
Appeal Decision

Site visit made on 21 September 2020

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2021

Appeal Ref: APP/K2230/W/20/3253856

The Three Crutches, Old Watling Street, Higham, Rochester ME2 3UG

- 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 Gravesham Borough Council.
 - The application Ref 20200311, dated 20 March 2020, was refused by notice dated 15 May 2020.
 - The development proposed is the erection of 1no. two-bedroom chalet bungalow with associated parking and landscaping, and reconfiguration of public house car park.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the appeal proposal on the character and appearance of the local built, historic and natural environment, including the significance of The Three Crutches public house as a non-designated heritage asset; and
 - whether it would have a satisfactory means of access and parking.

Reasons

Character and Appearance

3. The appeal site includes one end of the surface car park of The Three Crutches public house (PH) which is on one corner of the junction of Old Watling Street and Crutches Lane. Development along these two roads forms a relatively discrete arrangement of mainly residential properties in this part of Higham. Beyond the reasonably wide junction both roads narrow rapidly, mainly without footways so that many dwellings and landscaped gardens along these frontages are closer to the road. These dwellings vary in design and type, though in Crutches Lane are mostly relatively closely spaced, larger detached houses and bungalows which have a more sub-urban feel, while Old Watling Street has some smaller, older terraced cottages and at one end the PH which give a more distinct village feel.
4. The PH is a building of evident traditional design and appearance, including horizontal timber weather boarding, sash windows, a mansard slate main roof and a 'cat slide' roof to the rear. On one side it is tightly sited next to other buildings but on the other side the open aspect to the car park reveals its

distinctive narrow gable side elevation with external chimney breast. The PH has existed since the 1st Edition of the Ordnance Survey map as a public house and I agree with the appellant that 'its distinctive design means that it provides a focal point in what is otherwise a predominantly residential street'.¹ Consequently, the building and its layout is an integral physical and social component of the local environs and is therefore significant for these reasons as a non-designated heritage asset.

5. The main attribute of the appeal site is the extent of its openness which in the vicinity of this junction enables views across it, including over and around two new houses next to the appeal site that I saw were at an advanced stage of construction,² towards the PH and its mostly unimpeded setting, and also towards undulating countryside and a distant landscaped skyline. Aside from a tarmac surface it's otherwise undeveloped state also alleviates the built-up sequence of development on the approach to the junction from both roads, and also from the part of Old Watling Street off the main A2 road. It is therefore locally distinctive and has a significant positive effect on the character and appearance of the area.
6. The proposed dwelling would be sited in line with the two new houses on one side of it, albeit facing Old Watling Street not Crutches Lane, and the floorplan would occupy a relatively small part of its plot. However, while it would be set back from Old Watling Street it would nonetheless occupy about half of the width of this part of the car park and would be closely spaced to the two new houses next to it. Despite the reasonably modest size, scale and massing of the house, and that it would screen the side elevation of the nearest new dwelling, it would nevertheless further extend the length and projection of the residential frontage and built form on this side of Crutches Lane, significantly extending beyond the siting of the two new dwellings and would therefore demonstrably narrow the gap at this corner closer to Old Watling Street.
7. Consequently, notwithstanding that a large part of the car park would remain next to the PH, the development would nonetheless markedly reduce openness on this side of the junction and despite an otherwise appropriate design and appearance, the increased built form would therefore be unduly prominent in the street scene, including on the approach to the junction from further west along Old Watling Street. Existing and proposed landscaping and boundary treatments would be intermittent or low level and would not therefore alleviate the impact of this taller built form in any meaningful way.
8. In addition, despite its setback from Old Watling Street, the development would nevertheless noticeably reduce the extent of the vista towards the countryside and skyline and as a result adversely diminish the existing tangible sense of built form in its rural context. Furthermore, and in particular, it would significantly overlap with the end elevation of the PH and therefore unduly undermine visual appreciation of this building, which would be more partial in nature and no longer observed in the context of its present full setting.
9. Considering the above, the appeal proposal would be a discordant form of development and would cause significant harm to the character and appearance of the local built, historic and natural environment, and would cause direct appreciable harm to the significance of the Three Crutches public

¹ Appellant's statement of case, paragraph 2.5.

