
Appeal Decision

Site visit made on 17 June 2019

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2019

Appeal Ref: APP/R0335/W/18/3217673

The Rose And Crown, 108 High Street, Sandhurst GU47 8HA

- 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 Punch Partnerships (PML) Ltd against the decision of Bracknell Forest Borough Council.
 - The application Ref 18/00382/FUL, dated 6 April 2018, was refused by notice dated 9 November 2018.
 - The development proposed is retention of public house (Use Class A4) and erection of 2no. 3-bed dwellings (Use Class C3) together with associated access, parking, landscaping and bin/cycle storage.
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Decision

1. The appeal is allowed and planning permission is granted for retention of public house (Use Class A4) and erection of 2no. 3-bed dwellings (Use Class C3) together with associated access, parking, landscaping and bin/cycle storage at The Rose And Crown, 108 High Street, Sandhurst GU47 8HA, in accordance with the terms of the application, Ref: 18/00382/FUL, dated 6 April 2018, subject to the conditions set out at the end of this decision.

Application for costs

2. An application for costs was made by Punch Partnerships (PML) Ltd against Bracknell Forest Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - The effect on pedestrian safety; and
 - The effect on the integrity of the Thames Basin Heaths Special Protection Area.

Reasons

Pedestrian safety

4. The appeal site contains a public house and its associated external areas, which include a car parking area set out to its side (the car park) that is accessed from High Street. There is also a garden area accessible to patrons of the public house located to the rear. The proposal, which involves the construction of two dwellings upon land that currently forms part of the garden area, would

- introduce associated vehicular and pedestrian movements through the car park.
5. The car park consists of a hard-surfaced area that is roughly rectangular in shape and marked out to define car parking spaces to both of its sides. It is relatively tightly laid out such that the remaining central area provides a somewhat limited extent of space for manoeuvring and reversing in and out of spaces. The car park's size limitations are most pertinent where the car park tapers in (in width) slightly towards its rear end.
 6. During my inspection, which was carried out at around midday, I noted only a couple of cars to be parked in the car park and witnessed no vehicular movements in or out. My inspection however, which was not carried out at a time that would represent peak trading hours for the public house, cannot be relied upon to give an accurate account of how the car park is used on a day-to-day basis. Indeed, I note reference in the evidence before me to the car park being well used at certain times, particularly at weekends.
 7. I accept that multiple manoeuvres may be required to be undertaken by drivers when exiting and entering spaces due to the space constraints explained above. This is an existing situation, which is only likely to become apparent during periods where the car park is parked at (or close to) full capacity. It is also reasonable to assume that any such manoeuvres would proceed with caution. Indeed, the car park's tight dimensions and modest size in overall terms does not lend itself to vehicles travelling at speed.
 8. The parking of vehicles in the car park already necessitates pedestrian movements by patrons of the public house itself and I am unaware of any associated reported incidents of pedestrian safety being compromised. Whilst the Council's concerns appear to be focussed in a location set slightly away from the local highway network, I also note that the Highway Authority has raised no objections to the proposal.
 9. Whilst I accept that vehicles could be manoeuvring or reversing within the car park when pedestrian movements generated by the proposal occur, I do not consider that unsafe pedestrian access arrangements would be provided as a result. In any event, the number of vehicular and pedestrian movements that could realistically be expected to be generated through the car park by two dwellings would be limited and would not, I consider, result in a radical difference in the way the car park is already used. This is even when noting that each of the dwellings would contain three bedrooms and may suit family occupation.
 10. Whilst the appellant has referred to planning permissions granted for residential development elsewhere where access arrangements are shared with existing public houses, the specific site circumstances and site layouts differ when compared to the appeal proposal before me. I have considered the proposal upon its own individual merits. The planning permissions referenced by the appellant are of limited relevance to my considerations therefore.
 11. As raised by the Council, the length of the existing marked-out spaces in the car park appear, in some instances at least, to be shorter than the 4.8m standard set out in the Parking Standards Supplementary Planning Document (March 2016). I have taken this in to account when assessing the suitability of the proposal before me. The Council has also referred to a separate planning

application¹ submitted by the appellant which, they state, includes plans for a dedicated footpath being created along the eastern boundary of the site. Such an approach is not before me here and I must consider the appeal based on the plans and evidence before me.

