



Appeal Decision

Site visit made on 9 November 2020

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: Thursday, 04 February 2021

Appeal Ref: APP/J1915/W/20/3251268

Land to the rear of The Fox & Hounds Public House, 2 High Street, Hunsdon SG12 8NH

- 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 James Rix of Rixymash Property Investment Co Ltd against the decision of East Hertfordshire District Council.
 - The application Ref: 3/19/2060/FUL, dated 7 October 2019, was refused by notice dated 17 January 2020.
 - The development proposed is residential development of 3 No 2 bedroom terraced houses with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:-
 - i) the character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the Grade II listed building, the Fox & Hounds Public House, and the extent to which it would preserve or enhance the character or appearance of the Hunsdon Conservation Area;
 - ii) the living conditions of neighbouring occupants with particular regard to privacy, noise and disturbance; and
 - iii) parking and the effect on highway safety.

Reasons

Heritage assets

3. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBA), requires the decision maker in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Section 72(1) of the LBA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
4. The Fox & Hounds Public House (PH) lies towards the centre of the village of Hunsdon and within the Hunsdon Conservation Area (CA). It is a Grade II listed building that occupies a prominent position within the CA and forms part of an

attractive and historic group of buildings. Despite there being variety within the styles of built form within the CA, properties typically sit comfortably within their individual plots which are generally commensurate to the size of each property.

5. The PH dates from the C17th and is a substantial village house that is noted as probably being the former site of Hykmans. It has seen alterations and the eastern range rebuilt in the C18th with further subsequent alterations and extensions during the C19th. It comprises a public house at ground floor level with living accommodation above. Based on the evidence before me, including the Heritage Statement¹ and my own observations, the significance of the PH as a heritage asset is largely derived from its age, historic use and architectural features. Those features include timber framing, plastered finish, wide cross wing with surviving features of special interest all of which contribute to the significance of the heritage asset.
6. In addition, the rear garden of the PH is substantial in size and reflects the high social status of the heritage asset, as well as providing a setting for the building which is of significant architectural quality. Other than the car park, which largely retains the open character of the rear garden, and small domestic outbuildings and structures, the garden is undeveloped. The rear garden makes a positive contribution to, and assists in revealing the significance of the heritage asset. The fact that Yewtree House and The Chase were built within the curtilage of the PH and the remaining curtilage is now surrounded by later development adds to its significance. The space also makes a positive contribution to the character and appearance of the CA for the same reasons.
7. The proposal would introduce a substantial sized group of terraced dwellings with associated domestic paraphernalia into part of the space to the rear of the PH. Their siting in this location would have no regard for the pattern or density of development within the locality. It would reduce the openness of the garden and alter its character and appearance. Despite the appeal site being relatively well enclosed by mature vegetation and fencing, the proposed scheme would appear incongruous particularly when viewed from the PH and its curtilage. It would also remain partially visible to neighbouring dwellings and their gardens and the nearby recreation ground particularly during months when foliage is less dense.
8. Moreover, the subdivision of the garden in the manner proposed and the introduction of separate and unrelated units of accommodation would diminish its importance as a visual and social setting to the PH. Added to that, the proposal would relocate the area for parking and erode the open space and the established character and appearance of the CA.
9. I recognise that the proposed dwellings would be positioned to the rear of The Chase, to reduce views of the scheme from the highway. Nevertheless, the proposal would be a distracting intrusion into the space. Albeit additional planting is proposed, it would take time to become established and, in any event, is not permanent. Moreover, screening harmful development in this manner does not make it justifiable.
10. For the reasons set out above, the proposal would have a negative impact on the setting and significance of the PH and would harmfully erode the

¹ Heritage Asset Statement prepared by Conservation and Design Consultant Robin Uff, dated August 2019.

established character of the Hunsdon CA. There would be conflict with Policies HA1, HA4, HA7, VILL1, DES3 and DES4 of the East Herts District Plan (2018)(DP) insofar as these policies require development to preserve and where appropriate enhance the historic environment.

11. The harm identified to the setting of the listed building would be less than substantial and accordingly paragraph 196 of the National Planning Policy Framework (the Framework) provides for a balancing exercise to be undertaken between "less than substantial harm" to the designated heritage asset and the public benefits of the proposal.
12. I acknowledge that the appellant would be prepared to remove a number of unsightly outbuildings to the rear of the PH which would be a visual improvement that carries limited weight in favour of the proposal. The proposal would generate temporary economic benefits from the construction of the scheme and further economic benefits from residential use and increased local spend. There would be some social benefits generated from the provision of new housing which would add to the mix and choice of housing within the village. However, given the scale of the proposed scheme the associated public benefits would be limited.
13. Although I have found that the harm to the designated heritage assets would be less than substantial, it is not to be treated as a less than substantial objection. The limited public benefits arising from the proposed scheme, as set out above, would not outweigh the considerable importance and weight to the harm to the heritage assets. I therefore conclude the proposed development would also fail to comply with Section 16 of the Framework.

Parking and highway safety

14. DP Policy TRA3 sets out that vehicle parking provision associated with development proposals will be assessed on a site-specific basis and should take into account the provisions of the Council's Supplementary Planning Document 'Vehicle Parking Provision at New Development' (SPD). The SPD requires a public house to provide one parking space per every 3m² of bar area floor space and one space per every 5m² of dining floor space.
15. The scheme would have 22 parking spaces available for the public house on-site with an additional 2-3 spaces provided on-street. It is the Council's case that car parking standards set out above would require a total of 44 general spaces for patrons of the business. This figure is disputed by the appellant. In addition, a further 7 spaces would be required for staff employed by the business and for the occupants of the residential accommodation above. In totality, the Council suggest the provision of 51 spaces.
16. There is clear disagreement between the main parties concerning the amount of floor space and, secondly, whether it constitutes dining floor space in its entirety or a combination of bar area and dining space. I am unable to resolve this matter conclusively upon the limited evidence before me and my observations at the time of the site visit.
17. In any event, even if I were minded to accept the appellant's case, based upon an area of 88m² used solely for dining purposes, the proposal would need to make provision for some 17.6 spaces. Add to this figure an additional 7 spaces to take into account of employees and residential occupants of the first floor

accommodation, the required figure would total some 24.6 spaces. This figure would exceed the number of proposed car parking spaces and it would be less than the approximate 24 car parking spaces that currently exist.

18. Taking into account all of the evidence before me, whilst the figure would not be significantly below the maximum number of general spaces required, it would nonetheless be insufficient. Additionally, no designated parking space for disabled users is provided which adds to the inadequate parking provision.
19. It is suggested that 2-3 spaces would be available on-street. However, from my site visit it appeared that there was already substantial competition for on-street parking within the village. In addition to nearby residential properties there were also a number of other businesses in the vicinity that make use of on-street parking. Whilst I appreciate that my site visit provided only a snapshot of parking and highway conditions, there was nothing to suggest that what I saw was untypical. The absence of adequate off-street customer parking would be likely to lead to inappropriate parking within the highway which would lead to vehicle manoeuvres and congestion which would unduly compromise the free and safe flow of traffic and pedestrian safety.
20. There is an absence of any clear evidence to demonstrate satisfactory circulation of traffic around the site and the ability to manoeuvre for parking taking into account clearance distances between parked vehicles. As a result, the inadequate design, layout and functioning of the car parking spaces of the scheme would be likely to cause the need for additional on-street parking.
21. For the reasons set out above, I conclude that the proposal would not provide a satisfactory layout and adequate parking and thus would be likely to have a harmful effect on highway safety. Thus, it would conflict with DP Policy TRA3 and the Council's SPD insofar as these require new development to provide parking to meet the needs of future occupiers and users.

Living conditions

22. The rear gardens of Nos 1 and 2 Dunston's Road adjoin the boundary of the appeal site. Existing planting along the site boundary largely screens views from the appeal site towards the neighbouring dwellings. Nonetheless, some gaps within the vegetation allow for glimpsed views. This position would be likely to increase during the winter months when foliage is less dense.
23. However, the rear elevations of the proposed dwellings would be orientated at an angle to Nos 1 and 2 and given that their rear gardens are relatively long, there would be some degree of separation. In addition, as there is already some degree of mutual overlooking between houses and gardens in this area, I conclude that any harm to privacy would be limited.
24. The proposed scheme would be positioned in close proximity to the rear boundary of The Chase. However, it is located close to existing sources of noise and disturbance from the use of the car park, the accessway and the outdoor seating and play area. The residential use of the appeal site would be unlikely to generate such significant levels of activity, beyond that which is already experienced, that would be harmful to the living conditions of neighbouring occupiers.
25. Although the proposed car parking area would be positioned closer to and adjacent to the shared boundary with Yewtree House, the Council have

provided very limited evidence as to why they consider that the proposal would expose residents to a greater amount of noise and disturbance than they currently experience. I acknowledge that some noise would be generated by vehicles parking close to the common boundary, however, the existing use of the site is likely to be noisy. In addition, Yewtree House has a sizeable rear garden with a buffer being provided by existing mature and dense vegetation along the boundary. As a result, assessing the scheme against the existing and proposed site circumstances, I am not persuaded that the proposal would lead to an increase in noise and disturbance to such an extent that it would adversely affect the living conditions of neighbouring residents.

26. For the above reasons, I conclude that the proposal would not have an unduly unacceptable effect upon the living conditions of neighbouring occupiers by way of noise and disturbance. Consequently, the proposal would accord with DP Policies VILL1 and DES4 insofar as these policies require development not to be significantly detrimental to the amenity of neighbouring occupiers.

Other Matters

27. Housing growth within a Group 1 village is in principle acceptable. The scheme would not cause undue harm to the occupants of neighbouring dwellings with regard to outlook and loss of light. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal. Closure of the children's play area does not justify the scheme.
28. My attention has been drawn to similar developments nearby². However, there is little information relating to the particular circumstances of these developments and whether the circumstances are therefore comparable to the appeal proposal. As such, a comparison is of limited relevance in this instance and I have considered the appeal before me on its individual planning merits.
29. The proposal would make efficient use of the land, reduce financial liabilities of the appellant and ensure, despite the pandemic, the long-term use of the PH and its associated economic and social benefits. However, there is little evidence before me to demonstrate that the PH business is not presently viable. I attach moderate weight to these matters.
30. The Council are presently able to demonstrate a five-year supply of housing land. The appellant has drawn my attention to the Housing Delivery Test: Action Plan dated July 2019. However, even if housing delivery has fallen short of requirements as set out by the appellant, I have found less than substantial harm to heritage assets that is not outweighed by the public benefits of the scheme including the provision of three houses. Policies within the Framework for conserving and enhancing the historic environment therefore provide a clear reason for refusing the development proposed.

Conclusion

31. I have found that there would be no adverse harm to the living conditions of neighbouring occupants. Nevertheless, the harm to heritage assets and parking and highway safety are decisive. Accordingly, the appeal is dismissed.

E Brownless - INSPECTOR

² 27 High Street, Nos 69 and 71 High Street, Chestnut Close.