
Appeal Decision

Site visit made on 31 January 2022

by Peter Mark Sturgess BSc (Hons), MBA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 February 2022

Appeal Ref: APP/D3505/W/21/3277336

Three Horseshoes, Stows Hill, Cockfield, Bury St Edmunds, Suffolk IP30 0JB

- 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 Warwick, The Horseshoes Inn Ltd against the decision of Babergh District Council.
 - The application Ref DC/21/00124, dated 8 January 2021, was refused by notice dated 24 March 2021.
 - The development proposed is two detached five-bedroom dwellings, rearranging the car park relating to the public house. An access drive to serve the two dwellings. Demolition of existing double garage together with additional landscaping.
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Decision

1. The appeal is allowed, and planning permission granted for the development of two detached five-bedroom dwellings, rearranging the car park relating to the public house. An access drive to serve the two dwellings. Demolition of the existing double garage together with additional landscaping. In accordance with the details submitted with planning application Ref: DC/21/00124, subject to the schedule of conditions set out below.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the setting and significance of the adjacent Three Horseshoes public house, a Grade II listed building;
 - The effect of the proposed development on the character and appearance of the area; and
 - Whether the appeal site is a suitable location for residential development having regard to the Policies of the development plan and the settlement strategy.

Reasons

Setting of the listed building

3. The appeal site is located to the rear of the Three Horseshoes pub (the pub). The land immediately to the rear and side of the pub, which is currently used for ancillary buildings and a hard surfaced car park, will remain in use for the

pub and its customers. However, it will be reorganised in order to accommodate a car park for the pub. The site of the 2 proposed dwellings lies around some 25m to 35m from the rear wall of the pub and located on land which is set down from and sloping away from the building.

4. The land proposed for the 2 dwellings is currently surfaced partly in gravel and partly in grass and contains the pub's septic tank. In this respect part of it appears to be an extension of the pub car park and outside area. It is bounded by fences and hedges. There is no boundary between the appeal site and the existing pub car park, but there is a fence/hedgerow between the grassed area and the area to the rear of the pub.
5. The pub is listed Grade II and its significance is derived from its location and its visibility alongside the main road through the village, its timber framed construction and its thatched roof. The rear of the pub is used to accommodate ancillary facilities such as LPG tanks, a garage, storage shed, outside storage and the septic tank. Some of these features obscure the rear elevation of the building from wider views. It is the front of the building from where it is readily appreciated, and it is that elevation which is the most important when assessing the significance of the heritage asset.
6. The land proposed for the 2 dwellings is significantly lower than the pub, and the pub itself lies around 25m to 35m away. It is also proposed to orientate the dwellings so that their gables face the pub. Consequently, from the road through the village and from the pub itself there will still be an opportunity to view the countryside that lies beyond the appeal site and appreciate the relationship between the pub and the countryside that surrounds it.
7. From the open countryside back into the appeal site views of the proposed dwellings would be limited from lanes and the few public footpaths that cross the valley. The proposed dwellings would also be seen against the backdrop of the pub and houses which lie alongside the main road, which would further limit the impact they would have on the setting of the pub. Therefore, I consider that the proposed development would have a neutral effect on the significance of the setting of the Grade II listed building.
8. The development plan for the area is comprised of the Babergh Local Plan (2006) (BLP) and the Babergh Core Strategy (2014) (BCS). The Policies relevant to this matter are Policy CN06 of the BLP and Policy CS15 of the BCS. These policies, amongst other things, seek to ensure that new developments are appropriate to their location, retain and protect the setting of listed buildings, including space, views to and from the building and historic layout and landscape features.
9. It is clear to me that the appeal proposal has been designed and laid out in such a way that it would not harm the setting of the listed building. This can be summarised by the distance the dwellings are sited from the pub, the way they are set down below the level of the pub, their orientation (gable on) to the pub and the way a gap has been left between the two dwellings, enabling views to be had to the open countryside from the main road. Moreover, when viewed from the open countryside around the village the new dwellings would be 'read' against the backdrop of the existing buildings. Furthermore, the setting of the listed building is primarily derived from its relationship with the

road through the village and how it is viewed from this direction and the appeal proposal has no impact on the front of the building facing the road.

