



Appeal Decisions

Site visit made on 4 July 2023

by A Tucker BA (Hons) IHBC

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal A Ref: APP/H1705/W/22/3312572

The Red House, 21 & 23 London Street, WHITCHURCH, RG28 7LH

- 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 Nitramic Property Ltd against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 21/03574/FUL, dated 23 November 2021, was refused by notice dated 8 July 2022.
 - The development proposed is change of use of existing building from public house, restaurant and residential accommodation to two houses, associated internal alterations, car parking and landscaping.
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Appeal B Ref: APP/H1705/Y/22/3312081

The Red House, 21 & 23 London Street, WHITCHURCH, RG28 7LH

- 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 Nitramic Property Ltd against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 21/03575/LBC, dated 23 November 2021, was refused by notice dated 12 August 2022.
 - The works proposed are change of use of existing building from public house, restaurant and residential accommodation to two houses, associated internal alterations, car parking and landscaping.
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Decision – Appeal A

1. The appeal is allowed, and planning permission is granted for change of use of existing building from public house, restaurant and residential accommodation to two houses, associated internal alterations, car parking and landscaping at The Red House, WHITCHURCH, RG28 7LH in accordance with the terms of the application, Ref 21/03574/FUL, dated 23 November 2021, and subject to the conditions in the attached schedule.

Decision – Appeal B,

2. The appeal is allowed, and listed building consent is granted for change of use of existing building from public house, restaurant and residential accommodation to two houses, associated internal alterations, car parking and landscaping at The Red House, WHITCHURCH, RG28 7LH in accordance with the terms of the application Ref 21/03575/LBC dated 23 November 2021, and the plans submitted with it, and subject to the conditions in the attached schedule.

Applications for costs

3. Applications for costs were submitted by Nitramic Property Limited. These applications are the subject of separate decisions.

Preliminary Matters

4. The appeals relate to the same scheme under different legislation. I have dealt with both appeals together in my decision.
5. At my visit I could see that the existing ground floor plan and existing rear elevation plan both show an approved extension to the toilet facilities that has not been built. A correct set of existing plans were therefore requested and submitted during the appeal process. It was not necessary to reconsult the parties upon receipt of these plans as they correctly reflect the existing building rather than alter the proposal.

Main Issues for Appeal A

6. The main issues for Appeal A are:
 - a) Whether there would be likely to be a significant effect on the internationally important features of the Solent protected sites¹, in combination with other plans and projects, and
 - b) Whether the proposal would result in the loss of an essential facility.

Main Issue for Appeals A and B

7. An additional main issue for both appeals is the effect of the proposal upon the significance of the grade II listed building known as The Red House Public House, and the character and appearance of the Whitchurch Conservation Area.

Reasons for Appeal A

European protected sites

8. The appeal site is within the catchment of the River Test, which drains into the Solent. The Solent is internationally important for its wildlife, which includes waders and wildfowl including 10% of the world's population of Brent Geese. The area is used by these species for feeding and roosting during the winter. The area also hosts plants, habitats and other animals which are of both national and international importance. The conservation objectives for the site are to ensure that the site is maintained or restored as appropriate, and ensure that it contributes to achieving the favourable conservation status of its qualifying features and the aims of the Wild Birds Directive.
9. The Solent is suffering from high levels of nitrogen and phosphorus in its water environment. Increased levels cause eutrophication which can harm important habitats, which in turn can displace bird species. An increase in the human population arising from the provision of additional overnight accommodation can add to existing nutrient burdens. Proposals for an overall increase in

¹ This includes the Solent Maritime Special Area of Conservation (SAC), Solent and Southampton Water Special Protection Area (SPA) and Ramsar site, Solent and Dorset Coast SPA, Portsmouth Harbour SPA, Chichester and Langstone Harbours SPA, and Solent and Isle of White Lagoon SAC.

overnight accommodation should seek to achieve nutrient neutrality to avoid a significant effect on the integrity of the protected sites.

