



Appeal Decision

Hearing Held on 2 July 2024

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/24/3342086

The Barn & The Bungalow, Hollybush Inn, Warrington Road, Little Leigh, Cheshire 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 Mr Andrew against the decision of Cheshire West & Chester Council.
 - The application Ref 23/01374/FUL, dated 20 April 2023, was refused by notice dated 3 November 2023.
 - The development proposed is change of use and external alterations to create short term lets (6 letting rooms with communal space) and associated self-contained owner / manager accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use and external alterations to create short term lets (6 letting rooms with communal space) and associated self-contained owner / manager accommodation at The Barn and The Bungalow, Hollybush Inn, Warrington Road, Little Leigh, Cheshire CW8 4QY in accordance with the terms of the application 23/01374/FUL dated 20 April 2023 subject to the conditions set out in the attached schedule.

Application for Costs

2. Prior to the Hearing an application for costs was made by Mr Andrew against Cheshire West and Chester Council. This application will be the subject of a separate Decision.

Preliminary Matter

3. The description of development above was changed from that on the Application Form, and it was confirmed at the Hearing that both parties were in agreement to the change.
4. A separate planning application and subsequent appeal was made by the owner of the adjacent building (The Granary) (APP/A0665/W/24/3344150). 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 issues on both appeal decisions. 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 for the issue of heritage assets.

5. Following the Hearing the parties' views were sought on heritage assets. The comments received have been taken into consideration in my decision.

Main Issues

6. The main issues in this appeal are the effect of the proposal on :-
- The viability of the Holly Bush Inn Public House.
 - The living conditions of any potential occupier of the "Managers Flat"
 - 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

7. 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.
8. I understand, from evidence gleaned at the Hearing, that the Inn and its surroundings were under the ownership of one person for many years, and the three outbuildings that were part of the group (The Barn, The Bungalow and The Granary) assisted in providing accommodation linked to the public house offer.
9. Eventually, the entire site was sold as a "job lot" to one individual, (not the current appellant), and the 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 Barn and Bungalow are owned by the appellant. The car park, The Granary and the Holly Bush Inn are owned by different individuals.
10. The concern of the Council is that insufficient information has been submitted to demonstrate that the appeal proposal would not undermine the retention of the public house, which is a valuable community facility and have reinforced that by the use of 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.
11. 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.
12. 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. A moot point is the fact that the public house owner has written in support of the proposals and stated that the intention is to reopen the pub and will look to open without the accommodation offer.
13. 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.

Living conditions

14. The accommodation identified as the manager accommodation is located in the Barn to of the rear of the public house building. At present access to the rear of the public house past the appeal site is largely closed off by the use of security fencing in light of occurrences of anti-social behaviour.
15. The layout of the proposed accommodation that provides the manager / owners area has two windows looking toward the rear of the public house, one of which is for a bathroom. There is a separation distance of a few metres between the windows and the public house, and there is opportunity for that space to be compromised by anybody exiting the rear of the public house.
16. However, this is not an uncommon situation for public houses of a certain age that are located in residential situations, and this is not a large public house. I would not expect that the level of footfall at the rear of the public house, were it to be reopened, to be of a significant level, along with any related noise and general disturbance, that would cause material harm to the living conditions of the occupier of that room.
17. With regard to the amenity space available, I consider that the requirements of a manager / operator whose primary duties would to be the service of the accommodation, not being in that location on a year-round basis, would be almost akin to an occupier of a letting room, and significant outdoor amenity space would not be required. This is a one bedroomed manager flat, not a family home.
18. As such, I find that the living conditions of the potential occupiers of the Managers Flat would be acceptable. There would be no conflict with policy SOC5 of the Cheshire West and Chester Local Plan Part 1 or policies DM2 and DM3 of the LP2, which amongst other matters, seek to protect residential amenities.

Effect on Heritage Assets

19. 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 Granary and the Holly Bush Inn.

Listed Buildings

20. 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.
21. There are a number of Listed Buildings within the wider group. In terms of the immediate location, The Barn itself is Listed, as well as The Granary 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).

22. The Barn is grade II listed and constructed of brick in Flemish bond under a slate roof dating from 1844. The significance of this listed building is informed by its age, architectural and historical interest, surviving historic fabric and traditional features and materials, and its historical connection with nearby former agricultural buildings and farmhouse. The immediate setting comprises nearby former agricultural buildings including the Granary and the former farmhouse, and the open yard accessed off Smithy Lane, as well as the agricultural setting, which contribute to its significance.
23. The appeal site is also within the setting of the Grade II listed former Granary approximately 8 metres south west of the Barn whose significance is derived from its architectural and historic interest and its functional and physical relationship to other former agricultural buildings within this group of buildings. Its significance is informed by its historical and functional association with the appeal site and the former farmhouse.
24. The Barn adjoins 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 Barn and the Granary and its rural setting.
25. The proposed development, being a change of use that effectively restarts the accommodation offer would have minimal additional visibility from the surrounding area, and as the external works to the Barn 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.
26. 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

27. 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.
28. 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.
29. 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.

