



Appeal Decision

Site visit made on 27 February 2024

by R Morgan BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th April 2024

Appeal Ref: APP/A1015/W/23/3321196

The Elm Tree Inn, 25 High Street, Staveley, Chesterfield, S43 3UU

- 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 Mrs V Zheng against the decision of Chesterfield Borough Council.
 - The application Ref is CHE/21/00778/FUL.
 - The development proposed is change of use of existing drinking establishment to residential with two storey extension (Block A) and phased construction of two new build units (Block B and Block C) forming 20 self-contained apartments with associated landscaping, bin store and cycle stands and partial demolition of low brick wall with picket fencing on east boundary of site to facilitate new access to site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A similar scheme on the appeal site was granted planning permission in 2017 (ref CHE/16/00835/FUL). I appreciate that a considerable amount of work and costs went into preparing that application, and the subsequent discharge of conditions. However, the Council has advised that the 2017 permission has now lapsed. Whilst the previous grant of planning permission is a material consideration, I am not bound by past decisions of the Council and have assessed the appeal scheme on its own merits, and in accordance with current local and national planning policy.
3. Since the Council issued its decision in November 2022, a revised version of the National Planning Policy Framework (the Framework) has been published. As it applies from the date of publication, I have assessed the appeal proposal in light of the updated national guidance.
4. The appeal site is within the Staveley Conservation Area (SCA). Although not a reason for refusal, I am required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to give special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
5. At my request, the Council provided a copy of the Staveley Conservation Area Appraisal 2010. This identifies a number of 'Buildings of Townscape Merit', including 23 High Street (No. 23), immediately adjacent to the appeal site. I agree that the style, detailing and building materials of No. 23 provide interest and variety to the street, and that it makes a positive contribution to the

townscape and special interest of the SCA. I have therefore treated No. 23 as a non-designated heritage asset (NDHA) within this appeal.

6. Having reviewed the evidence, I have concluded that the effect of the development on the character and appearance of the SCA, and on No. 23 as an NDHA, should be included as a main issue. During the appeal, I invited the parties to submit further comments in this regard, and have taken those into account.

Main Issues

7. The main issues are:

- The effect of the proposed car free housing on highway safety, taking into account the particular circumstances of the scheme and the surrounding area,
- Whether the proposal would preserve or enhance the character or appearance of the Staveley Conservation Area (SCA), including the effect on 23 High Street as a non-designated heritage asset, and
- Whether the proposal complies with policy requirements for affordable housing.

Reasons

Access and parking

8. Policy CLP22 of the Chesterfield Borough Local Plan 2020 is concerned with influencing the demand for travel. To reduce congestion, improve environmental quality and encourage healthy lifestyles, the policy seeks to maximise walking cycling and the use of public transport though the location and design of development and parking provision.
9. In this case, the appeal site is located within the town centre, so future residents of the proposed apartments would have easy access to a range of local shops and services within Staveley. Bus services to destinations further away, including Chesterfield and other surrounding settlements, can be accessed from the interchange, which is within easy walking distance of the site.
10. In relation to parking, Policy CLP22 advises that the level of vehicle and cycle parking appropriate to any individual proposal will take into account the circumstances of the particular scheme, including the size and type of dwellings, the proximity of local facilities and availability of public transport, as well as the availability and capacity for safe on-street and public parking in the area.
11. The proposed development would provide 20 flats, comprising one, two and three bed units. On-site provision would be made for bicycle parking at an appropriate level for the scale of development proposed, but no car parking spaces would be provided.
12. In an accessible, town centre location such as this, car ownership would not be essential for future residents of the proposed dwellings to meet their day-to-day needs. Even so, in a development of this scale and nature, which could

