



Appeal Decision

Site visit made on 14 June 2023

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 July 2023

Appeal Ref: APP/R0660/W/23/3319660

The George and Dragon, 61 Rainow Road, Higher Hurdsfield, Cheshire, SK10 2PD

- 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 Ian Marlowe against the decision of Cheshire East Council.
 - The application Ref 20/2743M, dated 29 June 2020, was refused by notice dated 3 October 2022.
 - The development proposed is demolition of a vacant pub and the construction of a terrace of 4 two storey dwellings and one two-storey detached infill dwelling (C3) with associated car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed reference to A4 use from the description of development, as under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, public houses are treated as being outside any use class (sui generis use).
3. Since the Council made its decision, it has adopted the Site Allocations and Development Policies Document 2022 (SADPD). Policies in the SADPD have replaced those in the Macclesfield Local Plan, including Policies DC3 and DC41, which are referred to in the Council's decision notice.
4. The SADPD was at an advanced stage of preparation at the time the Council determined the application, and the decision notice refers to emerging policies in that plan. In their appeal statements, both parties have referred to relevant policies in the adopted SADPD, and explained how, in their view, the proposal either complies or conflicts with them. Given these circumstances, I am satisfied that the change in policy context does not disadvantage either party.
5. The appeal site is within the Higher Hurdsfield Conservation Area (CA). In considering this appeal, I have had special regard to the desirability of preserving or enhancing the character or appearance of the CA, as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. The Council has suggested that the former George and Dragon pub should be regarded as a non-designated heritage asset (NDHA), but the appellant does not agree. The Planning Practice Guidance advises that decisions to identify

buildings as NDHA should be based on sound evidence¹. In this case, the former pub does not appear on any local list, and there is no conservation area appraisal for Higher Hurdsfield which identifies it as being a positive contributor. The Council has not explained why it has come to the conclusion that the building should be regarded as a NDHA, or what criteria have been used to evaluate the significance of the site. In the absence of any such evidence, I have not treated the former pub as a NDHA in determining this appeal.

Main Issues

7. The main issues are:

- whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and relevant development plan policies,
- whether the proposal would conserve or enhance the character or appearance of the Higher Hurdsfield Conservation Area,
- the effect of the proposal on the living conditions of the occupiers of 55-59 Rainow Road, with particular regard to outlook and light, and
- if the proposal is inappropriate development, whether the resulting harm to the Green Belt, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

8. The Framework identifies that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. It goes on to state that inappropriate development is harmful to the Green Belt, and should not be approved except in very special circumstances. Framework paragraph 149 indicates that the construction of new buildings should be regarded as inappropriate in the Green Belt, unless it would fall within one of the exceptions set out. A similar approach is set out in Policy PG3 of the Cheshire East Local Plan Strategy 2017 (Local Plan).
9. The proposed development would involve the demolition of the vacant George and Dragon public house, which would be replaced with a terrace of 4 houses. In addition, a new detached dwelling would be constructed on land to the rear of 55-59 Rainow Road (Nos. 55-59). I consider these distinct elements of the scheme below, in terms of their compliance or otherwise with national and local Green Belt policy.

Proposed terrace of 4 houses

10. Framework paragraph 149e) and Local Plan Policy PG3 identify limited infilling in villages as one of the circumstances in which new buildings may be considered 'not inappropriate' in the Green Belt. Additional detail on the local interpretation of this exception is set out in SADPD Policy PG10.

¹ Planning Practice Guidance Paragraph: 040 Reference ID: 18a-040-20190723

11. The appeal site is within Higher Hurdsfield, which is identified as an infill village within Policy PG10. The policy supports limited infilling within the defined village infill boundary, subject to criteria. Limited infilling is defined in the SADPD as the development of a relatively small gap between existing buildings.
12. In this case, there is no existing gap between buildings for the terrace to fill, although a gap in the Rainow Road frontage would be created by the proposed demolition of the pub. According to the Council, case law has established that a development can be infill, even where there is no existing gap. However, I have not been provided with any details of this, so cannot assess its relevance to the case before me.
13. Even if it is accepted that the filling of a gap which does not currently exist could be limited infilling, the gap which would be left by the pub's demolition would form a sizeable hole in the existing frontage. The surrounding development is comprised of individual and small groups of modest sized cottages, and in this context, the gap would not be 'relatively small'.
14. Based on the information before me, I am therefore unable to conclude that the proposed terrace would constitute limited infilling for the purposes of SADPD Policy PG10 and Framework paragraph 149e).
15. Framework paragraph 149g), which is concerned with the redevelopment of previously developed land, is also relevant to the proposed replacement of the existing pub building. However, to meet that exception, which is reflected in Local Plan Policy PG3, the proposed terrace must have no greater impact on the openness of the Green Belt than the existing development.
16. By replacing the existing pub, the proposed terrace would reinstate what is already a continuous built-up frontage along Rainow Road. The new building would have a slightly higher ridgeline than the pub, but when viewed from the road, the effect on Green Belt openness would be very similar to that of the existing development.
17. However, the proposed terrace would extend further to the rear than the existing building. As a result of the increased footprint, there would be a greater impact on Green Belt openness, in purely spatial terms.
18. From surrounding properties, the rear elevation of the proposed terrace would be seen in the context of surrounding built form, and the steeply rising topography at the rear of the site would provide visual containment. Even so, the additional bulk and scale of the building would mean the building would have a greater visual impact than the existing development, and a corresponding reduction in openness.
19. Overall, when compared with the existing pub building, the proposed terrace would have an additional impact on Green Belt openness in both spatial and visual terms. However, given the modest increase in building size, and taking account of the surrounding built up context, the effect would be small.

