

Appeal Decisions

Site visit made on 8 February 2022

by Tom Gilbert-Wooldridge BA MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 February 2022

Appeal A Ref: APP/C3105/W/21/3278245

The Ben Jonson Inn, Northampton Road, Weston on the Green OX25 3RA

- 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) Limited against the decision of Cherwell District Council.
 - The application Ref 20/03406/F, dated 26 November 2020, was refused by notice dated 18 February 2021.
 - The development proposed is the erection of a two-bedroom bungalow (C3) to the rear of the existing public house (Sui Generis), with a new access created off Westlands Avenue following the partial demolition of the boundary wall, and associated parking and landscaping.
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Appeal B Ref: APP/C3105/Y/21/3278250

The Ben Jonson Inn, Northampton Road, Weston on the Green OX25 3RA

- 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 Punch Partnerships (PML) Limited against the decision of Cherwell District Council.
 - The application Ref 20/03407/LB, dated 26 November 2020, was refused by notice dated 18 February 2021.
 - The works proposed are the same as Appeal A.
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Decisions

1. The appeals are dismissed.

Preliminary Matter

2. The Weston on the Green Neighbourhood Plan 2018-2031 (NP) was made in May 2021. As such, its policies do not feature in the Council's decision notices. However, I have had regard to relevant policies in my decisions.

Main Issue

3. The main issue for both appeals is the effect of the proposal on the special interest and setting of the Grade II listed building known as The Ben Jonson Public House and the character and appearance of Weston on the Green Conservation Area.

Reasons

4. The Ben Jonson Public House is Grade II listed and dates from the early/mid-18th century. It is a two storey thatched building with limestone rubble walls and three chimneystacks. There are two single storey thatched wings to the side and rear. The special interest and significance of the listed building is informed by its architectural detailing but also by its history as a coaching inn

which has continued through to its current use as a public house. There is also a degree of communal value as a building that has been used by the local community over many years.

5. The special interest and significance of the listed public house is also informed by its setting. This includes the pub garden to the north of the building and the pub carpark to the west and south, as well as three separate Grade II listed buildings (former stables, Oxford House, and The Cottage). A low stone wall and various trees and other plants enclose the pub garden along the northern boundary with Westlands Avenue.
6. Not all elements of a listed building's setting necessarily make a positive contribution. However, the garden and wall provide a gap and sense of enclosure between the listed public house and modern suburban development along Westlands Avenue. I have little evidence to support the claim that the garden is underutilised. The wall along the Westlands Avenue frontage is not significantly hidden by vegetation and is a clear part of the street scene. Therefore, the garden and wall make a positive contribution to the setting of the listed public house and inform its significance and special interest.
7. The exact date of the wall is unknown, but it appears to be of a traditional construction and likely to have been in situ for many decades. It lies within the curtilage of the public house and so can be treated as part of the listed building for planning purposes. The wall is not listed in its own right, but its relevance lies in the contribution it makes to the listed public house which has already been outlined above. The parties do not dispute that listed building consent is required for the proposed works to the wall.
8. Weston on the Green Conservation Area covers the historic parts of the village. Its character and appearance is informed by a range of historic stone properties along Northampton Road and various side streets to the west of this road. The conservation area also contains large areas of open space and a number of stone walls that enclose properties. The above features contribute positively to the conservation area and its significance.
9. The listed public house and the entirety of its garden and wall to the north lie within the conservation area. The property known as Tollbrook to the north of the wall and the rest of Westlands Avenue to the west of the public house are outside of the boundary. The garden and wall present a gap and a buffer from Westlands Avenue and clearly mark the edge of the conservation area separate to the modern development further to the west. Thus, the space and enclosure provided by these features contributes positively to the conservation area and its significance.
10. While the garden is not identified as Local Green Space or an important internal green space in the NP, such designations involve considerations beyond just heritage matters. Therefore, the lack of specific inclusion in the NP does not diminish the garden's contribution to either designated heritage asset.
11. The appeal site comprises the north-west portion of the pub garden and the northernmost part of the carpark. The wall and vegetation forms the site's northern boundary, with further vegetation along the western boundary next to a substation and dwelling on Westlands Avenue. The eastern and southern boundaries have no defining features as they cut through the existing garden and carpark respectively. The site contains play equipment for the garden.

