



Appeal Decision

Site visit made on 9 November 2020

by Andrew Dawe BSc(Hons) MSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 December 2020

Appeal Ref: APP/M1710/W/20/3244563

Froyle Park, Ryebidge Lane, Upper Froyle, Alton GU34 4LA

- 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 Lee Jackson of Froyle Harbour Hotel Ltd against the decision of East Hampshire District Council.
 - The application Ref 55541/012, dated 5 June 2019, was refused by notice dated 18 November 2019.
 - The development proposed is construction of car park to serve Froyle Park.
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Decision

1. The appeal is allowed and planning permission is granted for construction of car park to serve Froyle Park at Froyle Park, Ryebidge Lane, Upper Froyle, Alton GU34 4LA in accordance with the terms of the application, Ref 55541/012, dated 5 June 2019, subject to the conditions in the attached Annex.

Procedural Matter

2. The Council's second reason for refusal in its decision notice relates to an absence of evidence demonstrating that Great Crested Newts will not be impacted. However, since the Council's decision, the Appellant has submitted an ecological statement providing an update of the situation regarding Great Crested Newts. The Council considers that this addresses its concerns in respect of this issue and so no longer wishes to pursue that matter, subject to a condition to provide measures to prevent Great Crested Newts from entering the site during construction works, were I to allow the appeal, and a separate European Protected Species license. I have no substantive basis to consider differently from the Council in respect of this matter and so have not included it as a main issue.

Main Issues

3. The main issues are:
 - i) whether the proposed development would preserve or enhance the character or appearance of the adjacent Upper Froyle Conservation Area (the CA) and preserve the setting of the Grade II* listed Froyle Place (the LB), and in the event that any harm is identified, whether that harm would be outweighed by any public benefits;
 - ii) the effect of the proposed development on the character and appearance of the surrounding area generally.

Reasons

Heritage assets – the CA and LB

4. The site is located immediately adjacent to the CA and in close proximity to the LB, separated from it by a small parking area, on land currently forming part of a large open field comprising grazing land. Special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the CA and preserving the setting of the LB.
5. The CA comprises the village of Upper Froyle, excluding some buildings at its western end and modern housing to the south. It has an attractive mixture of substantial yet generally well-spaced two storey 18th and 19th century buildings of a mixed type, also including smaller cottages, barns and associated agricultural buildings. There are a number of listed buildings within the CA, including the LB, which contribute to its pleasant historic character. The LB, which is the listed building of particular relevance to this issue, is particularly prominent as seen from the approaches to the site from the east along the Avenue and from the footpath which crosses the open land a fairly short distance to the east of the site. That open land generally slopes upwards from the east towards the CA and LB. As such the LB is particularly prominent as seen from those vantage points, albeit softened to varying degrees from the Avenue by trees lining that route towards its eastern end and to some extent by the small number of isolated trees located in the field to the east of the site.
6. Historically, the village expanded in relation to its farming heritage which therefore played a role in its form and layout as well as that of the surrounding landscape. The pleasant, open field setting to the east of the LB is therefore an important aspect of the village's heritage. However, the part of the CA, including the LB, to the west of the field concerned is seen in the context of the adjacent modern residential development which is also in a prominent raised position in relation to the sloping land to the east. There is also that small amount of existing hard surfaced car parking area immediately adjacent to the LB between it and the site, raised up above the site to some extent, albeit currently screened by hedgerow.
7. Due to the position of the site at the edge of the open field and in a raised position, it would be visible from those eastern vantage points referred to above to varying extents, mainly due to the associated landscaping and the presence of cars parked there. However, it would occupy only a relatively small section of the field and would be set into its corner. It would also be set at a lower level than the LB and its associated existing car parking area and adjacent formal garden to the south-east. As such, whilst encroaching on the open setting of the LB and CA, the proposed car park would maintain the separate integrity and prominence of the LB and would not significantly lessen the degree of openness provided by the existing field as a whole. It would also be seen to some extent in the context of the existing modern residential development to the south referred to above.
8. For the above reasons, the proposal would be unlikely to significantly draw the eye away from the LB or harmfully deflect from the CA's setting. That would be particularly given the proposals to soften the appearance of the proposed car park with the use of grasscrete and boundary tree and hedge planting which would in turn also soften the appearance of cars parked on the site. That planting itself would draw the eye to some extent given the general openness

