



Appeal Decisions

Site visit made on 15 June 2023

by Beverley Wilders BA (Hons) PgDURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 July 2023

Appeal A Ref: APP/T2350/W/23/3314527

Dog and Partridge Hotel, 1-3 Wellgate, Clitheroe, Lancashire BB7 2DS

- 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 Stonegate Pub Group against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2022/0822, dated 12 September 2022, was refused by notice dated 14 November 2022.
 - The development is described as "Proposed internal alterations and refurbishment/redecoration works; erection of pergola shelter, replacement porch, festoon lighting, bin enclosure and external TV; together with external repainting and replacement signage."
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Appeal B Ref: APP/T2350/Y/23/3314528

Dog and Partridge Hotel, 1-3 Wellgate, Clitheroe, Lancashire BB7 2DS

- 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 Stonegate Pub Group against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2022/0823, dated 12 September 2022, was refused by notice dated 15 November 2022.
 - The works are described as "Proposed internal alterations and refurbishment/redecoration works; erection of pergola shelter, replacement porch, festoon lighting, bin enclosure and external TV; together with external repainting and replacement signage."
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Appeal C Ref: APP/T2350/Z/23/3314530

Dog and Partridge Hotel, 1-3 Wellgate, Clitheroe, Lancashire BB7 2DS

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Stonegate Pub Group against the decision of Ribble Valley Borough Council.
 - The application Ref 3/2022/0824, dated 30 August 2022, was refused by notice dated 18 November 2022.
 - The advertisement is described as "Replacement post sign and fascia signage."
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Decisions

Appeal A Ref: APP/T2350/W/23/3314527

1. The appeal is dismissed insofar as it relates to the front festoon lighting mounted on posts, bin enclosure, external TV and pergola and is allowed and planning permission is granted insofar as it relates to the rear festoon lighting and replacement porch at Dog and Partridge Hotel, 1-3 Wellgate, Clitheroe, Lancashire BB7 2DS in accordance with the terms of the application, Ref

3/2022/0822, dated 12 September 2022, subject to the conditions set out in the attached schedule.

Appeal B Ref: APP/T2350/Y/23/3314528

2. The appeal is dismissed insofar as it relates to the internal alterations, bin enclosure and pergola and allowed and listed building consent granted insofar as it relates to external re-painting, advertisements (Items B to E and H), lanterns (marked as Item G), rear festoon lighting, external TV and replacement porch at Dog and Partridge Hotel, 1-3 Wellgate, Clitheroe, Lancashire BB7 2DS in accordance with the terms of the application, Ref 3/2022/0823, dated 12 September 2022, and the plans submitted with it so far as relevant to the part of the works hereby permitted, subject to the conditions set out in the attached schedule.

Appeal C Ref: APP/T2350/Z/23/3314530

3. That part of the appeal that relates to the post sign marked as Item A is dismissed. That part of the appeal that relates to advertisements marked as Items B to H is allowed and express consent granted for their display. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the additional condition set out in the attached schedule.

Preliminary Matter

4. At the time that all three applications were made, it was stated on the application forms that no works had taken place and that the advertisements being applied for were not in place. However, when determining the applications, the Council noted that some works had taken place including the provision of new advertisements. At the time of my visit, I too noted that some of the works being applied for had been carried out and that some new advertisements were in place. However, I noted a number of discrepancies between some of the works on site when compared to the submitted plans. As I cannot be certain that the works that have taken place are fully in accordance with the submitted plans, I have assessed the development as shown on the plans and not as constructed.

Main Issues

5. The main issues are:

For Appeals A, B and C

- Whether the proposals would preserve The Dog and Partridge Public House and No 3 Wellgate, a Grade II Listed Building, and any features of special architectural or historic interest it possesses;
- The effect of the proposals on the setting of nearby Listed Buildings; and
- Whether the proposals would preserve the character or appearance of the area including Clitheroe Conservation Area.

For Appeal A

- The effect of the proposals on the living conditions of adjoining and nearby occupiers having regard to noise and disturbance.

Reasons

Special Interest and Significance - Listed Buildings and Conservation Area

6. Located in a set-back but prominent position on Wellgate in the Clitheroe Conservation Area (CA), The Dog and Partridge Public House and No 3 Wellgate (PH) is included on the Statutory List as Grade II. It is described in the List Description as having 18th Century origins and being 2 storey, pebble dashed, with Welsh slate roof and rusticated quoins. The List description makes reference to the presence of three stone chimney stacks, though these are no longer present.
7. Following my site visit and having regard to the submitted evidence, it appears that the oldest part of the building is the rectangular section facing Wellgate, with more modern additions to the rear. Externally, the front section has undergone a number of alterations including the removal of the chimneys and the addition of pebble dash. Internally, the building was at some point subdivided to form a dwelling at No 3 and then subsequently re-amalgamated back into one use. This change in use of the building would have resulted in various alterations to the original rectangular plan form including the construction of an internal dividing wall and the removal and re-location of stairs. In addition, the chimney breasts have been removed throughout the building and a new stair added in the location of one of them. This has affected the original plan form and legibility of the building.
8. Nevertheless, the front part of the building has retained its simple and modest rectangular plan form with the front elevation maintaining a robust, vernacular character due to its largely flat frontage, plain detailing and low eaves height. Insofar as is relevant to the appeal proposals, the significance and special interest of the building derives from the plan form and appearance of the oldest, front section of the building. The building's form, prominent siting and materials together with its age means that it makes a positive contribution to the character and appearance of the CA. The CA is relatively large and incorporates the historic core of the town, of which Wellgate forms a part. In part and insofar as is relevant to this appeal, the significance of the CA derives from the architectural and historic interest of the area's buildings which contribute to the town's historic townscape.
9. There are a number of other listed buildings near to the PH including The Towns Well, a Grade II Listed Building positioned adjacent to the appeal site. The List description refers to the Well as a square flagged and walled pool and to the PH, The Towns Well and Nos 5 to 9 Wellgate (odd) forming a group with No 5 being a building of local interest only.

The Proposals

10. The proposals are for a number of internal and external alterations to the PH, including the erection of a number of advertisements. Internally, at first floor a new wall and door is proposed and at ground floor a new bar area, new fixed seating, new walling and new lighting together with general refurbishment including replacement flooring and redecoration. Externally, to the front new advertisements are proposed, new festoon lighting and the re-painting of the front elevation. To the rear, a new bin enclosure, pergola with external TV, festoon lighting and replacement porch are proposed together with some re-painting.

The effect of the proposals – internal alterations

11. The proposed new wall and door at first floor abuts an existing arched opening which appears to be historic. What has been constructed on site does not appear to match the submitted plans. Whilst the wall and door are relatively lightweight in nature and the works could be reversed at a later date, the position of the wall and door is such that it would partly obscure and have a clumsy relationship with the arched opening. In addition, there is very limited information regarding the method of fixing and therefore limited information as to how any historic fabric would be affected. I therefore find that this aspect of the proposals would be harmful to the significance of the PH and note that this is acknowledged by the appellant in their Heritage Statement of Case dated January 2023 (Heritage Statement) which states that the effect would be negligible adverse.
12. An extensive lighting scheme is proposed for the ground floor as shown on drawing number 1900.10. This includes the extensive use of recessed down lighters within the ground floor ceiling, including within the older, front section of the PH. Whilst some are within dropped ceilings where it is less likely that the loss of historic fabric would occur, in other locations, there is the potential for the loss of historic fabric. This is acknowledged by the Heritage Statement which states that the effect would be negligible adverse.
13. Other proposed ground floor alterations include the re-location of the bar area, the erection of new stud partition walls, the provision of new fixed seating and general refurbishment works including replacement flooring and redecoration. The Heritage Statement states that these works would have a neutral effect on the PH. However, whilst I acknowledge that the interior of the PH has been the subject of change over the years, in the absence of any information as to how any historic fabric might be affected by these works, it has not been demonstrated that this aspect of the proposals would preserve the PH.
14. None of the internal works would affect either the CA or the setting of nearby Listed Buildings.

The effect of the proposals – external alterations

15. A number of new advertisements are proposed to the front elevation of the PH. This includes some which are illuminated and a free-standing, pole mounted sign within the outdoor seating area to the front of the PH, at the back edge of the footpath along Wellgate. The submitted plans and information suggest that the PH previously had three signage panels on the front elevation and a pole mounted sign in a similar position to that proposed. At the time of my visit, new signage was in place. However, whilst that on the front elevation of the PH appeared to broadly correlate with the submitted plans, I cannot be certain that the works are wholly in accordance with the plans and note that the pole mounted sign that has been erected is not painted black as stated. Consequently, and as previously stated, I have assessed the advertisements as shown on the submitted plans.
16. With regard to the proposed pole mounted sign, whilst this appears to be in a similar position to a previous sign, it is in a prominent roadside location to the front of the PH, near to other Listed Buildings including The Towns Well. It is not clear from the evidence how the proposed pole sign compares to the previous sign in terms of height, scale and illumination. It is stated that the

sign would be mounted on a 3 metre high pole and that the sign itself would measure 0.9 metres x 1.2 metres. This is a tall, large sign and given its prominent position, its external illumination and the modest scale of surrounding buildings including the PH and the adjacent Wellgate Fisheries building, it would appear incongruous and unduly prominent. This would be to detriment of the setting of nearby Listed Buildings and to the character and appearance of the CA.

17. The proposals include individual lettering above the door of the PH. This replaces a previous panel sign in a similar position. Whilst the proposed lettering requires individual fixings and covers a larger area of the front elevation, it re-instates the original name of the PH and preserves its architectural and historic character and the character and appearance of the CA. Similarly, whilst I note the Council's concerns regarding clutter, the three signs and two lanterns around the entrance door are appropriately scaled and positioned and do not therefore detract from the significance of the PH nor does the very modest CCTV panel and proposed A board. Whilst the appellant considers the proposed signage to be beneficial to the PH and CA, for the reasons stated above, with the exception of the pole mounted sign, I consider it to have a neutral effect.
18. Festoon lighting is proposed to the front and rear seating areas. At the front, the lighting would be fixed to two new timber posts positioned close to and at either end of the front elevation. Though the posts would be set slightly away from the frontage and would be floor mounted using concrete within tarmac and so would not affect historic fabric, they would nevertheless add visual clutter and detract from the existing plain frontage of the PH. The Heritage Statement accepts that the installation of the front festoon lighting mounted on timber posts would result in an adverse impact on the PH and CA and I concur with that view.
19. The Council makes reference to other additions to the front elevation including CCTV cameras and a panel sign adjacent to the door to 3 Wellgate. However, these do not form part of the proposal before me.
20. The festoon lighting at the rear would be fixed between the side elevation of the PH and four, 3 metre high timber posts to be erected along the south-east site boundary. Whilst the lighting would be required to be fixed to the side elevation, given the likely modest size and scale of the fixings and the fact that they would be to the 20th Century parts of the PH, then it would not detract from the significance of the PH. Though it would be visible from the rear and from surrounding properties, given its scale and location, it would also preserve the character and appearance of the CA.
21. Within the rear seating area, a new bin enclosure, pergola and re-built porch are proposed. The proposed pergola is positioned adjacent to the existing single storey porch on the 20th Century part of the PH. Notwithstanding that it is set away from the older, more historic part of the PH and whilst it is to be constructed from lightweight materials, given its low quality materials and rudimentary appearance, it would fail to preserve the significance of the PH or the character and appearance of the CA. This is acknowledged by the Heritage Statement that considers it to have an adverse impact on the PH and CA.
22. A new bin enclosure is referred to in the description of development and is indicated on the proposed ground floor layout. However, no specific details of

the size, design or appearance of the enclosure have been provided with the applications. At my site visit I noted that a timber enclosure had been constructed on site and this is referred to in the Heritage Statement as having a neutral impact. However, that enclosure is not before me and given the indicative position of the proposed enclosure, close the oldest part of the PH, and the lack of information regarding it, I cannot be certain that it would preserve the significance of the PH and the character and appearance of the CA.

23. The existing single storey rear porch is to be re-built like for like. Given that it is of limited significance and its modest scale and appearance, these works would have a neutral effect on the PH and CA. In addition, a TV is proposed to be mounted within the proposed pergola. Its position is on one of the newer, least sensitive parts of the PH. This together with the fact that limited fixings would be required, means that this aspect of the proposals would not be harmful to the PH.
24. The proposals also include the re-painting of part of the exterior of the PH, including the oldest section to the front. At the time of my visit, some of the exterior of parts of the PH had been re-painted in line with details set out in the Heritage Statement, that is a cream and light grey colour scheme as opposed to the previous white and black. The appellant has confirmed that breathable paint was used. Subject to the use of appropriate paint including colour, the re-painting of the exterior of the PH would have a neutral effect on significance and would preserve the character and appearance of the CA.
25. Having regard to all of the above, whilst some aspects of the proposals are acceptable, others are not. The PH and its special interest, the setting of nearby Listed Buildings and the character and appearance of the area including the CA would be preserved by signs B to F inclusive, sign H, the new black lanterns marked as item G on Omega Signs drawing page 4 of 5, rear festoon lighting and timber mounting posts, replacement porch, external TV and external re-painting. However, mindful of the duties arising from the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), I conclude that the internal alterations, bin enclosure and pergola would fail to preserve the PH and its special interest. The special interest of the PH and nearby Listed Buildings would not be preserved by the pole mounted sign and front festoon lighting mounted on posts and the character and appearance of the CA would not be preserved by these aspects of the proposals together with the bin enclosure and pergola. Whilst the pole mounted sign (sign A) would adversely affect the setting of the PH and nearby Listed Buildings, advertisements are not covered by the statutory duty in s66(1) of the Act nor is there the need to quantify the level of harm caused by advertisements in the terms set out in the National Planning Policy Framework (the Framework).

Public Benefits

26. The appellant states that there is a need to continually refresh and enhance its customer offer and attraction at the PH in order to remain commercially viable. It is stated that this in turn ensures the continuing maintenance and upkeep of the Listed Building for a publicly accessible use. I accept that this is the case and that the Framework states that decisions should help create conditions in which businesses can invest, expand and adapt and that significant weight should be placed on the need to support economic growth and productivity.

Policy EC2 of the Core Strategy¹ similarly supports business development in service centres. The Framework also requires decisions to promote social interaction and this includes the provision of shared spaces and community facilities such as public houses.

27. The proposals to re-furbish and upgrade the PH to improve its offer to customers would offer some public benefits in that they would enable the building and its facilities to remain open and accessible to the public, they would result in economic benefits through continued spending in the local economy and through employment opportunities both during refurbishment and afterwards. However, there is no evidence to suggest that the proposals are the only means by which these benefits could be achieved or that they are necessary to secure a continued use of the building consistent with its conservation. It has not therefore been demonstrated that the proposals would be necessary to secure the optimum viable use of the building. Though there would be public benefits, they are of no more than limited weight given the scale of the proposals and the lack of evidence regarding the extent of these benefits.

Heritage Balance

28. The Framework anticipates that once a finding of harm to the significance of a heritage asset, such as a listed building or conservation area, has been reached, then the magnitude of that harm should be assessed. In this case, given the scale and nature of the proposals, I conclude that they would cause less than substantial harm to the significance of the Grade II Listed The Dog and Partridge Public House and No 3 Wellgate, the setting of nearby listed buildings and the Conservation Area. Nevertheless, at paragraph 199 the Framework sets out that great weight should be given to a heritage asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Moreover, at paragraph 202 the Framework states that the harm should be weighed against the public benefits of a proposal. Such benefits could include circumstances where a proposal would secure the optimal viable use of a building.
29. For the reasons given above, the proposals would not result in the optimum viable use of the building. Moreover, the public benefits of the appeal schemes would be limited and would not be of sufficient weight to tip the overall planning balance in their favour when set against the great weight and importance that I attach to the harm that would be caused to the significance of the heritage assets. In this way the works conflict with the Framework insofar as, amongst other things, it requires heritage assets to be conserved in a manner appropriate to their significance. For the same reasons, the proposed works would conflict with policies EN5, DMG1 and DME4 of the Core Strategy. These policies seek, amongst other things, to ensure that proposals are of a high standard of design, that they respect the surrounding area and conserve heritage assets.

Living Conditions

30. As stated above, a new external TV is proposed in the new pergola, within the rear external seating/drinking area. A number of residential properties are located near and adjacent to the boundary of the seating/drinking area with

¹ Ribble Valley Borough Council Core Strategy 2008 – 2028 A Local Plan for Ribble Valley Adoption Version.

the common boundary marked by a brick/stone wall with planting above in places.

31. The Council states that the PH has been the subject of a number of noise complaints related to music noise and patrons outside and a letter of objection refers to concerns regarding the use of the rear of the PH by customers and the provision of TVs and speakers. In response to concerns regarding noise, a Noise Management Plan (NMP)² has been submitted with the appeal and I note that the appellant states that there has been new management since the complaints were received.
32. The NMP states that the rear seating/drinking area is established, and this is not disputed by the Council. However, the existing seating/drinking area is uncovered and exposed to the elements whereas the proposals include the provision of a covered pergola, within which would be mounted an external TV. Such facilities are likely to result in an intensification of the use of the existing area and creates the potential for more noise being created by its users. Given the close relationship between the rear seating/drinking area, including the proposed pergola and external TV, and surrounding residential properties, this probable increase in use and use of the TV would be likely to materially increase the amount of noise emanating from the seating/drinking area. This would be to the detriment of the living conditions of adjoining and nearby occupiers.
33. I note the contents of the NMP and in particular the proposed measures within it including physical and operational noise control measures. However, the measures including the TV volume being fixed at a suitable level and signs requesting customers keep noise to a minimum do not provide sufficient certainty, particularly given that no noise surveys measuring existing background noise levels and predicting future noise levels are before me. Whilst I note the appellant's willingness to accept the imposition of a condition imposing a temporary 12 month trial period for the use of the upgraded rear seating/drinking area, this would not be appropriate under the circumstances as the proposals include building operations such as the erection of the pergola. Moreover, based on the limited noise evidence before me, I am not satisfied that there is a reasonable likelihood that the use of the seating/drinking area with the pergola and external TV in place would not give rise to an adverse effect on the living conditions of adjoining and nearby occupiers. Similarly, it is not appropriate to rely on the licencing and statutory noise nuisance regimes to protect living conditions as activity not considered to be a noise or public nuisance may still be unacceptable in planning terms.
34. Having regard to the above, the proposals are likely to have an adverse effect on the living conditions of adjoining and nearby occupiers having regard to noise and disturbance. They are therefore contrary to Policy DMG1 of the Core Strategy which, amongst other things, states that development proposals must consider the relationship to surroundings including effects of development on existing amenities.

