



Appeal Decisions

Hearing held on 27 February 2024

Site visit made on 27 February 2024

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal A Ref: APP/A1530/W/23/3333621

The Crown, Main Road, Wormingford CO6 3AB

- 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 P Flatman, Paul Flatman Farms, against the decision of Colchester City Council.
 - The application Ref 230738, dated 22 March 2023, was refused by notice dated 23 May 2023.
 - The development proposed is alterations to provide a new reception area, kitchen, dining room, improved WC facilities and provision of guest accommodation in grounds of The Crown Public House.
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Appeal B Ref: APP/A1530/Y/23/3333623

The Crown, Main Road, Wormingford CO6 3AB

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mr P Flatman, Paul Flatman Farms, against the decision of Colchester City Council.
 - The application Ref 230739, dated 22 March 2023, was refused by notice dated 23 May 2023.
 - The works proposed are alterations to provide a new reception area, kitchen, dining room, improved WC facilities and provision of guest accommodation in grounds of The Crown Public House.
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Decisions

1. The appeal A is dismissed, and appeal B is dismissed.

Preliminary Matters

2. There are two appeals on this site. They relate to the planning application and listed building consent for the same scheme. To avoid duplication, I have dealt with them together, except where otherwise indicated.
3. To be more succinct, I have revised the wording of the description of development/works in the banner heading above to reflect that stated in the appellant's appeal form and the Council's decision notices.
4. At the hearing, the parties submitted an agreed statement of common ground. This outlines an agreed description of the appeal site and its surroundings and the policy context for consideration of the appeal proposal. This also details updated paragraph references in the National Planning Policy Framework (the Framework) and agreement that the recent changes to it do not materially

affect the matters under appeal. Both parties agree that the proposed development/works would lead to less than substantial harm to the significance of a designated heritage asset. The statement of common ground also suggests the main issues under consideration and contains a list of suggested planning conditions for each appeal.

5. The appeal site lies just to the south of the Dedham Vale National Landscape (NL) (previously known as Areas of Outstanding Natural Beauty), a landscape designation which has the highest level of protection. The Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of AONBs. At the hearing, both parties agreed that the appeal proposal would have no harmful effect on the AONB, and I have no reason to disagree with their findings. It has therefore not been necessary to consider this matter any further in my decision.
6. Although a draft Unilateral Undertaking (UU) in relation to the Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) had been submitted prior to the hearing, it remained unsigned. The Council agreed at the hearing that the submitted wording of the UU would satisfy its requirements and once signed would resolve this reason for refusal. A signed, completed version of this same UU has now been submitted in accordance with the timescale agreed at the hearing. I am therefore satisfied that this resolves the third reason for refusal in terms of the planning appeal. I will, however, return to this matter below.
7. On the day, access to view the interior of The Crown was not available. However, I viewed the building from the outside at my visit, and together with all the other information, including some internal photographs, I am satisfied that I have sufficient information to determine these appeals.

Main Issues

8. The main issues are:
 - The effect of the proposal on the character and appearance of the area (Appeal A); and
 - Whether or not the proposal would preserve the listed building (listed as The Crown Public House) or any features of special architectural or historic interest that it possesses, including its setting (both Appeals).

Reasons

Character and appearance (Appeal A)

9. The appeal site comprises an historic public house (The Crown) fronting Main Road and the rear part of an adjoining field which together lie to the west of the main built-up part of the settlement of Wormingford. The Crown has an open, rural position with agricultural fields to the rear and a field to either side, and a small number of rural buildings on the opposite side of the road. The historic mapping included in the appellant's heritage statement illustrates the physical separation between The Crown and the main settlement which latterly developed around Newhouse Farm.
10. Policy ENV1 of the Colchester Borough Local Plan, Section 2, (2022) (CBLP) aims to control development outside settlements, to protect open stretches of

countryside around and between settlements, to protect landscape character to prevent coalescence, and to retain settlement identity. The Colchester Borough Landscape Character Assessment (2005) (LCA) identifies the site lying within Area B5: The Rochford Farmlands Plateau. The LCA explains that key characteristics of this landscape type include fields enclosed by gappy hedges, with occasional mature trees within field boundaries, and an enclosure pattern of small to medium sized, irregular and regular field boundaries. The LCA sets out guidelines for this area which include conserving the landscape setting of small settlements, conserving the mostly rural character of the area and conserving the setting to villages by controlling expansion to those settlements.

