

Appeal Decision

Site visit undertaken on 21 June 2025

by J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 14 July 2025

Appeal Ref: APP/M1005/W/25/3360435

Coach and Horses, Church Street Horsley Derbyshire DE21 5BQ

- 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 Paul Marshall against the decision of Amber Valley Borough Council.
 - The application Reference is AVA/2022/0400.
 - The development is described as the 'Proposed redevelopment of public house to provide extended dining and indoor seating area, new W.C provision, new outdoor seating area, relocation of the car park to be served by a new vehicular access, and erection of a single new dwellinghouse (This may affect the setting of a Conservation Area) at Coach And Horses Church Street Horsley.'
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Decision

1. The appeal is dismissed insofar as it relates to the erection of a single dwelling, relocation of the car park and new vehicular access.
2. The appeal is allowed insofar as it relates to the redevelopment of Public House to provide an extended dining and indoor seating area, W.C provision, new outdoor seating; and planning permission is granted for the redevelopment of Public House to provide extended dining and indoor seating area, W.C provision, new outdoor seating at Coach and Horses, Church Street Horsley Derbyshire DE21 5BQ in accordance with application Ref: AVA/2022/0400 and the conditions specified as an annexe to this letter.

Procedural Matters

3. As confirmed by the Appellant's Statement of Case (SoC), the description of the development has been altered from the application form originally submitted to reduce the number of proposed dwellings to one dwelling. For the avoidance of doubt, I shall make my decision on the same basis.
4. I note that the appeal documents reference the National Planning Policy Framework 2023 (the Framework). Since the submission of the appeal, the 2023 version of the Framework has been superseded by the 2024 version which was published on the 12 December 2024. The wording of the relevant paragraphs of the new Framework remain unchanged from the 2023 version (except for new paragraph numbers) and therefore did not require to be reassessed by either party in relation to this appeal. Additionally, this 2024 version of the Framework was amended on 7 February 2025 to correct cross references to paragraph 155 and for the avoidance of doubt is not intended to constitute a change of policy. As such I

have considered the appeal on this basis and refer only to the updated 2025 Framework within my decision.

Main issue

5. The main issue is the effect of the proposed development upon the character and appearance of the site (a non-designated heritage asset) and the locality, with special attention as to whether the proposal would preserve or enhance the character and appearance of the Horsley Conservation Area CA.

Reasons

6. Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a decision maker to give special attention to the desirability of preserving or enhancing the character or appearance of a conservation area in the determination of a planning application.
7. With regards to undertaking development, relevant policies of the Amber Valley Local Plan (LP) are saved Policy EN27 which relates to the historic environment specifically and seeks that development preserve and enhance the significance of the CA. LP Saved Policy LS3 is a design-led policy that seeks all new development to reflect the principles of good design by conserving or enhancing the quality and local distinctiveness of the natural and built environment, respecting the character of the locality in terms of scale and nature of the development, amongst others.
8. The CA is not supported by a Conservation Area appraisal, however based upon the descriptions in the documents as part of this appeal and from my own observations on site, the CA boundary follows the historic core of the village which is a linear development that is situated predominantly along the main roads of Church Street and Horsley Road. Along these roads within the CA there are a number of historic buildings that reflect a more agricultural and rural use. There is an emphasis on spaciousness, visual gaps and well vegetated spaces in and around dwellings, with glimpses between dwellings to vegetation and open countryside beyond which reinforces the relationship and identity of the settlement between the rural location and the countryside beyond. Dwellings within the CA tend to be two storeys tall, predominantly detached and tend to have a relationship to the agricultural and rural origins of the settlement.
9. Many of the dwellings have a functional design and appearance that reflects their agricultural origins. The dwellings contain larger setbacks to no setback from the road edge, front the street, and utilise traditional building materials of brick (some rendered/painted), stone with timber fenestration and brick/stone chimneys and clay tile roofs with stone boundary walls which reinforces their authenticity with construction techniques of the local area. As Church Street turns into Horsely Road there is a prominent vista of the St. Clements Church spire which is a landmark building for the locality. Large trees are present in front gardens with views to the tops of trees visible between gaps which together with the spacious qualities assists in reinforcing the green and leafy experience of the area. The setting of the CA which consists of rural agricultural fields, some of which are within the CA is also important to the significance of the CA and reinforces the relationship between the buildings, the rural location and agricultural uses. Traffic is generally low speed and infrequent giving a tranquil rural experience.