12. For the reasons set out above, the proposal would have an acceptable effect upon pedestrian safety and would not conflict with saved Policies M4 and M6 of the Bracknell Forest Borough Local Plan (2002) (the Local Plan) and Policy CS23 of the Core Strategy Development Plan Document (February 2008) (the Core Strategy) in so far as these policies promote the provision of appropriate pedestrian, cycling and public transport routes and facilities and promote planning powers being used to increase the safety of travel.

Special Protection Area

13. The site lies in the proximity of the Thames Basin Heaths Special Protection Area (the SPA) and therefore I must consider the appeal against The Conservation of Habitats and Species Regulations 2017. These regulations require that, where the project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the implications of the project in view of the relevant site's conservation objectives.
14. I note from the evidence before me that the Council, in the process of determining the planning application that is now the subject of this appeal, undertook its own appropriate assessment. This ultimately identified a total SPA-related financial contribution for the proposal of £13,646, which Natural England has raised no objection to. A completed legal agreement dated 13 June 2019, which has been signed by various parties, including the appellant and the Council, is before me which secures the relevant financial contributions set out in the Council's evidence. This has allowed the Council to formally withdraw its second reason for refusing to grant planning permission.
15. However, for the purposes of this appeal, I am the competent authority and must undertake my own appropriate assessment prior to considering the issue of mitigation. It is apparent from the evidence before me that the SPA is comprised of a network of heathland sites which are designated for their ability to provide a habitat for the internationally important bird species of woodlark, nightjar and Dartford warbler. The SPA was designated in 2005 due to Natural England research at the time indicating that recreational pressure was having a detrimental impact upon these bird species, which are ground-nesting.
16. As set out in Policy CS14 of the Core Strategy, any net increase in residential development between a 400m and 5km straight-line distance from the SPA is likely to have a significant effect. In this instance the Council has stated that the site is located approximately 1.15km from the boundary of the SPA and I have no reason to doubt the accuracy of this measurement. Based on the site's evident proximity to the SPA, the impact of the proposed development would lead to a likely significant adverse effect on the SPA through the increased local population and associated recreational activity.
17. The Thames Basin Heaths Special Protection Area Supplementary Planning Document (April 2018) (the TBHSPASPD) sets out a two-pronged approach to

¹ 18/01230/FUL

avoiding likely significant effect on the SPA, which consists of the provision of Suitable Alternative Natural Greenspace (SANG), to attract people away from the SPA, and Strategic Access Management and Monitoring (SAMM) measures to reduce the effect of people who visit the SPA. The legal agreement that is before me secures contributions that are in line with the expectations that are set out in the TBHSPASPD and payment of these contributions to the Council within a timeframe of 14 days, should planning permission be granted.

18. It is also apparent that the legal agreement places a covenant upon the Council to carry out SANG enhancement works within a specified 3-month time period and in full accordance with criteria set out in the TBHSPASPD. A further covenant requires the Council to pay the SAMM contribution to the County Council for it to be applied in accordance with a SAMM agreement that is in place (dated 14 July 2011) between the various Councils in the County and Natural England. This agreement, I understand, relates to the delivery of a programme of strategic access management and monitoring. I am content that adequate assurances are in place to ensure that the intended mitigation and avoidance measures would be implemented expediently should planning permission be granted.
19. For the above reasons, the proposal would mitigate its impact upon the SPA and I am thus satisfied that the development would not adversely affect the integrity of the SPA. The proposal accords with retained Policy NRM6 of the South East Plan, Policy EN3 of the Local Plan and Policy CS14 of the Core Strategy in so far as these policies require that new residential development which is likely to have a significant effect on the ecological integrity of the SPA will be required to demonstrate that adequate measures are put in place to avoid or mitigate any potential adverse effects.

