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# Appeal Decision

Site visit made on 11 May 2015

**by I Radcliffe BSc(Hons) MCIEH DMS**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 28 May 2015**

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**Appeal Ref: APP/L3245/W/14/3001275**

**Cross Keys Inn, Kinnerley, Oswestry SY10 8DB**

- 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 Malcolm Guest against the decision of Shropshire Council.
  - The application Ref 14/02864/FUL, dated 25 June 2014, was refused by notice dated 30 September 2014.
  - The development proposed is a 4 bedroom detached dwelling with detached garage.
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## Decision

1. The appeal is dismissed.

## Application for costs

2. An application for costs was made by Mr Malcolm Guest against Shropshire Council. This application will be the subject of a separate Decision.

## Main Issues

3. The main issue in this appeal is the effect of the proposed development on the setting of Cross Keys Inn, a Grade II listed building and St Mary's Church, a Grade II\* listed building.

## Reasons

4. In the exercise of planning functions, the statutory test in relation to a listed building is that special regard shall be had to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses. Policy CS6 of the Shropshire Core Strategy is consistent with this test.
5. Paragraph 126 of the National Planning Policy Framework advises, amongst other matters, that the conservation of the historic environment can bring wide social, cultural, economic and environmental benefits. It also identifies that heritage assets are irreplaceable resources. Paragraph 132 advises that when considering the impact of a proposed development on the significance of a designated heritage asset, such as a listed building, great weight should be given to conservation of the asset.
6. Cross Keys Inn is a Grade II listed building. It is located on the corner of School Road and Vicarage Lane in a prominent position in the centre of the village. It is a timber cruck framed building dating from the fourteenth century, with additional alterations from the eighteenth, nineteenth and twentieth centuries. The eastern side of the building has a gabled end and white washed walls. The nineteenth century western end has red brick walls

laid in English garden wall bond with painted stone dressings and a hipped slated roof. Its significance therefore derives from its architectural and historic interest. The spacious open setting of the public house within its grounds contributes visually to its significance.

7. The appeal site occupies the open land that formed the side garden of the public house between its western side elevation and the first house on Vicarage Lane. Development along the Lane is characterised by a mixture of mature residential dwellings and late twentieth century infill housing. However, an important feature, characteristic of development generally in the vicinity of the public house, is that houses are well spaced with gaps typically of several metres between buildings. The proposed development would occupy the vast majority of the open land to the western side of the public house. The urbanisation of this land would have a significant adverse effect on the public house's spacious open setting and distract from its appreciation. It would also be out of keeping with the pattern of development in the area.
8. The harmful effect of the proposed development that I have described would be apparent in views from School Road, which is the main route through the village, and from Vicarage Lane. It would also be apparent in views from the ground floor windows within the western elevation of the public house. Rather than facing onto the open side garden these windows would face the blank side wall of the garage that would serve the proposed house. In views from St Mary's Church the articulation of the proposed dwelling would provide more visual interest than the existing plain side elevation of No 1. However, this consideration, along with the design of the dwelling which would be sympathetic to the form and architectural style of the public house and the neighbouring dwelling, would be insufficient to overcome the demonstrable harm that I have described.
9. St Mary's Church dates from 1600 and has later additions. It is constructed from red sandstone blocks, with a slated and tiled roof, and has many details. Its significance is therefore architectural. The Church separated from the appeal site by School Road and the public house would be sufficiently distant for its setting not to be adversely affected by the proposal. Notwithstanding my favourable findings in relation to the effect of the proposed development on the setting of the Church, this does not overcome the harm that the proposed development would cause to the setting of Cross Keys Public House.
10. The harm that would be caused to the listed building's setting and the significance of the building would be less than substantial. In such circumstances paragraph 134 of the Framework advises that the harm that would be caused should be weighed against the public benefits of the proposal, including securing its optimum viable use. In accordance with the statutory duty described I attach considerable importance and weight to the harm that would be caused to the setting of Cross Keys Public House, a Grade II listed building.
11. On the other side of the balance, the proposed development could help finance improvements to the public house and enable it to reopen. However, I am not persuaded on the basis of the submitted evidence that the proposed development is the only realistic method by which the public house could be brought back into use. Furthermore, even if I was there is no legal agreement in place to ensure that the proceeds of the development would be used for this purpose. I therefore attach minimal weight to this consideration in favour of

the appeal. The proposal would provide an additional house that would help meet housing need in a sustainable location. Its construction and fitting out would result in employment and generate economic activity. These considerations are of some weight in favour of the development.

12. Taking all these matters into account, my overall conclusion is that the public benefits of the proposal do not outweigh the harm that would be caused to the setting of the listed building. The proposed development would therefore be contrary to the Framework as well as failing the statutory test. It would also be contrary to the objectives of policy CS6 of the Core Strategy. This policy is consistent with the Framework and requires the protection of the character and appearance of a locality, including the historic environment, through high quality design that respects local design features.
13. The Council seeks a contribution towards affordable housing. In November 2014, the Government announced changes to its Planning Practice Guidance. Further updates on 27 February 2015 make clear that the changes to the planning guidance were changes to national policy. Among other things, those changes advise that contributions towards affordable housing should not be sought from small-scale developments of ten units or less. The tests in paragraph 204 of the Framework and regulation 122 of the Community Infrastructure Levy Regulations 2010 apply to planning obligations. However, in this case as the appeal is to be dismissed on its substantive merits it is not necessary to assess what is sought against these requirements.
14. For the reasons given above, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

*Ian Radcliffe*

Inspector