12. The site is secluded even in winter due to the amount of vegetation and is partly screened from the public house due to a fence between the garden and carpark. However, the site forms part of the enclosed green space and gap that contributes positively to the setting of the listed building and the character and appearance of the conservation area. It can be experienced from the remainder of the garden and the north side of the public house as well as from the conservation area boundary along Westlands Avenue. The play equipment is lightweight, low-key, and moveable and does not diminish the value of the site to the significance of either heritage asset.
13. The proposed dwelling would be smaller in height and footprint than a four bedroom chalet bungalow that was refused planning permission in November 2020. The site boundary would also be further away from the public house than the 2020 scheme to provide more visual separation between buildings. The dwelling would have a modest appearance, designed to look like an ancillary building to the public house, and would utilise sympathetic materials. There would be no apparent conflict with the details contained within the NP's design code and morphology guidance. However, the dwelling would be much larger and permanent than the existing play equipment. It would erode part of the gap and buffer between the public house and Westlands Avenue. Close boarded fencing would divide the site from the rest of the garden. Notwithstanding the opportunity for retained and replacement landscaping, the proposal would also result in the loss of several trees.
14. Although the proposal would not be apparent from much of Northampton Road, it would be visible from its junction with Westlands Avenue and highly noticeable travelling along the first section of Westlands Avenue. The insertions into the wall for a vehicular driveway and pedestrian gate would result in a relatively limited loss of historic fabric but would greatly affect the enclosure that the wall currently provides. This would exacerbate the erosion of the gap and buffer and reinforce the negative visual effect that the new dwelling would create. Openings in the wall opposite at Tollbrook involve a modern structure outside of the conservation area and so has little relevance to this case. Therefore, the proposal as a whole would cause harm to the significance of the listed building and the conservation area.
15. Following the Council's refusal of the applications that have led to these two appeals, the appellant has submitted two further pairs of applications for a dwelling on this site. They both involve a single storey dwelling on a smaller footprint than proposed here and vehicular access through the carpark with only a pedestrian gate created in the wall. Both pairs of applications were refused by the Council in May and December 2021 with similar reasons for refusal to these appeals in terms of listed building and conservation area effects (as well as additional reasons for refusal). It would not be appropriate for me to comment on the merits of either pair of applications. However, whilst officers recommended that the December 2021 scheme be approved in terms of heritage impacts and other matters, committee members were entitled to disagree with the recommendation. No permission or consent exists for a dwelling on this site. Therefore, the more recent planning history does not alter my findings.
16. The harm to the significance of both the listed building and conservation area would be less than substantial, but it would still be important given the positive contribution performed by the wall and garden. Paragraph 202 of the National

Planning Policy Framework requires such harm to be weighed against the public benefits of the proposal. NPPF paragraph 199 notes that great weight should be given to the conservation of designated heritage assets irrespective of the level of harm, while NPPF paragraph 200 states that any harm should require clear and convincing justification.

17. The proposal would boost the supply of housing in a district where the Council is currently unable to demonstrate a 5 year housing land supply. It would also provide employment in terms of construction work. The dwelling would represent infill housing development within the village with access to local services as advocated by the NP and the NPPF. However, the proposal would only deliver a single dwelling and so the above public benefits can be afforded no more than moderate weight. Thus, the public benefits would be insufficient to outweigh the harm to the significance of either heritage asset. The proposal would not accord with NPPF paragraphs 199, 200 or 202 as a result.
18. NPPF paragraph 11(d) is engaged due to the lack of a 5 year housing land supply. This results in the policies most important for determining the proposal being out of date. However, the application of NPPF policies relating to designated heritage assets provides a clear reason for refusing the proposal. Although the Council notes that all of the criteria in NPPF paragraph 14 are applicable in this instance, it is not necessary to consider this paragraph any further as the application of paragraph 11(d)(i) does not point towards the grant of permission on this occasion.
19. In conclusion, the proposal would not preserve the special interest or setting of the listed Ben Jonson Public House or preserve or enhance the character and appearance of Weston on the Green Conservation Area. It would result in harm to the significance of both heritage assets that would not be outweighed by the public benefits. Therefore, the proposal would conflict with Policy ESD15 of the Cherwell Local Plan 2011-2031 which, amongst other things, requires proposals to contribute positively to an area's character, conserve heritage assets, respect the traditional pattern of spaces and buildings, and reflect local distinctiveness.
20. The proposal would also conflict with Policies C18, C23, C28, C30 and C33 of the Cherwell Local Plan 1996 which, amongst other things, seek to preserve listed buildings and their settings, retain features which make a positive contribution to a conservation area, retain undeveloped gaps of land that maintain the setting for a listed building, and ensure that new development is sympathetic to and compatible with the character of an area.
21. In terms of the NP, the proposal would conflict with Policies E1, E2, E3, C4 and H4 which require development to make a positive contribution to the character of the village, preserve green infrastructure, avoid harm to heritage assets, and provide house types appropriate to the local setting.
22. The proposal would also fail to follow the Cherwell Residential Design Guide 2018 which, amongst other things, promotes locally distinctive development that fits well with the pattern and character of local towns and villages. It would also not adhere to the Weston on the Green Conservation Area Appraisal 2009 which seeks to preserve the conservation area including features that contribute positively such as traditional boundary walls.

Other Matters

23. Interested parties have raised concerns with a number of other matters including the viability of the public house, access, and ecology. However, given my conclusion on the main issue, it has not been necessary to consider these matters in any detail.

Conclusions

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

Tom Gilbert-Wooldridge

INSPECTOR