10. Whilst I have had regard to paragraph 199 of the National Policy Framework (the Framework) and Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I find that the impact of the proposed development would have a neutral effect on the setting of the listed building. I therefore consider that the appeal proposal is consistent with the policies of the development plan with regard to the effect they have on the setting of the listed building for the reasons set out above.

Character and appearance of the area

11. The area within which the appeal site lies is characterised by development that fronts the main road with front gardens and parking areas. Apart from the gap created to access the pub car park there are few views between the houses to the open countryside. Where these views do exist, they show land which is falling away to the valley or the hill side opposite.
12. Whilst the appeal proposal would be located to the rear of the existing buildings along the main road the proposed dwellings would be set a significant distance into the site, would be set down and would be sited in such a way so as to retain views from the road to the countryside beyond. Therefore, whilst the appeal proposal would not reflect the current frontage pattern of development in the area it would not harm the character or appearance of the area due to its distance from the road, the slope of the land and the siting of the individual dwellings.
13. The form of the proposed dwellings are modern, however they do contain elements that are displayed in the local area such as the use of varying ridge heights (displayed by the pub itself and extensions at the Olivers), lean to elements (displayed on the outbuilding at the Olivers) and dormer windows that cut the eaves line (displayed in the row of cottages adjacent to the pub). Control over the materials and landscaping would assist in ensuring that the dwelling further integrate into their surroundings and do not present an unduly suburban appearance.
14. Policies CN01 (BLP) and Policy CS15 (BCS) each seek to ensure that development proposals integrate with their surroundings by requiring them to respect the form and character of surrounding buildings, landscape, and scale. By virtue of their siting, orientation, and location, as set out above, I find that the appeal proposals are consistent with these policies of the development plan.

Suitability of the location of the proposal

15. Policy CS2 of the BCS uses a settlement hierarchy to direct development to the most sustainable locations and uses settlement boundaries to identify the locations which would accord with this hierarchy. The location of the appeal site does not fall within a settlement boundary nor is it within close proximity of a settlement identify as suitable for new dwellings.
16. Policy CS15 follows this approach and sets out criteria which development proposals should comply with. The criteria most relevant to this matter are

those related to new development having access to services and that seeking to minimise the need to travel in order to improve air quality.

17. The area within which the appeal site is located has access to minimal services within walking distance. A bus stop is located at the front of the site with services to Sudbury and Bury St Edmonds on all days of the week apart from Sundays. The service appears to operate hourly but ends in the late afternoon/early evening. It would seem that whilst the service offers some accessibility to services beyond the village, that accessibility would be limited.
18. Therefore, the occupiers of the proposed dwellings would be to a large extent reliant upon their cars for most of their day-to-day requirements. I have no information before me about the current standard of air quality in the area of the appeal site. However, it would seem to me that the addition of the cars from the appeal proposal would not unduly harm air quality in the area.
19. Consequently, whilst I do not consider that any cars used by the occupiers of the dwellings would significantly diminish the air quality in the area, it is clear that the area itself is not identified for new housing development by the development plan. Therefore, the proposals are in conflict with Policies CS2 and CS15 of the BCS.

Other Matters

20. I note that the suitability of the access has been referred to in both the Council Officer's report and the representations received. I also note that the County Highway Authority do not raise any objections to the proposal, provided the appropriate visibility can be achieved at the entrance and exit to the site from the main road.
21. The site currently operates as a public house and the access to the appeal site would use the same access as the pub car park. Therefore, the current use of the access would be in frequent use by the patrons of the pub, as well as those already resident on site. Consequently, I do not consider the addition of traffic from the proposed two dwellings to materially intensify the use of this access which would amount to a reason to dismiss the appeal.
22. I have also seen representations arguing that the living conditions of the occupiers of neighbouring dwellings would be harmed by the appeal proposals due to loss of privacy brought about by overlooking from the proposed dwellings. It is clear that both the proposed dwellings are orientated away from the neighbouring properties. The proposed dwelling on plot 1, whilst being close to the boundary of the neighbouring property, has no rear windows above ground floor level, with the exception of rooflights. In common with the proposed dwelling on plot 2 it is a significant distance from the dwellings which front the main road. Consequently, I do not consider that either of the proposed dwellings would harm the living conditions of the occupiers of the neighbouring dwellings.
23. Issues have been raised concerning the adequacy of the new car park designed to serve the pub and whether its location would cause noise and disturbance to the adjacent dwelling. The appeal proposal designates an area for 26 car parking spaces. These are proposed to be located to the rear of the pub in an area currently occupied by ancillary buildings and services. A undeveloped strip of land is proposed to be left between the proposed car park and the

neighbouring house, Victoria Cottage. I consider that the proposed car park to be adequate for a pub of this size where there is an emphasis on food sales. Furthermore, I find that the proposed car park is sufficiently distanced from the boundary of the site with Victoria Cottage so as not to cause undue disturbance to the occupiers.

