



Appeal Decision

Site visit made on 2 July 2024

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2024

Appeal Ref: APP/A0665/W/24/3344150

The Granary, Warrington Road, Little Leigh CW8 4QY

- 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 Recon Asset Management (Mr David Bowler) against the decision of Cheshire West & Chester Council.
 - The application Ref 23/01252/FUL, dated 13 April 2023, was refused by notice dated 30 November 2023.
 - The development proposed is change of use to create short-term lets.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Recon Asset Management (Mr David Bowler) against Cheshire West and Cheshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The description of development above has changed from that on the application form. I have been provided evidence to show that this was agreed by both parties during the planning application.
4. A separate planning application and subsequent appeal was also made by the owner of the adjacent buildings (The Barn and Bungalow) which was the subject of a Hearing (APP/A0665/W/24/3342086) which took place on 2 July. The site visits for both appeals were carried out at the same time. The first reason for refusal on both Decision Notices relates to the effect of the proposals on the viability of the Holly Bush Inn and forms the first main issue on both appeal reports. As such, a lot of the wording is similar in the first main issue of the two appeals as my reasoning is largely the same, as is the wording and reasoning to the issue of heritage assets.

Main Issues

5. The main issues in this appeal are the effect of the proposal on :-
 - The viability of the Holly Bush Public House.
 - Biodiversity.
 - Nearby Listed Buildings and their settings; and

- Whether the proposal would preserve or enhance the character or appearance of the Bartington Conservation Area.

Reasons

The Viability of the Holly Bush Inn

6. The appeal site forms part of a complex of buildings and land which formed around the Holly Bush Inn, a Public House that is currently closed.
7. I understand that the Inn and surrounding buildings were under the ownership of one person for many years and the outbuildings that formed part of the group (The Granary, The Barn and The Bungalow) assisted in providing accommodation linked to the public house offer.
8. Eventually the entire site was sold as a "job lot" to one individual (not the current appellant), and that new owner subsequently split the site into parcels and sold them separately. I understand that the now separated site is now owned by five different people, and importantly, the Granary is now owned by the appellant. The Barn and Bungalow, the car park and the Holly Bush Inn are owned by different individuals.
9. The concerns of the Council relate to the appeal proposal undermining the viability and retention of the public house, with the separation of the accommodation offer from the Holly Bush Inn. They consider it to be a valuable community facility and have referenced policy DM39 of the Cheshire West & Chester Local Plan Part Two (LP2) which relates to culture and community facilities and the protection of the same when faced with loss.
10. However, the public house and the appeal site are in separate ownership. It cannot be incumbent of the appellant to be responsible for the viability of a public house that is not in his control to influence. Any viability assessment of the public house is the responsibility of that owner. The owner of the public house bought it knowing that the accommodation did not form part of it.
11. It is undoubtably in the appellants best interest for the public house to reopen, but the appellant has no influence in that. The letting rooms, if reopened, are the sole responsibility of the appellant, not the public house.
12. Moreover, the use and occupation of the premises as short term lets would, in all probability support the public house in the event that it re-opened. In the absence of substantive evidence to demonstrate otherwise I find that the proposal would not prejudice the future opening or viability of the public house and therefore there is no conflict with the aims of policy DM39 of LP2.

Biodiversity

13. There is a priority habitat (Orchard) located in close proximity to the appeal site, which is not located within the red line of ownership associated with this appeal. However, there is a section of the site made up of vegetation and trees to be removed to facilitate access that is linked to the priority habitat.
14. Without any surveys or information, it is impossible to know whether protected species or habitats are affected by the proposals.
15. I am mindful that government guidance 'Circular 06/2005 Biodiversity and Geological Conservation – Statutory Obligations and their impact within the

planning system', strongly recommends that the extent that protected species may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision, the need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances.

16. The appellant has stated that the matter could be dealt with by adding a condition to provide a survey, but as the Circular suggests this should be carried out before any determination is made, so that is not an option in the case.
17. Therefore, without a survey to suggest otherwise, the proposed development would harm local biodiversity and would be contrary to Policies ENV4 of the Cheshire West and Chester Local Plan Part 1 and DM44 of the LP2, which amongst other matters, expects development to protect sites from impact on priority habitats and protected/priority species and expects development likely to have an impact on protected sites and species to be accompanied by an ecological assessment. It would also be contrary to the environmental objectives of the National Planning Policy Framework in this regard.

Effect on Heritage Assets

18. The appeal site lies within the Bartington Conservation Area (BCA) and there are a number of Listed Buildings within the wider group outside of the appeal buildings, including the Barn and the Holly Bush Inn.

Listed Buildings

19. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for 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 features of special architectural or historic interest.
20. There are a number of Listed Buildings within the wider group. In terms of the immediate location, The Granary itself is Listed, as well as The Barn and the Holly Bush Inn. Whilst they are Listed individually, from the Listing Descriptions it is apparent that the strength and significance lies in the group as a whole being former agricultural buildings associated with the farmhouse (now the Holly Bush Inn).
21. The Granary is close to the grade II listed The Holly Bush Public House whose significance derives from its former use as a farmhouse, its historic and architectural value and surviving historic fabric. Part of its significance is the close physical and visual relationship to former agricultural buildings including the Granary and the Barn and its rural setting.
22. The proposed development, being a change of use that effectively restarts the accommodation offer would have minimal additional visibility from the surrounding area. The proposals would not detract from their individual or group setting and would therefore have a neutral impact on the setting of the surrounding Listed Buildings.

23. To conclude on this matter, the proposal would preserve the Listed Building and its setting, in accordance with the heritage guidance set out in the Framework.

Conservation Area

24. Also, in accordance with the duty imposed by Section 72(1) of the Act I am required to pay special attention to the desirability of preserving or enhancing the character of the conservation area.
25. Moreover, paragraph 205 of the National Planning Policy Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
26. The BCA does not have an area appraisal, but it is apparent from my site visit that the area has an eclectic mix of residential properties that lead into rural and semi-rural areas of interest. There is evidence of distinctive phases of development, of which the Holly Bush Inn is amongst the earliest and the overall wider site is a prominent feature in the BCA and makes a positive contribution to the significance of the BCA.
27. The proposed development would see the restarting of the wider accommodation offer in the locality and would not be in conjunction with the reopening of the Holly Bush Inn, nor would it be reliant upon its reopening.
28. The works would largely be restricted to minor alterations. The change of use effectively recommences the accommodation offer. As such, this will not affect the wider BCA and as such, the effect is neutral on the BCA.
29. The proposed development, being a change of use that effectively restarts the accommodation offer would have minimal additional visibility from the surrounding area, and the works to the Granary are inconsequential, the proposals would not detract from their individual or group setting and would therefore have a neutral impact on the setting of the surrounding Listed Buildings.
30. Therefore, for the reasons above, the proposed development would not harm the significance of the heritage assets, the character or appearance of the Conservation Area or the setting of the nearby listed buildings. It would also accord with the historic environment objectives of the National Planning Policy Framework.

Conclusion

31. Despite the fact I have found in favour of the appeal on the issues of viability and heritage, the harm that I have identified in relation to Biodiversity means that the appeal cannot be allowed.
32. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, I conclude that the appeal should not succeed.

Paul Cooper

INSPECTOR