² Hepworth Acoustics Dog & Partridge Public House, Clitheroe Noise Management Plan for Altered Outdoor Seating Area January 2023.

Other Matters

35. The appellant states that at no point during the determination of the applications did the Council request any additional information in order to overcome its concerns. Even if that were the case, this does not alter the merits of the proposals or affect the outcome of the appeals.

Conditions

36. The Council has provided a list of suggested conditions and I have had regard to these. As the Council considers the works to be mostly retrospective, only conditions relating to the use of the seating/drinking area have been suggested. However, as previously stated, even though I acknowledge that some works have taken place on site, it appears that at least some of the works are not fully in accordance with the submitted plans. Consequently, for the purpose of these appeals, I have assessed the works as shown on the submitted plans as proposed works. Additional conditions are therefore necessary, and the parties have had the opportunity to comment on them. I have had regard to any comments received.
37. I have imposed a condition specifying the approved plans on the planning permission in order to provide certainty. An approved plans condition is not required on the listed building consent as carrying out the works in accordance with the submitted plans is part of the formal decision. I have imposed conditions on the listed building consent requiring further details of the re-painting, the advertisements and lanterns, the rear porch and festoon lighting. These are necessary as either these works have not yet been carried out or where works have been carried out, there is some uncertainty as to whether these works are in accordance with the submitted plans. Therefore, additional details are required in order to preserve the special features and interest of the PH. In addition, as one of the advertisements is illuminated, I have imposed a condition on the advertisement consent restricting levels of illumination in order to preserve the heritage assets.

Conclusion

38. For the above reasons and having regard to all matters raised, I conclude that the appeals should be dismissed insofar as they relate to internal works, the post mounted sign, the front festoon lighting mounted on posts, the bin enclosure and pergola. The appeals are allowed insofar as they relate to external re-painting, advertisements (Items B to E and H), lanterns (marked as Item G), rear festoon lighting and replacement porch. Listed building consent but not planning permission is granted for the external TV.

Beverley Wilders

INSPECTOR

SCHEDULE OF CONDITIONS

Appeal A Ref: APP/T2350/W/23/3314527

1. The development shall be begun before the expiration of three years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following list of approved plans insofar as they relate to the rear festoon lighting and the rear porch: Location Plan 1:1250, Block Plan 1:500, 1900.5A, 1900.3C, 1900.10.

Appeal B Ref: APP/T2350/Y/23/3314528

1. The works authorised by this consent shall begin not later than 3 years from the date of this consent.
2. No external re-painting shall commence until full details of the type and colour of paint has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details.
3. The approved advertisements and lanterns shall not be erected until detailed plans at a scale of 1:20 have been submitted to and approved in writing by the Local Planning Authority showing the precise position of and fixings to be used for the advertisements and lamps. The works shall then be carried out in accordance with the approved details.
4. The approved rear porch shall not be erected until detailed plans at a scale of no less than 1:50 have been submitted to and approved in writing by the Local Planning Authority showing the detailed design of the porch including method of fixing to the existing building and door and window design and materials. The works shall then be carried out in accordance with the approved details.
5. The approved festoon lighting shall not be erected until full details of the lighting, including method of fixing has been submitted to and approved in writing by the Local Planning Authority. The works shall then be carried out in accordance with the approved details.

Appeal C Ref: APP/T2350/Z/23/3314530

1. The intensity of illumination of the illuminated fascia advertisement permitted by this consent shall be within that recommended by the Institute of Lighting Professionals (for a sign within Zone E3) in its Professional Lighting Guide 05 (PLG 05) Brightness of Illumination Advertisements (or its equivalent replacement guide).