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# Appeal Decision

Site visit made on 8 February 2023

**by Peter White BA(Hons) MA DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 9 March 2023**

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**Appeal Ref: APP/F2605/W/22/3299853**

**Site adjacent to the former Dolphin Public House, Old Market Street, Thetford, IP24 2EQ**

- 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 C Boulter of Gold Leaf Property Investments Ltd against the decision of Breckland Council.
  - The application Ref 3PL/2021/1636/F, dated 7 December 2021, was refused by notice dated 29 March 2022.
  - The development is proposed residential development consisting of 2No. semi detached houses with access and parking connected to the converted dwellings at the former Dolphin Public House.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. In addition to the harm identified to the Conservation Area, the Council's Officer Report, which it relies on to make its case at appeal, clearly concludes there would also be harm to the setting of the Grade II Listed former public house building. I have a statutory duty to have special regard to the desirability of preserving the setting of the Listed Building, and have therefore considered that as part of the first main issue.

## Background and Main Issues

3. In May 2021 planning permission (ref: 3PL/2021/0401/F) and listed building consent (ref: 3PL/2021/0402/LB) were granted for conversion and extension of the public house and outbuildings to form seven dwellings with associated works, including provision of car/cycle parking and landscaping. That development has commenced.
4. A separate planning application (ref: 3PL/2021/1636/F) was submitted in December 2021 to add two further new dwellings on the former car park, with alterations to the proposed parking and amenity areas for the whole development. That application was refused by the Council in March 2022, and is the subject of this appeal.
5. The main issues are the effect of the development on:
  - The character and appearance of the area, with particular regard to the external materials proposed, considering the settings of the Thetford Conservation Area and the Grade II Listed Building, the former Dolphin Public House;

- The setting of the Thetford Castle scheduled monument, with particular regard to its visibility from Old Market Street; and
- The living conditions of future occupiers of the proposed development, and the conversion of the former Dolphin Public House buildings, with particular regard to the suitability and extent of private amenity space.

## **Reasons**

### *Character and appearance:*

6. The appeal site is located within the Thetford Conservation Area (CA) and the former Dolphin Public House is a Grade II Listed Building. I am required, by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA, and by Section 66(1) of the Act, to have special regard to the desirability of preserving the setting of the listed building.
7. Paragraph 189 of the National Planning Policy Framework (the Framework) sets out how heritage assets are irreplaceable resources which should be conserved in a manner appropriate to their significance. Paragraph 197 requires account to be given to the desirability of sustaining and enhancing the significance of heritage assets, and of new development making a positive contribution to local character and distinctiveness. Paragraphs 199 and 200 require great weight to be given to an asset's conservation, and any harm or loss should require clear and convincing justification.
8. For the purposes of this appeal, and with the information before me, I consider the significance of the CA to be associated with the historic settlement and development of Thetford since the time of the Norman conquest, and the historic character of its buildings. I consider the significance of the Listed Building to be associated with its historic and architectural interest.
9. Old Market Street displays significant historic character. Many of its historic buildings have flint frontages, set in buff brick surrounds, with others in buff or soft red brick. More recent developments have followed this palette of materials in a general sense, but have not always reflected the historic character of the street as a whole.
10. The former Dolphin Public House building, with its flint, ashlar and brick frontage, painted gable end and pantile roofs, stands next to other buildings of a similar, but less ornate, style in flint and brick. Opposite the appeal site a former maltings building is faced in flint and brick with slate roofs. Adjacent to the west, 29 Old Market Street, with its small flint panels set in buff brick, does little to contribute to the historic character and appearance of the CA. And developments opposite No 29 have had little regard to the historic character of the street, and detract from its character.
11. I have not seen samples of the proposed materials, but they are specified on the drawings. The appellant's Heritage Impact Assessment states that flint has been used sparingly to avoid comparison with the historic 17th century dressed stone and flintwork on the former public house. However, the flint and ashlar mix found on the public house is unique and distinctive, and flint buildings in the vicinity complement, rather than detract from its character. Although the proposed flint panels would be larger than those found on No 29, flint panels,

as opposed to predominantly flint frontages, do not appear to be typical of other buildings on the street, and would not reflect its character.

12. The proposed development would be sited adjacent to the listed building, in close proximity to it, and within its setting. It would face the former granary building and would be seen from the junction of Old Market Street with Ford Street, among flint fronted buildings. It is therefore important to ensure that, in this location, the proposed development preserves or enhances the character and appearance of the area, and preserves the setting of the listed building. The proposed development would not do so, and would harm the character and appearance of the CA and the setting of the Listed Building. In the terms of the Framework, the resulting harm would be described as less than substantial harm.
13. The appellant considers this matter could be addressed by conditions imposed on a planning permission. However, I have not seen alternative proposals which demonstrate that suitable materials would overcome the harm I identify.
14. In conclusion, the development would harm the character and appearance of the area, with particular regard to the external materials proposed, considering the setting of the Thetford Conservation Area and the Grade II Listed Building, the former Dolphin Public House. As a consequence, it would conflict with the relevant elements of Breckland Local Plan (2019) (BLP) Policies COM01, ENV07 and GEN02, which seek high quality design and the preservation and enhancement of the historic environment. In relation to the statutory duties, it would not preserve or enhance the character or appearance of the CA and preserve the setting of the listed building, and would conflict with paragraphs 197 and 200 of the Framework, which are described above.
15. I consider the public benefits of the scheme relative to that harm below, in line with paragraph 202 of the Framework.