Detached dwelling

20. The proposed detached house would be constructed between existing buildings to the front, rear and side. However, there is a considerable amount of open land between the properties at the top of the hill and those fronting onto Rainow Road. Although the horizontal distances between the buildings are not

particularly great, the significant difference in levels means that on the ground, the site is not perceived as occupying a 'relatively small gap' between existing buildings. As such, the proposed detached house would not constitute limited infilling for the purposes of SADPD Policy PG10.

21. The appellant has drawn my attention to the Council's approval of two dwellings at Knutsford Road, Alderley Edge (application ref 18/0003M). The Council considered that development to be infill, even though it did not form a gap between buildings along a road frontage. Whilst I note that finding, the Alderley Edge case involved a different settlement and context from the appeal before me. My findings in relation to the current proposal are based on the specific circumstances of the site and my assessment of the situation on the ground. The Alderley Edge application does not provide a reason to come to a different view on the appeal proposal.
22. The proposed detached house would be on the site of an existing garage building, on land which forms part of the wider open area at the rear of the pub. According to the appellant, the overgrown site was formerly used in association with the pub, and whilst I note there is some disagreement about the previous use, remnants of terraced decking suggest that the land was used as an outdoor garden. If, as seems likely, the site formed part of the curtilage of the pub, it would constitute previously developed land. As such, this element of the proposal can also be assessed in terms of the exception set out in Framework Paragraph 149g) and Local Plan Policy PG3.
23. Again, it is necessary to consider the effect of the proposed development on Green Belt openness, compared with the existing situation. The proposed two storey house would have a considerably larger footprint, and would be much higher, than the small, flat roofed garage building it would replace. In spatial terms, there would be a greater impact on openness.
24. From both Rainow Road and Cliff Lane, the new detached house would be largely screened by existing buildings, vegetation or topography. Even so, the development would introduce a significant amount of built form into an area of hillside which is currently green and open, and which provides visual separation between the properties on Rainow Road and the upper terrace on Cliff Lane. When viewed from the surrounding properties, and particularly from Nos. 55-59, the proposed detached house would result in a loss of Green Belt openness in visual terms.
25. Overall, I have found that neither the proposed terrace nor the detached house would constitute limited infilling for the purposes of SADPD Policy PG10. Both elements of the scheme would involve the redevelopment of previously developed land, but there would be a greater impact on Green Belt openness, compared with the existing development. Consequently, the proposal would fail to comply with the exceptions set out in Framework paragraph 149e) and g), and the equivalent criteria in Local Plan Policy PG3. As such, it would constitute inappropriate development in the Green Belt.

Heritage assets

Higher Hurdsfield Conservation Area

26. The CA has a tightly defined boundary and incorporates a sizeable portion of this small linear village, centred along Rainow Road. Land uses within the CA

are predominately residential, with individual and small groups of simple, stone or rendered cottages with slate roofs. Information in the appellant's heritage statement suggests that the cottages would have once provided accommodation for workers in local mining, cotton and silk industries.

27. When viewed from Rainow Road, most of the cottages in the CA appear to have retained their original form, with little evidence of significant alteration. They appear similar in their modest scale and use of local stone with slate or stone slate roofs. The residential buildings provide a unified and coherent appearance to the CA, which retains the pattern of development shown in historic maps dating to the mid nineteenth century.
28. The significance of the CA is derived from the collective aesthetic and intact historic fabric and form, which contributes to an understanding of the evolution of the village.