11. The appellant's Landscape and Visual Appraisal (2021) (LVA) did not assess in detail the appeal site against the above LCA and therefore its conclusions regarding landscape value have, in my view, less weight. Based on the evidence before me, including the discussion at the hearing, and what I saw on site, I consider that the wider surroundings of The Crown are representative of the characteristics of landscape type B5 and they form part of the rural setting of Wormingford. In particular, the adjoining field on which the proposed accommodation would be located is representative of a small field with a gappy hedge which helps conserve the rural landscape setting of the settlement. It is a small but nevertheless important visual gap between the edge of the main built-up area and the historically isolated location of The Crown. This gap is most readily apparent in northerly views from parts of Main Road and sections of the footpath to its south.
12. The proposed single storey guest accommodation would be sited in a linear fashion towards the rear of the field, arranged as one linked and one detached block with gently curved zinc roofs and walls of aluminium cladding. The development would benefit from the screening effect of an existing tall hedgerow at the rear of the field and a partial hedgerow alongside The Crown. To the front of the proposed new buildings, additional planting is proposed.
13. I have considered the viewpoints in the LVA and assessed these and the wider site context on my visit. Whilst a substantial part of the field would be left grassed and free from development, even with the maturing of the proposed landscaping facing the roadside, this and the existing vegetation around the site would not successfully mitigate the visual presence of the structures straddling much of the open gap eroding the settlement identity. At the very least, I consider that views of the roofing would be possible, particularly when the vegetation is not in leaf.
14. The development is likely to be particularly noticeable from LVA viewpoint 1 on Main Road. Whilst there is no footpath along this stretch of road, I could see that the verge appeared well walked and it is likely that pedestrians use this route to reach the pub and nearby footpaths. They would be likely to notice the proposed development at a reasonably close distance. The development is also likely to be seen at a distance by walkers on the footpath approaching Main Road (LVA viewpoint 2), where there are clear gaps in the hedging. There may also be a long-term desire to allow more light and open views around the proposed accommodation, which may result in a thinning of the vegetation and thereby impacting on the longer-term visibility of the structures. In my view, the character of the landscape, the rural setting of Wormingford and the visual separation of The Crown would not therefore be maintained.

15. Indeed, this proposed accommodation would introduce a fairly substantial built form unduly eroding this important gap and thereby would detract from the distinctive character and appearance of the area around the settlement and public house. In this way, this part of the scheme would detract from the distinctive characteristics of this part of Area B5 of the LCA. Furthermore, for these reasons, the guest accommodation would not meet with the Framework's requirement to be sympathetic to local character and history, including the surrounding built environment and landscape setting.
16. Whilst the design and materials of much of the proposed development may draw inspiration from an historic airfield nearby and rural agricultural barns, I saw no adequate evidence that it would reflect the character of the predominantly traditional form and appearance of buildings in this immediate area. Nor would the reason for their design be readily understood by passers-by. In this regard, the views of the curved roof and metal cladding to the guest accommodation would look out of place even if those views were partially screened. Likewise, views of the airfield-inspired, proposed extension to the public house would be similarly inappropriate in this landscape setting as well as looking jarringly out of place on a vernacular building. I will consider this matter later in this decision.
17. I therefore consider that the proposal would have a harmful effect on the character and appearance of the area. It would therefore conflict with CBLP Policy ENV1, the Council's LCA, and the Framework.

