

Appeal Decisions

Site visits made on 9 October 2022 and 23 March 2023

by David Reed BSc DipTP DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 April 2023

Appeal A Ref: APP/V0510/W/21/3287481
The Crown Inn, 14 Church Street, Fordham CB7 5NJ

- 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 Cordage 28 Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 21/00250/FUL, dated 25 February 2021, was refused by notice dated 4 October 2021.
 - The development proposed is the erection of two dwellings (use class C3) adjacent to The Crown public house (use class Sui Generis) utilising existing access with associated parking and landscaping with reconfiguration of the pub's car park.
-

Appeal B Ref: APP/V0510/W/22/3303436
The Crown Inn, 14 Church Street, Fordham CB7 5NJ

- 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 Cordage 28 Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 21/01800/FUL, dated 15 December 2021, was refused by notice dated 30 March 2022.
 - The development proposed is the erection of two four-bedroom dwellings (use class C3) adjacent to The Crown public house (use class Sui Generis) utilising existing access with associated parking and landscaping including reconfiguration of the pub's car park.
-

Appeal C Ref: APP/V0510/W/22/3309056
The Crown Inn, 14 Church Street, Fordham CB7 5NJ

- 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 Cordage 28 Ltd against the decision of East Cambridgeshire District Council.
 - The application Ref 22/00774/FUL, dated 24 June 2022, was refused by notice dated 21 September 2022.
 - The development proposed is the erection of two four-bedroom dwellings (use class C3) adjacent to Indian Garden 2 restaurant (use class E) utilising existing access with associated parking and landscaping including reconfiguration of the restaurant's car park.
-

Decisions

1. Appeals A and B are dismissed.
2. Appeal C is allowed and permission is granted for the erection of two four-bedroom dwellings (use class C3) adjacent to Indian Garden 2 restaurant (use class E) utilising existing access with associated parking and landscaping including reconfiguration of the restaurant's car park at The Crown Inn,

14 Church Street, Fordham CB7 5NJ, in accordance with the terms of the application, Ref 22/00774/FUL, dated 24 June 2022, subject to the attached schedule of conditions.

Applications for costs

3. In relation to Appeals B and C, applications for costs have been made by Cordage 28 Ltd against East Cambridgeshire District Council. In relation to Appeal C, an application for costs has been made by East Cambridgeshire District Council against Cordage 28 Ltd. These applications are the subject of separate Decisions.

Preliminary matter

4. The Crown Inn was a public house until recently but planning permission was granted for a change of use to a restaurant in February 2022¹.

Main Issues

5. The main issues are:
 - the effect of the proposals on the character and appearance of the area, including the effect on the significance of the adjacent Grade II listed building and the Fordham Conservation Area (CA);
 - whether the proposals would lead to highway safety risks as a result of the restaurant delivery arrangements or insufficient parking spaces leading to on-street parking in the vicinity;
 - whether the loss of parking spaces would threaten the long-term viability of the restaurant; and
 - whether the proposals would provide acceptable living conditions for future residents with regard to access to their dedicated car parking spaces and/or noise and disturbance from the restaurant car park.

Reasons

Character and appearance

6. The appeals are for three alternative schemes for a pair of detached dwellings on part of the car park to one side of the Crown Inn, now the Indian Garden Restaurant, on the northern side of Church Street. In each case a strip of car parking would be retained adjacent to the restaurant with the remainder of the car park developed with 2 no. two-storey houses. These would face towards Church Street behind the existing tall flint wall with their access shared with the restaurant car park to one side. In the case of Scheme A their car parking would be provided to the front with the houses set back, whilst in Schemes B and C their car parking would be to the rear with the houses set forward behind the wall. The house designs also differ in each case.
7. Other than their layout and detailed house designs, the three schemes raise very similar issues and unless specifically stated otherwise are dealt with together in this decision.

