
Appeal Decisions

Site visit made on 23 November 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2024

Appeal A Ref: APP/C1760/W/22/3312542

The Abbey Hotel, 11 Church Street, Romsey SO51 8BT

- 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 Tim Lincoln of Brightbeech Property Limited against the decision of Test Valley Borough Council.
 - The application Ref 21/03491/FULLS, dated 28 November 2021, was refused by notice dated 30 November 2022.
 - The development proposed is the erection of two detached dwellings.
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Appeal B Ref: APP/C1760/W/23/3315091

The Abbey Hotel, 11 Church Street, Romsey SO51 8BT

- 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 Tim Lincoln of Brightbeech Property Limited against the decision of Test Valley Borough Council.
 - The application Ref 22/02387/FULLS, dated 13 September 2022, was refused by notice dated 22 December 2022.
 - The development proposed is the erection of a house.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. As set out above, there are two appeals on this site. Appeal A relates to the construction of two dwellings and Appeal B relates to the construction of one dwelling. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The proposed development relates to the setting of listed buildings and lies within a conservation area. Accordingly, I have had regard to the statutory duties set out in sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
5. There is no dispute between the Council and appellant in respect of the principle of development. From the evidence before me, I have no reason to disagree with those findings.
6. Since the appeals were lodged, a revised version of the National Planning Policy Framework (the Framework) was published (December 2023). This does not materially change the planning policy context in respect of the main issues.

Main Issues

7. For Appeal A, the main issue is:

- whether the proposed development would preserve the setting of the adjacent Grade I listed building, King John's House, and the extent to which the development would preserve or enhance the character or appearance of the Romsey Conservation Area, including trees.

8. For Appeal B, the main issues are:

- whether the proposed development would preserve the setting of the adjacent Grade I listed building, King John's House, the extent to which the development would preserve or enhance the character or appearance of the Romsey Conservation Area; and
- the effect of the proposed development on protected sites.

Reasons

Special interest and significance

9. The appeal site comprises a parcel of land to the rear of buildings fronting Church Street and Market Place. It contains areas of hardstanding and grass, and appears to be largely disused.

King John's House

10. King John's House lies to the north of the appeal site. It is a Grade I listed building which dates from around the 13th century, with later additions. The external walls are, in part, finished in flint with stone quoins.

11. The special interest and significance of the listed building is largely derived from its historic and architectural interests. Important contributors in these regards are its age, the rarity of its surviving historic fabric, and the use of traditional materials and building methods.

12. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The well-defined, enclosed gardens within which the house sits have a visual and functional connection with the heritage asset. It is from these grounds that the asset is best appreciated. They form the asset's immediate setting. This immediate setting contributes considerably to the asset's special interest and significance.

13. Beyond this, the surrounding area is made up of built form of varying age, type and quality, including a modern public car park to the east, the former hotel together with grounds to the south (in part forming the appeal site) and Romsey Abbey to the west. This surrounding area forms the asset's wider setting, from which only limited or fleeting public views of the heritage asset are possible. The surrounding development has altered how the asset is experienced and thus, in my view, has moderated the contribution the wider setting, which includes the appeal site, makes to its special interest and significance.

Romsey Conservation Area

14. The special interest and significance of Romsey Conservation Area (CA) is largely derived from the preservation of its historic townscape, comprising in part a tightly knit collection of architecturally rich buildings around narrow streets. Buildings within the town centre area are typically positioned within narrow plots, fronting directly onto streets. Built form becomes more open and dispersed at the edge of the town centre, and verdancy increases. There is variation in building style and period, but the material palette is typically limited to brick and render, with some timber.
15. Insofar as the appeal is concerned, the Conservation Area Appraisal sets out that the site falls within the Latimer Street and Portersbridge Street character area. This, in part, features open space behind the rear of street frontages, with buildings described as being generally modest with little architectural detail.
16. The appeal site by reason of its position, use and undeveloped nature, makes only a limited contribution to the character or appearance of the CA and thereby to its significance as a designated heritage asset. However, the existing mature trees, in particular the large Oak and Sycamore, are prominent features which make a positive contribution to the significance of the CA as a whole.

