



Appeal Decisions

Site visit made on 18 March 2025

by Stephen Hawkins MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2025

Appeal A Ref: APP/K3605/C/23/3332877

The Running Mare Public House, 45 Tilt Road, Cobham KT11 3EZ

- The appeal is made under section 174 of the Town and Country Planning Act 1990 (as amended). The appeal is made by Mr Adrian Bailey against an enforcement notice issued by Elmbridge Borough Council.
 - The notice was issued on 23 October 2023.
 - The breach of planning control as alleged in the notice is within the last four years and without planning permission, the erection of a wooden pergola at the rear of the property (covering part of the car park).
 - The requirements of the notice are: (i) Remove the pergola. (ii) Remove all resultant waste and debris from the land.
 - The period for compliance with the requirements is 28 days.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 (as amended). Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.
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Appeal B Ref: APP/K3605/W/23/3327165

The Running Mare Public House, 45 Tilt Road, Cobham KT11 3EZ

- 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 Adrian Bailey against the decision of Elmbridge Borough Council.
 - The application Ref is 2023/0781.
 - The development proposed is renewal of approval ref: 2021/0057 to retain rear external dining seating area with timber pergola.
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Decisions

1. Appeal A is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act (as amended) for the development already carried out, namely the erection of a wooden pergola at the rear of the property at The Running Mare Public House, 45 Tilt Road, Cobham KT11 3EZ as shown on the plan attached to the notice, subject to the condition in the Schedule at the end of these Decisions.
2. Appeal B is allowed and planning permission is granted for the renewal of approval Ref: 2021/0057 to retain rear external dining seating area with timber pergola at The Running Mare, 45 Tilt Road, Cobham KT11 3EZ in accordance with the terms of the application, Ref 2023/0781, subject to the condition in the Schedule at the end of these Decisions.

Preliminary Matter

3. I have taken the revised National Planning Policy Framework (the Framework), which came into force during the course of the appeals, into account.

Appeals A and B

Main Issue

4. The main issue in these appeals is whether the pergola preserves the character or appearance of the Tilt Conservation Area (CA).

Reasons

Character, appearance of the CA

5. The Running Mare Public House is a two-storey brick and tile building dating from the 18th Century. The appeals concern a timber pergola erected at the rear of the pub, associated with the provision of outdoor seating. The pergola is situated adjacent to an outdoor seating terrace and a modern outbuilding which provides a covered seating area. A temporary planning permission granted in respect of the pergola expired in March 2022¹.
6. The pub is located towards the heart of the CA, its principal elevation facing an expansive area of communal open space on the opposite side of the street. Development in the CA mostly consists of well-designed two storey dwellings dating from the 19th Century, with some earlier buildings including the pub as well as more modern structures. On the whole, the buildings are constructed in complementary external materials, they are arranged in neat rows often facing towards communal open spaces and there are views over the river Mole valley, all of which contributes to the attractive and distinctly semi-rural visual qualities of the surroundings.
7. Set in the above context and as reflected in the Council's *Tilt Conservation Area Character Appraisal & Management Plan*, the pub is a key local landmark, evoking traditional sporting pursuits associated with the area and providing a source of interest, activity and daily movement in the CA. Consequently, these are factors which, along with the attractive architecture, the relationship of buildings to communal open spaces and countryside views, assist in underpinning the significance of the CA.
8. The pergola is situated at an appreciably lower ground level at the rear of the pub. At about two metres in overall height, slightly over twelve metres in length and with slender uprights and cross-members, the pergola is of modest proportions and has a somewhat insubstantial appearance. The dark colour finish applied to the timber contributes to the unassuming feel, as well as complementing the redder tones in the brickwork on the rear elevation of the pub. Consequently, the pergola is seen as a small scale, visually subservient structure, sitting reasonably comfortably alongside the more robust, permanent characteristics of the pub as well as the adjacent outbuilding and is not viewed as an incongruous built feature.
9. Furthermore, the pergola occupies part of the expansive tarmac surfaced car park at the rear of the pub. Erecting the pergola has to a small degree broken up the extent of the hard surfacing as well as having helped to reduce the accumulation of cars, offsetting the visual impact of what are otherwise obviously modern, urbanising features at the rear of the pub. Accordingly, it is not unreasonable to regard the pergola as a modest visual improvement over the pre-existing situation. In any event, having regard to its location at the rear of the pub there are limited

¹ Council Ref: 2021/0057

views of the pergola in the street scene, or from communal open space or other surrounding land. For the most part, the pergola is experienced only by visitors to the pub. As a result, the pergola has minimal visual influence beyond its immediate surroundings.