- accommodate couples and families, it is very likely that a proportion of future occupiers would choose to have a car.
13. As well as any parking by residents of the scheme, the development would also generate additional demand for temporary parking, associated with visitors and deliveries. As there would be no vehicular access into the site, any parking would need to be accommodated within the surrounding area.
 14. At time of my visit, spaces were available in the car park at Porter Street, which is free to use and close to the appeal site. Future residents of the proposed accommodation could park there, although for security reasons may prefer to park on street, close to their home and in a visible location, rather than leaving the car in a car park. Delivery drivers may also be disinclined to use the nearby car parks, preferring to park as close as possible on street.
 15. Parking spaces within the pedestrian zone, which starts immediately outside the site, are restricted between 10.00 and 16.00 hours on Monday-Saturday. There are several parking spaces immediately outside the former Elm Tree Inn which are unrestricted, and a limited number of spaces further along High Street. However, the majority of these spaces were occupied when I visited the area. From my observations and the comments of interested parties, it is evident that there is existing demand for on-street parking in the vicinity from local businesses and residents.
 16. The Council has not provided any evidence of problems associated with parking pressure in the area. However, I see no reason to disagree with the comments of local residents concerning existing parking and access problems in the area, which have reportedly become more pronounced since the closure of the pub car park, and would likely be exacerbated by the proposed development.
 17. The proximity of the site to a junction, and the narrow width of the surrounding roads, means that additional demand for on-street parking close to the site could result in vehicles being parked in an inconsiderate manner. Given its proximity to Porter Street, additional on-street parking here could well cause difficulties in entering or exiting the junction. This in turn could present safety risks for vehicles, pedestrians and other road users.
 18. In order to address potential issues arising from a new car free development here, the 2017 permission for 24 dwellings on the site was subject to a section 106 agreement. This made provision for a sum of £4,000 towards post development monitoring, and, if found to be necessary, the introduction of parking restrictions in the area through a Traffic Regulation Order (TRO).
 19. Similar mitigation is now proposed, and I note the appellant's agreement to such a solution. However, I have been provided with no signed legal agreement which would link the £4,000 monitoring sum, which I understand has already been paid, to the appeal proposal. In the absence of such an agreement, I am unable to give weight to the suggested mitigation.
 20. In any case, even if a signed legal agreement had been provided, I have concerns about the proposed approach of addressing any parking problems in future, rather than addressing the likely demand for parking upfront, through the appeal proposal. The imposition of new parking restrictions in future through a TRO, in response to any parking problems which might arise from

the appeal scheme, could have a detrimental impact on local businesses and existing residents.

21. Taking account of the particular circumstances of the scheme, including the factors listed in parts i-v) of Local Plan Policy CLP22, I conclude that the proposed lack of any car parking could cause harm to the safety of road users in the vicinity of the appeal site. In the absence of any effective mitigation measures to address this, the proposal fails to comply with the policy.
22. The lack of vehicle parking would compromise the ability of the scheme to provide a safe environment for pedestrians and cyclists. As such, the proposal would be inconsistent with the design requirements set out in Local Plan Policy CLP20.

Character and appearance

Staveley Conservation Area, including 23 High Street

23. The SCA covers a large part of the historic core of the town. Focal buildings, including the thirteenth century Church of St John the Baptist, along with areas of open space and mature planting, provide an attractive character to the SCA. Buildings in the SCA reflect periods of the town's growth and development, with many dating to the late nineteenth and early twentieth centuries when the town was a centre for coal and iron mining.
24. The section of High Street between the appeal site and the Church contains a number of historic buildings, some of which are listed. Buildings in this part of the SCA vary in age, style and design, but the common use of local materials, together with the generally attractive appearance of the buildings, means that the overall effect is one of harmony. The narrow and tree-lined High Street and Church Street curve gently as they rise towards the Church, providing a sense of enclosure which contributes positively to the character and appearance of the SCA.
25. The significance of this part of the SCA derives from its historic street pattern and attractive buildings, which provide historic, aesthetic and architectural value.
26. The Character Appraisal identifies a number of buildings which make a positive contribution to the SCA. These include the attractive Grade II Listed terrace of workers cottages, known as Ebenezer Row, close to the appeal site on Porter Street. Adjacent to the appeal site is No. 23, which appears to date from the first half of the twentieth century. This double fronted brick and slate building, with timber-panelled twin gables and bays on the front elevation and a tall chimney, is an attractive and distinctive building. The style and appearance of No. 23 is quite different from other buildings in this part of the SCA, and adds interest and variety to the street. As such, No. 23 makes a positive contribution to the character and significance of this part of the SCA.

