG has much relevance to this proposal or much effect on the application of the above policies.
27. In any case, the settlement boundary line through the site appears arbitrary, and the lawn and car park have a greater association with the hotel buildings than the paddock and wider countryside to the north. The lawn and car park are plain and utilitarian, while housing on Alderbrook Close provides an urban backdrop to the east. Therefore, the lawn and car park contribute little to the character and appearance of the area including the adjoining countryside.
28. The car park and lawn would appear to meet the definition of previously developed land in the NPPF as forming part of land occupied by a permanent structure including the curtilage of the developed land and any associated fixed surface infrastructure. The hard surfacing of the car park remains visible and has not blended into the landscape. The lawn was associated with the hotel and is not a residential garden, park, recreation ground or allotment. The detached dwellings would represent the use of previously developed land, although given the impact on the setting of the listed building and conservation area it has not been demonstrated that this would be suitable.

29. The dwellings would be sited on the car park and would not encroach on the adjoining paddock. The scale, siting and design of the dwellings would not look out of keeping with Alderbrook Close to the east and the introduction of urban form in this location would not harm the countryside itself. The dwellings would be well related to the rest of the settlement. These considerations reduce the weight given to the conflict with LP Policies SP2, SP4 and SP8 and indicate that the Appeal A proposal would provide a suitable location for housing notwithstanding the heritage impacts.
30. Both parties have referred to the emerging Neighbourhood Plan (NP). To my knowledge, the NP has not yet passed referendum or been made, which limits the weight I can give to its policies. While NP Policy H1 permits small scale infill development that does not encroach into the open countryside, it also seeks the provision of new dwellings within the settlement boundary. Therefore, the NP does not affect my findings with regards to the location's suitability.

Flood risk

31. The site adjoins Rolleston Brook and includes areas within Flood Zones 2 and 3. There is a ford to the south-west of the site providing vehicular access along Brookside. A footbridge crosses the ford and brook to allow pedestrian access along Brookside. At the time of my site visit, there was a reasonable amount of water within the ford. Evidence from interested parties, including photographs, demonstrates that water levels can be substantially higher with flooding across the approach to the site from Station Road.
32. All of the proposed dwellings, both within the converted hotel buildings and the detached properties, would fall within Flood Zone 1 which is at the lowest risk of flooding. The Environment Agency and the Lead Local Flood Authority have not objected to the proposal as amended subject to conditions. It would be sufficiently flood resilient in terms of finished floor levels, would not increase flood risk elsewhere and would contain a sustainable drainage system.
33. The appellant has modelled the potential depths of flood water at the front of the site and considered a flood evacuation plan. The modelling indicates maximum depths along the road of 510-640mm which would be passable for emergency vehicles. The verge along the east side of Brookside from the hotel to Station Road is on higher ground to the road and maximum flood depth levels in this location are modelled at 160mm. This would make it passable for pedestrians and provide safe access and egress. It could also be possible to provide a second pedestrian access/egress along the front of the main hotel building to link with the existing footbridge.
34. Concluding on this main issue, the evidence before me indicates that the Appeal A proposal would have an acceptable effect on flood risk and the safety of future occupants. Therefore, it would accord with LP Policy SP1 which, amongst other things, requires proposals to be developed without incurring unacceptable flood risk problems. The proposal would also accord with NPPF paragraph 155 which seeks to avoid inappropriate development in areas at risk of flooding by directing development away from areas at highest risk.

Planning balance

35. In terms of Appeal A, the appellant argues that the development plan is silent on the development of previously developed land outside of settlement

boundaries. It is not clear from the evidence before me as to whether this is the case and whether the tests set out in NPPF paragraph 11(d) should be applied. However, I have already found that the harm to designated heritage assets would not be outweighed by the public benefits. Having regard to NPPF paragraph 11(d)(i) and footnote 6, this provides a clear reason for refusing the proposal. Therefore, even if I were to apply the tests in NPPF paragraph 11(d), the presumption in favour of sustainable development would not apply. This indicates that planning permission should not be granted in this instance.

36. I have considered whether a split decision could be issued for Appeal A granting permission for the conversion of the listed building and dismissing the demolition of the outbuilding and the construction of the three dwellings. However, unlike Appeal B, the different parts of the proposal in Appeal A are not clearly severable, particularly as a revised layout plan would be required to address changes to parking provision amongst other things.
37. In terms of Appeal B, the works to the listed building apart from the demolition of the outbuilding would preserve the special interest of the listed building. While some of the works also require planning permission and the building could not be used for residential purposes without the benefit of planning permission, there is nothing to prevent the grant of listed building consent.

Conditions

38. For Appeal B, a condition setting a time limit for the commencement of the works is necessary for clarity and compliance, along with a condition specifying approved plans. Conditions 3, 5 and 6 requiring the approval of external materials are necessary to safeguard the special interest of the listed building. The same applies to Conditions 7, 8 and 9 which specify the details of rainwater goods, windows and external doors, and Condition 4 which requires materials used in the alteration and making good of the existing fabric to match the existing building.

Conclusion Appeal A

39. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Conclusion Appeal B

40. For the above reasons, I conclude that all elements of the proposal in Appeal B, apart from the demolition of the outbuilding, should be allowed.

Tom Gilbert-Wooldridge

INSPECTOR