



Appeal Decision

Site visit made on 27 February 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 March 2024

Appeal Ref: APP/J1535/W/23/3321066

Land to Rear of The Forresters Public House, The Street, High Ongar, Ongar CM5 9NE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr R Collins against the decision of Epping Forest District Council.
 - The application Ref is EPF/0099/22.
 - The development proposed is the residential development of one dwelling to the rear of existing public house (to be retained), including associated amenity space, car parking and rationalisation of remainder of site for continued use with public house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework was published on 19 December 2023 and updated on 20 December 2023. Whilst I have had regard to the revised national policy as a material consideration in my decision-making, planning decisions must still be made in accordance with the development plan unless material considerations indicate otherwise. In this instance, the issues most relevant to the appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework.
3. Since the appeal was submitted, Epping Forest District Council Local Plan 2011-2033 (the LP) was adopted on 6 March 2023. Therefore, the appeal will be considered against the policies from this recently adopted plan.
4. The appellant has submitted an amended landscape plan¹ with this appeal. This plan was not considered by the Council in their determination of the planning application. While the appeal process should not be used to evolve a scheme, the amendments relate only to boundary treatments and the Council and any interested parties have had a chance to comment on this as part of this appeal. Therefore, they would not be prejudiced by my acceptance of the amended plan. Thus, I have considered the appeal on this basis.
5. It is also noted that the appellant submitted amended plans during the application process and I have considered the appeal on the basis of the most recent revisions which were also considered by the Council when determining the application.

¹ MP/FA/01 Rev A

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the site and the surrounding area;
- whether it would preserve or enhance the character or appearance of the High Ongar Conservation Area;
- the effect of the proposed development on the setting of the grade II listed building, Forester's Arms Public House; and
- whether the proposed development would provide satisfactory living conditions for the future occupiers, with regard to privacy, outlook and noise.

Reasons

Character and Appearance

7. The appeal site is occupied by a public house at the front with a car park and garden area to the rear. The surrounding area is residential in nature with most dwellings fronting The Street, which has a traditional linear appearance, and open fields surrounding, which have a more open and rural appearance. However, there are several buildings located behind the main built form along The Street, including a dwelling directly adjacent to the appeal site.
8. Although set back from the linear development along The Street, the proposal would sit adjacent to other buildings and therefore would not be wholly out of keeping with the existing pattern of development. However, due to the constraints of the site and the overall footprint of the development, it would be in very close proximity to the boundaries on all sides with limited space around the dwelling apart from a small garden area to the front. This would give the property a cramped, shoehorned appearance and would appear incongruous in the surrounding area where dwellings generally have ample space to the front and/or rear in the semi-rural setting. This includes the neighbouring property, The Bays, which although is located in a backland location is set on a generous plot with relatively large outdoor amenity spaces and good separation from the boundaries.
9. As such, the proposed development would harm the character and appearance of the area and would conflict with Policy DM9 of the LP which seeks to ensure that all new development achieves a high quality of design and contributes to the distinctive character and amenity of the local area. It would also conflict with the general design objectives of the Framework.

Heritage Assets

10. The proposed dwelling would be located to the rear of the Forester's Arms Public House, a grade II listed building. The Conservation Officer has indicated that it would not be located within the historic curtilage of the listed building but would form part of its setting. From my observations on site and from the information provided as part of this appeal it would appear that its significance is derived, at least in part, from the antiquity of the structure and from its status as a well preserved example of a vernacular building of its age and type. Its position on The Street and the open space to the rear, with unobstructed

views towards the countryside, contribute to how the asset is appreciated as a village public house and this setting makes a positive contribution to the significance of the listed building.

11. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest.
12. The single storey design, traditional materials and simple fenestration of the proposed dwelling may be akin to an ancillary outbuilding associated with the use of the public house for storage. However, its footprint would be much larger than expected of an outbuilding in this location, spanning the full width of the site and entirely blocking views into the adjacent field.
13. The proposed boundary wall to the front of the property, although constructed from a natural hazel weave, would further block the currently open views and physically separate the public house from the appeal site. Whilst the rear of the public house contributes less to its significance as a designated heritage asset, its setting as a whole is experienced from both the front and the rear. Therefore, the level of built form proposed and the delineation of the site would not successfully preserve the setting of this listed building.
14. The appeal site is also located within the High Ongar Conservation Area, a designated heritage asset. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. The significance of the Conservation Area relates to the historic nature of the buildings within it, including a number of listed buildings, its formal layout along The Street and the open and rural surrounds. As an open area to the rear of The Street with views towards the countryside, the appeal site makes a positive contribution to the Conservation Areas significance.
15. Although the proposed dwelling would be set to the rear of the public house, it would still be a visible addition to the streetscene via the access, which currently offers open views of the fields to the rear from The Street and provides a gap in the built form. Due to the scale of the building and the height of the boundary treatment, the proposal would erode the already limited views into the rural surrounds. It is noted that the Council's Conservation Officer has found the amended scale, density, massing and height of the dwelling much more sympathetic to its sensitive setting. However, this is compared to previous iterations and, although improved, for the reasons above the amended scheme would still be detrimental to the character and appearance of the Conservation Area.
16. Therefore, the proposed development would not preserve or enhance the character or appearance of the High Ongar Conservation Area and would result in harm to the setting of the grade II listed building, The Forester's Arms Public House. It would therefore conflict with Policy DM7 of the LP which seeks to ensure that development proposals that affect any heritage asset or its setting preserve and, wherever possible, enhance the significance of the heritage asset having regard to the special architectural or historic interest of its character,

