



Appeal Decision

Site visit made on 6 January 2025

by Mark Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 January 2025

Appeal Ref: APP/K2230/W/24/3347582

**Sir John Falstaff Public House, Gravesend Road, Higham, Rochester, Kent
ME3 7NZ**

- 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 Punch Partnerships (PML) Limited against the decision of Gravesham Borough Council.
 - The application Ref is 20231010.
 - The development proposed is erection of a four-bed dwelling on the land to the rear of Sir John Falstaff Public House with associated car parking and landscaping, including reconfiguration of the public house car park and beer garden.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site comprises the grade II listed Sir John Falstaff Public House¹ and surrounding land. Correspondence has been provided during the appeal process which indicates that the public house was nominated but not added to the Council's list of Assets of Community Value. The appeal has been determined accordingly.
3. The updated National Planning Policy Framework (Framework) came into force on 12 December 2024. The main parties have been given an opportunity to comment on any implications of this and I have taken the corresponding submissions into account. The Housing Delivery Test results for 2023 were published on the same date. However, the consequences of this are unchanged from the previous year, with the presumption in favour of sustainable development, as set out at paragraph 11(d) of the Framework, remaining applicable. Moreover, the presumption applies in any case as the Council cannot demonstrate a 5 year supply of deliverable housing sites. As such, I have not sought further views on the latest test results.
4. A revised site layout plan² has been submitted in an attempt to address some of the Council's objections to the scheme. It shows that 2 metre high acoustic timber fencing would be erected on part of the site's boundary with 61 Forge Lane, whereas 1.8 metre high fencing was proposed when the application was determined. The Council and interested parties have had an opportunity to comment on the plan during the appeal process. Moreover, details of boundary

¹ List entry number: 1096327

² Drawing reference: 23.3459.100 Rev P6

treatments are typically within the scope of planning conditions. I have therefore taken it into account as I am satisfied that this is not prejudicial to any party.

5. A Noise Impact Assessment³ and a revised Arboricultural Method Statement⁴ have also been submitted to support the appeal. The Council and interested parties have been similarly able to comment on the documents during the appeal process, and noise mitigation measures and arboricultural matters are also potentially conditionable. I have thus also taken these into account as prejudice does not arise in doing so.
6. The site is reportedly in the zone of influence of the Thames Estuary and Marshes Special Protection Area and Ramsar Site, which is a 'habitats site' in the terms of the Framework. During the appeal process the appellant made a financial contribution to the Council that is intended to be used for mitigating purported impacts of the proposal on the integrity of the habitats site. I return to this matter following consideration of the main issues set out below.

Main Issues

7. The main issues are:
 - the effect of the proposal on the setting of the grade II listed building;
 - whether the proposal would provide accommodation of satisfactory quality, with particular regard to privacy, noise and disturbance;
 - the effect of the proposal on the living conditions of the occupiers of 61 Forge Lane, with particular regard to privacy, outlook, noise and disturbance;
 - the effect of the proposal on the landscape character of the area; and
 - the effect of the proposal on trees and ecology.

Reasons

Listed building

8. The public house fronts onto Gravesend Road. Telegraph Hill runs alongside it and provides access to an associated rear car park. A garden is located on the other side of the public house with an area of seemingly disused land fenced off behind it. The ground level generally increases towards the rear of the site such that the car park is visible behind the public house and the garden when viewed from Gravesend Road. It is also visible from around the Telegraph Hill junction.
9. According to the statutory list description, the public house dates from the late 18th to early 19th century. It features 2 storeys plus attics, a mansard tiled roof with dormers, eaves corncicing, and traditional sash windows with intact glazing bars, including to double storey 3 light canted bays either side of a central entrance.
10. The appellant's Heritage Statement indicates that the listed building was a popular inn that accommodated travellers overnight and infers from historic mapping that structures present to its rear at times until after the mid 20th century were likely once used as stables or for other ancillary functions. The mapping indicates that

³ Document reference: 1563; dated 4 July 2024

⁴ Document reference: TRE/SJFH/Rev A; dated 12 November 2023

these were mostly set back from the highway, and that the curtilage was narrower near the highway than it is currently. Interventions have also occurred to the public house, including the addition of a 3 storey rear range that likely dates from the late 19th century, a 2 storey side projection that also has a double storey canted bay window, and a single storey lean to projection.