30. 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.
31. The works would largely be restricted to internal alterations, from the creation of managers/owner accommodation and other minor works. 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.
32. Therefore, for the reasons above, the proposed development would not harm the significance of the character or appearance of the Conservation Area in accord with the historic environment objectives of the Framework.

Other Matters

33. I have noted the comments of interested parties, but these mainly relate to the issues regarding the public house and its retention, which do not form part of this appeal, nor can be dealt with at this appeal. Issues relating to drainage were referenced at the Hearing and were part of wider concerns with regard to how services were to operate with different owners operating a wider site that was previously operated by one owner. However, this cannot be considered as part of this appeal.
34. Mention has been made of the Little Leigh Village Design Statement, and the group of buildings are referenced in the Statement, but it is felt that as the buildings subject to the appeal are not changing their physical use then it will not affect their standing in the document, and as stated previously, it is not for a separate owner to be responsible for the viability of the Holly Bush Inn. The fact that the appeal buildings are being re-used is a positive outcome.

Conditions

35. A number of Conditions were agreed in the Statement of Common Ground published before the Hearing. As a result of matters discussed at the Hearing, additional conditions were agreed in order to ensure the appeal was in a form that could progress to decision, irrespective of my findings to allow or dismiss. Whilst these conditions allowed the function of the appeal, they did not overcome the concerns of the Council, and did not result in the removal of any reasons for refusal by the Council.
36. Additions included the limitation of any guest to a 28 day period, the agreement that the entire operation would close between 10th January and 10th February to ensure no permanent occupation by a manager, and a new condition ensuring right of access through the appeal site to the rear of the public house in order to ensure users did not need to use the highway, which has no footway at that point.
37. Conditions 1 and 2 relate to standard planning matters and are in the interests of good planning. Condition 3 relates to effective control over occupation for amenity purposes. Condition 4 relates to landscaping and visual amenity for the site, whilst Condition 5 relates to safe parking on the site. Condition 6 and 7 ensure the sustainability of the site with reference to electric vehicles and bicycles. Condition 8 relates to no permanent occupation of the site and Condition 9 relates to protection of pedestrian amenities.

Conclusion

38. For the reasons given above, having regard to the development plan and all relevant material considerations, I conclude that the appeal is allowed.

Paul Cooper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Location Plan (The Barn, Smithy Lane, Little Leigh, CW8 4QY - @scale 1:1250)

555.03 - 'As Existing' + Proposed General Arrangement to 'The Bungalow'

555.04 - Proposed General Arrangement to 'The Barn'

555.05 - 'As Existing' First Floor Plan
- 3) The letting accommodation hereby approved shall be for short term lets and not be occupied as a persons sole or main place of residence. No guest shall occupy letting room accommodation for more than 28 days in any six-month period. The owner / operators shall maintain up-to-date details of the names and main home addresses of all occupiers of the letting room accommodation and shall make the register available at all reasonable times to the Local Planning Authority on written request.
- 4) Prior to the first occupation of the letting accommodation hereby approved, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:-
 - i. hard surfacing materials;
 - ii. soft landscaping works (to replace that lost to create the parking area)

Soft landscape works shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscaping shall be carried out to the approved specification prior to the occupation of the development. The approved soft landscaping details shall be implemented wholly in accordance with the approved details in the first available planting season after occupation.
- 5) The parking spaces as shown on drawing number 555.04 - Proposed General Arrangement to 'The Barn' shall be laid out and made available for use prior to first occupation of the letting rooms hereby approved. The parking spaces shall be retained at all times thereafter.
- 6) Prior to first occupation of the letting accommodation hereby approved, electric car charging infrastructure comprising at least two electric car charging points shall be provided. As a minimum, each charging point shall comprise dedicated 32 amp radial circuit which is

directly wired to an appropriate RCD at the consumer unit and terminates at a BS EN 62196 Type 2 electric vehicle charging point located where it is accessible from a dedicated off-street car parking bay.

- 7) Prior to first occupation of the letting accommodation details of the parking facilities for at least 3 cycles shall be submitted to and agreed in writing by the local planning authority. The development hereby approved shall not be occupied until the cycle parking has been provided in accordance with the agreed details and retained at all times thereafter.
- 8) The letting room and self-contained owner / manager accommodation shall not be occupied in the period between 10 January and 10 February of any given year.
- 9) Notwithstanding the existing bollards in-situ, the passageway between the northeast elevation of The Barn and the boundary wall adjacent Smithy Lane shall remain clear and unobstructed in perpetuity.

END OF SCHEDULE

APPEARANCES

FOR THE APPELLANT

Jermaine Browne	Agent
Steven Andrew	Appellant
Harry Kennedy	Architect

FOR THE LOCAL PLANNING AUTHORITY

Emily Yates	Senior Planning Officer
Jeff Eaton	Principal Planning Officer

INTERESTED PARTIES

Councillor Gibbon	Local Councillor
Robert King	Vice Chair – Parish Council
Alison Owen	
Sharon Geary	