



Appeal Decision

Site visit made on 18 February 2025

by **B Astley-Serougi BA(Hons) LLM MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 02 MAY 2025

Appeal Ref: APP/J1915/W/24/3350558

The Jolly Waggoners, Widford Road, Much Hadham, Hertfordshire SG10 6EZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr James Pomfrett of Sandhill Homes Ltd against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2362/OUT.
 - The development proposed is described for the demolition of the existing building and the construction of three residential dwellings along with associated communal areas and amenity space.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal scheme relates to an outline proposal, with access to be considered at this stage, and with all other matters reserved for future consideration. I have considered the appeal accordingly. Plans have been submitted as part of the appeal which indicates how three dwellings could be accommodated on the site. I have taken this plan into account for indicative purposes only.
3. I have removed words not in relation to development from the description of development contained within the banner heading.
4. The revised National Planning Policy Framework (the Framework) was published in December 2024. The parties have been provided with the opportunity to comment on the implications of the revisions to their cases. I have taken account of the revised Framework, and any comments made, in my determination of the appeal as necessary.

Main Issues

5. The main issues are:
 - the effect of the proposed demolition of The Jolly Waggoners as a non-designated heritage asset (NDHA);
 - whether the appeal site is a suitable location for the proposed development having regard to local and national policy; and
 - the effect of the development on the availability of community facilities.

Reasons

The demolition of The Jolly Waggoners

6. The Jolly Waggoners was once a former public house dating from approximately the late 19th or early 20th Century. It has a mock tudor black and white frontage jettied above the brick ground floor, diamond leaded windows and decorative ridge tiles. Its significance derives from its design, historic character and fabric as well as its location and former communal use.
7. The appellant suggests that The Jolly Waggoners should not be regarded as a NDHA because a decision to identify it has not been made in a way that is consistent with the identification of NDHA's and local heritage lists. The appellant highlights that at the time of the application there was no formal list of NDHA's on the Council website. However, Planning Practice Guidance establishes that NDHA's can be identified through a number of processes including when determining applications¹. The absence of The Jolly Waggoners from a local list does not mean it cannot be regarded as a NDHA.
8. The Council's Conservation Officer has provided sufficiently clear reasoning to the classification of The Jolly Waggoners as an NDHA referring to both the historic and architectural value of the building. It is reasonable for the Council to consider the comments from both The Victorian Society and the Council for British Archaeology irrespective of whether these organisations undertook site visits.
9. Policy HA2 of the East Herts District Plan 2018 (EHDP) states that where a proposal would adversely affect a NDHA, regard will be had to the scale of any harm or loss and the significance of the heritage asset. Given that the appeal scheme would result in the demolition of an NDHA, the scale of the loss is total.
10. The appearance of the building is dilapidated. However, this does not demonstrate that the overall structural integrity of the building could not be subject to renovation opportunities. The building survey submitted in relation to a 2014 application² at the site states that the building is structurally sound but would require extensive renovation. Nevertheless, the survey was undertaken over a decade ago and therefore whilst a renovation may be unlikely there is limited recent evidence to suggest this would be the case. Furthermore, the Council have also highlighted that the former public house has not been maintained or properly secured and consequently there is evidence of deliberate neglect to a NDHA and therefore its dilapidated state is not sufficient to justify its total loss. Given the above, the appellant has not provided adequate evidence to demonstrate that The Jolly Waggoners would not be capable of being renovated.
11. The appellant has stated that they would incorporate architectural design features featured on the existing former public house into the proposed dwellings, however appearance is a reserved matter and not within the scope of this appeal.
12. The appellant refers to *Dorothy Bohm & Others v Secretary of State for Communities and Local Government & Ors [2017] [EWHC 3217]*. The case focused upon the balance of removing a building which made a positive contribution against the impact on the conservation area. Therefore, I cannot be certain that it is wholly comparable to the appeal before me.

¹ Planning Practice Guidance Paragraph 040 Reference ID: 18a-040-20190723

² Planning Application Ref: 3/14/0639/FP

13. The appellant refers to the lack of objections in previous planning applications at the site in relation to the loss of a NDHA. The Council acknowledge that NDHA's were outlined prior to 2016 and would have been relevant to the previous applications. Nevertheless, given the comments from The Victorian Society and the Council for British Archaeology in relation to the appeal scheme before me, it is reasonable for the loss of a NDHA to be included as a reason for refusal.

Summary

14. The Framework is clear that the effect of an application on the significance of an NDHA should be taken into account and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset. The scale of the harm caused by the demolition of The Jolly Waggoners and its replacement with three dwellings would not be justified.
15. I conclude that the proposed development would result in the loss of the significance of The Jolly Waggoners as an NDHA through its demolition. Consequently, the appeal scheme would conflict with Policy HA2 of the EHDP which accords with the Framework. The policy seeks to protect NDHA's and their contribution to the richness of the district's historic environment.