¹ Reference 21/0104747/FUL

8. The site lies within the Fordham CA which extends along both sides of Church Street from the River Snail as far as The Crown Inn and on the other side of the road the Church of St Peter and St Mary Magdalene. The Grade II listed Crown Inn, of timber and plaster construction, dates from the 16th century and fronts onto the road with an ancillary 19th century outbuilding behind, whilst the Grade I listed church is set well back within a large treed churchyard. Towards the village centre to the west, beyond and opposite the appeal site, lie a wide variety of buildings, several modern dwellings including bungalows set back behind front gardens or parking, but also individual properties of more character including No 32 and the listed No 31. Overall, the relevant part of Church Street displays an informal village character, with flint walls a feature, but no consistent architectural design themes.
9. The Crown Inn was an important public house in the village from the 1760s but obviously without a large car park until the late 20th century. The 1809 parish inclosure map shows frontage buildings on the appeal site but by the 1887 Ordnance Survey map these had been demolished and after that the site was left open until used for car parking. Contrary to the Council's view, in its village street setting the significance of the listed building would not be diminished by development on the appeal site. Buildings previously lined the site frontage and the proposals would not block the important view of the gable end when approaching from the west. The outbuilding and principal southern elevation would be unaffected. Overall, the appreciation and understanding of the building as an historic village roadside inn does not depend on an open setting to the west and would be unaffected by two new dwellings. Indeed, the large expanse of empty car park and/or parked cars detract from its setting.
10. In relation to the character and appearance of the Fordham CA more generally and this section of Church Street in particular, unfortunately no CA appraisal has been prepared and the Council's evidence includes no analysis. However, it is clear from the inclosure and later Ordnance Survey maps that Church Street was once characterised by frontage development, with that on the southern side (up to and including the car park) only lost between 1927 and 1953. No 19 on the street frontage opposite the appeal site is the sole remnant. The pattern of mainly modern, set back buildings and the lack of enclosure along the street is thus a relatively recent phenomenon which dissipates the character of the area. In this section of Church Street, without any consistent architectural character, the proposal for a pair of two-storey houses on the appeal site would be an appropriate response. All of the three proposals take this form.
11. Turning to the relative merits of the schemes, Scheme A² would comprise a handed pair of brick built houses, gable end to the road and set back behind car parking. Whilst there would be some brick and stone sill details, these would be unimaginative designs, lacking variety between themselves, with narrow front elevations and long, unrelieved flank elevations. Together with the set back position adding little enclosure along the street, the result would not contribute positively to the CA or the setting of the listed building.
12. In contrast, the two houses in Scheme B would be double fronted, with ridges parallel to the street, set forward with their parking behind. Providing an

² As determined following amendments during the course of the application.

improved sense of enclosure, these would also be more traditional designs with some variety - one rendered, one brickwork, different fenestration, door and porch details. The flank elevations would be narrower and relieved with chimneys and small first floor windows. However, except for the detailing they would have the same handed form, with their ridgelines, albeit lower and set back compared to the listed building, in alignment with each other.

13. Scheme C includes further refinements, retaining the variation in materials but with Plot 1 and its ridge set back slightly in relation to Plot 2 and the house made asymmetrical with a front facing gable. More fenestration is included to break up the flank elevations of both houses. Whilst the Council consider the recessed porch on Plot 1 would be an odd feature, overall the increased variety in the street scene would be a benefit. The further revised scheme would positively enhance the CA and the setting of the listed building.
14. For these reasons, Scheme C would enhance the character and appearance of the area, would not detract from the significance of the adjacent Grade II listed building and would enhance the Fordham CA in compliance with Policies ENV2, ENV11 and ENV12 of the East Cambridgeshire Local Plan 2015 (ECLP). These require high quality design, enhancing and complimenting local distinctiveness, respecting village character, relating sympathetically to the surrounding area, preserving or enhancing the character or appearance of a CA and preserving or enhancing the setting of listed buildings in relation to their significance. Scheme C would also comply with Policy 2 of the Fordham Neighbourhood Plan 2018 (FNP) which seeks high quality design that delivers a quantum of development appropriate for the site, responds to important characteristics of the surrounding area and introduces visual interest through the orientation and position of buildings, architectural details and materials.
15. Granting planning permission for Scheme C would also comply with the legislative duty under Sections 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving or enhancing the character or appearance of a CA and the setting of listed buildings.
16. Scheme A would not satisfy these policy or legislative criteria, whilst Scheme B would be more marginal than Scheme C and should not be permitted to ensure the heritage benefits of the development are maximised.