appearance and the contribution made by its setting. The proposal would also be contrary to the general heritage objectives of the Framework.

17. Due to the location of the appeal site to the rear of development on The Street, the harm found is relatively small and therefore, having regard to the Framework, the harm to the significance of the High Ongar Conservation Area and the setting of the grade II listed building is less than substantial. The Framework requires, where there would be less than substantial harm, for it to be balanced against the public benefits of the scheme.
18. The proposal would provide an additional dwelling at a time when the Council's housing delivery is below the requirement. However, while the Framework advocates granting planning permission where there are no relevant development plan policies, this is unless, in accordance with paragraph 11(d)(i), the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. I consider that the 'less than substantial harm' identified to the character and appearance of the Conservation Area is such that the policies in the Framework relating to heritage assets provide that clear reason for refusing the development. Therefore, this would not weigh in favour of the proposed development.
19. The appellant has expressed that the viability of the public house is under threat and that the proposed dwelling would release capital and allow investment back into the pub building and support the business. However, whilst the retention of this community asset would clearly be a public benefit, little evidence has been provided to demonstrate that without the development the public house would be forced to close and there is no guarantee that profits from the proposed development would be reinvested into the public house. Therefore, this is afforded limited weight.
20. The proposal would contribute a single storey dwelling to the housing stock, for which the appellant claims there may be an increasing need for in the area. This type of accommodation would be suitable for those with accessibility needs and the elderly, including those looking to downsize. As such, this is given moderate weight. However, jointly, the public benefits of the scheme would not outweigh the less than substantial harm to the heritage asset previously identified.

Living Conditions

21. Due to the close proximity to the boundaries, the outlook from the windows in the proposed dwelling serving habitable rooms would be severely restricted and would result in a sense of enclosure for the future occupiers of the dwelling. Although smaller separation spaces may be commonplace with the pattern of development in the area, this would not negate the requirement to provide a satisfactory outlook for the occupiers when inside their property.
22. The proposed garden space would be located to the front of the dwelling adjacent to car parking allocated for visitors to the public house, separated by a woven hazel fence at 1.5 metres in height. The proposed garden space would be extremely close to the car parking area where there would likely be regular comings and goings throughout the day and late into the evening. Although the car park is small, the noise and disturbance generated from this activity, from both vehicles and people, would be significant and directly adjacent to the

garden, which would not be sufficiently blocked by the proposed boundary. It would therefore result in a garden which would not provide a usable outdoor amenity space for the future occupiers of the dwelling.

23. Due to the positioning of the windows on the first floor of the public house, where there is residential accommodation, they would not result in direct overlooking into the garden or the windows of the proposed property. Furthermore, the existing boundary between the appeal site and the dwelling at The Bays is sufficient to prevent a loss of privacy to the future occupiers of the proposed dwelling. The other properties fronting The Street are also a sufficient distance from the proposed dwelling to ensure that there is no loss of privacy from these neighbouring dwellings.
24. However, for the reasons outlined above, the proposed dwelling would not provide satisfactory living conditions for the future occupiers in relation to outlook and noise and disturbance. It would therefore conflict with Policies DM9 and DM10 of the LP which seek to ensure proposals do not result in an overbearing or overly enclosed form of development and address issues of noise likely to arise from neighbouring uses or activities, whilst providing access to private garden space of acceptable amenity.

Other Matters

25. The appeal site is located in close proximity to the Epping Forest Special Area of Conservation (SAC) and the Council have indicated that the proposed development would result in additional vehicle movements and activity which may impact on air quality resulting in an adverse impact on the SAC. A reason for refusal has been included stated that it has not been demonstrated beyond reasonable scientific doubt that the development would not adversely affect the integrity of the SAC. However, it is noted that the appellant has provided a unilateral undertaking as part of this appeal to secure contributions in relation to the impacts of the proposed development on the SAC, relating to air pollution.
26. The Conservation of Habitats and Species Regulations 2017 (as amended) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. However, regulation 63(1) indicates the requirement for an AA is only necessary where the competent authority is minded to give consent for the proposal. Therefore, in view of my overall conclusions resulting in my decision to dismiss the appeal, it has not been necessary to address this in any further detail.

Conclusion

27. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

E Grierson

INSPECTOR