



Appeal Decision

Site visit made on 26 August 2022

by Lewis Condé BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 November 2022

Appeal Ref: APP/C1625/W/22/3298295

16 The Old Crown, Market Street, Gloucestershire, Nailsworth, GL6 0BX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Elsid Selmani against the decision of Stroud District Council.
 - The application Ref S.22/0301/VAR, dated 10 February 2022, was refused by notice dated 5 April 2022.
 - The application sought planning permission for 'Covered outdoor seating area in connection with an existing restaurant' without complying with a condition attached to planning permission Ref S.20/2064/FUL, dated 26 November 2020.
 - The condition in dispute is No 2 which states that: *'The development hereby permitted shall be carried out in all respects in strict accordance with the approved plans listed below: Site Location Plan of 01/10/2020 Plan number = 20.071-001 Proposed plans and elevations of 01/10/2020 Plan number = 20.071-200 Sections of 06/10/2020 Plan number = 20.071-201'*.
 - The reason given for the condition is: *'To ensure that the development is carried out in accordance with the approved plans and in the interests of good planning'*.
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Decision

1. The appeal is allowed and planning permission is granted for a covered outdoor seating area in connection with an existing restaurant at 16 The Old Crown, Market Street, Gloucestershire, Nailsworth, GL6 0BX without complying with condition 2 previously attached to planning permission reference S.20/2064/FUL, dated 26 November 2020, but subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of the original permission S.20/2064/FUL (i.e. 26 November 2020).
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location and Block Plan, Drawing No. 20.071-001; and Proposed Plans and Elevations, Drawing No. 20.071-200A.
 - 3) No construction site machinery or plant shall be operated, no process carried out and no construction related deliveries taken at or dispatched from the site except between the hours 08:00 and 18:00 on Mondays to Fridays, between 08:00 and 13:00 on Saturdays and not at any time on Sundays, Bank or Public Holidays.

Background and Main Issue

2. Planning permission (ref: S.20/2064/FUL) was granted for a covered outdoor seating area in connection with the existing restaurant at the site in 2020. Condition No. 2 of this permission required that the development be undertaken in accordance with the approved plans.
3. The appellant is seeking to vary the condition to replace the approved plans to enable a revised design of development. The amendments would incorporate a single ply membrane roof to the covered outdoor seating area, as opposed to a glazed panel roof that was previously approved.
4. The main issue is the effect of the development on the character and appearance of the host property and the surrounding area.

Reasons

5. The appeal site is located in a prominent position fronting onto the A46, which is a main thorough-fare within Nailsworth town centre. The appeal property is a restaurant set over the ground and lower floors of a sizeable mixed-use building. The host building displays an attractive stone frontage, that is of a 'traditional' appearance. Given the town centre location, the surrounding area is largely commercial in nature, with the wider streetscene containing a mix of properties that vary in their precise appearance and detailing, although share a general consistency in scale.
6. The site lies within the Nailsworth Town Centre Conservation Area (CA). The CA covers a sizeable extent of the centre of Nailsworth and therefore the character of the CA is diverse. However, from my observations on site, I find that the heritage significance of the CA is largely derived from the number of high quality historic and listed buildings, and their notable use of traditional materials. In the immediate vicinity of the appeal site the CA is largely characterised by traditional stone and brick buildings that have high-quality detailing and decorative shopfronts.
7. The previously approved covered extension would contrast significantly with the more traditional appearing architectural façade of the host building. It is recognised that the previous design of the extension through its incorporation of a glazed roof would appear as a more lightweight structure, whilst also being more contemporary in nature, than the current proposal. Nevertheless, although the proposed change to the roofing material would result in a solid roof form, its impact would be highly limited and would not result in the proposed structure becoming cumbersome, or obtrusive in nature.
8. The proposed development would remain of the same size and scale as previously approved. It would also continue to retain a significant extent of glazing such that it would not harmfully obscure the principal elevation of the host building. The appearance of the proposal would also still largely reflect that previously approved. As such, the current proposal would continue to be of a simple contemporary form, that provides an appropriate contrast to the host building without detriment to the character of the host property.
9. The proposal is in a prominent location and views of its roof would be available particularly from elevated positions, most notably on Market Street. However, it is not considered that the change in roofing material alters the design of the proposal to such an extent that it would have a harmful impact on the

character and appearance of the host property or surrounding area. Accordingly, I also find that the proposal would preserve the character and appearance of the CA.

10. The appeal building is also located within the setting of various listed buildings, including the Grade II Listed Church of St George, Grade II Nailsworth War Memorial Cross and the Grade II Old Village Inn. I have a statutory duty to give special regard to the desirability of preserving the listed buildings or their settings. Again, due to the limited nature of change to the approved scheme and the proposal not being deemed to harm the character and appearance of the host property, I am satisfied that the settings of the listed buildings will also be preserved.
11. Overall, the difference between the current proposal and approved scheme is minimal and would not cause harm to the character and appearance of the host property. Accordingly, it complies with Policies CP14 and ES12 of the Stroud District Local Plan 2015. Together the policies, amongst other matters, seek to ensure that the design of new development is of a high quality that respects the appearance of the site and surrounding area.

Conditions

12. The Council has suggested a list of conditions that fundamentally replicate those attached to the previous planning permission. For clarity and precision, and to ensure compliance with the Planning Practice Guidance (PPG), I have undertaken some minor editing of the suggested conditions where necessary.
13. The PPG advises that planning permission cannot be granted under Section 73 to extend the time limit within which a development must be started, accordingly a condition is attached to clarify that permission must commence within the time-limit of the original permission. A condition to ensure compliance with the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. A condition to control the hours of development activity is also necessary. This is due to the close relationship that the appeal property shares with neighbouring residential properties.

Conclusion

14. For the reasons outlined above and having regard to the development plan, as a whole, and all other material considerations, the appeal should be allowed.

Lewis Condé

INSPECTOR