Listed building (Both appeals)

18. The Crown (Listed as The Crown Public House, Ref.1225400) is a two storey public house dating from the 16th century. The list description explains that the earliest part of the building is of one and a half bays with a three bay extension of circa 1700, and is of exposed timber frame with plaster infill. The ground storey is predominantly walled in red brick. The list description mentions the architectural details including the design and arrangement of windows, doors, and the position of chimney stacks. It also notes that internally there are good oak joists in the ground-storey ceiling.
19. To the rear of the pub is a single storey brick extension with a tiled roof which both parties agree is of 19th century date. In addition, on site, I saw a variety of minor additions of more recent date, predominantly to the west and rear of the building, together with an assortment of fences, temporary structures and other paraphernalia. Many of these more recent additions and features collectively conceal and mar some of the views of the historic building.
20. Based on my external inspection and from the details available to me, including the list description, I consider that the special interest and significance of the listed building, insofar as it relates to these appeals, is predominantly derived from its age, form, historic fabric, its architectural features and its historic use as a public house. The building's rural setting, which I have already described as being historically isolated from the main built-up part of Wormingford, contributes to the building's special interest and significance.
21. Section 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires special regard to be had to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it possesses. Paragraph 195 of the

Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

22. The proposal would involve the demolition of the 19th century kitchen extension to the rear, together with the general tidying up of later additions. The new dining room extension would be of one and a half storeys, have a rectangular form with an arched roof, would be clad in steel and incorporate large, glazed openings. The appellant suggests that the design would draw on the historic airfield link to make the extension easily read with a clear difference from the pub and avoid a 'pastiche design'. The heritage statement suggests that the airfield inspired 'hanger' design is intended to be striking.
23. Whilst I recognise that additions to historic buildings do not have to slavishly copy period form and detailing, and that contemporary designs are often appropriate, the proposal before me is radically different to the existing building. Whilst there may be historical links to the nearby airfield, I am not satisfied that this is an appropriate design concept for extending a vernacular listed building. The contrasting form, scale, external materials and the design and arrangement of openings appear to be alien to the historic building. The extension would dominate the host building rather than visibly integrate with it. Furthermore, the flat roof linking addition would introduce another largely uncharacteristic building form and it is unclear how the ornate lantern addition would tie in with the airfield concept. The construction of the false pitched roof was discussed in some detail at the hearing, and it is likely that the rear upstand would be visible across the flat roof when approaching the new entrance from the car park. This would be a crude, unsightly and highly inappropriate detail on a vernacular building and cause further harm to its special interest and significance.
24. Whilst these changes would largely affect the rear of The Crown, the extension would be easily viewed from the car park and on the approach to the village along Main Road. These views would therefore be clearly read as harming the building's special interest and significance. In addition, listed buildings are safeguarded for their inherent architectural and historic interest irrespective of whether public views or access can be gained.
25. The Council consider that there would be little harm to the significance of the listed building arising from the demolition of the 19th century kitchen extension, other than the loss of a structure which represents a phase in the building's history. Whilst I am minded to agree with this view, as I was not able to enter the building to assess its fabric and detailing, I have insufficient evidence to be sure of this. This is also the case with other proposed changes to the interior. These include the proposed formation of two new doorways within the earliest part of the building which may interfere with historic fabric. Although it may be possible to attach a condition to any permissions to require the careful opening up of these areas and submission of a scheme to agree their exact placement, and recording where necessary, it is important to understand the significance of these parts of the building at the outset. Therefore, in relation to these internal elements of the proposal, I cannot be certain that there would be no harm to the building's special interest and significance.
26. I could see that the existing garage/toilet building is of relatively modern construction, and I have nothing before me to suggest that it contributes to the building's special interest or significance. The proposed replacement structure

would be acceptable subject to conditions to secure facing materials and detailing should the scheme be approved.