10. Based on the evidence before me, the change from a public house with six first floor bedrooms for staff to two dwellings with five bedrooms in total would not represent an increase in overnight accommodation. This assumes an occupancy figure of 2.4 residents per dwelling and there is nothing before me to suggest that a different figure should be used. The main parties agree with this position. Natural England (NE) as the Statutory Nature Conservation Body was consulted before the Council made its decision, and again during the appeal process. NE is also content with the agreed position.
11. Reference is made to an updated version of the Solent Nutrients Guidance, which was not used when the nutrient budget was calculated. The updated guidance uses the same occupancy figure and would therefore not change the agreed position.
12. On this basis an Appropriate Assessment is not required, and I can be satisfied that the proposal would not have a significant effect on the internationally important features of the Solent protected sites. It would accord with Policy EM4 of the Basingstoke and Deane Local Plan 2011 to 2029 (LP), which seeks to ensure that development proposals would not have an adverse impact on the integrity of designated European sites.

Essential facility

13. Policy CN7 of the LP establishes that development proposals which would be detrimental to or result in the loss of essential facilities and services that meet community needs and support well-being will only be permitted where it can be clearly demonstrated that one of three criteria is satisfied. Supporting paragraph 5.66 clarifies that a pub is included as an essential facility and service.
14. The existing building operated as a pub for a very long period. Before its closure it offered food and provided outdoor space as well as an area for children to play. It is therefore clear that it met a community need and supported the well-being of its customers by providing somewhere to eat, drink and socialise. While in operation there would have also been secondary benefits to the community arising from direct employment and associated business benefits to others such as taxi operators, gardeners, and those who would carry out building maintenance from time to time.
15. The first criteria that needs to be clearly demonstrated is that the service or facility is no longer needed. Supporting paragraph 5.67 says that applications that would entail the loss of an essential facility or service must show evidence of alternative provision. Evidence before me demonstrates that there is ample alternative provision within Whitchurch. Whilst other pubs in the town may not have a family garden or play facilities, they provide a very similar offer to that which was provided at the appeal building. Additionally, other businesses provide additional restaurant and takeaway options, and there are other venues available for meeting and socialising in a manner that would meet community needs and support well-being. I am therefore unable to accept that it is necessary for the existing business to remain open to meet an essential need that is not adequately provided elsewhere within the town.

16. Evidence before me demonstrates that the existing building was not well supported when open. Declining levels of trade are reported over a long period. It is suggested that the lack of investment in the building and business put off customers and contributed to its decline. However, evidence before me from those who operate similar businesses in the town refer to difficult trading conditions and suggest that the market would be saturated if the building was re-opened. Indeed, there is no suggestion that existing businesses are overwhelmed following the closure of the appeal building, or that it is difficult to book a table for a meal elsewhere. One would expect accounts of such over the past few years following the closure of the business if its closure was truly detrimental.
17. Recent housing developments have taken place in the town and further developments are planned. Such population increases should boost the viability of existing businesses and could create an environment in which it may be viable for additional businesses to open. However, I am not satisfied that this matter means that the existing business at the appeal site is needed.
18. I have given considerable thought to the level of support demonstrated in the submissions for the retention of the business. This is illustrated by its listing as an asset of community value and an attempt by a local group to purchase the building. Residents care deeply about the range of local services and facilities available, and its offer to the tourism industry. However, whilst such matters carry considerable weight, based on the evidence before me I am unable to conclude that it is necessary for the business to be retained to meet community needs and support the well-being of residents.
19. It is suggested that the use of the building could be adapted to provide a reduced pub offer or some format of community hub, with the potential for the part conversion of the building. There is however nothing to suggest that there is a demand or need to retain the building in this format.
20. For these reasons I am satisfied that the pub business is no longer needed, and thus criteria a) of Policy CN7 of the LP is satisfied. Although it is not necessary for more than one of these criteria to be satisfied for the proposed loss of the pub to be accepted, the parties also disagree over whether criteria b) is satisfied by the proposal.
21. The building was marketed for a long period. Evidence of the marketing exercise is before me, and this was assessed independently at the request of the Council. A leading agent for dealing with the sale of licensed property was used and there is nothing to suggest that it was deliberately marketed as a development opportunity other than noting the sensible potential to develop the first floor as letting rooms. It was in their interest to attract a sale, and their marketing was thorough and comprehensive, and particulars were widely distributed. It is suggested that the initial asking price may have been unrealistic, and the building eventually sold for much less. Costs to reignite the business are considerable and likely to have put many off, considering the condition of the building and the potential difficulty to establish a unique selling point given the ample offer of alternative provision in the area.
22. Interest in the purchase of the building was limited. Sufficient time was given for a local group to develop an offer that could be accepted. The offer was not accepted however as it was unfinanced. It is suggested that the overage clause made finance difficult and put into doubt the commercial viability for any

purchaser. I accept that this would have presented a further matter to be carefully considered by a potential purchaser, however such clauses are commonplace, and can deter people from taking on a building with no intention of continuing its use. It is suggested that its inclusion gave the best chance of retaining the building in its current use. I am satisfied that its inclusion did not therefore undermine the marketing exercise.

