



Appeal Decision

Site visit made on 31 October 2023

by C Rose BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2023

Appeal Ref: APP/Y3940/W/23/3322219

The George & Dragon, 11 High Street, Erlestoke, Devises, Wiltshire SN10 5TX

- 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 Paul Gardner, The Chaffinch Pub Company Ltd against the decision of Wiltshire Council.
 - The application Ref PL/2021/11594, dated 4 January 2022, was refused by notice dated 28 March 2023.
 - The development proposed is creation of a pub garden including construction of boundary fence and means of enclosure within the site, and associated landscaping; and installation of roof vents & extraction for the new commercial kitchen.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading has been taken from the Council's decision notice and the appeal forms because it more accurately describes the development than that stated on the application form. I have however removed reference to the development being retrospective as this is not an act of development.
3. At the time of my site visit the development had been carried out and appeared to accord with the submitted plans. For the avoidance of doubt, I have determined the appeal based on those plans.
4. Within the context of an appeal under section 78 of the Act it is not within my remit to formally determine whether the development requires planning permission as questioned by the appellant. If the appellant wishes to ascertain whether the development is lawful, they may make an application under section 191 of the Act.

Main Issue

5. The main issue is the effect of the development upon highway safety, with particular regard to the provision of car parking and visibility for road users.

Reasons

6. The appeal site comprises The George and Dragon public house set fairly centrally within the village of Erlestoke. The main building fronts the road with the rear having previously provided car parking but subsequently laid out as outdoor seating space in association with the public house. There is a further

detached single-storey outbuilding on the appeal site providing four letting rooms.

7. Prior to the works to create a pub garden on the former car parking area, there was space available for the parking of vehicles. Whilst the Existing Site (Block) Plan¹ only shows three parked cars, I note the evidence from third parties referencing approximately seven or eight spaces, and further note that the original planning application² for the car parking area shows a layout of 10 spaces. These were in addition to parking spaces that are available for use to the front of the public house directly off High Street.
8. The appellant has advised that the parking area was difficult to access and that the creation of the external seating area doubles the seating area which is important to remain commercially viable given that the 'Gastropub' business model is very reliant on food sales.
9. High Street is a busy B-road with a curved alignment with on-street parking. The curved alignment and on-street parking reduces visibility for drivers. Although dwellings further along High Street benefit from off-street parking, there are several dwellings close to the appeal site that do not. This results in demand for on-street parking close to the appeal site and the junction with Lower Road as witnessed at the time of my site visit. Lower Road is narrower with no pavements and very limited parking opportunities. There are parking restrictions on High Street to the west of the appeal site but a lack of any significant parking restrictions to the east. Parking takes place to both sides of High Street to the east of the appeal site, but the road is not wide enough for cars to park on both sides whilst allowing cars to pass between them. As a result of the above, there is already a high demand for on-street parking, particularly on High Street and close to the appeal site. This parking interferes with the flow of traffic and I note the comments from the Council and third parties regarding this and the demand for on-street parking of an evening, which would be exacerbated at times when the public house is open.
10. The parking spaces to the rear of the site may have been difficult to access, but they were accessible and previously used. Even if their use was mainly by staff and/or in association with the letting rooms, their loss further exacerbates the demand for on-street parking in the area.
11. I note that the original planning permission² for the car parking spaces does not require the provision of the spaces at all times, but they were previously used and the proposal results in their permanent loss and displacement of cars onto the highway. In addition, the development also results in a doubling of the number of covers through the provision of outdoor dining space within the former parking area. Although I appreciate that a number of customers would be local residents who would walk to the site, the proposal would also attract customers from further afield. Therefore, in addition to the displaced parking spaces, the development has the potential to add further demand for parking on the street from additional customers.
12. I acknowledge that staff would encourage customers to park safely, that the pub's website has been updated to ensure new visitors park safely, and that the Parish Council car park could be used for parking. However, there is no

¹ Drawing number SW0041-EX-B-02 rev B

² K/85/0385

signage advising of the presence of the Parish Council car park, limited lighting between the site and the car park and no guarantee of the availability of spaces or customers adhering to the advice regarding safe parking. As a result, these measures in themselves would not adequately reduce the demand for parking in the area to an extent that overcomes the concerns raised above.

13. The development therefore results in an unacceptable increase in the demand for on-street parking. Given the nature of the road and existing parking, this creates an additional hazard to users of the road and unacceptability interrupts the free flow and efficient movement of traffic.
14. Turning to the matter of visibility, the constructed wall to the eastern boundary extends further forward towards the highway than previous boundary treatment. However, the wall is low enough in height to enable a driver to have adequately visibility over the wall when pulling out of the adjoining access. Even if the wall were lowered in height or shortened in length, with vehicles able to park to the site frontage on the opposite side of the wall, they would restrict visibility at low levels negating benefit from the removal of the wall. Although I acknowledge that the signage post impinges upon visibility, this is not the subject to this appeal and has been refused permission. As a result, the Council can separately pursue its removal.
15. I have considered the comments submitted from the Cricket Club and others stating that the turning for larger vehicles using the adjoining lane has become more difficult. However, I have limited evidence before me in the form of swept paths for vehicles or other information to demonstrate that the wall prevents the turning of larger vehicles entering and existing the adjoining lane. Whilst the use of the access may have become more difficult, the evidence before me does not clearly demonstrate that this is to an extent that causes significant highway safety concerns.
16. I note the differing views regarding the ownership of the land where the boundary wall has been constructed and covering the adjoining car parking spaces. However, such matters are not for consideration as part of this appeal and can be dealt with separately under private legal rights.
17. It follows from the above that although the development would allow for suitability visibility for road users, I conclude that the development would have a harmful effect upon highway safety, with particular regard to the provision of car parking. As such, the development does not comply with Core Policies 60, 62 and 64 of the CS. Amongst other things, these seek to support and encourage the sustainable, safe and efficient movement of people, provide appropriate mitigation measures to offset any adverse impacts on the transport network, and to develop traffic management measures to lower the risk of accidents and improve the environment. The proposal would also be contrary to paragraph 111 of the National Planning Policy Framework (the Framework) that states that development should be refused on highways grounds if there would be an unacceptable impact upon highway safety.

Other Matters

18. My attention has been drawn to another appeal decision³ relating to the loss of car parking in relation to a public house. However, I have limited information in

³ APP/Y3940/W/20/3249816

relation to this appeal and each application and appeal must be determined on its own merits. Furthermore, the conclusions reached by the Inspector in this appeal involved the exercising of planning judgement, which is what I have done in this case.

19. The appeal site is a Grade II Listed Building (List Entry Number: 1033868) and lies within the Erlestoke Conservation Area. As a result, there is a statutory duty as set out in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requiring special regard to be paid to the desirability of preserving the building or its setting or any features of special or architectural interest and to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In light of the small scale of the proposals, they would not harm the listed building or its setting and would preserve the character and appearance of the Erlestoke Conservation Area. It is noteworthy that the Council came to the same conclusion in these regards.
20. I have had regard to the appellant advising that the pub venture needs to be commercially viable and that the food offering and additional income from the outdoor seating is required to aid this and to enable the pub to remain open. However, I have very limited evidence, and no information relating to viability or trade to reach an informed view that the proposal is required to ensure the commercial viability of pub. As a result, this does not outweigh my findings above.

Conclusion

21. Overall, for the reasons given above, the proposal conflicts with the development plan taken as a whole. There are no other considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan. The appeal is dismissed.

C Rose

INSPECTOR