Appeal proposal and effects

17. Appeal A involves the erection of two dwellings across the site, referred to as House 1 and House 2. Appeal B involves the erection of one dwelling, referred to as House 1.

King John's House

18. Whilst there would be some limited intervisibility between the appeal site and King John's House, the position, scale and nature of the proposed development, in both appeals, would mean that the visually, functionally and physically separate relationship between the appeal site and that asset would be maintained. The historic and architectural interests of the asset would remain unaffected. The retention of a reasonable separation distance, in particular, would reinforce this. Ultimately, the immediate and most of the wider setting that contribute to the significance of the designated heritage asset would remain undisturbed by the proposed schemes.
19. Taking these factors into account, the proposed development, in both appeals, would not compromise the setting of King John's House. Rather, it would have a neutral effect that would not determinably alter how the asset would be experienced and would not adversely affect the ability to appreciate the significance of the asset. Consequently, the setting of King John's House, and the contribution that setting makes to the significance of the asset, would be preserved.

Conservation Area

20. Although the position, nature and extent of the proposals is such that they would not be dominant within the streetscene, the dwellings would be visible from certain surrounding vantage points, including from within the grounds of

White Horse Hotel. In any case, the significance of a CA is dependent upon how it is experienced as a whole and not just how it is seen.

21. Based on the evidence before me and my observations on site, House 1 would be of a scale, height and position which would respond appropriately to the site and surrounding area, including in respect of prevailing plot sizes. Whilst contemporary, the proposal would be congruent, taking design cues from its context. The dwelling would be finished in materials including red brick and timber which would complement and respond positively to the character and appearance of the CA. Accordingly, House 1 would have a neutral effect on, and would therefore preserve, the character and appearance of the CA as a whole.
22. The atypical layout of House 2 would, to an extent, be at odds with the prevailing pattern of development within the CA. However, its overall scale and design would not harmfully compete with or detract from the surrounding prominent commercial buildings. It would be finished in materials which would complement and respond positively to the surrounding area.
23. Irrespective of this, Appeal A (in particular House 2) would involve the removal of a mature Sycamore tree. This is referenced as T6 within the submitted Arboricultural Impact Assessment (AIA).
24. This tree is large in its form and height and, whilst I accept that it is located on private land to the rear of established buildings, it is visually prominent from some vantage points, including from the White Horse Hotel (in part framed by existing buildings) and the grounds of King John's House (open to the public). The tree is also highly visible from the private vantage points of properties surrounding the appeal site. It is of high amenity value and contributes significantly to the verdancy of the surrounding area, and to the character of the CA as a whole.
25. The AIA identifies the tree to be of moderate quality, with no health defects, and I have no substantiated evidence before me to demonstrate that the tree would be unlikely to survive on the site, and continue to make a contribution to the character and appearance of the CA, for many more years if it were retained. Moreover, it would take many years for replacement trees to grow and be of equal or similar maturity, stature and value to local character as the existing tree. Replacement trees, therefore, would not compensate for the removal of the tree.
26. Overall, whilst I conclude that the proposal under Appeal B would be acceptable in respect of this main issue, the proposal under Appeal A would fail to preserve the character or appearance of the CA, contrary to the requirements of Section 72(1) of the Act and the relevant provisions of Policies E2, E9 and COM2 of the Test Valley Borough Revised Local Plan (LP, 2016), which seek to achieve high quality design and to conserve heritage assets. This is in a similar vein to the objectives of the Framework insofar as the protection of the historic environment is concerned.

Public benefits and balance

27. Paragraph 205 of the Framework advises that when considering the impact of a proposed development or works 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 alteration or destruction of the heritage asset or development within its setting and that this should have clear and convincing justification.