- of the land concerned, notwithstanding those isolated existing trees referred to above. Nevertheless, being positioned in that corner of the field, such planting would be seen in close proximity to existing mature trees and shrubs immediately to the north of the site on the opposite side of the Avenue and the hedgerow bordering the eastern edge of the existing adjacent car park and formal garden areas. Further details of that planting, to ensure the trees would all be appropriately native species, could also be secured by condition.
9. Longer views of the proposed development, from the A31 to the east and south-east of the site, would be substantially restricted in terms of intervening mature trees. Where there may be glimpses, the degree of separation and the backdrop of existing prominent buildings and trees would further restrict the extent to which the proposal would be noticed. From any vantage points at much greater distances, the distance and degree of subservience of the proposal to the wider village would be likely to prevent it from causing any harmful loss to the visual integrity of the heritage assets concerned, including in respect of any visual effects arising from the cars parked in the car park.
 10. I have also taken account of the situation whereby the Avenue is currently used for event parking when more space is required than the existing formal provision. Although partially softened by trees lining the eastern end of the Avenue, such parking would itself, particularly at the northern end, be moderately obtrusive, albeit not a permanent incursion. It would also involve the likelihood of parking on the Avenue's verges in an informal manner. No extensive resulting damage to those verges is clearly apparent. Nevertheless, the proposed car park, being of a more formal nature and nearer to Froyle Place, would be likely to minimise the need for any such informal parking in the future and any associated potential verge damage, whilst also including planting measures to screen or soften the parked vehicles.
 11. A Planning Obligation (PO) was submitted in relation to a previously approved but unimplemented similar scheme to that concerning this appeal, which would have ensured the removal of the use of the existing car park at the top of Hen and Chicken Hill. No such PO has been submitted as part of the appeal proposal. However, regardless as to whether or not that existing car park is currently in use or useable in the future in connection with the operation of Froyle Park, due to its degree of visual separation from the site, and given my findings above on this main issue, there would be no cumulative visual harm with both the proposed and that existing car park in place.
 12. For the above reasons, I conclude on this issue that the proposed development would preserve the character and appearance of the CA and the setting of the LB. As such it would accord with policies CP6, CP20 and CP30 of the East Hampshire District Local Plan: Joint Core Strategy (the JCS) and HE8 and HE12 of the East Hampshire District Local Plan: Second Review (the DLP) which together, amongst other things relate to heritage conservation. It would also accord with section 16 of the National Planning Policy Framework (the Framework) which relates to conserving and enhancing the historic environment.
 13. The Council also referred to policy CP1 in the first reason for refusal in its decision notice. This is a general policy relating to the presumption in favour of sustainable development with no specific references concerning this or the second main issue.

14. The PO referred to above was considered by the Council as a public benefit that weighed in favour of that previous proposal following a finding of less than substantial harm to the same heritage assets as relate to this main issue. However, in considering this appeal on its own merits, I have found differently to the Council, that there would not be such harm. No weighing process under paragraph 196 of the Framework relating to any public benefits is therefore necessary in this case in respect of this issue.

Character and appearance generally

15. Whilst I have separated this issue from the first main issue, I have covered the relevant matters concerning it above in relation to heritage assets, and there is nothing further that would add to my consideration of this issue. As such, for the reasons set out under the first main issue, the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area generally. As such it would accord with policies CP2, CP6, CP19, CP20, CP30 of the JCS and H8 and H12 of the DLP which together in respect of this issue relate to, amongst other things, protecting and enhancing local distinctiveness, sense of place and settlements in the wider landscape, protection of the countryside for its own sake, and heritage conservation. In respect of this issue, it would also accord with sections 15 and 16 of the Framework which relate to conserving and enhancing the natural and historic environments respectively.

Other matters

16. Also within the CA and close to the site is the Grade I listed Church of St Mary of the Assumption. Whilst not referred to in the Council's reasons for refusal in its decision notice, I have a statutory duty to consider whether its setting would be preserved. The church is positioned a short distance to the north of the site. However, it is distinctly separated from it by the intervening Avenue and a mature screen of mainly evergreen trees such that from the public vantage points to the east, generally only the top of the tower is clearly visible. The proposed car park would therefore not harmfully intrude on the distinctly separated church, particularly also given the intended tree and hedge planting.
17. The degree of separation and intervening buildings and/or vegetation in respect of the relationship between the proposal and other listed buildings in the CA would be likely to ensure the preservation of their settings also.
18. In respect of the living conditions of surrounding residents, the proposed car park would be set apart from those new dwellings to the south of Froyle Place to an extent that would be likely to prevent harmful levels of noise from cars and guests or loss of privacy. The same applies to other dwellings to the west of the LB, which also have that building in between, and properties to the north and north-east. Furthermore, I have no substantive documentary evidence to indicate otherwise.
19. Concerns have been raised about the potential for larger events to be held at Froyle Park as a result of the proposed car park. However, I have no substantive basis to consider that such intensification would occur or that in any case the proposals would harmfully affect the living conditions of residents in the village or worsen any current problems in respect of living conditions. If anything, it would be more likely to limit the amount of activity within the

wider village during events by focussing and encouraging car parking close to Froyle Place.