Other Matters

20. Third parties to this appeal have raised concerns that vehicular access to the proposed dwellings could be compromised by blockages in the car park due to the parking of large vehicles. I am however content from the evidence before me and my own inspection of the site that the risk of such occurrences would be relatively limited. Whilst I accept there could be instances of large vehicles being stationed at certain periods, to service the public house for example, such instances would not be envisaged to be regular in frequency. Indeed, I understand from the evidence before me that deliveries normally take place outside of the normal trading hours of the public house. I am also content that the site offers acceptable arrangements for construction traffic, and that the existing car park would be retained in full during construction activities and post the first occupation of the scheme.
21. I am content that the development would be designed to be appropriately accessible to all, including wheelchair users. Indeed, I have found that the car park, which is wide enough to incorporate parked vehicles to both of its sides whilst maintaining a central channel for movements to and from the development, would provide suitable pedestrian access arrangements such that safety would not be compromised. In addition, the shared driveway area to be created would be sizeable to allow a generous extent of space to help facilitate manoeuvring and ease of access.
22. It is my understanding that the proposal would involve development upon land outside of any settlement boundary and therefore designated as countryside in

local planning policy terms. I am aware that the development plan contains policies (Policy CS9 of the Core Strategy and saved Policies EN8 and H5 of the Local Plan) that restrict housing in the countryside. However, the National Planning Policy Framework (February 2019) (the Framework) does not imply that development be given to the open countryside in its totality, rather that recognition be given to the intrinsic character and beauty of the countryside. The rear garden area in question already contains several ancillary structures and does not constitute open, undeveloped land that contributes significantly to the rural character of the countryside. I do not consider that the proposal would cause harm in a character and appearance context and note that neither has the Council raised concerns in this respect.

23. The proposal would result in the loss of a notable proportion of the public house's current garden area. It is however also evident that a garden area of meaningful size would continue to exist to the rear of the property, which I am satisfied would be capable of accommodating a not insignificant number of patrons at any one time. The proposal would thus not be expected to lead to a significant intensification in the way the external seating area located to the front of the site is used. I am content that the proposal would not lead to any undue increase in noise to the front of the site and note that neither has the Council raised concerns in this respect.
24. Concerns have been raised by third parties that the loss of the garden area would result in loss of custom for the public house. The proposal before me is however based around the retention of the public house facility and I must consider it on these terms. A rear garden area is to be retained, albeit without offering the same extent of space or views to the rear. I also note that correspondence from the tenants of the public house indicates that, from their perspective, the proposal would not be expected to have a material impact on the business.
25. Any concern that the proposal would increase risks of flooding at the site have not been substantiated and I note that the Council has confirmed that the site is in Flood Zone 1, the lowest risk zone.
26. The Council has confirmed that it is currently able to demonstrate a 5-year supply of housing sites. This is not however a maximum threshold and the Framework reaffirms the Government's objective of significantly boosting the supply of homes. The proposal accords with the development plan when read as a whole and material considerations do not lead me to a decision otherwise.

Conditions

27. The Council has suggested several conditions and the appellant has had the opportunity to comment upon these. I have considered the suggested conditions against advice in the Framework and Planning Practice Guidance. As a result, I have made amendments to some of the Council's suggested conditions for consistency and clarity purposes. Pre-commencement conditions have only been applied where agreed to by the appellant in writing and where necessary to guide initial works on site.
28. In the interests of certainty, a condition specifying the approved plans is required. In the interests of protecting the character and appearance of the area, conditions are required to secure full details of the external facing materials, compliance with the intended finished floor levels and a scheme of

hard and soft landscaping. For the same reason, a planning condition requiring boundary treatments to be installed in accordance with the approved site layout is also required. This condition would also be in the interests of safeguarding the living conditions of future occupiers of the development with particular regard to noise, as it requires the erection of an acoustic fence to the boundary of the public house's remaining beer garden.