23. Evidence provided demonstrates that the pub had been in continual decline since 2013. The reasons for this are not entirely clear, however the level of alternative provision within the town and local area is likely to be a significant factor. This, in combination with the matters above, leads me to conclude that it is no longer practical, desirable or viable to retain the pub and therefore criteria b) is also satisfied.
24. It is reasonable for residents to feel frustrated that profits from the adjacent residential development were not ploughed back into the business. Securing the future viability of the public house as a community asset, a heritage asset and a business were stated aims of the scheme. It is not clear why profits were not put to this use, however the Council did not put anything in place to require them to be when permission was granted for the development. The Council explains that it was not necessary to direct finances back into the existing business as the principle of residential development was acceptable in this location – such a requirement was not necessary to make an otherwise unacceptable development acceptable in planning terms. As such, whilst a further irritation to the local community, this is a matter that should not weigh against the proposed change of use.
25. In summary, the proposal would not result in the loss of an essential facility. It would accord with Policy CN7 of the LP and Policy GD3 of the Whitchurch Neighbourhood Development Plan 2014-2029 (NP). Together these Policies seek to ensure that essential facilities and services are safeguarded.
26. Policy GD6 of the NP is also referred to in the submissions. This Policy is not however relevant as the appeal site is outside the town centre.

Listed building and conservation area

27. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Additionally, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
28. The appeal building is grade II listed. Evidence suggests that it dates from the 16th century and originally had a residential use. It has been used as a pub since the late 18th century. It has a simple linear form, with its front façade forming the back edge of the footway and constituting a later brick re-fronting to the original timber framed building, evidence of which is visible externally at the rear. The floor plan is much altered but retains some evidence of original spatial divisions and some fireplaces. These elements, the extent of historic fabric that includes the remaining elements of timber frame as well as the overall historic appearance of its front façade, are primary contributors to its historic significance.

29. It is suggested that its continued use as a pub since the late 18th century makes a significant contribution to its special interest. I am satisfied that this use has communal value. However, there are no physical elements related to the building's use as a pub that are of notable interest. The bar fittings internally appear to be of no particular value and in all other respects the building has a scale and spatial quality that relates more readily to its original domestic use. Externally, remaining signage clarifies its use, but none of this is of any historic value. There are numerous alterations that have been carried out to facilitate its continued use as a pub that are harmful to the special interest of the building such as the Kitchen fit out and flue, the WC extension and the insertion of the glazed entrance doors at the front. Therefore, whilst there is a level of communal value arising from this long standing use, I am not satisfied that its use as a pub gives the building any additional architectural interest.
30. The building stands within the Whitchurch Conservation Area (the CA). The CA occupies a large area that is centred on the historic core of the town. It extends out from here along its primary roads and takes in the open floodplain of the River Test. The overall form and main façade of the appeal building is a key building within the CA, and contributes to the character and appearance of the CA.
31. As well as the value derived from the physical appearance of the buildings and their architectural quality, the level of activity within the historic core of the town and associated with its public buildings contributes to the character of the CA. The historic use of the building as a pub and the level of activity associated with that use would contribute to the overall vitality and vibrancy of the CA, particularly as the site is close to the town centre. However, this is limited by the lack of outdoor space that faces the public realm and the inability of the use of the building to spill out onto the highway because of its position at the back edge of a pavement of ordinary width.
32. The proposal would lessen public access to the listed building as a result of its conversion from a pub to dwellings. The Council suggests that harm would arise from the permanent restriction to interior spaces that justify the building's architectural and historic interest. Whilst the interior of the building has some significance, there is nothing before me to suggest that its interest is primarily derived from its interior or that reducing public access to its interior would cause harm.
33. Indeed, from a reading of the evidence before me and my own observations on site the interior of the building would appear to be no more significant than many grade II listed buildings with domestic origins. The building was not designed originally as a public building where its subdivision or a downgrading of its use might cause harm. In fact, it is clear from the detail of the submission that it would divide easily into two dwellings in a manner that would not be harmful. The proposal would not result in the loss of any significant historic fabric, and conditions could be imposed if the appeals are allowed to ensure that remaining fabric is safeguarded during the works.
34. Changes to its exterior would not be harmful to its special interest as a listed building or to the contribution it makes to the appearance of the CA. In terms of the reduced level of activity associated with a domestic building when

compared with a pub there would be a minor adverse impact on the character of the CA.

