



Appeal Decisions

Site visit made on 29 March 2022

by Jonathon Parsons MSc BSc(Hons) DipTP Cert (Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 May 2022

Appeal A Ref: APP/Z1510/W/21/3270942

The Cherry Tree, Knowl Green, Belchamp St Paul C010 7BY

- 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 R Everitt against the decision of Braintree District Council.
 - The application Ref 20/00723/FUL, dated 14 April 2020, was refused by notice dated 14 September 2020.
 - The development proposed is the conversion of a redundant public house and self-contained flat to two dwellings.
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Appeal B Ref: APP/Z1510/Y/21/3270944

The Cherry Tree, Knowl Green, Belchamp St Paul C010 7BY

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservations Area) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr R Everitt against the decision of Braintree District Council.
 - The application Ref 20/00724/LBC, dated 14 April 2020, was refused by notice dated 14 September 2020.
 - The development proposed is the conversion of redundant public house and self-contained flat to two dwellings.
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Decisions

1. Appeal A is dismissed. Appeal B is dismissed.

Procedural Matters

2. These decisions address both planning and listed building consent appeals for the same site and same scheme. Although the remit of each regime is different, I have dealt with both appeals together, except where otherwise indicated.

Main Issues

3. The main issue, in both appeals, is whether the proposed works and development would preserve the Grade II listed building, known as The Cherry Tree Inn, its setting or any features of special architectural or historic interest it possesses. In respect of Appeal A only, there is an additional main issue as to whether the loss of a community facility, the public house, would be justified.

Reasons

Background

4. The Cherry Tree Inn is a detached 1.5 storey public house on the outskirts of a rural hamlet at Knowl Green, fronting a cross country route linking nearby

villages. The site includes a large hard-surfaced area, formerly a car park, and detached single-storey garage to the side of the public house and an enclosed garden to the rear. Internally, the ground floor comprises extensive bar, kitchen, dining and toilet areas and bedroom accommodation exists within the roof.

Significance and special interest

5. The Grade II listed Cherry Tree Inn (Lit Entry Number; 1146753) was first listed in 1984. The statutory list entry identifies the building as a public house of late 17th century origin with later 20th century additions; timber framed and plastered with a thatched roof. The building is comprised principally of two 1.5 storey ranges: an earlier double-fronted timber-framed range featuring thatched roof and gabled dormers either side of a central porch, and a later L-shaped 20th century range with gabled dormers in a pantile roof.
6. While a public house has ostensibly been in existence from the late 19th century, the building's origins were likely a modest cottage dwelling. The listed building has been much altered, not least through the addition of the L-shaped range, a front porch, and single-storey rear extensions in the mid-to-late 20th century, to facilitate its public house/accommodation use. The historic fabric within the rear wall of the earliest range was likely to have been lost when a bar was added. These later extensions have already increased the size of the original cottage considerably and while architecturally unremarkable, they are low-key and unobtrusive in terms of their scale, materials and form.
7. In spite of changes over time, the extent of the building's earliest range and origins as a traditional rural dwelling is reflected within its timber frame, proportions, footprint and thatched roof. The special interest and significance of the listed building is therefore derived from its overall form, layout and degree of historic integrity, that is typical of local vernacular; as well as its wider group value (as indicated by the initials GV on the statutory description). Furthermore, the building's location, fronting a main route through the hamlet, combined with a long-established public house use, gives rise to a significant period of historic continuity and community focus. Thus, significance and special interest also comes from the building being an example of a modest dwelling-come-public house, historic public house use, which although currently not active, remains very much evident in its overall form and character.

The proposals

8. The proposal are to convert the listed building into two dwellings: one within the earlier thatched range (plot 1) and the other in the later 20th century range (plot 2). In relation to plot 1, it is proposed to demolish the single-storey rear additions, make good the thatch and rear wall, and introduce a pitched roof extension beyond a flat-roofed corridor. To facilitate its sub-division, internal alterations and works of demolition would largely affect the later 20th century elements of the building, such as the front porch entrance and rear bar extension, with limited impact on the historic fabric.
9. Both the later range and replacement extensions behind the older range, would be constructed with new plain clay tiles and slate to replace modern pantiles. Facing materials for these building elements would be render and painted timber boarding. Such materials would be more in keeping with the traditional rural qualities of the older range than those existing on the more recent range

- and extensions. Due to their modest size and siting to the rear of the older range, the new glazing within the altered later range and replacement extensions would not be visually dominant. Consequently, such features would not visually detract or compete with the older range.
10. The rear extension's flat-roofed link would enable the re-instatement of an eaves line on the older range that would match that on the frontage. In the previous linked appeal decisions, an Inspector found that the proposed two storey extension would mask a larger part of the older range in views from garden areas and would erode the ability to appreciate the significance of the listed building. While the scheme before me proposes a single-storey extension, the apex of its roof would reach well-above the eaves line of the earliest range. Notwithstanding there would be some separation by the link corridor, the proposal would still introduce an atypical and dominating roof line that would obscure legibility of the overall form and obfuscate the legibility of the earliest range, weakening an aspect of the building's significance and special interest.
 11. Furthermore, the listed building's use as a public house makes a significant contribution to its historic interest. It is inevitable, therefore, that the permanent loss of that use to residential would sever the listed building's long-standing functional links with its community associations. Consequently, irrespective of physical interventions, the proposed residential use per se would adversely affect the significance and special interest of the listed building.
 12. In terms of the National Planning Policy Framework (the Framework), the degree of harm that the proposals would have on the significance of the designated heritage would be less than substantial. In accordance with paragraph 202 of the Framework, the harm would be weighed against the public benefits of the proposal, including securing the optimum viable use.

Community facility

13. Policies RLP128 and RLP151 of the Braintree District Local Plan Review (LPR) 2005 state, amongst other matters, that proposals which would lead to the loss of village and key community facilities or services, will not be permitted/will be resisted unless sufficient evidence is provided to demonstrate that they are not viable and that all options for their continuance have been fully explored. Policy CS11 of the Braintree District Local Development Core Strategy (CS) 2011 states that the loss or significant reduction of existing services and facilities will be resisted unless there is sufficient evidence that they are no longer viable, or needed, or satisfactory alternatives are available.
14. In supporting a prosperous rural economy, paragraph 84 d) of the Framework states that planning decisions should enable the retention and development of accessible local services and facilities, such as public houses.
15. The Cherry Tree Inn has been vacant since 2013; it has not been disputed that the public establishment provided bed and breakfast accommodation as well as public house use. While it has not been formally designated as an Asset of Community Value, many local representations indicate that the appeal property was a popular local community facility hosting village teams, activities, private parties and weddings. It has now been closed for some time and there have been several break-ins, with kitchen goods and equipment stolen. Financial accounts show that the public house was not making a profit for a significant

- period of time prior to the cessation of trade but there is a documented history of operational problems with managers and tenants during this time.
16. The public house has been marketed since its closure. Marketing has taken the form of well-known estate agent websites, as well as the agents, an advertising board on the site and press advertisements in local papers. There has been limited response and no genuine offers made by people interested in running a public house at the site. More recently, the property has been advertised with the potential for a number of alternative uses, such as village shop, children's nursery, etc but similarly no real interest has been shown. Over time, downward adjustments have been made to the asking price.
 17. There have been significant changes in pub trading conditions brought about by the smoking ban, more effective drink driving controls, increase in business rates and more recently, social distancing and lockdowns. Within the Braintree Council area, several public houses have been granted planning permission for different uses and many are up for sale. There is no doubt that it would be difficult to re-establish the public house as a viable business and any new operator would require substantial works to bring it back into use.
 18. However, rural pubs exist, such as that in the nearby village, and the adopted local plan policies require evidence of viability and the exploration of satisfactory alternatives. There is no definition of the type of evidence required under the policies but ultimately, it is reasonable to assess in detail the asking price as the price purchased for the premises will have a significant influence on viability. The appellant's statement details the asking prices of public houses within 10 miles of the appeal site at Clare, Stebbing, Ridgewell and Halstead. However, inevitably, these premises differ in their location, facilities and standard of accommodation and there is no objective analysis assessing how these factors, as well as the disadvantages and advantages of The Cherry Tree Inn, have been considered in justifying a realistic asking price.
 19. In a previous appeal decision¹, a similar proposal was dismissed for the conversion of the redundant public house and self-contained flat into two dwellings. Understandably, there has been much analysis of this decision by parties, but the Inspector assessed whether the asking price was realistic at paragraphs 24 and 25 of the decision and this decision, read as a whole, confirms my findings that a detailed and compelling assessment is required.
 20. For the public house at Ridgewell, an appeal was allowed for its change of use to residential use. However, the village had another nearby public house and during this appeal, the Council's own consultants confirmed that there was not enough business to go around to justify the retention of the public house. Therefore, there are important distinctions between this appeal proposal and that before me, which limits any weight to be attached to this Inspector's decision. This decision also shows that every proposal has to be considered on its particular planning merits.
 21. For all these reasons, it has not been demonstrated that the loss of the public house, as a community facility, has been justified.