² Granted planning permission by the Council, application reference 20181094.

house non-designated heritage asset. It would not accord with Policies CS12, CS19 and CS20 of the Gravesham Local Plan Core Strategy, September 2014 (the CS). These Policies include that development should conserve valued landscapes and in design, layout, and form be derived from a robust analysis of the local and wider context and character, make a positive contribution to the street scene and the character of the area and take account of the significance of heritage assets and their settings (which should be preserved) and features of townscape and landscape value which contribute to local character and sense of place.

10. It would also conflict with the National Planning Policy Framework (Framework) paragraphs 124, 127 and 197. These include that development should create high quality places, be visually attractive as a result of good layout, be sympathetic to local character and history, including the surrounding built environment and landscape setting, maintain a strong sense of place and require consideration of effects on a non-designated heritage asset.

Means of Access and Parking

11. Two car parking spaces would meet the Council's and the highway authority's (HA)³ requisite standard and these would be conveniently located next to the proposed dwelling. On the evidence before me in this appeal, it has not been substantiated by the Council that direct access to the public highway for the proposed car parking is a requirement. Indeed, the proposed shared access and layout of these spaces would in practical terms otherwise be little different to a car park serving a block of flats or a parking court for a number of houses. Consequently, while I appreciate that part of the car park would serve customers of the PH, this arrangement of access and parking (which could also be signed as such) would be unlikely to cause undue confusion or conflict between patrons and occupiers of the proposed dwelling, including with respect to the potential for unauthorised parking.
12. However, while the means of access from the public highway and these two spaces would be within the red line boundary of the appeal site, the proposed site layout plan indicates that this land might not be part of the residential curtilage of the proposed dwelling, or intended to be conveyed to a future owner of the dwelling. While I note that there is no evidence before me that these two spaces must be provided 'on-site' within the residential curtilage, nonetheless, the absence of vehicular means of access to these spaces and their availability to meet the needs of the future occupiers of the proposed dwelling would otherwise seriously compromise the delivery of the appeal proposal and render it unacceptable in these regards.
13. There is no suitable mechanism before me in this appeal to secure the means of access and parking spaces, which could for example be by an easement agreement with the owner of the public house car park and provide security of access to the public highway and the provision of these parking spaces. Planning Practice Guidance (PPG) indicates that conditions cannot require land to be formally given up (or ceded) to other parties,⁴ but a negatively worded 'Grampian' style condition could, were I minded to grant planning permission, prohibit development until a suitable agreement had been secured.⁵ I am

³ Kent County Council.

⁴ Paragraph: 005 Reference ID: 21a-005-20190723.

⁵ Paragraph: 010 Reference ID: 21a-010-20190723.

satisfied that such a condition would meet the relevant tests in Framework paragraph 55 and in the PPG⁶ and I note that while the Council's highway officer had some concerns in this regard, the HA did not object.

14. Considering the above, and subject to the imposition of a suitably worded condition, the proposed means of access and parking arrangement would be acceptable and not lead to conflict. Consequently, the appeal proposal would make satisfactory provision for means of access and parking. It would therefore accord with CS Policy CS19 which includes that the layout of car parking should be well related to the development it serves, be fit for purpose, safe and accessible. It would also be consistent with Framework paragraphs 102, 106, 108 and 110 which include that parking should be integral to the design of a scheme and be convenient and safe, and that development should provide safe and suitable access and minimise conflicts between all road users.