The appeal site

27. The appeal site occupies a prominent position on High Street, opposite the junction with Porter Street. It is located close to the southern boundary of the SCA, close to the modern development of the pedestrianised shopping street, but is also viewed in the context of the historic buildings nearby on Porter Street, and those along High Street to the north.

28. The former Elm Tree Inn is a two storey painted brick building with slate roof. The building, which likely dates to the late nineteenth century, has the appearance of a traditional pub, with various extensions and outbuildings to the rear. Attached to the northern side of the pub, but not included within the development site, is a group of earlier stone buildings which include 27 High Street.
29. The pub closed several years ago, and the windows are now boarded up and the site fenced off. In its current condition, the appeal site has an unattractive and unkempt appearance, which detracts from the SCA and the character and appearance of the surrounding area. Having said that, the former pub is an important building in this part of the SCA. The form, scale and prominent position of the pub, together with its role in the social history of Staveley, mean that the building makes a positive contribution to the features that underpin the significance of the CA.

The effect of the proposals on heritage assets

30. The proposal would bring the vacant pub building back into active use through its conversion to residential use (Block A). The proposed additional opening on the front elevation would detract somewhat from the existing symmetry of the pub's façade, but aside from that, the appearance of the front elevation would be largely unaltered, with additional minor alterations at the side of the building. Proposed rear extensions would be subservient to the original building, and would reflect its character.
31. Demolition of a rear outbuilding may result in the loss of part of an earlier stone boundary wall, but little information about this has been provided. As such, I am unable to conclude that there would be no harm resulting from any loss of historic fabric at the rear of the building.
32. Block B has been designed to reflect the appearance and general form of No. 23, with twin front gables and timber panelling between the bay windows and gables. However, there would be distinct differences in the form and proportions of the buildings, which would undermine the success of this proposed addition to the streetscape.
33. The appellant's Design and Access Statement includes an illustration of the three proposed buildings and shows an outline of No. 23, but that is diagrammatic only and the roof of No. 23 is shown incorrectly. From the elevational drawings provided, it appears that Block B would have a larger roof than No. 23, enabling living space to be incorporated at second floor level. This, combined with the wider bays, would give the impression of a building which was bulkier than its immediate neighbour, which has a light and elegant appearance.
34. Rather than providing a 'harmonious bridge' between No. 23 and the pub, as suggested by the appellant, Block B would compete with No. 23, and would fail to complement the simplicity of the former pub. Block B would detract from the character of No. 23 as an NDHA and, given No. 23's positive contribution to the SCA, would also cause harm to the character and appearance of the designated heritage asset.
35. Proposed Block C would be sited at the rear of the site, and like Block B, would be a three-storey building, with accommodation in the roof space. The design

of Block C would combine the gabled form of Block B with a contemporary appearance, with central flat roofed stairwells, balconies and large amounts of glazing.

36. I note the planning officer's comment that Block C warrants a simple design, with the appearance of an old workshop/outbuilding that may have typically been found at the back of a pub. However, an outbuilding would generally be clearly subservient, whereas Block C would be a large building in relation to both the pub and the site as a whole. No clear drawings showing the relative heights of the buildings have been provided, but it seems likely that the three-storey form of Block C would exceed the height of the pub, particularly since there is a slight rise in levels towards the rear of the site.
37. Block C would be visible from the street through the gap between Block B and the pub. Although it would screen the large, blank supermarket wall to the rear, the scale and mass of the building across the whole of the rear of the site would appear disproportionately large, and I am not persuaded that Block C would read as an ancillary building to the pub.
38. The SCA is characterised by buildings which differ in appearance and style. Even so, the proposed design of Blocks B and C, in such close proximity both to each other and the pub building, would present an incoherent and inharmonious appearance to the site, which would fail to respect either the typology/appearance of the former pub, or the NDHA at No. 23.
39. I note the Council's comments that the design success would depend to a large part on the details such as the sensitive use of materials and appropriate boundary treatments. However, I have found that the overall scale, appearance and form of the proposed buildings would cause harm to the SCA and diminish its significance. The details mentioned would not be sufficient to overcome this harm.
40. In relation to Paragraph 205 of the Framework, the proposal would result in less than substantial harm to the significance of the SCA. There would also be harm to character and appearance of No. 23, as an NDHA.
41. Taking into account all the above factors, I conclude that the proposed development would fail to preserve or enhance the character or appearance of the SCA. This is contrary to the requirements of sections 72(1) of the Act.