10. The appeal site displays a number of positive characteristics which contribute to the significance of the CA. Whilst the appeal site provides car parking on a tarmac surface to the side of the public house, the undeveloped and green nature of the site represents a positive visual break in the built form of the village, which makes a significant contribution to the settlement, and which reinforces the relationship between the rural village and the countryside beyond. The front boundary stone wall, hedging to the front and rear boundaries as well as trees within the garden area together with the pub building itself reflect the characteristics of the village and are positive contributions to the CA and the settlement. It is noted that the existing building is considered by the Council to be a Non-Designated Heritage Asset (NDHA). The building appears to date from the early to mid-nineteenth century, is three bays wide, two storeys with three dormer windows breaking through the eaves of the roof. The building is red brick with tiled roof with red brick chimneys which appear to have been rebuilt in engineering brick and takes the form of a dwelling that has been converted into a public house, as was the case during the early nineteenth century with changes to liquor laws. There have been extensions to the front, side and rear, however do appear to be in-keeping with the general design and authenticity of the building.
11. Whilst I have not seen an assessment as to why the building is considered to be a non-designated heritage asset, there is certainly local interest and heritage value in the building, having been a social meeting place for almost two centuries, the relationship to this particular settlement as one of the earlier buildings and is an example of local construction techniques and materials. The public house's grounds are also important to its setting where the undeveloped land is significant to its origins and relationship to the locality and the historic origins of the settlement. As such I agree that the building does have local interest and would satisfy guidance¹ as a NDHA. As such the building would also be subject to Paragraph 216 of the Framework that seeks a balanced judgement being required having regard to the scale of any harm or loss and the significance of the heritage asset.
12. Beginning with the proposed side extension to the public house, the purpose of this would be to provide improved seating and dining areas and ancillary facilities. The proposed two side extensions are relatively large, but proportionate to the dwelling, with pitched and gable roof forms, with a central flat roof. Some of the previous extensions would be removed in order to construct the larger extension. The drop in the apex of the roof allows the extension to be subservient to the main component of the building, with materials such as red brick and clay tiles being utilised. The elevation plans also state that existing windows are sought to be replaced in the main building, however there is no detail as to what this consists of, with importance around preserving significant materials which relate to the authenticity of the building and the construction methods such as timber windows, brick, metal guttering etc. The Council have expressed that they have no objections to the extensions to the existing building, and from what I saw on my site visit I have no reason to dispute the Council's opinion. As such the side extensions, subject to appropriate materials would cause neutral harm to the character and appearance of the existing building (a NDHA); the CA and the greater locality are generally acceptable and compliant with LP Saved Policies LS3 and ENV27.

¹ Historic England Advice Note 7: Local Heritage Listing Identifying and Conserving Local Heritage, January 2021

13. Turning to the proposed dwelling, this would be located to the end of the existing car park which would be turned into a driveway, whilst a new driveway and parking area would be formed to the other side of the public house, which would also necessitate a new opening to be made within the existing hedge to facilitate vehicular access. The appeal site would propose a two storey building that would face the rear garden of No 3 Church Street and would have a detached garage to the front of the property. There would be a 1.8m tall timber fence erected along each side of the drive to the edge of the public house. The dwelling would have a small front and rear garden space, compared with other detached dwellings within the area. Parking for the development and for the adjacent public house would be to the other side. Given the surrounding spaciousness of the dwellings in this particular location, the development would have a cramped appearance with minimal setback to the surrounding detached dwellings, which would not embrace the qualities of local distinctiveness in this particular area.
14. Given that the majority of dwellings within the locality address the street with appropriate boundary and front garden or relates well to the dwellings surrounding, the proposed dwelling is deficient in embracing the positive qualities of local distinctiveness and significance of the CA. The entrance would be via a long driveway enclosed by a timber boarded fence, with the dwelling hidden away from view which feels forced, rather than an organic infilling of the settlement. The garden is relatively small in terms of its relationship to a much larger dwelling, with the design of the dwelling itself being quite bulky with minimal articulation or treatment of the facades. The design in combination with the locational aspects and poor relationship with the street in combination with the additional elements as discussed contribute to an overall poor architectural response and relationship to the locality and site context.
15. Despite the issues with the overall design of the proposed scheme, there is a clear policy emphasis around preserving and enhancing the character and spaces that contribute to the character and appearance of the settlement which is a CA and a NDHA. As a result of the proposal there would be an increase in built form and a small gap to either side, the loss of the element of spaciousness and undeveloped natural form around the public house would erode a large part of the significance and sever the current relationship of open countryside entering the rural village and the reinforcement of views in, out and through the CA and the spacious qualities that are important to the setting of the existing NDHA. The additional vehicular access which would result from a new opening in the front boundary together with dropped kerb, and increased areas of tarmac would reduce the green spacious appearance and be detrimental to the green and leafy character of the CA and the significance of the NDHA from development within its setting.
16. I note discussion around the purpose of the dwelling which according to the Appellant's SoC is to fund the additional works needed to the building, which whilst not specifically referred to, appears to be a form of 'enabling development.' Enabling development is typically sought for nationally designated historic buildings, but involves a cost analysis of striking a balance between the minimum required to facilitate the improvement works to preserve the future of the building. There is normally a mechanism to facilitate this, and a full schedule of costings, option appraisals etc to add certainty that the funds will go to the historic building and that it is the minimum necessary to meet the gap in expenditure.