*The Scheduled Monument:*

16. The advice in the Framework, as set out above in relation to heritage assets, also applies to the Scheduled Monument.
17. The Castle Hill motte and bailey castle, known as Thetford Castle, is an Iron Age earthworks. It is part of a Scheduled Monument and is described as one of the most impressive examples of its type in the region. The motte is the highest in Norfolk, and the extent of the surrounding earthworks are second only to those at Norwich Castle. The listing description states that it was sited to control important crossings of the rivers Thet and Ouse, and to dominate the town of Thetford.
18. Historic England advises that its significance lies in the surviving condition and rarity of its earthworks, and the high potential that the site contains important buried archaeological remains relating to its multiple periods of occupation and use. They state that the setting of the castle, including views of the motte (castle mound), also makes an important contribution to its significance, and that the view of the castle motte from Old Market Street makes a positive contribution.
19. Thetford Castle is located immediately behind the appeal site, and a substantial, even if partial, view of it forms a backdrop to the appeal site from Old Market Street. The appeal site is the only sizable gap in the building

frontage in Old Market Street from which the Scheduled Monument can be seen. At my site visit I noted building works were taking place enclosing another gap nearby, but it appeared that the monument was far less visible from that location on account of intervening trees.

20. Although the appellant's Heritage Impact Assessment provides evidence that the appeal site was once more enclosed, the Scheduled Monument is clearly associated with the River Thet to the south. Although there are significant views of the Scheduled Monument from within Castle Park, the monument's relationship with the rivers to the south and east is an important part of its setting, and contributes to its significance. Although the view across the appeal site from the south is not seen from rivers, it provides a rare perspective of the monument from that direction which demonstrates its imposing scale and dominance. The loss, or significant reduction, of this view would therefore harm the setting, and significance, of the Scheduled Monument. In the terms of the Framework, that harm would be described as less than substantial harm.
21. In conclusion, for the reasons above, the proposed development would harm the setting of the Thetford Castle scheduled monument, with particular regard to its visibility from Old Market Street. As a consequence it would conflict with the relevant elements of BLP Policies COM01, ENV07 and GEN02, and paragraphs 197 and 200 of the Framework, which are described above. I therefore consider the public benefits of the scheme relative to that harm below.

*Living conditions:*

22. The proposed layout would provide a parking and turning area and an enclosed 'Shared Amenity Area', plus small north-facing private amenity spaces behind the two additional houses proposed. BLP Policy COM3 requires consideration to be given to the provision of adequate areas of useable and secluded private amenity space.
23. Windows of a residential flat being constructed at first-floor level, in an extension to the former public house, would overlook the private amenity spaces to the rear of the proposed dwellings at very close proximity. With the information before me they could therefore not reasonably be considered to be secluded, and would be poor design.
24. The proposed shared amenity area would be a small area to serve the nine residential units proposed on the development as a whole, even accounting for the small private spaces that would be available to some units. I have not been provided with information relating to other external amenity areas in the locality, but it would be similar in size to that for the approved scheme for the converted public house buildings. However, in the proposal before me it would also be required to accommodate three commercial bins and three cycle stores, and the private space allotted to Unit 1 of the conversion would be significantly reduced in size.
25. I note the close proximity of Castle Park, and the contribution it would make to amenity space for occupiers of the wider development as a whole. However, it would do little to provide secluded private amenity space for occupiers of the development.

26. In conclusion, the proposed development would harm the living conditions of future occupiers of the proposed development as a whole, including the conversion of the former Dolphin Public House buildings, with particular regard to the suitability and extent of private amenity space. The development would therefore conflict with the relevant provisions of BLP Policy COM3, which is described above.

### **Other Matters**

27. The proposed development would make a small contribution to increasing housing supply in an accessible location within walking distance of services and facilities in the town centre. It would also provide small employment benefits arising from its construction, and to local shops and services.
28. The appeal site is physically situated outside the River Wensum Special Area of Conservation (SAC) and the Broads SAC. However, the Council advise that it is not known whether foul water drains into either catchment area, whether Appropriate Assessment is required, and whether suitable mitigation can be provided to offset any impacts. However, as I am dismissing the appeal on other grounds, I am not required to consider this matter further. Even if mitigation is necessary, it would only mitigate harm and would not be a positive benefit of the scheme.

### **Planning balance and Conclusion**

29. The proposed development would result in less than substantial harm to the character and appearance of the Thetford Conservation Area, the setting of the Grade II Listed Building, the former Dolphin Inn, and the setting of the Thetford Castle Scheduled Monument. Together with the resulting conflict with development plan policies, and considering the statutory duties and the policies of the Framework, this harm attracts significant weight against the proposed development. The public benefits arising from two additional housing units and the associated economic benefits, attract only limited weight, and would not outweigh the harm to heritage assets. In addition, further harm weighs against the development in relation to living conditions for future occupiers with regard to private amenity space.
30. For the reasons above, I conclude the development would conflict with the development plan as a whole and the approach in the Framework. There are no other material considerations that would require a decision to be taken other than in accordance with the development plan, and the appeal should therefore be dismissed.

*Peter White*

INSPECTOR