



Appeal Decision

Hearing held on 12 May 2022

Site visit made on 12 May 2022

by Graham Wraight BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2022

Appeal Ref: APP/R1038/W/21/3280285

Butchers Arms, Main Road, Marsh Lane S21 5RH

- 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 Craig Hughes (Envy Developments Ltd) against the decision of North East Derbyshire District Council.
 - The application Ref 20/01305/FL, dated 22 December 2020, was refused by notice dated 7 July 2021.
 - The development proposed is the demolition of former public house and erection of 4 no. 3-bedroom dwellings with associated off-street parking and garden areas, and closure of footpath Eckington FP52.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Craig Hughes (Envy Developments Ltd) against North East Derbyshire District Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the planning application was determined the North East Derbyshire Local Plan 2021 (LP) has been adopted and a revised National Planning Policy Framework (the Framework) has been published. I therefore make my determination of the appeal on the basis of this current planning policy.
4. In accordance with the statutory duty set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the Moss Valley Conservation Area (CA).

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the CA.

Reasons

6. The CA covers a large geographical area, with the appeal site being located at the southernmost point of it. The boundary of the CA follows the side of Main Road on which the appeal site is located, thus dividing the settlement of Marsh Lane in terms of the parts falling within the CA and those which are outside of

the designated area. Included within the CA are a number of buildings that can be said to have a close relationship with the Butchers Arms in terms of their age, construction and in the evolution of the settlement. These specifically are the school, the schoolhouse, and the former chapel. The war memorial opposite also represents an aspect of the settlement's development. There are a number of other vernacular stone-built buildings nearby within Marsh Lane, but also more modern dwellings, including those which directly share boundaries with the appeal site to the side and rear, and buildings that are built from brick.

7. The CA as a whole is predominantly rural in character, but with settlements interspersed throughout it. Its significance lies predominantly in its industrial and farming landscape, with many vernacular buildings present. Marsh Lane is a small settlement now consisting primarily of dwellinghouses, a school and another public house, but the Butchers Arms is representative of the role of the settlement in serving the economy and the industry of the Moss Valley. It therefore has a clear connection to the significance of the CA not only in terms of its age and appearance, but in its function as a public house. It is located in a prominent position on the corner of Main Road and Ford Road and aside from its historical associations it makes a positive visual contribution to the character and appearance of the CA in its location. Whilst representations have been made with respect to the extent of the CA designation itself, that is not a matter for my consideration as part of this planning appeal.
8. The Planning Practice Guidance states¹ that in some cases, local planning authorities may identify non-designated heritage assets as part of the decision-making process on planning applications. That is the process which the Council has followed in this instance, and it has advanced detailed evidence in support of its case. Notwithstanding that a number of extensions and alterations have been made to it over the course of time, the Butcher's Arms retains its architectural value arising from its simple vernacular construction, which it shares with other contemporaneous buildings in Marsh Lane. It also has clear historical and evidential value related to the evolution of the settlement. Although there are modern buildings immediately adjacent to it and elsewhere in the settlement, these do not diminish the importance it has in these regards. I am satisfied for these reasons that the Butchers Arms is a non-designated heritage asset.
9. The structural consultants of the main parties set out differing approaches to the key issues that arise from the current physical state of the building. These relate to the external walls, in particular movement in the western gable, and to the structural integrity of the suspended first floor of the building. The Council's approach would advocate a lower level of intervention in both respects, whereas the appellant considers approaches such as underpinning, the potential rebuilding of the western gable and the complete replacement of the first floor as necessary. The Council's approach would place a lesser financial burden initially, but if these interventions were not successful then further intervention would be necessary. The appellant's approach would be likely to present a greater financial burden from the start, as compared to the Council's.
10. There is, however, no substantive evidence to demonstrate the effect that either approach would have on the ability to convert the existing building into

¹ Paragraph: 040 Reference ID: 18a-040-20190723

another use, from a viability point of view. The appellant considers the level of intervention specified by their consultant would render a conversion unviable. But without any details of the cost of works that would be necessary in either scenario, or the viability inputs and outputs of any such potential scheme, it is not possible to establish with any certainty that the building does not have any alternative viable use, or that its state of repair means that it is not possible to bring it back into use *per se*. Accordingly, it is not possible to prescribe specific weight to the position taken by the appellant that the building cannot be retained.