Former George and Dragon public house

29. The former George and Dragon pub is located in a central position in the CA, directly opposite the 1865 Ebenezer Chapel. The appellant's heritage statement reproduces maps dating back to 1873, which show both the George and Dragon pub and the chapel. A building on the site of the pub appears in earlier maps, dating back as far as 1831.
30. The chapel and former pub are historic buildings, which will have formed an important role in the religious and social life of the village. Most of the buildings in the CA are residential, but the presence of the pub and chapel indicate that this was a small community in its own right, not simply a linear extension of Macclesfield. As such, these buildings form an important part of the history of Higher Hurdsfield.
31. The former George and Dragon pub is an elongated building, formed of white painted stone, and a low, stone slate front roof, with three gabled dormer windows. The evidence in the heritage statement suggests that the building was originally formed of five cottages, but by 1969 had been amalgamated to form a single property, in use as a pub.
32. The building has clearly been altered over time, with replacement uPVC windows in the front elevation. Even so, the original form of what would once have been a simple but attractive building is still clearly apparent. The former pub has retained what appear to be original door and window openings on the principal elevation, and the repeating pattern and size of openings reflect its cottage origins.
33. The appeal building suffered from a significant fire in around 2015, and has been vacant since. The front elevation is intact, but much of the roof is in an extremely poor condition, with vegetation growing up through it. Photographs in the heritage statement show significant internal damage sustained in the fire. The front of the building has been fenced off, some of the windows are broken and the rear garden is overgrown. There is no suggestion that the fire was deliberate, but the building has not been repaired since, despite notices served by the Council requiring that work be carried out. The lack of maintenance means that the building is likely to have deteriorated further since the fire. In its current condition, the former pub significantly detracts from the appearance of the CA.

34. Nonetheless, the former public house is an important building in the CA, a view which is shared by Historic England. Notwithstanding my conclusion regarding NDHA status, the building is a historic focal point of this small village. Its form, scale and construction materials, and its role in the social history of Higher Hurdsfield, all form part of the former pub's positive contribution to the features that underpin the significance of the CA.

Effect of proposals on the Conservation Area

Proposed terrace

35. The proposal would involve the complete demolition of the former pub and its replacement with a new terrace of 4 houses. The proposed terrace would not replicate the existing pub, but the front elevation has been designed to reflect the pub's cottage form and appearance, and would be constructed of similar materials to those found in the existing building and the wider CA.
36. As with the existing building, the proposed terrace would be set back from the adjoining buildings on either side. The ridge would be around 1m higher than that of the pub, but would be similar to that of the neighbouring properties on either side, so the height increase would not be particularly obvious from Rainow Road. The scale and form of the front elevation would respect the appearance of the existing building and the character of the wider CA. Furthermore, by replacing the existing damaged building, it would improve the appearance of the area.
37. However, the rear elevation of the proposed terrace would be significantly different in character from the front. The low and simple form of the existing building would be replaced with a larger, higher building, which would project further to the rear. When viewed from surrounding properties, it would be seen as a contemporary building, with large amounts of glazing in prominent gables.
38. The appearance of the building, together with the additional height and rear projection would mean that it would be far more intrusive in this context than the existing structure. I can appreciate the architectural merits of the proposal if considered in isolation. However, the rear elevation of the building would fail to respect the wider CA, which is characterised by traditional cottages with a high degree of consistency in their form and appearance.

Detached dwelling

39. The CA is formed of ribbon development along the road frontage, with a large gap between the buildings on Rainow Road and those on Cliff Lane to the rear. Backland development, such as the proposed dwelling, is not a characteristic feature of the CA. The new house would fail to reflect the linear pattern of the surrounding development, and would appear incongruous in this location.
40. Whilst the proposed materials would be appropriate, the proposed dwelling would fail to respect the consistency in scale and form which characterise the CA. When viewed from the side, the proposed detached dwelling would appear as a relatively tall dwelling with accommodation over three floors, unlike the surrounding two storey cottages. The front elevation of the proposed dwelling would have a traditional appearance, but the glazing on the side elevations would be contemporary in style. As a result, the detached dwelling would appear out of place in this location.

41. Taking into account all the above factors, I conclude that the proposed development, when considered as a whole, would fail to preserve or enhance the character or appearance of the Higher Hurdsfield CA. The scale and form of the proposed buildings would cause a diminution of the significance of the CA, amounting to less than substantial harm.

