



Appeal Decisions

Site visit made on 12 December 2022

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 20 December 2022

Appeal A Ref: APP/F3545/W/21/3282096

Rose and Crown, 48 Whiting Street, Bury St Edmunds IP33 1NP

- 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 Greene King Limited against the decision of West Suffolk Council.
 - The application Ref DC/21/0075/FUL, dated 13 January 2021, was refused by notice dated 4 June 2021.
 - The development proposed is internal and external works to provide enhanced air intake and extraction system for kitchen.
-

Appeal B Ref: APP/F3545/Y/21/3282095

Rose and Crown, 48 Whiting Street, Bury St Edmunds IP33 1NP

- 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 Greene King Limited against the decision of West Suffolk Council.
 - The application Ref DC/21/0076/LB, dated 13 January 2021, was refused by notice dated 4 June 2021.
 - The works proposed are the same as Appeal A.
-

Decisions

1. The appeals are dismissed.

Main Issue

2. The main issue for both appeals is the effect of the proposal on the special interest of the Grade II listed building known as the Rose and Crown Public House.

Reasons

3. The Rose and Crown Public House is a two-storey building on the corner of Whiting Street and Westgate Street. The public house and listed building designation includes two adjoining former cottages at 51 and 52 Westgate Street. The oldest parts of the listed building, including the public bar areas on the ground floor, are timber framed, with the list description dating the building to the 17th century with a probable 15th century core. The exterior fronting onto the two roads dates to the 19th century with red brick on the ground floor and ornamental tile hanging on the first floor with a clay tile roof. The rear elevations visible from the beer garden use plainer materials and include 19th and 20th century extensions. The roof and dormer windows at the rear of Nos 51 and 52 appear to be 20th century along with ground floor doors and windows.
4. The former cottage at No 52 has two small rooms on each of its two floors. It does not appear to have been built until the late 18th or early 19th century

based on map evidence, although it contains older timbers. Unlike No 51, which houses the pub kitchen on the ground floor and living accommodation above, No 52 has no internal access to the rest of the public house. It is used for storage and servicing ancillary to the pub but is in a poor state of repair and seems to have been for several decades. The list description from 1972 describes No 52 as derelict. Any surviving fixtures and fittings including partition walls at ground and first floor appear to date to the 1930s or 1940s. Wallpaper and plasterwork hang down in several places.

5. The back bedroom upstairs has rotten floorboards and the ceiling around the dormer window has failed with exposed timber laths, purlins and rafters. It is possible that prolonged water ingress from the dormer window has resulted in the rot, although this appears to have occurred in the past as the external roof and dormer have been repaired or replaced in the late 20th century. The floorboards appear to be elm or softwood suggesting that they are 20th century alterations, while the joists may date from when No 52 was built in circa 1800 where older timbers could have been utilised.
6. The special interest and significance of the listed building is greatly informed by its architectural and historic qualities. These include the survival of its timber frame and the striking appearance of its streetside elevations, as well as its public house use which has been in operation since at least the 1960s and before the building was listed. Although the internal spaces at Nos 51 and 52 are less grand than the public bar areas, they contain exposed timber frames and are ancillary spaces that support the public house use. Moreover, apart from modern plumbing and servicing, No 52 has been largely unaltered since the mid-20th century with surviving evidence of 1930s/1940s domestic alterations. Both Nos 51 and 52 are an integral part of the streetside elevations. Therefore, they make an important and positive contribution to the significance and special interest of the listed building.
7. The proposal would insert a kitchen extraction system into No 52, positioned along the shared wall with No 51. There would be two small openings in the shared wall to connect a new kitchen canopy in No 51 to the extraction system and another small opening for air intake. The existing rear ground floor window at No 52 would be replaced with a louvre panel as part of the air intake. Within No 52, the ducting would cut through the partition wall between the front and back room on the ground floor before passing through the ceiling into the back bedroom. The ducting would then exit via the side of the rear dormer window and finish with an exhaust duct.
8. The openings in the shared wall would result in the loss of historic fabric dating back to circa 1800 although these would be relatively small insertions that would avoid any major timbers. The partition wall is mid-20th century and again the opening would leave most of the wall intact. The ground floor window is 20th century and so the loss of fabric to insert a louvre panel would not be significant. The proposed opening through into the back bedroom would be large compared to the size of the room and would involve the removal of floorboards and joists. This would be harmful particularly for any pre-20th century timbers, although the rotten condition means that little is salvageable from the middle part of the room where the ducting would pass. The opening through the side of the dormer window would largely affect modern timbers and avoid the historic timber rafters.

