



Appeal Decision

Site visit made on 9 January 2024

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 7 February 2024

Appeal Ref: APP/K0235/W/23/3320304

Horse and Jockey, Church End, Ravensden, Bedford MK44 2RR

- 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 David Murphy against the decision of Bedford Borough Council.
 - The application Ref 22/01377/FUL, dated 3 September 2022, was refused by notice dated 20 January 2023.
 - The development proposed is a conservatory extension, external staircase and replacement railings around existing roof terrace.
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Decision

1. The appeal is dismissed insofar as it relates to the external staircase and railings around the existing roof terrace.
2. The appeal is allowed insofar as it relates to the conservatory extension and planning permission is granted for a conservatory extension at Horse and Jockey, Church End, Ravensden, Bedford MK44 2RR in accordance with the terms of the application, Ref 22/01377/FUL, dated 3 September 2022, so far as relevant to that part of the development hereby permitted and subject to the attached conditions.

Procedural Matters

3. For the reasons that follow, I find the proposed conservatory extension to be acceptable and it is clearly severable both physically and functionally from the external staircase and railings. Therefore, I intend to issue a split decision in this case and grant planning permission for a conservatory extension.
4. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework) on 19 December 2023 and updated it on 20 December 2023. Those parts of the Framework most relevant to these appeals have not been significantly amended. As a result, I have not sought further submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.
5. Also, in March 2023, subsequent to the Council determining the application, the Ravensden Neighbourhood Plan (the Neighbourhood Plan) was adopted. The appellant has had the opportunity to comment on this, and they query whether it is relevant, given that the Neighbourhood Plan was adopted following determination of the application. The Neighbourhood Plan forms part of the Development Plan from its date of adoption and therefore its policies bear weight as material considerations in my decision.

6. As the proposal is within the setting of listed buildings I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

7. The main issues in this appeal are the effect of the development on: -
- Highway safety, with particular reference to access for all users and parking arrangements;
 - Living conditions of occupiers of neighbouring properties and amenity of users of the churchyard with particular reference to noise and disturbance; and:
 - The character and appearance of the local area bearing in mind the special attention that should be paid to the desirability of preserving the setting of the nearby Grade I (All Saint's Church) and Grade II (Oak Cottage) listed buildings.

Reasons

Highway safety

8. The proposed conservatory would occupy an area currently set out as a patio with seating and tables. It would, therefore, be available for use of patrons, unless deterred by inclement weather. I do not, therefore, consider that the enclosure of this area within the proposed conservatory would materially increase the average number of patrons accessing the site to a significant degree.
9. I observed during my site visit that the roof terrace is only partially enclosed by a low picket fence, and this is in a poor state of repair. Further, the only access to that area is through a door from a room identified as a lounge forming part of the landlord's private accommodation. There is dispute between the parties as to whether patrons use it and, if so, to what extent.
10. Based on the evidence before me I do not find that there would have been any significant usage of this area by patrons. Therefore, bringing it into wider use would be likely to increase the number of customers, which would engender additional trips to and from the premises. Some of these would be likely to be by private car. I have no substantive evidence before me to quantify the exact number of additional trips that would be generated. However, given the area of the rooftop terrace the number of patrons using it has potential to significantly increase the number of customers visiting the premises.
11. Car parking for the site is accessed off Church End, which is a single carriageway, unlit road passing through the village. At the point of access it is subject to a 30 MPH speed limit. Visibility to the left at the access is restricted by a bend in the road and existing development. This bend also restricts visibility for drivers approaching it.
12. It is not in dispute that the visibility towards the bend fails to satisfy the requirements of highway design standards. It is likely that vehicle speeds are limited, to a degree, by the layout of the road around the bend. However, no speed survey has been undertaken to provide empirical evidence of a suitable

- design speed and no visibility splay dimension has been calculated or submitted.
13. It has been suggested that an increase in traffic will reduce vehicle speeds, but there is no substantive evidence before me to demonstrate that this would be the case here or the degree to which speeds would be reduced.
 14. The appellant suggests that measures could be introduced to control speeds, however, there is limited information before me regarding their nature, effectiveness, or how these would be delivered.
 15. There is no significant accident history at the access. However, increased usage of the access would be likely to increase risk, with potential to result in physical harm to highway users and vehicle damage, particularly given the restricted visibility of approaching vehicles.
 16. Added patronage would increase parking demand at the site. It is acknowledged that, at busy times, parking demand exceeds provision within the site and parking occurs on-street. There are no parking restrictions on Church End and so any shortfall in parking within the site would be likely to result in increased demand on-street.
 17. Most dwellings nearby are provided with off-street parking, but no parking surveys have been provided to identify where parking takes place on-street currently. It is likely that car parking on street would appear, in the first instance, at locations closest to the drivers' destinations.
 18. The appellant has identified that spaces are not currently set out formally within the car park and suggests that more efficient use of the available space could be made by so doing. However, no layout has been provided to demonstrate this, or any assessment provided of the current and future car parking needs. Therefore, it has not been demonstrated that the additional demand could be offset by improvements to the layout of the car park.
 19. Whilst there is no evidence before me that car parking on-street currently causes issues of amenity for nearby residents, or of highway safety, the increase in demand may engender such problems, particularly should drivers park on the road opposite the site or increase the use of the car parking spaces outside the church, which are both close to the bend. The increased usage of such locations would increase risk of accident with potential for personal injury.
 20. I therefore conclude that the intensified use of the site associated with use of the roof terrace would result in harm to highway safety with particular reference to access for all users and parking arrangements, contrary to Policy 31 of the Bedford Borough Council Local Plan 2030 (2020) – the Local Plan – and Policies RNP5 and RNP9 of the Neighbourhood Plan which, amongst other things, require that development should demonstrate good design and not have any significant adverse impact on the public highway, having particular attention to parking provision and safety.
 21. I have found that the potential for similar harm in respect of the conservatory element of the proposed development is limited and so it would be compliant with the above policies.

Living conditions of occupiers of neighbouring properties and amenity of users of the churchyard

22. No noise report has been submitted to accompany the proposed development.
23. The Council's concerns in relation to the amenity of neighbours and users of the adjoining properties relate solely to the use of the roof terrace. The proposed conservatory would enclose an area currently used for outdoor seating. Although doors and windows could be opened to provide a semblance of al-fresco dining, the area would, generally, be enclosed and it is likely that there would be a degree of attenuation of noise from this area.
24. The roof terrace would, however, introduce a dining area at an elevated level. Notwithstanding the stated intentions of the appellant to restrict the use of the area solely to use by diners, the patrons would be free to converse and drink in that area, and this may, on occasion, lead to a degree of noisy behaviour as voices raise during discourse.
25. The rear gardens of the majority of neighbouring properties would be situated behind their host dwelling, on the opposite side to the proposed development. However, the immediate neighbours in Oak Cottage have a rear garden that adjoins the site, without full screening by intervening buildings.
26. I have no information regarding the internal layout of neighbouring properties. It is reasonable to assume, given their aspect, that there are bedrooms facing towards the roof terrace within some of them.
27. Whilst there is established planting between the neighbouring churchyard and the site. Close to the roof terrace this is lower, and the roof terrace would overlook the churchyard.
28. Given the elevated position of the roof terrace, noise and disturbance from patrons would be likely to carry further than existing noise generated by the beer garden of the pub. Further, this noise would continue into the hours of darkness. It is, therefore, likely that some adjacent properties would experience an increase in noise and disturbance when enjoying their gardens or at night, particularly if windows are left open for ventilation.
29. A churchyard is a location where a degree of peace would be expected. Some activities associated with the churchyard are likely to be solemn occasions or periods of quiet reflection. At the time of my visit the churchyard was quiet and peaceful. The sound carrying from patrons enjoying themselves could be considered insensitive to those seeking such peace or solemnity.
30. There are no detailed proposals for screening of the area, to enclose and mitigate the noise. However, the appellant has proposed that the area would only be used for dining and that amplified music would not be played on the roof terrace. The appellant also proposes to allow the boundary planting between the roof terrace and the churchyard to grow to a greater height than at present.
31. Amplified music and hours of use of the roof terrace could be controlled using suitably worded planning conditions. Further, additional planting, adding height to the boundary planting, may reduce overlooking of the churchyard and reduce noise disturbance. However, there is no evidence before me to demonstrate that such measures would effectively mitigate the effects that I

have identified above, and in any case, planting would take some time to establish.

32. From the evidence before me I find that the development has failed to demonstrate that the use of the roof terrace would not result in a harmful increase in noise and disturbance to neighbours and users of the churchyard.
33. I therefore conclude that the use of the roof terrace as proposed would result in unacceptable harm to the living conditions of occupiers of neighbouring properties and amenity of users of the churchyard with particular reference to noise and disturbance. This would be contrary to the aims of Policy 32 of the Local Plan and Policies RNP5 and RNP9 of the Neighbourhood Plan which, amongst other things, require that development should demonstrate good design and ensure that it minimises and takes account of the effects of disturbance, giving particular attention to, amongst other things, noise or other disturbance which is likely to be generated by the development, and the existing tranquillity of the area.
34. I have found that the conservatory element of the proposed development would not result in such harm and so would comply with the above policies.

Heritage

35. The site is located close to the Parish Church of All Saints (the church), a grade I listed building (LB) and Oak Cottage (the cottage), a grade II LB.

The Church

36. The church was listed in 1964 (Ref: 1321235) and dates from the late 12th century with later additions and alterations. It is an exceptional example of a late 12th century rural parish church, which would have served the rural community and been a focus of social and religious activity. The relationship between the appeal site and the LB is not a purely visual one. The churchyard is functionally linked to the church and contributes to the significance of the heritage asset through its monuments, tranquillity and the space it provides for quiet reflection.
37. The church once occupied a more rural location with open agricultural land to the south, east and west. However, its setting has been eroded by modern housing development to the north and to the east. The Church nevertheless retains a semi-rural location set within a well-kept churchyard, with mature hedgerow boundaries and mature and semi-mature trees providing a degree of screening from neighbouring development. Its semi-rural setting at the south edge of the village provides the churchyard with a degree of peace and tranquillity appropriate to its function as a rural parish church. This is a positive contribution to the way in which the LB is experienced. Given the above, I find the setting of the building, insofar as it relates to this appeal, to be primarily associated with its communal value as a place for quiet reflection and remembrance and that this directly contributes to its special interest.
38. Considering first the conservatory element of the proposed development, this would conceal a flat roofed rear extension to the public house, which is topped by large rooftop plant units. Notwithstanding the existing planting on that boundary, these are currently visible from the churchyard. Their unsightly form is intrusive and makes a negative contribution to the setting of the church and how it is experienced.

39. These units would be largely obscured by the proposed conservatory. I consider that the siting, scale and form of the proposed conservatory is appropriate in the context of the existing building and the adjacent church. Although the conservatory would be partially visible from the road and from particular viewpoints from within the churchyard, this element of the proposal would, on balance, have a neutral impact on the special interest of the church and how it is experienced.
40. I have found above that the use of the rooftop terrace for dining would have an adverse impact on the churchyard in regard to increased noise and disturbance. I have also identified that the peace and tranquillity of the churchyard contributes positively to the special interest of the LB and the way in which it is experienced.
41. Thus, I find that the proposed development, in as far as it contains elements that facilitate the use of the rooftop terrace would fail to preserve the special interest of the listed building. Consequently, I give this harm considerable importance and weight in the planning balance of this appeal.

The Cottage

42. Oak Cottage was listed in 1983 (Ref: 1114897). It is a good surviving example of a 17th century vernacular dwelling which retains much of its original form and utilises traditional building materials. It served as the Horse and Jockey public house until it relocated to what was then a newly constructed building within its front curtilage in 1924. Since that time, according to the Council, it has reverted back to a private dwelling. Consequently, it is with regard to the immediate curtilage and enclosure in which it is to be understood, as well as the historical associations with the more recent incarnation of the public house. Given the above, I find the setting of the building, insofar as it relates to this appeal, to be primarily associated with its immediate context as a private dwelling as well as its proximity and orientation to the plot which now serves the current public house. I find that these elements directly contribute to its special interest.
43. The Cottage is largely screened from public views as a result of mature boundary vegetation. The conservatory would also be almost entirely screened from Oak Cottage by the intervening building and would therefore have a very limited effect on its special interest and the experience of this heritage asset. Therefore, the proposed conservatory would preserve the significance of the heritage asset and how it is experienced visually. I consequently find that there would be no harm caused to this asset and only consider the remaining harm to the Church in the balance.
44. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through the alteration or destruction of those assets or from development within their setting and that this should have a clear and convincing justification. Given that the proposal would not cause physical harm to the features of interest of any heritage asset, but rather the disputed level of harm solely relates to how the proposal would affect their setting, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight.

45. Under such circumstances, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal. The appellant is of the opinion that the proposal would be beneficial because it would support the use of the public house as a rural business and community facility. Part 6 of the Framework supports the aim of achieving a prosperous rural economy. Given the likely scale of use, which is limited by the area of the roof terrace and its exposure to the elements, the benefits of its use attract moderate weight in support of the proposal in my deliberations. However, this is not sufficient to outweigh the harm that I have identified.
46. Given the above and in the absence of any significant public benefit that outweighs the harm that I have identified, I conclude that, on balance, the elements of the proposal that would facilitate the use of the rooftop terrace would fail to preserve the setting of the Grade I listed building. This would fail to satisfy the requirements of the Act, paragraph 206 of the Framework and conflict with Policies 29 and 41S of the Local Plan that seek, amongst other things to ensure that proposals protect and, where appropriate, enhance heritage assets and their settings and successfully integrate with the historic environment and character. As a result these elements would not be in accordance with the development plan.

Other Matter

47. The appellant has expressed dissatisfaction with the way that their application was handled by the Council. This, however, is a matter between them and the Council.

Conditions

48. I have considered the conditions suggested by the parties as set out in their evidence in light of the advice contained within the National Planning Practice Guidance and the Framework.
49. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans as this provides certainty.
50. Policies 42S and 43 of the Local Plan seek to secure biodiversity net gain in association with any development. It is thus necessary to secure a Biodiversity Enhancement Scheme, to secure compliance with these policies.
51. The appellant has objected to the imposition of such a requirement as not being relevant, practical or justifiable. The Local Plan, in Policy 43 seeks provision of a net increase through, amongst other things, the enhancement of the existing features on the site or the creation of additional habitats on the site. The appellant has suggested a condition requiring the installation of nesting boxes on walls or trees within the grounds, which would appear to equate, in a more specific sense, to the creation of additional habitats on the site. The condition allows wider scope for a variety of unspecified measures to be considered, but this would potentially include the measures suggested by the appellant. I therefore consider the wording suggested by the Council more acceptable as being less restrictive.
52. These conditions correspond to conditions requested by the Local Planning Authority. As I am dismissing the external staircase and railings around the roof terrace, other conditions relating to these are not necessary.

Conclusion

53. Applications for planning permission should be determined in accordance with the development plan unless material considerations indicate otherwise. I have found that the staircase and railing, by facilitating the use of the rooftop terrace, would fail to preserve the setting of the Grade I listed building, have a detrimental effect on highway safety and increase noise and disturbance to neighbours. As a result, they would conflict with the Act, policies of the development plan and the aims set out in the Framework. These are serious matters to which I attach significant weight, and, in this case, this outweighs the limited benefits provided by those parts of the proposal.
54. The provision of the external staircase and railings would conflict with the development plan and Framework, when read as a whole. There are no material considerations, including the Framework, that indicate that a decision should be made other than in accordance with the development plan and I therefore conclude that the appeal should be dismissed insofar as it relates to the external staircase and railings.
55. For the reasons given above I conclude that the appeal should be allowed insofar as it relates to the conservatory extension, subject to the attached conditions.

I A Dyer

INSPECTOR

SCHEDULE OF CONDITIONS

- i. The development hereby permitted shall begin not later than three years from the date of this decision.
- ii. The development hereby approved shall be carried out in accordance with the following approved plans unless required by a separate planning condition of this permission: -
 - Plan Title
 - Location Plan – Site edged in red
 - Block Plan
 - Conservatory detail floor plan
 - Conservatory detail roof plan and elevations
 - Proposed elevations
 - Proposed floor plans
 - RTB3003 – Conservatory -Heavy duty portal
 - Conservatory Box Gutter Detail
 - Conservatory Visafold 1000 3 door
 - Conservatory Viva Structure Specification Sheet
 - Conservatory Wall Abutment
- iii. No development shall take place until a Biodiversity Enhancement Scheme (to include details of protection and management of habitats and species and incorporating opportunities for the enhancement of existing and the creation of new habitats on site) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details or particulars.

END OF CONDITIONS