28. With reference to Paragraphs 207 and 208 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should be assessed. Given the extent of the development, I find the harm to the CA would be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, Paragraph 208 advises that this harm should be weighed against the public benefits of the proposal.
29. Economic benefits would be brought about through the construction phase and future residents would increase trade to local services and businesses. However, the scale of those benefits is very limited by the extent of the proposal and, in respect of the construction phase, would be short-term.
30. The appellant sets out that the Sycamore tree currently obscures views of the nearby Romsey Abbey, particularly from within the grounds of the White Horse Hotel, and that these would be better revealed following the removal of the tree. However, this to my mind does not constitute a convincing reason to remove the tree, particularly as I have no substantial evidence before me to demonstrate that the view of the Abbey from that location is a particularly important view.
31. Overall, the weight that I ascribe to the public benefits that would accrue from the proposal under Appeal A, is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Accordingly, the proposed development, under Appeal A, would fail to preserve or enhance the character or appearance of the CA, contrary to the requirements of section 72(1) of the Act and LP Policies E2, E9 and COM2 which, in summary and when taken as a whole, seek to protect the historic environment. This is in a similar vein to the objectives of the Framework insofar as they relate to the conservation and enhancement the historic environment.

The effect on protected sites

32. The Council has indicated that the proposed development would affect the nearby Solent and Southampton Water European Designated Site (EDS) and New Forest Special Protection Area (SPA). Evidence of high levels of nitrogen and phosphorus exist at the EDS and the SPA may be affected by an increase in recreational disturbance as a result of the new development.
33. The Conservation of Habitats and Species Regulations 2017 (the Regulations) require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment in circumstances where the plan or project is likely to have a significant effect on protected sites, alone or in combination with other plans or projects. I must therefore consider whether measures could be put in place to avoid or mitigate the impact of the development on the protected sites.
34. The appeal proposals would result in additional occupiers residing at the site. Although the effect of this would likely be reasonably limited due to the scale of the developments, the evidence before me indicates that it cannot be concluded that the additional residents would not have a likely significant

effect, in-combination with other plans and projects, on the protected sites. I note that the Council has implemented a strategic nitrate offsetting mitigation scheme which would require a financial contribution from developments. A financial contribution towards mitigation measures would also be required in respect of the SPA.

35. In respect of Appeal A, there is no dispute between the parties on this matter, with mitigation measures secured within a signed, dated and witnessed legal agreement. That agreement relates specifically to the proposed scheme under Appeal A (Council Ref 21/03491/FULLS) for two dwellings. However, given my reasoning in respect of the main issues under Appeal A, and that the appeal is dismissed, there is no requirement upon me to further consider the planning obligations in that respect.
36. In respect of Appeal B, no signed or executed legal agreement is before me. This has been acknowledged by the Council in its statement which notes that a legal agreement has been provided for Appeal A, clearly relating to that scheme only. The appellant did not comment on this matter in their final comments. Accordingly, there is no mechanism before me to secure the required financial payments under Appeal B, or any evidence to demonstrate that this matter has otherwise been dealt with. Planning Practice Guidance is clear that no payment of money or other consideration can be required by condition, nor can a condition request the entering into a legal agreement. There are no exceptional circumstances before me which would lead me to an alternative conclusion on this matter.
37. Consequently, in the absence of a satisfactorily executed legal agreement in respect of Appeal B, the proposed development would fail to provide the required mitigation to offset the impacts of the proposed development on the protected sites. The proposed development would therefore fail to accord with the relevant provisions of LP Policies COM2 and E5, which in summary seek to protect, conserve and enhance biodiversity and habitats.

Other Matters

38. The appeal site is located within the wider surroundings of several listed buildings, including the Grade I listed Abbey of St Mary and St Ethelflaeda, the Grade II* listed White Horse Hotel (including stables) and Tudor Cottage and Grade II listed 13, 14, 15, 16, 17 and 18 Market Place. Mindful of the statutory duty set out in Section 66(1) of the Act, I have had special regard to the desirability of preserving the settings of these assets. Given the location, orientation, and nature of the proposals, together with the physical separation from the listed buildings, I consider the proposals to preserve the settings of the listed buildings and the contribution they make to their significance. I note the Council had no concerns in this regard either. The lack of harm in this respect does not overcome or outweigh the harm identified under the main issues.

Conclusion

39. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeals should be dismissed.

A Price INSPECTOR