10. Although the social distancing rules put in place during the COVID-19 pandemic no longer apply, the pergola seating affords greater flexibility in terms of how the pub operates. In my experience, such seating can be in use at most times, not just during the summer months. Also, the seating improves access to the pub for visitors with mobility issues. These factors assist in sustaining the business and the positive contribution the pub makes to the significance of the CA.
11. In reaching the above findings, I am conscious that the pergola seating area retains the car park surfacing and markings. Although perhaps understandable given the uncertainty over its future, the absence of suitable delineation from the car park provides the pergola with a somewhat unsatisfactory setting. This does not compare favourably with the more established seating areas at the pub which are clearly delineated from the car park, including by the use of planting and incorporating attractive paving or decking surface finishes. Appropriate hard and soft landscaping works to appropriately delineate the pergola seating area could however be secured by imposing a suitable planning condition.
12. Therefore, subject to the condition set out above the pergola would preserve the character and appearance of the CA. This accords with Policy CS10 of the *Elmbridge Core Strategy* (CS), which requires new development to be well-designed and to integrate with and enhance local character, particularly within Conservation Areas. The pergola accords with CS Policy CS17, which requires new development to, amongst other things respond to the positive features of individual locations, integrating sensitively with the locally distinctive townscape, landscape and heritage assets.
13. Also, the pergola accords with Policy DM2 of the *Elmbridge Local Plan: Development Management Plan* (LP), which requires development proposals to preserve the character of the area including in relation to their appearance, scale, the pattern of built development and the character of the host building. Furthermore, the pergola accords with LP Policy DM12, which requires development to preserve or enhance the character and appearance of the CA taking account of the streetscape, plot and frontage sizes, materials and relationships between existing buildings and spaces. Additionally, by achieving a well-designed place and conserving the historic environment the pergola is consistent with the Framework.

Other Matters

14. Although the pergola seating area occupies around ten parking spaces, in excess of twenty spaces are retained in the car park. The Council raised no objections to the development on highway safety grounds. Nor did they consider that harm to the living conditions of neighbouring residential occupiers had occurred through increased noise and disturbance. I have taken the representations received from an interested party referring to such matters into account but there is no firm evidence to support departing from the Council's findings in these respects.

Conditions

15. After seeking the views of the main parties, I shall impose a condition requiring the prior approval, implementation and maintenance of a scheme of hard and soft landscape works. This is necessary to provide a visually satisfactory setting for the pergola, in the interests of preserving the character and the appearance of the CA. The condition is drafted in the form set out below because, unlike an application for planning permission for development yet to commence, in the case of a retrospective grant of permission it is not possible to use a negatively worded condition precedent to secure the implementation of the required scheme, because the development has already taken place. The purpose and effect of the condition is therefore to ensure that the pergola may only remain if the appellant complies with its requirements.

Conclusion

16. The pergola preserves the character and appearance of the CA and accords with the Development Plan. Therefore, I conclude that Appeal A should succeed on ground (a). I shall grant planning permission for the development as described in the notice. The enforcement notice will be quashed. Also, for similar reasons Appeal B should be allowed.

Stephen Hawkins

INSPECTOR

SCHEDULE OF CONDITIONS

Appeals A & B:

- 1) Unless within three months of the date of this decision a scheme for hard and soft landscaping works, the details of which shall include surfacing materials, planting plans, written specifications (including cultivation and other operations associated with plant and grass establishment), schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate, together with a timetable for implementation and a schedule of maintenance, has been submitted in writing to the Local Planning Authority for approval and; unless the approved scheme is implemented within three months of the Local Planning Authority's approval, or otherwise in respect of the soft landscape works within any longer period for implementation specified within the approved scheme, the pergola and its constituent materials shall be removed until such time as the scheme has been approved and implemented.

If the scheme in accordance with this condition is not approved by the Local Planning Authority within six months of the date of this decision, the pergola and its constituent materials shall be removed until such time as the scheme approved by the Local Planning Authority is implemented.

Upon implementation of the approved scheme specified in this condition, the hard landscaping in the scheme shall thereafter be maintained in accordance with the approved details. All planting comprised in the approved details of soft landscaping which within a period of 5 years from the date of the approval of the scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.