9. Although the ducting would avoid the main timber frame of the listed building and much of the flooring to the back bedroom would need to be replaced in any event, there would still be loss of fabric ranging from circa 1800 to the mid-20th century. Therefore, there would be less than substantial harm to the significance of the listed building of a moderate magnitude.
10. Aside from the loss of fabric, the proposal would also have visual effects internally and externally. The ducting would be very prominent within the small ground floor rooms at No 52, positioned along the shared wall from floor to ceiling. It would also dominate the small back bedroom. Although the ducting is reversible, whilst in situ it would have a modern, bulky and intrusive appearance within the modest surrounds of No 52. The existing ducting and plumbing is smaller in scale and may not have the benefit of listed building consent, so does not justify the proposed works. Thus, the proposal in terms of internal visual effect would result in less than substantial harm to the significance of the listed building of a significant magnitude.
11. Externally, while the louvre panel would be small, its industrial metallic form would detract from the appearance of the rear elevation. The exhaust duct would be small and not much taller than the dormer roof. Nevertheless, even painted a suitable colour, it would be an obvious and incongruous modern feature on the rear elevation visible from the beer garden. Thus, the external visual effects would result in less than substantial harm to the significance of the listed building to a moderate degree.
12. Paragraph 202 of the National Planning Policy Framework (NPPF) states that less than substantial harm to the significance of a designated heritage asset should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. NPPF paragraph 199 notes that great weight should be given to the conservation of designated heritage assets irrespective of the level of harm. NPPF paragraph 200 explains that any harm requires clear and convincing justification.
13. Turning to the public benefits, the existing kitchen is basic and lacks adequate ventilation and extraction systems. The appellant states that it is currently only being used by the pub manager for domestic cooking rather than serving food to customers of the pub. The appellant contends that very few public houses now rely on drink sales alone and most are increasingly dependent on a food offering to remain viable. This is due to a combination of factors including the 2007 smoking ban and the Covid-19 pandemic which has affected the finances of public houses.
14. There is national and local policy support for public houses as community facilities. NPPF paragraphs 92 and 93 promote social interaction and the use of community facilities and seek to guard against the unnecessary loss of valued facilities and services. Policy DM41 of the Joint Development Management Policies Document 2015 (DMP) permits the provision and enhancement of community facilities where they contribute to the quality of community life and the maintenance of sustainable communities. Permitted development rights allow pubs to become drinking establishments with expanded food provision but any other use would require planning permission. I accept that this recognises the need to safeguard pubs while at the same time allow them to expand their offer to customers in terms of food.

15. The Council's delegated report recognises and accepts the need for food at the Rose and Crown following the submission of a letter from the appellant in May 2021. This letter states that the Rose and Crown becomes an unviable business for the current licensee without the ability to have a good food offering. However, the Council's report also argues that the public house is already in use and operating and appears to have done so for many years.
16. The appellant's statement of case contends that the pub is currently trading at a loss and that without the takings from the food sales the pub would have to close. However, I have limited evidence on this matter in terms of any financial or other information to demonstrate that the pub would be forced to close due to the lack of a functioning trade kitchen. At my site visit, the pub was temporarily closed for refurbishment but was due to re-open imminently.
17. The appellant also argues that alternative uses would be more harmful to the listed building, but there is little information before me on such uses and their potential impact on the fabric and significance of the listed building. Nevertheless, any change of use from a public house would require planning permission and potentially listed building consent for associated works. This would be a matter for the Council to consider in the first instance. There is no secured alternative use before me. Therefore, I can only afford limited weight to the public benefits of the proposal securing the future of the public house.
18. The works would improve the flooring in the back bedroom and there is no evidence of deliberate damage or neglect. However, the proposal would not necessarily secure the wider repair and refurbishment of No 52. The description of the proposal and the submitted plans make no reference to wider works to No 52 and there is no mechanism before me to secure such works. The existing plumbing and ducting have been installed without any wider refurbishment and so it is entirely possible that the existing condition of No 52 would continue even if the proposal went ahead. No 52 is already used for storage and servicing and so the proposal would not improve the building's use.
19. No alternative approaches or designs for the extraction system have been demonstrated by the appellant either. I accept that any increase in external ducting would have a greater negative effect on the listed building but it has not been shown that the proposal is the minimum intervention necessary to provide sufficient ventilation and extraction of the kitchen. Therefore, I afford limited weight to any heritage-related public benefits.
20. Finally, the appellant refers to a rising number of complaints about odour and noise from neighbours adjoining public houses following the end of lockdowns. However, I am not aware of any current or past complaints relating to the existing kitchen extraction system here. The adjoining neighbour at 53 Westgate Street has only raised concerns about the noise and odour effects of the proposed system. Any noise or odour prevention measures with a new extract system here would constitute mitigation rather than a benefit. It has not been demonstrated that the proposal is necessary to improve an existing noise or odour problem and so this public benefit carries very little weight.
21. The public benefits would not be sufficient to outweigh the less than substantial harm to the listed building and provide the clear and convincing justification for the harm. For the avoidance of doubt, this applies to both appeals. Although Appeal A only relates to the external elements of the exhaust duct and louvre panel, I have still found there to be moderate harm which would not be

outweighed by the limited and very little weight afforded to the public benefits. Therefore, the proposal would not accord with NPPF paragraphs 199, 200 and 202.

22. In conclusion, the proposal in both appeals would not preserve the special interest of the listed building and the public benefits would not outweigh the harm to its significance. Therefore, the proposal would conflict with DMP Policy DM15 which, amongst other things, permits alterations to listed buildings where they contribute to the preservation of the building and are not detrimental to its character or any architectural or historic features that contribute towards its special interest.

Other Matters

23. While I note the concerns of the neighbour at 53 Westgate Street about the noise and odour effects of the proposal, given my conclusion on the main issue it has not been necessary to address them in any detail.

Conclusions

24. For the above reasons, I conclude that both appeals should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR