
Appeal Decisions

Site visit made on 17 April 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2023.

Appeal A Ref: APP/P1615/W/22/3312967

George Hotel, Stars Pitch, Mitcheldean, Gloucestershire GL17 0BP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Perham of Hellier Homes Limited against the decision of Forest of Dean District Council.
 - The application Ref P2066/21/OUT, dated 19 April 2022, was refused by notice dated 13 June 2022.
 - The development proposed is the demolition of outbuildings and the erection of 8 no. 3 and 4 bedroom detached dwellings.
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Appeal B Ref: APP/P1615/W/22/3313000

George Hotel, Stars Pitch, Mitcheldean, Gloucestershire GL17 0BP

- 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 Perham of Hellier Homes Limited against the decision of Forest of Dean District Council.
 - The application Ref P0488/22/ FUL dated 1 April 2022, was refused by notice dated 14 June 2022.
 - The development proposed is the conversion of existing stone outbuilding to residential accommodation.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. These linked appeals relate to land associated with the former George Hotel (referred to on some plans as The George Inn). The main hotel building has previously been demolished and much of the site cleared. In the northern section, an L shaped collection of buildings remains. The building to the northwest, close to the shopping street shall henceforth be referred to as building 1, with the building to the northeast referred to as building 2. A single storey section linking buildings 1 and 2 shall be referred to as building 3.
 4. Appeal A relates to the majority of the land associated with the former George Hotel and seeks outline permission to demolish building 2 and construct 8 dwellings. Appeal B relates to the northern end of the land associated with the former George Hotel and seeks full permission to demolish buildings 2 and 3 and convert building 1 to residential use. The appeal sites for Appeals A and B overlap, with both including the access and building 2.
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5. The application subject to Appeal A was made in outline with all matters reserved for future consideration. The parties subsequently agreed that access and layout were to be considered, with appearance, landscaping and scale reserved for future consideration. The application was refused on this basis, and I have determined Appeal A accordingly. I have had regard to the plans and drawings submitted with Appeal A but have considered all elements as indicative, apart from those that relate to access and layout. Appeal B relates to a full application and the plans have been considered accordingly.
6. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two proposals together, except where otherwise indicated.
7. Plans for a revised layout under Appeal A were submitted to the Council shortly before the application was refused and have also been submitted with this appeal. The Council are not obliged to extend the time for determination of an application and in this case chose not to do so and the revised plans were not considered. Plans showing a revised red line site boundary under Appeal B have been submitted with this appeal. The revised site boundary includes building 3 but excludes building 2. However, the plans on which the Council refused the application subject to Appeal B include both building 2 and 3 within the site boundary.
8. The Procedural Guide to Planning Appeals England is clear that if an applicant thinks that amending their application proposals will overcome the reasons for refusal, they should normally make a fresh planning application. If an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the Council, and on which interested people's views were sought. In this case, I consider the changes in the proposed revised plans under both Appeal A and Appeal B to be too significant for me to consider them under this appeal. I have therefore made my decision on the basis of the same plans which the Council refused.

Main Issues

9. The main issues in Appeal A and Appeal B are the effect of the proposed development on:
 - The character and appearance of the surrounding area, with particular regard to the extent to which it would preserve or enhance the character or appearance of the Mitcheldean Conservation Area and preserve the setting of nearby Listed Buildings;
 - Biodiversity; and
 - Trees - For Appeal B only.

Reasons

Character and appearance

10. The site is located in Mitcheldean, within the Conservation Area, near a number of listed buildings. The surrounding buildings along High Street, Stars Pitch and Mill End are mostly two storey with a few being three storey. They are predominantly terraced or closely spaced and other than a modern row of

dwelling to the south, buildings directly adjoin the pavement. Although set at an angle, building 1 continues the strong presence of built form adjacent to the pavement from the row of shops to the north, into the former George Hotel site. This well-established grain of buildings gives the area a distinctive character formed by the strong and consistent road frontage and closely knit built form. While the now demolished main hotel building did not front directly onto the road, it was a distinctive building which dominated the site and provided interest to the area.