Affordable housing

42. For a development of this scale, one unit of affordable housing would be required by Local Plan Policy CLP4. The Council has advised that this requirement could be most appropriately met through a financial contribution towards off-site provision. However, no signed legal agreement securing the necessary contribution of £65,191 has been provided. Without any viability evidence to explain why the contribution should not be made in relation to the appeal proposal, I am unable to conclude that it complies with the affordable housing requirements contained in Policy CLP4.

Other Matters

43. I acknowledge that planning permission has previously been granted for a similar development, but the scale of Block C, and its proximity to the adjacent

built form, both existing and proposed, raises a number of concerns about the quality of the residential accommodation which would be provided.

44. Habitable rooms at the front of Block C would receive a good amount of natural light, and would have a reasonable outlook. However, the rear bedroom windows of that building would look out towards the high wall of Morrisons supermarket, just 4.5m away. As a result, the outlook from these windows would be poor, and the lack of direct natural light would mean the rooms would be gloomy.
45. Outdoor amenity space would be provided on site through a central communal area, with balconies for the upper floor flats of Block C. The ground floor flats within Blocks B and C would have private rear gardens. I note the comments in the committee report that the provision of outdoor amenity space would be a reasonable compromise in this case, but the rear amenity spaces for Block C would be enclosed by very high walls on two sides. Owing to their limited depth, these spaces have little direct sunlight and would not provide attractive or particularly useable areas of open space for future residents. Furthermore, in the absence of a signed legal agreement, the appeal scheme fails to provide for the management and maintenance of the communal amenity areas.
46. These matters add to my overall concerns about the scale and form of the proposed development and resultant living conditions, particularly for Block C. However, as I have found harm in relation to the main issues and have dismissed the appeal anyway, I have not factored these concerns into the final planning balance.

Planning and Heritage Balance

47. Framework paragraph 208 requires that the harm to the significance of the designated heritage assets must be weighed against the public benefits of the proposal, including, where appropriate, securing its optimal use.
48. The appeal scheme would bring a prominent town centre site back into active use. The site has been vacant for several years, and I note the appellant's comments that the site has attracted vandalism and antisocial behaviour. Its redevelopment would benefit the immediate site and the surrounding area, with benefits to the local economy through construction work. Future occupiers of the houses would support the vitality of the town centre through their use of local services and facilities.
49. The provision of twenty additional dwellings on the site would represent efficient use of land, and would contribute towards meeting housing need in a sustainable and accessible location. The flats would be of a range of sizes to meet different needs, and would meet the Nationally Described Space Standards.
50. I give significant weight to these benefits of the scheme. However, Framework paragraph 205 requires that great weight should be given to the conservation of a designated heritage asset, irrespective of the level of harm. In this case, I have found that the scale and appearance of Blocks B and C would be unsympathetic additions which would fail to respect the character and appearance of the adjacent buildings, including the NDHA at No. 23. In addition, the incorporation of an additional window in the front elevation would

result in minor harm to the appearance of the pub, and there are uncertainties about the loss of historic fabric to the rear.

51. I acknowledge the efforts by both parties to come to a satisfactory scheme which would enable this important town centre site to be brought back into active use, and the costs already incurred by the appellant. However, I find that the harm to the SCA and its significance would not be outweighed by the public benefits. As a result, the scheme would fail to comply with the Act. There would be also be conflict with Local Plan Policy CLP 21, which is concerned with protection of the historic environment, and with the provisions within section 16 of the Framework.
52. In addition, there would also be harm to highway safety resulting from the lack of on-site car parking. Furthermore, in the absence of any viability evidence to explain the lack of a financial contribution, the scheme would fail to meet policy requirements for affordable housing.

Conclusion

53. For the reasons set out above, the scheme would fail to comply with the Act, the Framework and the development plan. Other material considerations do not outweigh these harms, so the appeal is dismissed.

R Morgan

INSPECTOR