Conditions

20. The Council has suggested nine conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in light of advice in the Planning Practice Guidance and amended some of the wording.
21. The standard time condition would be required in this case and for the avoidance of doubt and in the interests of proper planning, a condition requiring that the development is carried out in accordance with the approved plans would also be required.
22. In the interests of the settings of the CA and LB and the character and appearance of the surrounding area, conditions would be necessary to require the implementation and ongoing management of the approved landscaping proposals, having firstly submitted amended details pertaining to replacing the currently proposed non-native tree type with an appropriate native variety; and prevent the installation of external lighting/floodlighting without agreement of details by the Local Planning Authority.
23. In order to protect the ecological integrity of the surrounding area, a condition to secure the installation of appropriate protective fencing around the site during construction to exclude protected species, together with the implementation of an ecological watching brief, would be necessary. Furthermore, in light of the potential for archaeological features and/or deposits to be found on the site, conditions to secure the implementation of a programme of archaeological assessment in accordance with a Written Scheme of Investigation, and a post-fieldwork report would be necessary.
24. So as to protect the amenities of local residents with the proposed car park in place, a condition to secure the submission and implementation of a traffic management plan (TMP) would be necessary.
25. I have also had regard to conditions suggested by Froyle Parish Council in the event of the appeal being allowed. In light of my findings on the main issues and other matters, I consider that it would be unnecessary and unreasonable to impose conditions restricting the continued use for parking of the Hen and Chicken Hill car park and the Avenue, or for any existing/future verge damage to the latter to be mitigated. I have no substantive evidence relating to any likelihood of the proposals posing a risk to highway safety. Any necessary transport management measures relating to the proposal, having regard to the amenities of local residents, would be controlled through a TMP, as referred to above. I have no substantive basis to consider that construction activity would be to such an extent as to warrant a condition securing a construction method statement.

Conclusion

26. For the above reasons, I conclude that the appeal should be allowed.

Andrew Dawe

INSPECTOR

Annex – Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. All hard and soft landscape works shall be carried out in accordance with the submitted details as amended to ensure that all new trees shall be of an appropriate native species, details of which shall have firstly been submitted to and approved in writing by the Local Planning Authority, and in accordance with the recommendations of the appropriate British Standards or other recognised codes of good practice. These works shall be carried out prior to the first use of the car park, unless otherwise first agreed in writing by the Local Planning Authority. Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless otherwise first agreed in writing by the Local Planning Authority.
3. The development hereby approved shall not be first brought into use until a landscape management plan, including a maintenance schedule indicating proposals for the long-term management of the boundary planting, has been submitted to and approved in writing by the Local Planning Authority. The landscaping space shall thereafter be managed in accordance with the approved details.
4. No development shall take place until protective fencing has been erected around the site to exclude protected species from the working area and an ecological watching brief has been implemented, in accordance with the Ecology Statement (EPR Ecological Planning and Research Ltd) dated 15 January 2016.
5. No external lighting/floodlighting shall be installed unless it is in accordance with details which shall firstly have been submitted to and approved in writing by the Local Planning Authority. Any such lighting shall be installed in accordance with the approved details and maintained as such for as long as it is in place.
6. No development shall take place until a programme of archaeological assessment has been implemented in accordance with a Written Scheme of Investigation that, together with a programme for the submission of a post-fieldwork report pertaining to the terms of Condition 7, shall firstly have been submitted to and approved in writing by the Local Planning Authority.
7. Following completion of the archaeological fieldwork relating to condition 6, a report shall be produced and submitted to the Council in accordance with an approved programme, as referred to in Condition 6, including where appropriate post excavation assessment, specialist analysis and reports, publication and public engagement.
8. Prior to the first use of the car park hereby approved, a traffic management plan shall be submitted to and approved in writing by the Local Planning Authority to include arrangements for the restriction of the use of the car park to users of Froyle Park and for the arrival and departure of guests, staff and service vehicles. The approved traffic management plan shall thereafter be adhered to.

9. The development hereby permitted shall be carried out in accordance with the following approved plans: 01 Revision D and 02 Revision G, notwithstanding the requirements of Condition 2 in respect of amended tree details.