11. The special interest and significance of the listed building is derived in large part by its historic and architectural value as a traditionally constructed and detailed roadside inn which retains its original relationship with and prominence from the highway. Its value is reflected in the aforementioned additions, as the rear and 2 storey ones include traditional sash windows like those present to the front of the original part of the building, for example. This is the case despite more modern development having been constructed in the vicinity. While the tarmac car park has a somewhat stark and comparatively modern appearance, both it and the garden provide relief and legibility to the public house and enable its features to be appreciated on approach to the site, and thereby contribute positively to its setting and thus special interest and significance.
12. The proposed dwelling would replace part of the car park towards the rear of the site near Telegraph Hill. It would feature a vehicular access, 2 parking spaces and a boundary wall with railings to its front and a back garden enclosed by fencing. The car park would be extended into the seemingly disused area and part of the garden, which would be supported by a retaining wall. The dwelling would comprise 1.5 storeys but with an upper floor provided through the use of wall dormers. It would have white painted timber sliding sash windows and white painted render and plain clay vertical hanging tile elevations. Accordingly, it would be modest in scale and include traditionally designed elements and finishing materials. Additionally, the resulting size and shape of the curtilage to the public house would broadly reflect what is shown on the historic mapping.
13. Nevertheless, due to the changing topography of the site, the dwelling would be visible behind the public house from Gravesend Road and when travelling up Telegraph Hill, and in the foreground when approaching from the other direction. It would be conventionally designed as a result of its size, fenestration, materials and associated parking. Consequently, it would not appear as an ancillary structure to the public house as it stands now, nor would it reflect the likely attributes of those present historically. On the contrary, it would compete with and detract from the public house from both roads, including its architectural features such as the sash windows. In addition, it would decrease the legibility of the public house as a singular detached building from Gravesend Road and partially restrict views towards the public house when travelling down Telegraph Hill. In that context, the enclosure provided by the proposal or the changes to the size and shape of the curtilage of the public house would not be beneficial.
14. The impacts of the extension to the car park would be limited but, overall, the development would adversely impact the setting and therefore the special interest and significance of the public house. The proposal thereby conflicts with policies CS19 and CS20 of the Gravesham Local Plan Core Strategy (CS) and policy TC2 of the Gravesham Local Plan First Review, which require development to conserve and enhance the character of the historic environment and maintain the integrity of listed buildings. The harm to the significance of the listed building would be less than substantial in this case. Paragraph 215 of the Framework sets out that this harm should be weighed against the public benefits of the proposal including,

where appropriate, securing the asset's optimum viable use. I return to this matter later in the decision.

Quality of accommodation

15. Policy CS19 of the CS states that new development shall be located, designed and constructed to safeguard the amenity of the occupiers of properties. It also specifies that designs and layouts should accord with the Residential Layout Guidelines Supplementary Planning Guidance 2 (SPG2).
16. SPG2 sets out that a minimum distance of 21 metres shall be provided between the windows of habitable rooms and the private garden area of any dwelling. For these purposes a private garden area is defined as the first 5 metres of garden adjacent to the rear of the dwelling. A first floor window at No 61 would be oriented towards the proposed dwelling's rear garden. In the terms of SPG2, the window would be 11 metres from the garden. It was clear from my visit that a significant level of overlooking would occur from this, with landscaping near the shared boundary only able to provide limited mitigation. The window would also face and be around 19 metres from the proposed dwelling's kitchen doors. SPG2 states that where windows of habitable rooms face each other at least 21 metres should be provided, but it considers kitchens to be non-habitable. On that basis, unacceptable overlooking of the dwelling specifically would not arise.
17. First and second floor rear windows to the public house would be around 17 metres from the side boundary of the proposed rear garden. However, a range to the rear of the new dwelling would block views of the most sensitive part of the garden, which appears to be shown as featuring decking on the site layout plan. Having regard to the separation distance, changes in topography and intervening boundary treatments, the views obtained would not be unsatisfactory. Moreover, I have no concerns regarding overlooking of the proposal in other respects.
18. The Noise Impact Assessment indicates that the public house and the use of its garden and car park would not have unacceptable impacts on the occupiers of the proposed dwelling, subject to mitigation measures being implemented. There are no obvious reasons to suggest that an alternate conclusion should be reached.
19. Light from the headlights of vehicles in the car park has also been raised as a concern. There would be no windows to habitable rooms in the elevation of the proposed dwelling facing the car park or in the rear elevation of its range. The fencing would be close boarded alongside the rear garden. As such, the impacts from headlights within the car park would be negligible. This would also be the case for vehicles egressing from the car park due to their orientation. The light impacts of vehicles turning into the car park would be more significant given the positions of numerous openings in the proposed front elevation of the dwelling, but I do not see how such an arrangement is significantly different to the commonplace scenario of a dwelling being located adjacent to a typical perpendicular highway junction. Accordingly, the proposal would be acceptable in terms of noise and disturbance impacts.
20. Nevertheless, the rear garden of the proposed dwelling would be overlooked significantly, and therefore the quality of the accommodation would be unsatisfactory. The proposal conflicts with CS policy CS19, the purpose of which is set out above, as a result.