27. In common with my findings on the character and appearance of the area, it follows that the proposed visitor accommodation would also erode the rural, open setting and historic isolation of the listed building. I therefore find that this element of the proposal would also harm the contribution that the setting makes to the building's significance.
28. Even though I was not able to view the interior of the listed building, I have sufficient information to determine that the design and form of the proposed dining room extension and the siting of the guest accommodation would cause harm to the special interest and significance of the listed building. This clear and demonstrable harm is sufficient for me to conclude on this main issue. Therefore, the requirements of the Act are not met. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. Paragraph 206 goes on to advise that significance can be harmed or lost through alteration or destruction of an asset and any such harm should have a clear and convincing justification. I find the harm in the context of the significance of the heritage asset as a whole, in the language of the Framework, would be less than substantial in this instance. This commands considerable importance and weight¹ and is not a less than substantial objection to the proposal.
29. Where a proposal will lead to less than substantial harm to the significance of a designated heritage asset, paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal viable use. I shall return to this matter later in my decision.

Other Matters

30. *Viability* -There was a discussion at the hearing about the operation of the business and the appellant's viability report (2022). This report concludes that even making allowances for the effect of the Covid pandemic, the existing business appears to be unviable, is probably operating at a loss and more than likely will be unable to fulfil its lease obligations including funding building repairs and will be accruing debt.
31. Whilst I have noted the contents of the viability report and listened to the discussion at the hearing, it is evident to me that the assessment is based on relatively old figures, and it appears to include numerous assumptions. Furthermore, the study appears not to take any account of the current trading situation. For these reasons, I find that the viability report is not particularly robust, and this reduces the weight that I can attach to it. In my view, the evidence does not clearly demonstrate that the business is operating at such a level that it needs the proposed development to continue to operate effectively in the future.
32. Notwithstanding this conclusion, even had I agreed with the appellant on the viability issues that are raised, there may be alternative ways of addressing these, such as through an alternative design approach. In relation to this latter

¹ Barnwell Manor Wind Enterprise Ltd v East Northants DC, English Heritage, National Trust & SSCLG [2014] EWCA Civ. 137.

matter, I appreciate the concerns raised by the appellant regarding the Council not assessing the viability report. However, it was explained by the Council that this was because there was clear harm to the listed building.

33. *Tourism need* - I have reviewed the Tourism Needs Assessment and at the hearing this attracted comments from local residents. In my view, whilst there was some concern that Wormingford is quite remote from the main centres of tourism, has few local facilities and is not well served by local transport, it appears reasonable for a rural pub to offer some overnight accommodation. I have no doubt that it would be popular for some customers having a drink or a meal, for those attracted by local walks or visiting the wider area. However, whilst the guest accommodation may assist in the profitability of the business and there may well be a demand for it, in common with my conclusion on the viability report, the proposed scheme does not justify the level of harm in relation to the main issues and it has not been demonstrated that it could not be provided in a way which does not cause that harm.
34. *Essex Coast RAMS* - The appeal site is within the zone of influence of habitat sites identified as Special Protection Areas (SPAs) which lie within the RAMS area. The Essex coastline is one of importance for birds and their habitat and is home to internationally important numbers of breeding and non-breeding birds and their coastal habitats.
35. The Conservation of Habitat and Species Regulations 2017 require that the competent authority must ensure that there are no effects from the proposed development, either alone or in combination with other projects, that would adversely affect the integrity of the SPAs. The likely significant effects arising from the proposal need to be considered in combination with other development in the area and adopting the precautionary principle.
36. The RAMS details mitigation measures that would be funded by financial contributions at a specified tariff per dwelling (including holiday accommodation). Since these include a range of habitat-based measures such as education, communication, and monitoring, and have been endorsed by Natural England, I am satisfied, if secured, that the measures would adequately overcome any adverse effects of the proposal on the SPAs.
37. The UU which is now signed and dated appears to me otherwise unaltered from that presented at the hearing. Having reviewed it and noted that the document would meet the Council's requirements, I am satisfied that it would secure the mitigation requirements for the Essex Coast RAMS. In these circumstances, I conclude that the scheme, either alone or in combination with other schemes, would not have a likely significant or adverse effect on the integrity of the Essex Coast habitat sites.
38. *Other heritage assets* - The Council refers to Newhouse Farmhouse, Bures Road, which is a Grade II listed building (Ref:126647) near to the appeal premises. The list description mentions that this is a 16th century, timber framed dwelling comprising two parallel ranges with 18th century external details. As a statutory consideration, I am required to have regard to this property in determining the appeals. From the information before me, including the list description and my visit, I consider that given the location and siting of this building in relation to the appeal site, it would have very little if any intervisibility with the proposal. Moreover, I have no evidence of a functional

link between the appeal site, and this listed building. As such, I consider that, in relation to these appeals, the proposal would not affect its setting.