35. The use of vertical sawn cladding for the proposed extension at the rear would identify the addition as a clear extension that would be seen alongside other modern additions at the rear. If executed well it would have a better appearance than the existing toilet extension, and thus constitute a positive change.
36. I have found that the proposal would have a modest adverse impact on the communal interest of the listed building and on the character of the CA. In terms of the National Planning Policy Framework (the Framework) the harm to both the listed building and the CA would be less than substantial. Paragraph 202 of the Framework establishes that any harm should be weighed against the public benefits of the proposal.
37. The proposal would secure a new use for the building. Given its poor condition and the fact it has been unoccupied since 2018, this constitutes a significant public benefit. In securing a new use the proposal would also secure the building's repair and renovation. The quality of the proposed works can be secured through appropriately worded conditions.
38. The proposal would see the original residential use of the building reinstated. The two dwellings would be well laid out in a manner that would provide a pleasant and characterful living environment for family occupation. On this basis it is reasonable to assume that future owners would keep the building in good repair for their own benefit and to safeguard their investment. Securing a new use for the building through a proposal which would ensure it is repaired and adapted in a manner that does not harm its fabric should be viewed as a public benefit that attracts significant weight.
39. I am satisfied that the benefits set out above are of significant weight to outweigh the modest level of harm identified, even when I give great weight to the conservation of heritage assets in accordance with Paragraph 199 of the Framework. The proposal would thus accord with the requirements of the LBCA. It would also accord with EM11 of the LP, which seeks to ensure that development conserves the quality of the Borough's heritage assets.

Other Matters

40. Comments before me refer to the potential for the proposal to result in an increase in traffic generation and whether the proposed parking provision would be sufficient. I note that the Highway Authority did not raise any objections. The traffic generation for two dwellings would be modest, and would be likely to be much lower than that associated with the previous use. The plans include parking that accords with the Council's guidance, and the spaces for the larger dwelling are particularly generous, sufficient to safely accommodate additional parking if required by its occupants. For these reasons I am satisfied that the proposal would not harm highway safety.
41. The garden area to the rear of the smaller dwelling would be modestly sized. Its dimensions would fall short of the Council's guidance. The Council is of the view that the small area proposed would however be in keeping with the size of gardens in the area, and it refers to the ability of future residents to easily access other open space nearby. The garden would be well related to the living

accommodation, with a wide full height opening from the room referred to as a study, which could easily serve as a separate living room. Taking these matters together I am satisfied that the proposal would provide adequate private amenity space for its future occupants.

42. A window exists to the side of the existing first floor office. This window would be retained to serve the proposed garden room. Whilst this has the potential to cause some overlooking, the window already exists. As a result, the proposal would not make the situation worse, and this is not therefore a factor that should weigh against the proposal.
43. The submitted Bat Survey is old, which is a matter that is acknowledged by the Council. The proposal would however largely relate to the building's interior with no works proposed to its roof space. The only exception to this is the proposed demolition of the existing toilet block, which has a flat felt covered roof and is not likely to support bats. For these reasons I am satisfied that I can reasonably conclude that the proposal would not impact on bat habitats.

Conditions

44. I have had regard to the conditions suggested by the Council. I have considered these against the tests in the Framework and the advice in the Planning Practice Guidance. I have imposed a condition for the planning permission that specifies the approved plans as this provides certainty.
45. I have imposed conditions 3 and 4 for the planning permission to secure details of external materials and soft landscaping. This is necessary to safeguard the character and appearance of the area. I have not imposed the suggested condition relating to hard landscaping, as the plans are sufficiently detailed in this respect.
46. I have imposed conditions 5 and 6 for the planning permission to ensure that the proposed parking provision and turning area, and arrangements for recycling, refuse and cycle storage are provided in a timely manner to serve the dwellings and retained thereafter. These conditions are necessary to safeguard the character and appearance of the area and to ensure that the development does not harm the safe operation of the highway.
47. I have imposed condition 7 for the planning permission to manage water efficiency for the development to accord with the relevant LP policy.
48. I have imposed condition 8 for the planning permission to ensure that noise mitigation at the site is considered in a manner that takes into account the special interest of the listed building. This is necessary as the building is alongside a busy road, where road activity has the potential to be a nuisance to future occupiers of the dwellings.
49. The Council suggested conditions to remove permitted development rights for development that would otherwise be permitted. The works covered would however either require listed building consent or planning permission in this case, as the building is listed. These conditions are not therefore necessary.
50. I have imposed condition 9 for the planning permission to manage the time that building work and associated activity on site is carried out. This is necessary to safeguard the living conditions of the occupiers of the nearby dwellings, taking into account the density of surrounding development.

51. I have imposed condition 2 for the listed building consent to ensure that the works are appropriately detailed to safeguard the special interest of the building.

Conclusion

52. For the reasons above, both appeals should be allowed.

A Tucker

INSPECTOR

Schedule of Conditions – Appeal A

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 01A, 02E, 03A, 04, 05B, 06B, 12A and 13.
- 3) The development hereby approved shall not commence above slab level until details of the types and colours of external materials to be used, together with samples, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details.
- 4) Notwithstanding the approved plans no soft landscaping works shall commence on site until a scheme of soft landscaping which shall specify species, planting sizes, spacing and numbers of trees/shrubs to be planted (including replacement trees where appropriate) shall be submitted to and approved in writing by the Local Planning Authority. The works approved shall be carried out in the first planting and seeding seasons following the first occupation of either of the dwellings hereby approved. In addition, a maintenance programme detailing all operations to be carried out in order to allow the successful establishment of planting, shall be submitted to and approved in writing by the Local Planning Authority before the commencement of the landscaping works. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 5) The dwellings hereby approved shall not be occupied until provision for the parking and turning of vehicles, in accordance with the details illustrated on the approved plan (drawing no. 12A) have been provided. The parking and turning areas shall thereafter be available for use and kept free from obstruction throughout the lifetime of the development.
- 6) The dwellings hereby approved shall not be occupied until they have provision within their curtilage for refuse and recycling storage (prior to disposal) and cycle storage, in accordance with those shown on the approved plan (drawing no. 12A). Thereafter these facilities shall be retained for such purposes for the lifetime of the development.
- 7) The dwellings hereby approved shall not be occupied until a construction statement detailing how they shall meet a water efficiency standard of 110 litres or less per person per day, and thereby satisfy the Building Regulations Optional requirement, has been submitted to and approved in writing by the Local Planning Authority. If it is not possible to meet this figure, then information must be submitted to demonstrate that this requirement cannot be achieved on technical or viability grounds. Thereafter the development shall be carried out in accordance with the approved statement.
- 8) The dwellings hereby approved shall not be occupied until a Noise Mitigation Scheme which mitigates against the impacts of roadside noise for future occupants has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented prior to the occupation of the dwellings hereby approved and thereafter maintained.

- 9) No work relating to the development hereby approved, including works of demolition or preparation prior to operations, the receiving of materials/deliveries at the site and the removal of spoil or other waste, shall take place before the hours of 07:30 or after 18:00 Monday to Friday, before the hours of 08:00 or after 13:00 on Saturdays, or on Sundays or recognised public holidays at any time.

END OF APPEAL A SCHEDULE OF CONDITIONS

Schedule of Conditions – Appeal B

- 1) The works hereby approved shall begin not later than 3 years from the date of this decision.
- 2) The works hereby approved shall not commence unless a fully detailed schedule of works has been submitted to and approved in writing by the Local Planning Authority. Such a schedule shall detail how each element of the works is to be carried out, in what order and how historic fabric will be protected, preserved, and re-used in the works. This shall include details of the removal of the cement render and its replacement with lime render. The schedule shall include the provision of annotated photographs and drawings as necessary. The works shall be carried out in full accordance with the approved schedule.

END OF APPEAL B SCHEDULE OF CONDITIONS