17. I note discussions around the costs involved with refurbishing the public house which are estimated as well as those involved with the dwelling. The report is not to a standard required if utilising enabling development according to the guidance² and is deficient in exploring options. Whilst the current owners have identified themselves as property developers not looking to run a pub, there is no evidence that other means have not been sought, such as for example selling to someone that is willing to invest and run the public house for the longer payback period as described, another brewery might seek to purchase the building particularly with the extension, or a community run pub may also be an option, amongst others. There has been no evidence of such an option appraisal being undertaken and therefore it is unclear whether the proposed dwelling is the only option.
18. Whilst I appreciate that the Appellant has undertaken a similar exercise previously with a village hall, I have no details to make a comparison with this site, such as its significance to the CA, whether this is a heritage asset etc and the type of information that was presented within the application to give assurances of the arrangements in funding the building.
19. I note that the Appellant's SoC refers to an appeal decision³ where a dwelling was approved within the grounds of a listed public house. I am unclear of the relevance of this appeal given that there is no mention in this appeal of the erection of the dwelling being for the purpose of facilitating investment in the public house. In this case it would also appear that there wasn't the large relationship of the grounds of the public house to the significance of the building from development within a listed building's setting. In the case of the current appeal we are looking at conservation area considerations that go to the edge of the CA as well as to its setting, as well as the NDHA which also has a setting, in which the appeal site contributes to this. Having read the appeal decision, it does not assist in demonstrating the appropriateness of the proposed development.
20. In conclusion of this matter it is clear to me that the proposal would unacceptably harm the character and appearance of the locality, and erode the developed and open green surrounds that make an important contribution to the significance of the CA thus failing to preserve the character and appearance of the wider CA and the duty under s72 of the PLBCA. The proposed scheme would therefore conflict with Paragraph 215 of the Framework, and LP Policies D3 and ENV27 as described previously.
21. Although serious, the harm to the heritage asset in this case would be 'less than substantial,' within the meaning of the term in paragraph 215 of the Framework. Paragraph 213 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset requires clear and convincing justification. Paragraph 215 of the Framework requires that, where a proposal would lead to less than substantial harm, the harm should be weighed against the public benefits of the proposal.
22. There are some public benefits, such as the development of a small sites for 1 dwelling; contributing to housing needs of the area and the government objectives of boosting the supply of new homes; socio-economic benefits from increased local expenditure as a result of new residents, and the economic benefits from short term

² Historic England: Good Practice Advice in Planning 4: Enabling Development and Heritage Assets

³ Appeal Decision Ref: APP/D3505/W/21/3277336, Dated 31 January 2022

employment opportunities from the construction of the proposed scheme which attracts low-medium weight. Whilst the appeal documents state that the money from the sale would go towards the public house refurbishment, there is no mechanism guarantee to facilitate this and as such it does not establish public benefit. However, these benefits are not sufficient to outweigh the harm caused to the CA, in which I attach great weight.

23. I therefore find that the public benefits arising from the proposed development would not outweigh the harm I have identified. The scheme therefore conflicts with the Framework, which directs, at paragraph 212, 'that great weight should be given to the asset's conservation ... irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to their significance.'
24. Additionally I have applied weight to the medium level of harm which would be caused to the significance of the NDHA from development within its setting. In accordance with Paragraph 216, this further exacerbates the inappropriateness of this element of the scheme.

Conclusion

25. For these reasons, and having considered all matters raised in evidence and from what I saw during my site visit, I conclude that the appeal should be allowed and planning permission granted insofar as it relates to the side extensions, subject to the conditions as detailed in this letter. As the extensions to the public house and the dwelling are both physically and functionally severable to the proposed dwelling, I consider a split decision would be a logical outcome.
26. I refer to the suggested conditions specified by the Council in their Statement of Case, if the appeal was to be allowed and have considered them in accordance with the Planning Practice Guidance (PPG). The first condition is a time limit condition, the second condition relates to the plans approved which are both necessary and in order to allow proper planning of the site. Condition 3 relates to the materials of the approved extension which is required to be in keeping with the existing building, a NDHA and to be in keeping with the character and appearance of the CA. It is therefore necessary to request samples of the materials to ensure the authenticity of the building and it's appearance is appropriate to the significance of the CA and NDHA. This condition is not pre-commencement which allows demolition of the existing extension and groundworks. All conditions have been amended to reflect the split decision. Conditions relating to the proposed dwelling have been excluded from this decision.

J Somers

INSPECTOR

ANNEXE: Conditions to be attached to the Decision Notice

- 1) The side extension/alterations to the public house hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The side extension/alterations to the public house hereby permitted shall be carried out only in accordance with the details and specifications shown on the amended drawings as follows:
 - Site plan - Drawing no 01-002 Rev 006, Dated 16/03/22
 - Proposed Floor plan (pub) -Drawing no 01-102 Rev 004, Dated 16/03/22
 - Proposed Roof plan (pub) Drawing no -01-103 Rev 003, Dated 20/02/22
 - Proposed Elevations (pub) -Drawing no 01-302 Rev 004, Dated 16/03/22
 - Site Section - Drawing no – 01-307 Rev 002, Dated 03/05/23
 - All received by the Local Planning Authority on 17th July 2024.
- 3) No above ground development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details and/or samples of the materials and finishes to be used for the external elevations and roof of the proposed extension/ alterations of the Public House, and the development shall be carried out with those materials.