11. Mill End, to the west of the site, contains a row of Grade II listed buildings. They range from the 15th to the 19th century, some with modern additions, and includes a timber framed dwelling with wattle and daub infill. Their reasons for listing include frontage features which are highly visible from the street.
12. The exception to the consistent frontage which characterises the area is the churchyard for St Michael and All Angels Church, which is open, with the church set back from the road in spacious grounds. The churchyard contains Grade II listed monuments and the church itself is Grade I listed. The openness and spacious setting, in contrast to its surroundings, serves to emphasise the importance of the church and its churchyard within the area.
13. The northern section of the former George Hotel site contains a group of linked buildings (as identified in preliminary matters). The buildings are not listed but are of historic interest and are considered by the Council to be non-designated heritage assets. Details submitted with the appeal indicates their presence on the 1839 tithe map and the OS maps from around 1880. The assessment provided by the Conservation Consultant to Forest of Dean Council¹ indicates they are likely to date from the late 18th century, with alterations made in the 19th and 20th centuries.
14. Building 1 is predominantly one and a half storeys but has a taller section to one end. It is constructed in stone, with dual pitch slate and tile roofs and is a prominent element of the streetscene, adjacent to the pavement. Building 2 is one and a half storeys, constructed in stone, with dual pitch tile roof. Architecturally it is more modest than building 1 and set back within the site but is nonetheless a strong presence within the streetscene, and its roof in particular is visible from elsewhere, including the village car park. Building 3 links building 1 to 2 and is a single storey section, with a sloping corrugated sheet roof. Visually the buildings form a group and appear to be largely intact but have not been maintained.
15. The buildings retain their historic form and appearance and as such their contribution to the significance of the Conservation Area and the setting of nearby listed buildings is positive. Their presence within the historic core is important, both as individual buildings and as part of a group, particularly in the context of the loss of the main hotel building. While building 1 is more prominent in that it adjoins the street, this does not mean that building 2 is of lesser value or that the retention of building 1 necessarily means the demolition of building 2 is acceptable.
16. Other than the buildings in the north, the majority of the area covered by the appeals is currently open and poorly maintained following the demolition of the main hotel building. There are significant changes in site levels and it is highly

¹ Dated March 2023

visible from the street forming an unattractive and uncharacteristic break in built form. At present, this open area of the site under both appeals does not make a positive contribution to the character and appearance of the area. As such, a suitable development would improve the situation, but needs to be in keeping with the surroundings.

17. The layout of the new dwellings proposed under Appeal A includes two detached dwellings along the frontage, with a clear and distinct break between them. Combined with the opening at the access, this layout would be at odds with the established building pattern of the area and detrimental to the strong and consistent streetscene. Under Appeal A, building 2 would be demolished and the parking area to serve plot 4 would be in its place, with the dwelling just behind. Although set back within the site, the detached dwelling in plot 4 would be at a higher level than the street and directly opposite the access, making it particularly prominent and incongruous.
18. Appeal B proposes the conversion of building 1 to residential use. The external alterations to the building itself would be limited to the insertion of rooflights, windows and doors, primarily on the elevation facing into the site. The new openings would be of a design and proportion that is in keeping with the existing openings. Consequently, the external physical changes proposed for building 1 would not have an unacceptable impact on the character and appearance of the surrounding area. Further details on the proposed openings for building 1, and which elements of the historic fabric are to be retained, could be secured by condition, if all other elements of the proposal under Appeal B were acceptable. Appeal B also includes the demolition of building 2, as well as the demolition of building 3, the loss of which would have a limited impact on its own.
19. The narrowness of Mill End and its relationship to the sites, funnels views directly towards the end of building 1 and the long front elevation of building 2. As such, the area within which the Grade II listed buildings on Mill End are experienced is currently dominated by views of buildings 1 and 2. The loss of building 2, combined with the wide area of open frontage and the introduction of modern detached dwellings, some at a raised level, and an expanse of hard surfacing and parking, would unacceptably alter this outlook and be detrimental to the setting of the listed buildings on Mill End. Similar can be said of the setting of the southern end of the churchyard.
20. Overall, the cluster of detached housing proposed under Appeal A would not respect the established layout of the surroundings. Combined with the loss of building 2 under both Appeal A and Appeal B, this would have a detrimental impact on the character and appearance of the area around the site, which is the setting within which nearby listed buildings are experienced.
21. The appellant has stated that the retention of building 2 is not viable as part of an open market housing proposal and is a blockage to redevelopment. I acknowledge the challenges, particularly in regard to Appeal A, due to the changes in levels across the site, the floor level of building 2, the location of the site access and the parking requirements. However, no viability assessment has been provided, or any detail on the marketing of the site for alternative proposals. I have no substantive evidence which would lead me to conclude that a different layout to that proposed under Appeal A would not enable the retention of building 2, alongside the development of new dwellings.

22. The appellant has also indicated² issues with converting building 2 due to structural elements required to remain in place. No structural survey has been provided with either of the appeals and the Council state that when permission was granted in 2019 to convert building 2 it was considered capable of conversion. Therefore, the information available to me does not rule out the possible retention of building 2, or its viable inclusion as part of a suitably designed market housing development. Consequently, while the demolition of building 2 would make it easier to develop the site, the appellants suggestion that without the demolition the site would inevitably remain unused, is unsubstantiated.
23. Policy AP96 of the Forest of Dean District Council Allocations Plan 2006 to 2026 (Adopted June 2018) (AP) identifies the site covered by Appeal A and B as being allocated for about 18 dwellings to comprise flats and houses. It specifies that development must be designed in such a way as to protect and enhance the Conservation Area and nearby listed buildings. It requires retention of the buildings (referred to in the policy as L shaped barn) in the north of the site, unless it can be demonstrated that there is no alternative but demolition. As set out above, it has not been demonstrated that there is no alternative to the demolition of building 2, or that the proposal would protect or enhance heritage assets. Therefore, I cannot conclude that there are material considerations indicating that either Appeal A or Appeal B should be approved contrary to Policy AP96.
24. Previous permission for a retirement scheme at the site was granted prior to the adoption of Policy AP96. Details of this scheme and the reasons for allowing the demolition of the main hotel building are not before me. In any event, each case must be considered on its own merits and impacts.
25. Under Appeal A, a small brick building at the southern end of the site is also proposed to be removed. This building appears to be relatively modern and has no particular merit. Its loss would not impact the area negatively. Also under Appeal A, landscaping, tree planting, green parking areas, and a potential reduction in the number of parking spaces, could be considered at reserved matters stage. While this might soften the appearance of the site, it would not overcome the fundamental issues and harm identified.
26. The statutory duties in Section 72(1) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, relate to the preservation of designated heritage assets, and are a matter of considerable importance and weight. The National Planning Policy Framework (the Framework) states that harm to a heritage asset might be defined as 'substantial' or 'less than substantial'. Planning Practice Guidance (PPG) advises that in general terms, substantial harm is a high test and that harm resulting from modest or minor development is likely to be less than substantial.
27. In finding that the proposal under Appeal A and Appeal B would result in harm to the Conservation Area and the setting of listed buildings, due to the relatively modest scale of the proposal, and the significance of the non-designated asset which would be lost, I would quantify the harm as 'less than substantial'. Nonetheless, in finding harm, special attention must be paid to the desirability of preserving the heritage assets, so I must attach considerable importance and weight to the identified harm.

² In their statement regarding the proposed demolition, dated 30th April 2022.

28. The Framework requires that where less than substantial harm is found, the harm should be weighed against any public benefits. Both proposals would provide new housing in a sustainable location and bring an unused site back into use, the open area of which is currently overgrown and unattractive. These modest public benefits would not be sufficient to outweigh the identified harms of the proposals.
29. I conclude that the development proposed under Appeal A and Appeal B would cause unacceptable harm to the character and appearance of the surrounding area. The proposals would fail to preserve or enhance the character or appearance of the Mitcheldean Conservation Area and would fail to preserve the setting of nearby listed buildings. Consequently, the developments would not comply with Policy CSP1 of the Forest of Dean District Council Core Strategy (Adopted February 2012) (CS) and Policies AP4, AP5 and AP96 of the AP. Together, amongst other things, these policies seek to ensure that development makes a positive contribution to the area, taking account of local character, history and distinctiveness, and preserves and where appropriate enhances designated and non-designated heritage assets and their setting. Furthermore, the proposals would not accord with paragraphs 195, 199 and 202 of the Framework which seek to protect heritage assets.
30. I have not been provided with sufficient information to assess whether the proposals would comply with Policy CSP5 of the CS, with regard to affordable housing, housing mix or density. Despite this, the proposals are unacceptable on other matters, so I have not sought additional information.
31. Appearance and scale are reserved matters under Appeal A and would cover aspects including roof pitch, eaves height, window proportions and detailing. Appropriate details on materials and finishes could be secured by condition under Appeal B. I have been presented with no information which would lead me to conclude that the requirements of Policies E1 and H1 of the Mitcheldean Neighbourhood Development Plan 2016-2026 (NDP) could not potentially be met if all other aspects of the appeals were acceptable. In addition, the site is in a sustainable location, within a service village settlement, on previously developed land, so I find no conflict with Policies CSP4 and CSP16 of the CS or AP1 of the AP in regard to Appeal A or Appeal B.

Biodiversity

32. A preliminary ecological appraisal indicated that three bat surveys would be required at suitable times of the year to check for roosts. The applications were refused before any such surveys were submitted. Regardless of the reasons for the timing, the outcome of the surveys could potentially have significant implications for the deliverability of the development proposed under both appeals. Consequently, this is not suitable to be dealt with as at a later stage, either under reserved matters or as a condition.
33. While this issue could potentially be overcome by further survey work, in the absence of sufficient details at this time, I am unable to conclude that the proposal under either appeal would avoid or adequately mitigate or compensate for harm to biodiversity, or that it would not have an adverse impact on the favourable conservation status of European Protected Species. As such, the proposal under Appeal A and Appeal B is contrary to Policies CSP1 of the CS, AP7 of the AP, and E4 of the NDP. In addition, it would not accord with paragraph 180a of the Framework.

Trees - For Appeal B only.

34. There are trees, protected by virtue of being within the Conservation Area, in close proximity to building 1. The Council is concerned they may be damaged in accessing the building to undertake the conversion works. However, this could be controlled via the imposition of suitable conditions if all other matters were acceptable. Therefore, I find no conflict with Policy CSP1 of the CS or AP1 of the AP with regard to trees.

Other Matters

35. I acknowledge the various challenges in developing the site. I also note some support for the proposals on the grounds that it would improve the appearance of the site and provide needed housing. However, these factors do not outweigh the harm identified above.

Conclusion

36. For the reasons given above and taking into account the development plan as a whole, and all other relevant material considerations, both Appeal A and Appeal B are dismissed.

Helen Davies

INSPECTOR