Heritage Balance

39. The appellant suggests that the proposal would achieve a viable business to secure the future of the heritage asset, allowing it to generate greater profits to invest in the maintenance of the building fabric. Also, that the proposed development would secure its optimal viable use as a public house. Furthermore, it is suggested that it would help retain the only pub in the village with its important role in the community.
40. Other benefits of the proposal cited by the appellant include contributing to the local tourist economy and generating additional spending in the area, supporting local services and facilities, and job creation. Also, it would tidy up the rear of the public house, improve its facilities and the circulation space within the building and the way it functions. It would also generate a greater appreciation of the heritage of the nearby airfield.
41. At the hearing, both parties discussed these public benefits and the weighting that these would attract. There is no doubt that securing the future of the listed building including the retention of its original use and its repair would represent an important public benefit and attract significant weight. So too, the retention of the public house which is clearly valued by the community. Cumulatively these and the other stated benefits attract significant weight in favour of the proposal.
42. However, I have found that the case put to me that the existing business is currently unviable has not been adequately made, especially as the building appears to have an ongoing use as a public house that would, based on all the information before me, likely continue for the time being. I have also concluded that even if the business had been proven to be unviable, it has not been adequately demonstrated that the scheme before me is the only way to achieve this and the other benefits suggested. Other design options may have less harmful consequences to heritage significance, and I am conscious that harm to a heritage asset attracts considerable importance and weight. This therefore significantly limits the overall weight that can be attributed to the public benefits cited.
43. Given the above, I conclude that the public benefits identified would be of insufficient weight to outweigh the great weight to be given to the harm to the listed building. As such, the proposal would not comply with paragraph 205 of the Framework. In addition, there is no clear and convincing justification for the harm to the significance of the listed building. Hence, the proposal would fail to satisfy the requirements of the Act and the Framework. It would also conflict with CBLP Section 1 Policy SP7 and Section 2 Plan Policies ENV1, OV2 and DM16 which seek to underpin the statutory and policy objectives.

Conclusion (Appeals A and B)

44. I have given careful consideration to all the representations made during the application stage and at appeal and have taken them into account in reaching my decision.
45. I have concluded that the harm to the heritage asset would not be outweighed by the public benefits of the proposal. The proposal would therefore fail to

satisfy the requirements of the Act and paragraph 205 of the Framework in relation to the harm caused to the listed building. In addition, the public benefits would not be of sufficient magnitude to outweigh the harm identified to the character and appearance of the area. As a result, the proposal would not be in accordance with the development plan as a whole.

46. For the above reasons and having taken all other matters raised into account, I conclude that both appeals should be dismissed.

G Bayliss

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Steven Hopkins
Simon Plater

Homes & Hills LLP Solicitors
Peter Claiborne Architecture and Design

FOR THE LOCAL PLANNING AUTHORITY:

Nadine Calder
Eirini Dimerouki
Anne Westover

Principal Planning Officer
Conservation Officer
Landscape Architect

INTERESTED PARTIES:

Paul Baker
Gill Tansley
George Wallace
Margaret Wallace

Tenant, The Crown
Local Resident
Local Resident
Local Resident

DOCUMENTS SUBMITTED AT THE HEARING

- Revised statement of common ground, including a revised list of suggested planning/listed building consent conditions.
- Official list entry, Newhouse Farmhouse (List entry number 1266417), National Heritage List, Historic England.
- 17 printed photographs from the appellant (undated) of the exterior and interior of The Crown public house.

DOCUMENTS SUBMITTED AFTER THE HEARING

- Completed and signed Unilateral Undertaking relating to the Essex Coast RAMS.