¹ APP/Z1510/W/19/3219776 & APP/Z1510/Y/19/3219777.

Heritage and planning balance

22. The appeal building has been vacant for a long period of time and the proposal would realise a new use for it as well as investment into its currently deteriorating fabric, especially the older historic range. The removal of the 20th century extensions and fabric would not cause harm to the listed building and there would be reinstatement of the traditional appearance at the front of the older range through the removal of the porch. The materials to be used on the 20th century range and replacement extensions would be sympathetic to the listed building's appearance.
23. The optimum viable use of the building is the public house use and as above, it has not been demonstrated that a public house at The Cherry Tree Inn would not be viable. For the reasons indicated, it has not been demonstrated that the conversion and alteration of the listed building to residential use is the only way of ensuring its conservation. This reduces the weight I attribute to the conservation benefits of the proposal to a moderate level.
24. The fabric deterioration and onus on preserving the special interest of the listed building necessitate costly repairs and I recognise that a decision not in favour of the proposal would protract the fate of the building. However, it has not been convincingly shown that the conversion of the listed building to two residential dwellings would be the most appropriate and least harmful way of ensuring the asset's conservation. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, paragraph 196 of the Framework indicates that the deteriorated state of the heritage asset should not be taken into account in any decision.
25. The proposal would result in two open-market dwellings boosting housing supply and the choice of homes within the district. There would be associated economic and social benefits associated with the construction phase and as future residents feed into the local economy. That said, even if the Council cannot demonstrate a 5-year supply of housing land, two dwellings would make a very small contribution towards boosting housing supply and reducing any deficit. Indeed, the sum of wider economic and social benefits associated with two dwellings would be small.
26. For all these reasons, even cumulatively, I do not find the sum of public benefits associated with the proposal would be sufficient to outweigh the less than substantial harm identified and the great weight this carries.

Conclusions

27. In considering whether to grant planning permission or listed building consent, section 66(1) of the Planning (Listed Buildings and Conservations Areas) Act (the Act) requires decision makers to have special regard to the desirability of preserving a listed building. The proposed works and development would fail to preserve the listed building, in conflict with section 66(1) of the Act. Public benefits of sufficient weight to outweigh the less than substantial harm identified do not exist, conflict therefore arises with paragraph 202 of the Framework.
28. The development, proposed under Appeal A, would conflict with the community, design and heritage Policies RLP128, RLP100 and RLP151 of the LPR and CS9 and CS11 of the CS, which amongst other matters, seek to

prevent the unjustified loss of community facilities, and ensure development is sensitive to the need to conserve features of historic and architectural importance and do not result in loss of elements of special importance to listed buildings. There would be conflict with the development plan taken as a whole. The development fails to accord with the Framework in so far as it seeks to avoid the unjustified loss of a community facility. Consequently, material considerations do not indicate the appeal should be determined other than in accordance with the development plan.

29. For all these reasons and having regard to all other matters raised, I conclude that Appeals A and B should be dismissed.

Jonathon Parsons

INSPECTOR