Suitable location

16. The appeal site comprises of the two-storey former public house known as The Jolly Waggoners and its associated car park as well as a smaller outbuilding to the rear of the main building. The site is relatively flat and is proximate to arable farmland. There is an existing access onto the public highway (Widford Road) and there is a modest number of dwellings on Widford Road proximate to the appeal site albeit in a ribbon form of development.
17. In the appellants statement of case they refer to the site being located within the Green Belt. However, the Council has clarified that the site is situated within the rural area beyond the Green Belt for planning purposes. Therefore, Policy GBR2 of the EHDP is relevant to the appeal. It provides support for certain types of development in the rural area beyond the Green Belt. The appellant considers that the appeal scheme would be classified as a partial or complete development of previously developed land in a sustainable location and would be appropriate to the character, appearance and setting of the site/surrounding area (GBR2(e)).
18. Much Hadham Parish Council have indicated support for the appeal given it considers the car park to constitute previously developed land.
19. The Framework defines previously developed land as 'Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it...'.
20. The appellant acknowledges that in 2022 the area they consider to be a car park was used unlawfully for the purpose of waste transfer and storage of materials and an enforcement notice was issued³. Notwithstanding this, the appellant considers that the car park area is composed entirely of extensive hardstanding. There is evidence of compact dirt and building materials upon the surface of the car park area. However, the appellant has not adequately demonstrated that this is not

³ Planning Enforcement Notice Ref: E/22/0227/ENF

associated with the aforementioned unlawful use, nor that there is extensive hardstanding.

21. The East Hertfordshire 2024 Brownfield Register outlines the appeal site as brownfield land. The appellant accepts that the entirety of the 0.79-hectare site denoted on the relevant site map associated with the Brownfield Land Register cannot be considered previously developed land. The appellant highlights that each parcel of brownfield land on the register must be at least 0.25 hectares or capable of supporting at least five dwellings. Consequently, they consider that the red line boundary of the appeal site which measures 0.30 hectares is likely to all be previously developed land and considered such by the Council when included on the Brownfield Register. Especially given that the Council has described the land beyond the red line boundary as open green field and landscaping, which would clearly not be considered previously developed land.
22. However, the Council has stated that the inclusion of the site on the Brownfield Register was a mistake. The appellant was notified of this in an email dated 6 June 2024. Nevertheless, whilst there are clear elements of previously developed land such as the building of the former public house as well as the smaller outbuilding, there is limited evidence before me to suggest that the whole site should be considered as such. The appellant has not adequately demonstrated the car park area to consist of lawful extensive hardstanding and consequently previously developed land.
23. Considering I have found the appeal site to not constitute previously developed land in its entirety, it is not necessary for me to consider the effect of the appeal scheme on the character and appearance of the rural area beyond the Green Belt.
24. Given the above, it has not been adequately demonstrated that the whole of the appeal site constitutes previously developed land. Therefore, the appeal scheme would not benefit from the aforementioned exception outlined in Policy GBR2(e). It would therefore conflict with Policy GBR2 insofar as it seeks to restrict development in the rural area beyond the Green Belt to preserve it as a valued countryside resource.
25. The Council have referred to Policy DES4 in their decision notice however, this policy pertains to the design of developments. Given that the appeal before me relates to an outline application with only access to be considered at this stage, appearance is a reserved matter and consequently Policy DES4 is not determinative for this appeal.

Community Facilities

26. Policy CFLR8 restricts development that would result in the loss of community facilities like public houses unless it meets one of the exceptions outlined in the policy. Pertinent to this appeal is CFLR8(a) which outlines that a loss of a community facility would be supported if an assessment has been undertaken which clearly demonstrates that the facility is no longer needed in its current form.
27. There has been a previous marketing assessment between approximately 2010 and 2013 in relation to The Jolly Waggoners for previous planning applications⁴. The Council in its refusal of a more recent planning application at the site stated

⁴ Planning Application References: 3/14/0639/FP and 3/19/0383

that because there was no new evidence submitted in terms of marketing regarding the sale of the site and former public house, it did not comply with Policy CFLR8(a). It remains that no further marketing assessment has been conducted. Consequently, since it is over 10 years old it does not adequately demonstrate that The Jolly Waggoners is no longer needed in its current form. Whilst the previous marketing assessment was accepted for the aforementioned planning applications in 2014 and 2019, it is likely that the context of the site and its relationship with Much Hadham has changed over the decade. Therefore, an up-to-date marketing assessment is required to ascertain whether the loss of The Jolly Waggoners as a community facility is acceptable.