29. In the further interests of visual amenity and to protect existing trees during the course of construction, conditions are reasonable and necessary to secure the erection of protective fencing and that no activities occur within protected areas. Furthermore, and for the same reasons, a condition to ensure the installation of cellular confinement systems where parking/turning areas are proposed within the root protection areas of trees is also necessary. The full details of which are contained within an arboricultural report submitted in support of the scheme, which is to be referenced in the condition.
30. To ensure that surface water is appropriately dealt with on-site, a condition is required to ensure that drainage mechanisms are associated with the newly proposed parking/turning areas. In the interests of highway safety and to prevent the likelihood of on-street parking, it is necessary for a condition to be imposed to ensure that these areas are retained for parking and turning purposes only. Indeed, the number of parking spaces proposed, which includes areas for visitors to park, appears commensurate to the scale of development proposed and has drawn no objections from the Highway Authority. Also, in the interests of highway safety, a condition is required to ensure that the approved vehicular access arrangements are in place prior to the first occupation of the site.
31. Details of how the site is to be managed during the course of construction are required via condition in the interests of highway safety and safeguarding the living conditions of neighbouring occupiers. The implementation of covered parking for bicycles, as depicted on the approved site layout, is required in the interests of promoting sustainable forms of transportation. In the interests of nature conservation, a condition securing a scheme to minimise impact on nesting birds should any site clearance or demolition (I note that ancillary structures are currently in place at the site) be carried out during the bird nesting season. For the same reason, a condition securing the submission and implementation of a scheme of biodiversity enhancements is reasonable and necessary.
32. In the interests of energy efficiency, it is reasonable and necessary for conditions to be imposed securing the submission of a Sustainability Statement covering water efficiency and of an Energy Demand Assessment demonstrating the provision of on-site renewable energy production (at a proportion of 10% of total energy production). These conditions shall also secure subsequent implementation in accordance with submitted details.
33. As set out in the Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. The Council has suggested that a condition be attached restricting the future use of permitted development rights with respect to the installation of window openings within the facing side elevations of the two properties that are proposed. As the properties would be situated immediately alongside each other and the southern side elevation of House 2 would run the boundary of

the plot containing House 1, I consider that it would be reasonable to apply such a condition in the interests of guarding against potential overlooking. I note that the appellant has also agreed to the imposition of a condition to this effect. In the interests of safeguarding the privacy of future occupiers, a further condition is required to secure the provision of obscure glazing to various bathroom, toilet and en-suite areas.

34. I note that the appellant has suggested that a further condition requiring the permanent delineation of a dedicated pedestrian route through the car park would be appropriate. I do not however consider that such delineation on the ground is necessary. The car park is laid out such that it is readily apparent to drivers that parking spaces are situated to both of its sides and that the central area between provides manoeuvring space. In any event, from the evidence before me such a route would necessarily be overrun by vehicles manoeuvring/reversing in and out of spaces and would, I consider, be unlikely to deliver any additional safety benefit. In any event, I have found that the scheme before me would have an acceptable effect upon pedestrian safety.

Conclusion

35. For the reasons set out above, the appeal is allowed subject to conditions.

Andrew Smith

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out only in accordance with the following approved plans: 17.2304.110 P1; 17.2304.100 P4; ECO4 (New Tree Planting Strategy); 17.2304.101 P4; 17.2304.102 P4; 17.2304.103 P3.
- 3) No works above ground level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) In accordance with approved plans 17.2304.101 P4 and 17.2304.102 P4, the first floor windows on the rear (western) elevation serving an en-suite and bathroom on House 1, and the first floor window on the side (northern) elevation serving an en-suite bathroom and first floor window on the rear (western) elevation serving a bathroom window on House 2, shall not be glazed at any time other than with a minimum of Pilkington Level 3 obscure glass (or equivalent) to a height of at least 1.7m measured from the internal floor level of the respective rooms that these windows serve.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order