24. I have been supplied with appeal decisions which the parties contend have a bearing on the case before me. Whilst I have had regard to these decisions, I have decided this appeal on the merits of the case before me.

Planning Balance

25. I consider the proposed development to have a neutral impact on the significance of the Three Horseshoes, a Grade II listed building, with regard to its setting. Consequently, I found that the proposal was not in conflict with the Policies of the development plan that seek to protect the settings of listed buildings. Furthermore, I have found that the proposed development does not harm the character and appearance of the area for the reasons set out above. It is therefore not in conflict with the Policies of the development plan that relate to these matters.
26. However, it is apparent to me that the appeal proposal is not consistent with the Policies of the development plan that seek to direct development in accordance with a settlement hierarchy, as it lies outside the designated boundary of the settlements identified for growth. However, the main policy which gives force to this hierarchy, CS2 of the BSC, is not wholly consistent with the Framework which is more flexible with regard to development in the countryside. Accordingly, it should have reduced weight in the determination of this appeal. I therefore give this Policy moderate weight.
27. In support of the proposal the applicant has argued that it will assist in supporting the viability of the pub in the light of borrowing that was incurred in order to refurbish the building and further borrowing that has been necessary due to the Covid 19 pandemic. It is intended that the proposed dwellings will be sold, and the income received used to pay off debts, thereby reducing the businesses out goings and assisting its viability. This is capable of being a material consideration in this appeal.
28. I have found some inconsistencies in this argument, for example, the viability report seems to assume that the pub will be viable should turnover and profitability return to historic levels, without the need for the proposed development. However, I also find that there is a significant risk that the return to the historic levels of turnover and profitability will not happen or that return will take longer than planned. Should that occur there is not the financial headroom to accommodate this. That could lead to the closure of the pub and the loss of a village facility. I give this risk substantial weight in this decision.
29. Section 38(6) of the Planning and Compulsory Purchase Act 1990 requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the appeal proposal is consistent with Policies CN01 and CN06 of the BLP and CS15 of the BCS where that policy relates to the setting of listed buildings and the character and appearance of the area. I have also found a conflict between Policy CS2 and that part of Policy CS15 that relates to

settlement strategy. However, I also found that Policy CS2 is not fully consistent with the Framework so that it should only carry moderate weight.

30. I heard from both parties about whether this is the last remaining pub in the village. I note that the other pub referred to is currently closed and has been closed for more than 1 year. Its designation as an asset of community value offers some hope that it could reopen, however this is not guaranteed.
31. The pub is clearly an asset which benefits the local community. However, its current financial position brought about by the need to keep its facilities up to date and to cope with the demands of a global pandemic have placed its future at risk. Consequently, I find that the benefits of the proposed development in that it would assist in safeguarding a community asset outweigh the harm that would be caused to the purpose Policy CS2 is meant to serve and any conflict between it and the proposed development.

Conditions

32. In addition to conditions relating to time limits for the development to commence and referencing the approved plans I consider the following conditions are necessary.
33. Conditions are necessary to secure appropriate and safe access to the site as a whole in the interests of highway safety.
34. In order to ensure that there is adequate space for refuse and recycling bins a condition is necessary to show where this is to be located and how it is to be laid out.
35. A condition is necessary to ensure that the car parking and manoeuvring areas are made available on the site and that they are retained for the users of the pub and the dwellings, in the interests of highway safety.
36. A condition is necessary to ensure that adequate visibility is provided where the access meets the public highway, in the interests of highway safety.
37. A condition requiring a Construction Management Plan (CMP) is necessary in order to protect highway safety and the living conditions of neighbouring residential occupiers. However, the matters covered by the Council's suggested conditions appear to be excessive given the scale of the proposed development. I have therefore reduced the number of matters the CMP should address.
38. Notwithstanding the details shown on the approved plans, a condition is necessary to ensure that all the external materials to be used on the proposed dwellings are approved so that they respect the character of their surroundings.
39. A fully detailed landscaping scheme is necessary for the whole site given its position on the edge of the settlement.
40. In view of the sloping nature of the site a condition is necessary to control the finished floor levels of the dwellings so that they respect the character of their surroundings.
41. In view of the archaeological comments received during the processing of the planning application in order to record and/or protect any archaeological

features that might be present on the site a condition is necessary in this regard.