11. The proposed dwellings would be of a substantial scale and bulk, with a deep footprint and with living accommodation in their roof spaces. Due to their positioning, and the alignment and topography of Main Road, they would be visually prominent features within the street scene and in views taken into the CA in both directions. By reason of their positioning and overall scale and bulk, they would be an overly dominant feature, in particular when looking towards the large eastern side gable. Their design would incorporate narrow gables, recesses and porches on their front elevations, which are not characteristic features of existing buildings located in the CA, both older and modern, which generally take a simpler form. Box dormers on the rear roof planes would be visible from some views along Ford Road and from the public footpath near to the appeal site, and these too are not features that are characteristic of the CA.
12. There are modern dwellings close to the appeal site of varying ages, scales and designs, including two dwellings on Main Road immediately adjacent to the common side boundary which appear in views taken of the appeal site. In some cases, the more modern buildings have not contributed positively to the character and appearance of the CA, but their presence would not justify a harmful new development. The recent new dwellings to the rear of the appeal site are comparable in scale, and in some respects design, to those subject to this appeal. However, they are set further back from the public highway and in a less prominent position. They do not as a result have a comparable impact to that which would arise from the appeal development in terms of their positioning and overall scale and bulk, and their subsequent impact on the CA.
13. Taking all of the above factors together, the scale, bulk and design of the proposed dwellings in the position they would be located would not be sympathetic to the prevailing character of the CA and would as a result cause harm to its character and appearance. These harmful impacts would not be overcome by a reduction in hardstanding on the site frontage, the proposed new stone boundary wall, the use of appropriate materials or because there would be active elements facing the public domain.
14. The proposal would result in the loss of a section of public footpath that runs across the appeal site. This forms part of a much wider network of public rights of way running throughout the CA, many of which will have historical origins and purposes. However, there is nothing to suggest that this specific section of footpath is in itself of particular importance or significance within the settlement or within the CA as a whole. Furthermore, there are two other access points onto the public rights of way network in close proximity to the appeal site, which would provide convenient alternative access options. Therefore, I am not persuaded that the proposed stopping up of the public footpath would compromise the historical integrity of the CA or its character and appearance.

15. For the reasons I have set out, the proposed development would lead to harm to the CA, arising from both the loss of a building that makes a positive contribution to it and its replacement with new dwellings that would cause harm to its character and appearance. Given the nature of the proposed development and that the harm would be localised, I consider that less than substantial harm to the CA would arise. This being the case, it is necessary to weigh the public benefits of the proposal against the harm that would arise to the CA, in accordance with Paragraph 202 of the Framework. Furthermore, as I have found the public house to be a non-designated heritage asset, Policy SDC9 of the LP and paragraph 203 of the Framework require a balanced judgement with regard to the scale of any harm or loss and the significance of the heritage asset.
16. A number of public benefits have been outlined. The proposal would deliver four new dwellings on a small site and boost the supply of housing, which are specific aims of national planning policy. In addition, whilst Marsh Lane sits low on the settlement hierarchy as set out by the LP, the appeal site is an area in which new housing can, in principle, be permitted. However, in the context of the fact that the Council has a supply of deliverable housing sites, I afford these considerations moderate weight in favour of the proposal. I also acknowledge the Glapwell appeal decision² that has been provided, however that was for a substantially greater number of dwellings and its benefits are accordingly not comparable to the appeal proposal. There is potential for employment opportunities during the construction phase and there would be spending at local services and facilities by future occupiers. However again, given the quantum of the development, these represent a limited benefit.
17. The re-use of the appeal site as previously developed land could equally occur through a conversion scheme, as could environmental improvements such as enhanced landscaping. These considerations therefore also offer limited support for the proposal. The public house no longer has a car park, and there is nothing before me to suggest that the use of the remaining access points, which now serve only a small hard-surfaced area, cause harm to highway safety. Therefore, the benefits from a new access that would meet modern highway specifications would too be limited. It would appear unlikely that the building could be brought back into use as a public house, but even if it was, that was a longstanding use and would be subject to licensing controls. It also would not have its previous car parking and rear garden area. Therefore, the comparative benefits on the living conditions of nearby occupiers arising from a residential use would be limited. There are no underlying issues with regard to the supply of housing land and flooding in the district, and therefore the fact that the appeal site is in Flood Zone 1 does not offer tangible support for the proposed development.
18. The public benefits from the provision of the appeal proposal carry moderate or limited weight in its favour. However, I have a statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA and the harm that I have found would arise to the designated area is a matter which carries considerable importance and weight. Therefore, whilst there would be some public benefit in terms of what is proposed, taken individually and collectively these benefits do not outweigh the harm to the CA that would arise. The non-designated heritage asset is of

² APP/R1010/W/18/3198997

considerable significance within the settlement and there is no substantive evidence before me to demonstrate that it could not be retained and put to an alternative use. In that context, I also conclude that the benefits arising from the proposed development would not outweigh its loss.

19. For these reasons, I conclude that the proposal would cause harm to the character and appearance of the CA. It would also result in the loss of a non-designated heritage asset of considerable significance in the settlement, which would not be outweighed by other matters in the planning balance. Consequently, the proposal would fail to accord with Policies SS1, SS7, SDC5, SDC9 and SDC12 of the LP, where they collectively seek to protect character and appearance and designated and non-designated heritage assets. There would also be a conflict with the Framework, where it seeks to achieve well-designed places, because of the loss of the non-designated heritage asset and because the harm to the CA from the scale, bulk and design of the proposed development would not be outweighed by public benefits.

Conclusion

20. For the reasons given above, I conclude that the appeal should be dismissed.

Graham Wraight

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Jim Lomas – Regional Director DLP

Sam Pepper – Senior Planner DLP

Craig Hughes – Appellant

Matt Linster – Structural Engineer, Peak Engineers Ltd

FOR THE LOCAL PLANNING AUTHORITY:

Susan Wraith – Planning Consultant, 4 Planning Delivery Ltd

Rebecca Waddington – Conservation Officer, North East Derbyshire District Council

Gez Pegram – Director, Mason Clark Associates

INTERESTED PARTIES:

Ken Jenkinson – Local resident

Mrs Glossop – Local resident