Living conditions

21. The prospect of users of the proposed rear garden overlooking No 61 is limited as 2 metre high fencing would be installed. Similarly, proposed ground floor windows would not adversely impact the occupiers of No 61. There would be first floor bedroom windows to the rear of the proposed dwelling that would reportedly be less than 21 metres from windows at No 61, but the proposed dwelling would be in a suitably offset position to prevent an unacceptable degree of overlooking. Further, the distances between the dwellings would be sufficient such that outlook would not be foreshortened to the extent that the scheme would be overbearing.
22. The drawings suggest that land heights in the location of the car park extension would remain largely unaltered, which raises questions regarding accessibility. Nonetheless, I am satisfied that the impacts of this aspect of the scheme could be addressed satisfactorily by boundary fencing. Additionally, for the reasons given above and subject to mitigation measures, the development would be acceptable in respect of noise and disturbance impacts.
23. Therefore, the proposal would not unacceptably affect the living conditions of the occupiers of No 61. In terms of this main issue, the proposal accords with CS policy CS19.

Landscape

24. The site is located in the Higham Arable Farmlands Landscape Character Area. Its key characteristics include gently undulating topography with open arable farmland, views out to marshes and the River Thames, marsh side hamlets and settlements, isolated farmsteads and scattered properties with locally distinct styles and materials and pockets of orchards and garden nurseries. However, the built environment in the locality is characterised largely by residential properties of varying ages, sizes and designs. Views to and from the site are mostly short ranged due to land height changes and intervening buildings and vegetation.
25. While the development would result in an increase in built form at the site, there would purportedly be a 5.65 percent reduction in hardstanding. Notwithstanding the harm identified in respect of the listed building, the development would broadly reflect the varied characteristics of properties in the area, and the landscape impacts would be highly localised. The key characteristics of the landscape would not be compromised.
26. On that basis, the proposal would not have a harmful effect on the landscape character of the area. I find no conflict with CS policy CS12, which specifies that landscape character will be conserved, restored and enhanced.

Trees and ecology

27. The appellant's Arboricultural Impact Assessment identifies 4 trees in the immediate vicinity of the proposed development, none of which would need to be directly worked upon or removed. Moreover, the updated Arboricultural Method Statement details measures to prevent harm to trees during or following the construction process. Equivalent evidence indicating otherwise has not been submitted and thus I am satisfied that there would be no harm to the trees identified or, logically, ones further afield.

28. The Council raised that any tree work could potentially have impacts on protected species. However, it has not been put forward that any particular protected species are likely to be present in the locality or would be affected by the scheme and, since there would be no work to trees directly, I have no reason to dismiss the appeal based on the concerns raised in this respect.
29. Accordingly, the proposal would not result in harm to trees or ecology. In this respect it accords with CS policy CS12, which seeks to preferably avoid negative impacts on protected species.

Other Matters

30. The evidence indicates that the Council can demonstrate 2.9 years supply of deliverable housing sites and only 59 percent of the homes required over the latest Housing Delivery Test results period have been delivered. Moreover, the Council's housing need may be further affected by recent changes to calculations for such associated with the update to the Framework. Furthermore, paragraph 125 of the Framework says that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes, and that proposals for such should be approved unless substantial harm would be caused. It also promotes and supports the development of underutilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively, with car parks a potential example of this. I also note that windfall development can make an important contribution to addressing housing supply and delivery issues.
31. However, even in that context, the public benefits to housing supply and delivery associated with creating a single dwelling are limited. For the same reason, the public benefits arising from the construction process, the dwelling being sustainably built, energy efficient, family sized and accessibly located, and the occupiers spending on amenities in the local area, are limited too. Likewise, the proposed wildlife enhancements and the provision of biodiversity net gain of over 11 percent are public benefits of limited weight.
32. It has been confirmed that the public house would remain operational during and after construction and that the capital receipt from the sale of the development would be directly reinvested to ensure its future viability. While I have no reason to doubt these points, there is no evidence that the public house is at risk of closure if the appeal were to be dismissed, nor is any mechanism before me to secure the use of any profits for reinvestment purposes. Consequently, I attach limited weight to these matters insofar as they can be construed as public benefits.
33. If I were minded to grant permission, I would need to consider whether the development would adversely affect the integrity of the habitats site. In doing so, I would need to consider any implications of the aforementioned financial contribution. However, even if there would be no adverse effects on the habitats site's integrity, this would be a neutral consideration rather than a public benefit.

Planning Balance and Conclusion

34. The sum of the public benefits weighing in favour of the development is modest. Conversely, even less than substantial harm to a designated heritage asset must carry great weight. Overall, the public benefits are insufficient to outweigh the harm to the significance of the listed building. The proposal therefore conflicts with the

heritage policies in section 16 of the Framework. Moreover, the application of those policies provides a strong reason for refusing the proposal and thus it does not benefit from the presumption in favour of sustainable development. Additionally, the harm taken together would be substantial for the purposes of paragraph 125 of the Framework, and it does not indicate that permission should be granted more broadly.

35. For the reasons given, the proposal conflicts with the development plan taken as a whole. Material considerations do not outweigh the conflict with the development plan.
36. Accordingly, the appeal is dismissed.

Mark Philpott

INSPECTOR