Conclusion

42. For the reasons given above the appeal is hereby allowed.

Peter Mark Sturgess

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002; 003; 004; 005; 006; 007; 008; 009, the ecological survey report REP20001 Rev A, the supporting statement 20-6666, flood matrix, Environmental Report Phase 1 Geoenvironmental Desk Study and Viability Statement.
- 3) Work on the dwellings (not including the approved pub car park) hereby approved shall not take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) The dwellings and car parking hereby permitted shall not be used unless or until full details of the access arrangements (including surface finishes), between the site and the public highway, have been submitted to and approved in writing by the Council and completed in accordance with the approved details.
- 5) Before the commencement of any above ground works details of the areas to be provided for storage of refuse/recycling bins shall be submitted to and approved in writing by the Council. The approved scheme shall be completed before the development is brought into use and shall be thereafter be used for the storage of refuse/recycling bins.
- 6) The parking and manoeuvring areas shown on the approved plans shall be provided before the dwellings hereby permitted are occupied and shall be retained and used for no other purpose thereafter.
- 7) Before the access arrangements approved in accordance with condition 4) are brought into use visibility splays shall be provided with an X dimension of 2.4 metres and a Y distance of 120 metres and thereafter retained in the specified form. Notwithstanding the provisions of Part 2 Class A of the Town and Country Planning (General Permitted Development Order) 1995 (or any Order revoking and re-enacting that Order with or without modification) no obstruction over 0.6 metres high shall be erected, constructed, planted, or permitted to grow within the areas of the visibility splays.

- 8) Before the development hereby permitted is commenced a Construction Management Plan (CPM) shall be submitted to and approved in writing by the Council. Construction of the development shall not be carried out other than in accordance with the approved CPM and shall include the following:
- Parking and turning for vehicles of site personnel, operative and visitors
 - Loading and unloading of materials
 - Piling techniques
 - Storage of plant and materials
 - Programme of works (including measures for traffic management and operating hours)
 - Details of measures to prevent mud from leaving the site during construction, including any provision for wheel washing.
 - Restriction of working to the following days and hours:
 - No working outside the hours of 08:00 to 18:00 Monday to Friday (inclusive)
 - No working outside the hours of 08:00 to 13:00 Saturdays
 - No working on Sundays or Public Holidays.
- 9) No above ground development shall take place until samples of all external facing materials have been submitted to and approved by the Council in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 10) No above ground development shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the Council. These details shall include:
- i) earthworks showing existing and proposed finished levels or contours;
 - ii) identify all existing trees and hedgerows and show those that are to be retained;
 - iii) means of enclosure and retaining structures;
 - iv) boundary treatment;
 - v) other vehicle and pedestrian access and circulation areas;
 - vi) hard surfacing materials;
 - vii) lighting, floodlighting and CCTV;
- 11) All planting, seeding, or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the commencement of the works and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 12) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the Council. The

scheme shall include an assessment of significance and research questions, and:

- i) the programme and methodology of site investigation and recording;
 - ii) the programme for post investigation assessment;
 - iii) the provision to be made for analysis of the site investigation and recording;
 - iv) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - v) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - vi) the nomination of a competent person or persons/organization to undertake the works set out within the Written Scheme of Investigation.
 - vii) The site investigation shall be completed prior to development, or in such other phased arrangement, as agreed and approved in writing by the Council.
- 13) No building shall be occupied until the site investigation and post investigation assessment has been completed, submitted to, and approved in writing by the Council, in accordance with the programme set out in the Written Scheme of Investigation (submitted in accordance with condition 12 above) and the provision made for analysis, publication and dissemination of the results and archive deposition.

END