Highway safety

17. Currently the appeal site forms part of a large car park serving the adjacent restaurant which is not laid out but provides about 20 spaces, maybe more. Under the proposals 14 marked out spaces would be provided, including one disabled space. The Council argue that 44 spaces should be provided for the restaurant to meet the 1 space per 5 m² parking standard set by ECLP Policy COM8 and the shortfall will lead to on-street parking and a danger to highway safety in the vicinity at peak times. However, this shortfall is based on the floorspace of the whole building, about 220 m², whereas the floorspace of the ground floor restaurant is just 119 m², suggesting the provision of 24 spaces. In addition, the standard is a maximum figure, not a requirement, allowing a lower level of provision depending on the circumstances.
18. To inform the position, the appellant has carried out parking surveys over two

weekends in October 2021 and March 2022, the first showing a maximum of 15 parked cars at 15.00 on the Friday and the second a maximum of 12 cars at 19.30 on the Saturday. The first survey can only be explained by parking for the nearby primary school at pick-up time³, but the second was carried out in a suitably neutral month, when concern about Covid was tailing off. This shows peak evening demand within the proposed provision of 14 spaces.

19. Even if demand were to exceed this figure from time to time the survey also demonstrates ample unused capacity in the vicinity with the large open and unregulated car park opposite and long stretches of unrestricted kerbside parking on Church Street. Any overspill on-street parking is thus likely to be limited and infrequent, with inconsiderate on-street parking leading to highway safety issues correspondingly unlikely.
20. Delivery vehicles would be able to use the parking area and tracking shows they can turn to leave in forward gear. This would involve use of the parking spaces and momentarily the access drive to the houses. However, as now, deliveries would be made during the day outside opening hours when the car park would be empty, and their timing could be controlled by condition.
21. Contrary to the Council's concerns, the local highway authority is satisfied that highway safety would not be compromised, concluding that the car park would be an adequate size to accommodate the demand from the restaurant and, subject to conditions, the delivery arrangements would be satisfactory.
22. For these reasons the proposals would not lead to significant highway safety risks as a result of insufficient parking spaces leading to on-street parking in the vicinity or unsatisfactory delivery arrangements. The proposals therefore comply with ECLP Policies COM7 and COM8 and FNP Policy 11 which require development to accommodate the efficient delivery of goods and provide adequate levels of car parking to avoid unplanned on-street parking.

Viability of restaurant

23. The Council are concerned that the long-term viability of the restaurant could be affected by the loss of car parking. However, as explained above, the proposed provision of 14 spaces would be sufficient to support the use in addition to the alternative parking options in the vicinity. It follows that the long-term viability of the use, and therefore the future of the listed building, would not be prejudiced by the loss of car parking. The need for car parking to support any future changes of use can only be speculative but there is no reason to suggest that significantly more off-street parking would be a critical factor in securing an alternative use for the listed building, or indeed use as an alternative community facility.
24. Since the long-term viability of the use would not be affected, the proposal complies with ECLP Policy COM3 and FNP Policy 9 which seek to protect valued community facilities. The appellant argues that that this designation does not apply, but the Crown Inn is specifically listed as such a facility in paragraph 4.33 of the FNP and the decision to grant permission for the change of use to a restaurant was on the basis that it would remain a valued community facility comparable to the Chequers and the White Pheasant, other restaurants in the

³ Indeed, this was observed on 23 March 2023, with cars arriving before and leaving after pick up time.

village included in the paragraph 4.33 list⁴. The Inspector's conclusion as to the status of a restaurant in Bottisham⁵ is not relevant in this case as it is a professional judgement in relation to the circumstances of the individual restaurant concerned. In addition, the premises were not definitively listed in a made neighbourhood plan as in this case.