Heritage balance

42. Framework paragraph 202 requires that the harm to the significance of the designated heritage assets must be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal use.
43. The proposed redevelopment would bring this prominent site back into active use. Compared with the existing situation, it would improve the appearance of the site and wider CA, when viewed from Rainow Road. The scheme would provide five additional dwellings which would contribute towards meeting housing need in the area. There would be benefits to the local economy through construction work, and future occupiers of the houses would support local services and facilities.
44. These would be benefits of the scheme, but Framework paragraph 189 notes that heritage assets are an irreplaceable resource, that should be conserved in a manner appropriate to their significance. In this case, the proposed loss of one of the most important buildings in the CA, and all its remaining historic fabric, would detract from the character of the CA, and diminish its significance. The appellant has provided no structural surveys or other evidence to explain why redevelopment of the former pub is the only option. There is nothing before me to indicate that the damage is irreversible or irreparable, or that alternative solutions have been explored.
45. Even if the demolition of the pub was unavoidable, I have found that the proposed replacement building would fail to preserve the character and appearance of the CA for the reasons described. Owing to its siting, scale and form, the proposed detached dwelling would result in additional harm.
46. Taking all these considerations into account, I conclude that the public benefits of the scheme would not be sufficient to outweigh the harm to the CA as a designated heritage asset.
47. Consequently, the scheme would conflict with Local Plan Policy SE7, which is concerned with protecting the historic environment, and the detailed requirements for development in conservation areas contained in SADPD Policy HER3. There would be further conflict with Framework paragraph 189 and s72 of the Act, which are concerned with the safeguarding of heritage assets.

Living conditions

48. The proposed detached dwelling would be constructed behind Nos. 55-59, on land which rises steeply towards the properties off Cliff Lane above. The close-knit nature of the surrounding built form, described by the appellant, does not reflect my experience of the area when I visited. Rather, I had the impression of spaciousness and distance between the buildings fronting onto Rainow Road and the nearest buildings along Cliff Lane to the side and rear.
49. The construction of the proposed two storey house, very close to the rear garden boundaries of Nos. 55-59, would introduce a solid built feature, on land

which, save for a small garage, is currently green and open. The proximity of the proposed house to Nos. 55-59, combined with the significant difference in ground levels, would mean that the development would loom above the existing cottages, to an extent which would feel overbearing.

50. The overbearing effect would be particularly pronounced from the rear gardens of Nos. 55-59, which have been terraced to accommodate the level change. Raised areas of those gardens, close to the proposed house, are likely to be well used by occupiers of Nos 55-59. The new house would appear highly dominant from those outdoor spaces, and would result in an unacceptable level of enclosure, to areas which currently have an open aspect.
51. The orientation of the proposed house, to the south-east of the rear gardens of Nos 55-59, would result in overshadowing to the adjacent gardens. Whilst the effect would be largely confined to the morning, it would nonetheless add to the harm to the living conditions of the occupiers of the neighbouring properties.
52. The proposed terrace would extend further to the rear than the existing pub. The result would be to introduce solid built form at full two storey height, along the shared boundary with No. 59. The high, solid brick would appear overbearing from the rear windows and garden of No. 59, and would enclose the outdoor amenity area to an unacceptable degree.
53. The suggestion that re-use of the pub might cause more significant amenity issues to neighbouring occupiers does not provide a reason to construct new built form, which I have found would be harmful for the reasons described.
54. I conclude that the proposal would cause harm to the living conditions of the occupiers of Nos 55-59, owing to the overbearing impact and, to a lesser extent, loss of light. Consequently, the proposal would conflict with SADPD Policy HOU12, which requires that development proposal must not cause unacceptable harm to the amenities of nearby occupiers of residential properties due to the overbearing and dominating effect of new buildings, and loss of sunlight and daylight.

Other considerations

55. For the reasons set out above, the proposal would be inappropriate development in the Green Belt. Whilst the effect on Green Belt openness would be small, Framework paragraph 148 establishes that substantial weight should be given to any Green Belt harm.
56. I have found that, even when the public benefits are taken into account, the scheme would cause harm to the character and appearance of the CA. There would also be harm to the living conditions of neighbouring occupiers.
57. I have identified no other considerations which would clearly outweigh the harm to the Green Belt. As such, the very special circumstances necessary to justify the scheme do not exist.

Other Matters

58. The Council has raised no objection to the loss of the public house as a community facility, and there has been no clear desire expressed by local residents to retain it. The use of the site as a pub forms part of the history of

Higher Hurdsfield, but the facility has now been closed for a number of years, and there are three other pubs within walking distance. As such, I have no reason to take a different view.

59. The proposed parking and access arrangements would be acceptable, and I have identified no significant concerns in relation to landscape, ecology or flood risk. However, these matters are neutral in the planning balance, and do not outweigh the harms identified.

Conclusion

60. For the reasons set out above, the proposal would conflict with the development plan, the Framework and the Act. There are no other considerations sufficient to outweigh these findings. The appeal is therefore dismissed.

R Morgan

INSPECTOR