28. The appellant considers that given Policy CFLR8(a) does not provide a time limit in relation to the required assessment the previous assessment should be sufficient. Moreover, that as the form of the site has not materially altered since the original assessment took place. The dilapidation of the former public house and the poor visual amenity of the site has been acknowledged in the various planning application reports and Building Survey Report from 2012.
29. I acknowledge that there is no specific time period stated within the reasoning text of the Policy nor within the local validation checklist. However, it is unreasonable to rely upon an assessment undertaken a decade previously. Furthermore, whilst the form of the site may not have changed the provision of community facilities in the surrounding area may have changed. The overall aim of Policy CFLR8 is to ensure adequate provision of community facilities in the locality. It is highlighted in the reasoning text of the Policy that public houses play an important role in rural communities...adding to the vitality of a village.
30. The appellant refers to the difficult economic conditions including the Covid-19 pandemic and changes in consumer habits as well as a perception of a tougher economic climate due to higher interest rates and corporation taxes when compared to 2014. Additionally, that the letter from an estate agent contained in appendix 1 of the viability report states that The Jolly Waggoners is currently unmarketable given the substantial financial burden of the required renovations and lack of demand. The appellant also highlights at the time of writing their statement there were three actively trading pubs available for purchase in Hertfordshire which would offer a more attractive return on investment compared to The Jolly Waggoners.
31. The Jolly Waggoners has not been used as a public house since approximately 2010 and the Council has accepted that some of the findings of the Viability Report dated July 2024 regarding a fundamental economic issue in relation to the restoration of the building to a trading public house. However, without the marketing evidence to demonstrate a lack of interest in the restoration, the appeal scheme still remains in conflict with CFLR8(a).
32. Given the above, the appellant has not adequately demonstrated that there is no longer a need for The Jolly Waggoners and consequently the appeal scheme would result in the loss of a community facility. It would therefore conflict with Policy CFLR8 of the EHDP which seeks, amongst other things, to prevent the loss of community facilities.

Other Matters

33. The Council has stated they are able to demonstrate a housing land supply of 3.4-3.7 years according to a revised calculation undertaken as a consequence of the revised Framework. This is below the housing land supply the Council is expected to deliver in line with the Framework. Whilst the proposal would deliver three units this would nonetheless be valuable in boosting housing stock in circumstances where there is a shortfall.
34. The demand or lack thereof for more than one public house in the surrounding area has been raised by an interested party as well as a perceived demand for housing due to the off-plan sale of three houses in the village. I have identified above the limited evidence before me regarding demand and consequently I am not satisfied that either of these matters would outweigh the harm I have already identified.
35. Interested parties have highlighted that the appeal scheme would improve the visual appearance of the appeal site. Additionally, the appellant considers that the appeal scheme is in a sustainable location. The Council have not stated either of these to be putative reasons for refusal. I find no reason to disagree.
36. Furthermore, an interested party has recommended the inclusion of heat pumps and solar panels as part of the scheme in the absence of detailed drawings. Given the application is for outline permission and appearance is a reserved matter, there is no requirement for detailed drawings. Consequently, this would not be matter within the scope of the appeal before me.
37. Additionally, in the Heritage Appeal Statement the case of *Tower Hamlets vs SSHCLG [2019] [EWHC 2219]* is cited in relation to the ability of the decision maker to consider the likelihood of future development even when no actual proposal existed. I have assessed the benefits of the appeal scheme including any relevant future development as necessary and within the scope of an outline application.

Planning Balance

38. As set out above, the appeal scheme would not be located in a suitable location and would result in the loss of a NDHA and community facility. Thus, there would be conflict with Development Plan policies. Given the Council's housing land supply position, paragraph 11(d) of the Framework is engaged. Nevertheless, given that the relevant policies accord with the Framework, this conflict attracts full weight in this case.
39. The appeal scheme would result in three residential dwellings in a District that is falling below the level of housing supply required by national policy. They would make a modest but important contribution indicated by paragraph 73 of the Framework.
40. It would also provide modest economic benefits including job creation in the construction industry, use of local suppliers and subcontractors, increase in the number of economically active residents which would help boost the local economy and consequently the use of local services. There would also be an increase in Council tax receipts and the possible benefit of the New Homes Bonus

for the Council. Furthermore, the location of the appeal site to nearby services and facilities could reduce dependence upon a motor vehicle by future occupants.

41. The appellant states that the opportunity for additional soft landscaping would improve the level of vegetation on site and that there would be an overall visual improvement as a consequence of the appeal scheme. However, given that appearance and landscaping are reserved matters I give these benefits limited weight.
42. Nevertheless, the adverse impacts I have identified as a consequence of the appeal scheme would significantly and demonstrably outweigh the benefits of the proposal when assessed against the Framework policies as a whole.
43. There are no material considerations of such weight of significance to justify a decision other than in accordance with the development plan.

Conclusion

44. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

B Astley-Serougi

INSPECTOR