Other Matters

15. The PH is not a listed building, nor is the appeal site in a conservation area or land subject to any other heritage or landscape designation and is not at risk of flooding. The appeal proposal would comply with the Council's standards for internal and external space, would not adversely impact on the existing occupiers of neighbouring properties and there are no external statutory consultee objections. However, the absence of harm in these regards is a neutral factor in my decision.
16. Some residents and the Dicken's Country Protection Society object to the loss of parking at the PH leading to a likelihood of additional on-street parking. However, I note that 40 car parking spaces would be retained (close to the maximum requisite standard) and neither the Council nor the HA objected in this regard. Moreover, enforcement of parking on the public highway is a matter for the Council or the HA using other regulatory powers. There are also concerns about alleged anti-social behaviour and loss of trees and fencing elsewhere at the PH. However, these matters are not before me in this appeal.
17. Crutches Gate Cottage and Farmhouse is a Grade II listed building (LB) in Old Watling Street and great weight should be given to its conservation.⁷ Whilst the appeal proposal would be visible from the street outside the LB, it would be some distance away and on the other side of existing development including the PH. The development would not therefore affect the special architectural or historic interest of the LB, or its setting. Consequently, there would be no harm to, or loss of, the significance of this designated heritage asset or its setting⁸ and the appeal proposal would therefore preserve the LB and its setting.⁹ I also note that the Council did not object to the appeal proposal in this regard.
18. The appellant has submitted an executed planning obligation in the form of a unilateral undertaking. It seeks to overcome the Council's second reason for refusal with regard to mitigation of the effect of the appeal proposal on the Thames Estuary and Marshes Special Protection Area (SPA), which is also a Ramsar site, by way of a financial contribution. On the very limited evidence before me, the Council has adopted a mitigation strategy which includes a tariff style financial contribution for new residential development, to be secured by a

⁶ Paragraph: 003 Reference ID: 21a-003-20190723.

⁷ Framework paragraph 193.

⁸ Framework paragraph 194.

⁹ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

planning obligation, but I cannot therefore be certain that this would provide suitable mitigation of the impact of the appeal proposal on the SPA and Ramsar and that the development would not therefore adversely affect the integrity of the SPA and Ramsar. Nonetheless, as I intend to dismiss the appeal on other grounds, there is no prospect of planning permission being granted in this case and it is not necessary for me to consider this matter any further.

19. The Council states that it not able to demonstrate a 5-year housing land supply (HLS), though there is no evidence before in this appeal regarding the scale of the shortfall. Nonetheless, on the evidence that is before me the Council cannot therefore presently demonstrate a 5-year HLS. As a consequence, by virtue of footnote 7, Framework paragraph 11(d) is engaged such that the development plan policies which are most important for determining the application are out-of-date. Accordingly, the presumption in favour of sustainable development as set out in Framework paragraph 11 requires planning permission to be granted unless either of two circumstances apply. The second is where any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole, in which case in accordance with Framework paragraph 11(d)(ii) the presumption in favour of sustainable development would not apply.
20. Finally, I appreciate that the appellant has amended the proposed design, siting and layout of a dwelling on the appeal site and considers that this has overcome objections to a previous scheme.¹⁰ I accept that the Council's development plan supports the principle of residential development in Higham, however, I have determined this appeal on its individual planning merits and it will be evident from my decision that I consider that important relevant objections to the development of this particular site have not been overcome by the appeal proposal.

Planning Balance and Conclusion

21. As explained in the main issues above, the appeal proposal would cause significant harm to the character and appearance of the local built, historic and natural environment, including to the significance of The Three Crutches public house as a non-designated heritage asset. I attach substantial weight to this harm. It would make satisfactory provision for means of access and parking, however the absence of harm in this regard is a neutral factor in my decision. Even if the extent of the HLS shortfall was substantial, a single two-bedroom dwelling would be a modest benefit of the development and I give this limited weight. The appeal proposal would not therefore accord with the development plan overall.
22. Consequently, I find that the scale of the development proposed and the identified benefits would be limited, such that the adverse impacts of granting planning permission would significantly and demonstrably outweigh those benefits. There are no material considerations which indicate that my decision should not be taken otherwise in accordance with the development plan. For the reasons given, the appeal does not succeed.

Robin Buchanan

INSPECTOR

¹⁰ Council's application reference 20190288 and appeal reference APP/K2230/W/19/3231636.