Living conditions

25. Plot 2 would lie alongside the restaurant car park leading to some noise and disturbance for the occupiers, but only from time to time during opening hours. Suitable conditions would control lighting to minimise spillage and ensure the use of a bound material for the car park surface to minimise noise.
26. The dedicated car parking for the new dwellings would be accessed through the restaurant car park, potentially leading to some conflict with manoeuvring vehicles. The issue would be reduced if the parking were to the front of the houses (Scheme A) rather than to the rear (Schemes B and C) when the full length of car park would be involved, but this factor is outweighed by the design benefits of the latter schemes. Whilst not ideal, the arrangement would be acceptable and obvious to prospective occupiers.
27. For these reasons the proposals would provide acceptable living conditions for future residents with regard to noise and disturbance from the restaurant car park and access to dedicated car parking in compliance with ECLP Policy ENV2. This seeks to ensure the occupiers of new buildings, especially dwellings, enjoy high standards of amenity.

Other matters

28. Scheme A was also refused due to a lack of a biodiversity enhancement plan but an acceptable plan was submitted in the case of Schemes B and C. The dwellings would be sufficiently far away from nearby properties to avoid any significant loss of privacy.

Conclusion

29. Unlike Scheme A and more definitively than Scheme B, Scheme C would enhance the character and appearance of the area, would not detract from the significance of the adjacent Grade II listed building and would enhance the Fordham CA. All three schemes would provide two additional dwellings with social and economic benefits for the village whilst none would cause significant highway safety risks, affect the long-term viability of the restaurant or provide unacceptable living conditions for future residents. In the circumstances permission should be confined to Scheme C to maximise the heritage benefits of the development.
30. The Council have suggested conditions should an appeal be allowed and these have been assessed against the relevant tests. In addition to the standard implementation time limit it is necessary to define the approved plans in the interests of certainty. Further conditions are necessary to define the materials to be used, to remove permitted development rights, to require and control boundary treatment, hard landscaping and soft landscaping together with its

⁴ Officer report for the change of use application 21/01047/FUL

⁵ Appeal APP/V0510/W/19/3223227331

maintenance, all to ensure the satisfactory appearance of the development in the conservation area and adjacent to a listed building.

31. Conditions are necessary to protect against contamination and to control foul and surface water drainage to prevent flooding and pollution, also to control any piling, hours of working and the surfacing/lighting of the restaurant car park to protect the amenities of nearby residents. The appellant objects to a condition removing permitted development rights for the erection of gates across the site access but this is necessary to ensure access at all times for resident's cars and restaurant delivery vehicles without the inconvenience and highway safety risks of stopping to open gates. A condition to limit restaurant deliveries to outside opening hours is also necessary in the interests of highway safety. Finally, conditions are necessary to ensure any archaeological remains are investigated and biodiversity enhancements are secured to protect the interests concerned.
32. Having regard to the above Appeal C should be allowed and Appeals A and B should be dismissed.

David Reed

INSPECTOR

Schedule of Conditions for Appeal C

1. The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the approved plans listed below:
 - 22.3337.100 P2 Proposed Site Plan
 - 22.333.000 P1 Site Location Plan
 - 22.3337.001 P1 Topo Survey
 - 22.3337.105 P2 Proposed Landscaping Plan
 - 22.0007.106 P2 Proposed Street Scene
 - 22.3337.002 P1 Existing Elevations
 - 22.3337.107 P1 Proposed Biodiversity Plan
 - 22.3337.104 P2 Proposed Elevations - Plot 2
 - 22.3337.103 P2 Proposed Floor Plans - Plot 2
 - 22.3337.102 P2 Proposed Elevations - Plot 1
 - 22.3337.101 P2 Proposed Floor Plans - Plot 1
 - Arboricultural Implications Assessment
3. No above ground construction shall take place on site until details of the external materials to be used in the development have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
4. No development shall take place until an investigation and risk assessment of the nature and extent of any contamination on the site, whether or not it originates on the site, has been undertaken. The investigation and risk assessment must be

undertaken by competent persons, and a written report of the findings must be submitted to and approved in writing by the Local Planning Authority. The report of the findings must include:

- (i) A survey of the extent, scale and nature of contamination;
 - (ii) An assessment of the potential risks to: human health, property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites and ancient monuments;
 - (iii) An appraisal of remedial options, and proposal of the preferred option(s).
- This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'. Any remediation works proposed shall be carried out in accordance with the approved details and timeframe as approved in writing by the Local Planning Authority.

5. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported to the Local Planning Authority within 48 hours. No further works shall take place until an investigation and risk assessment has been undertaken and submitted to and approved in writing by the Local Planning Authority. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the Local Planning Authority. The necessary remediation works shall be undertaken and following completion of measures identified in the approved remediation scheme a verification report must be submitted to and approved in writing by the Local Planning Authority.

6. No development shall take place until a scheme to dispose of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. The scheme(s) shall be implemented prior to the first occupation of either dwelling.

7. In the event of the foundations of the proposed development requiring piling, prior to the commencement of development a report/method statement shall be submitted to and approved in writing by the Local Planning Authority detailing the type of piling and mitigation measures to be taken to protect local residents from noise and/or vibration. Noise and vibration control on the development shall be carried out in accordance with the approved details.

8. The scheme of biodiversity enhancements shown on Drawing Ref. 22.3337.107 Rev P1 shall be installed prior to the first occupation of either dwelling hereby approved and shall be thereafter maintained in perpetuity.

9. No development shall take place on site until the completion of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority.

10. Construction times and deliveries, with the exception of internal fit-out, shall be limited to the following hours: 07:30-18:00 on Monday-Friday, 07:30-13:00 on Saturdays and at no time on Sundays, Public Holidays or Bank Holidays.

11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modifications), no

development within Classes A, B, C, D & E of Part 1, or Class A of Part 2, of Schedule 2 of the Order shall take place on site unless expressly authorised by planning permission granted by the Local Planning Authority.

12. Prior to first occupation of either dwelling a full schedule of all soft landscape works shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall include, planting plans, a written specification; schedules of plants noting species, plant sizes, proposed numbers/densities; and a detailed implementation programme. It shall also indicate all existing trees and hedgerows on the land and details of any to be retained. The works shall be carried out in accordance with the approved details prior to the end of the first planting season following first occupation of either dwelling. If within a period of five years from the date of the planting, or replacement planting, any tree or plant is removed, uprooted or destroyed or dies, another tree or plant of the same species and size as that originally planted shall be planted at the same place unless the Local Planning Authority gives its prior written consent to any variation.

13. No above ground construction shall commence until full details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include finished floor levels, means of enclosure, car parking layouts, hard surfacing materials. The works shall be carried out in accordance with the approved details prior to the first occupation of either dwelling or in accordance with an implementation programme submitted to and approved in writing by the Local Planning Authority.

14. No above ground construction shall commence until details of the boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments shall be in place in accordance with the approved details prior to the first occupation of either dwelling.

15. All works shall be carried out in accordance with the Arboricultural Implications Assessment and Method Statement (report ref. 211333 - AIA 4). If, during construction, it becomes apparent that further works or changes are required, work shall not progress any further on site until the applicant has secured a site meeting with a suitably qualified professional to agree the details and phasing of any tree surgery works not detailed in the submitted report. A written schedule shall be submitted to and approved in writing by the Local Planning Authority.

16. Notwithstanding the approved plans, prior to first occupation of either dwelling hereby permitted, the restaurant car park, driveways, parking and turning areas shall be surfaced and any lighting installed in accordance with details that have been submitted to and approved in writing by the Local Planning Authority.

17. Notwithstanding the provisions of Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015, (or any order revoking, amending or re-enacting that order) no gates, fences or walls shall be erected across the approved vehicular access unless expressly authorised by planning permission granted by the Local Planning Authority.

18. Deliveries to the restaurant shall not take place during restaurant opening hours.