- revoking and re-enacting that Order with or without modification), no windows shall be constructed in the northern side elevation of House 1 (depicted as 'H1' on approved plan 17.2304.100 P4) or the southern side elevation of House 2 (depicted as 'H2' on approved plan 17.2304.100 P4), other than where expressly authorised by this permission.
- 6) The finished floor levels of the buildings hereby approved shall be undertaken in accordance with the levels depicted on approved plan 17.2304.100 P4.
 - 7) No dwelling shall be occupied until a scheme depicting hard and soft landscaping has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include a 3-year post planting maintenance schedule. All planting comprised in the soft landscaping works shall be carried out and completed in full accordance with the approved scheme, in the nearest planting season (1st October to 31st March inclusive) to the completion of the development or prior to the occupation of any part of the approved development, whichever is sooner. All hard-landscaping works shall be carried out and completed prior to the occupation of any part of the approved development. As a minimum, the quality of all hard and soft landscape works shall be carried out in accordance with British Standard 4428:1989 'Code Of practice For General Landscape Operations' or any subsequent revision. All trees and other plants included within the approved details shall be healthy, well-formed specimens of a minimum quality that is compatible with British Standard 3936:1992 (Part 1) 'Specifications For Trees & Shrubs' and British Standard 4043 (where applicable) or any subsequent revision. Any trees or other plants which within a period of 5 years from the completion of the development, die, are removed, uprooted, are significantly damaged, become diseased or deformed, shall be replaced during the nearest planting season (1st October to 31st March inclusive) with others of the same size, species and quality as approved. The areas shown for landscaping shall thereafter be retained.
 - 8) No dwelling shall be occupied until the boundary treatment details depicted on approved plan 17.2304.100 P4, including the erection of a 2.1m high acoustic along the southern boundary of the public house's garden area, have been implemented in full. Once installed, the boundary treatments shall thereafter be retained at all times.
 - 9) The development hereby permitted shall not be begun until a Sustainability Statement covering water efficiency aimed at achieving an average water use in new dwellings of 110 litres/person/day, has been submitted to, and agreed in writing by, the Local Planning Authority. The development shall be implemented in accordance with the Sustainability Statement, as approved, and retained as such thereafter.
 - 10) The development hereby permitted shall not be begun until an Energy Demand Assessment demonstrating that a proportion of the development's energy requirements will be provided from on-site renewable energy production (which proportion shall be 10%) has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the Energy Demand Assessment as approved and retained as such thereafter.

- 11) No dwelling shall be occupied until a means of vehicular access has been constructed in accordance with the approved plans.
- 12) No dwelling shall be occupied until the associated vehicle parking and turning space has been surfaced and marked out in accordance with approved plan 17.2304.100 P4. The parking and turning spaces shall thereafter be kept available for such purposes at all times.
- 13) No dwelling shall be occupied until secure and covered parking for bicycles has been provided in accordance with approved plan 17.2304.100 P4. The facilities shall thereafter be retained as such at all times.
- 14) The development hereby permitted shall not be begun until a scheme has been submitted to and approved in writing by the Local Planning Authority, to accommodate: (a) parking of vehicles of site personnel, operatives and visitors, (b) loading and unloading of plant and vehicles, (c) storage of plant and materials used in constructing the development, (d) wheel cleaning facilities, (e) temporary portacabins for site operatives. Each facility shall be retained throughout the course of construction of the development, free from any impediment to its designated use. No other areas on the site, other than those making up part of the approved scheme shall be used for the purposes listed (a) to (e) above without the prior written permission of the Local Planning Authority.
- 15) The parking and turning areas shall be constructed as depicted upon approved plan 17.2304.100 P4 and shall incorporate surface water drainage that is SuDS compliant and in accordance with DEFRA "Sustainable Drainage Systems - Non-statutory technical standards for sustainable drainage systems" (March 2015). The parking and turning areas shall be retained as such thereafter.
- 16) No site clearance or demolition shall take place during the main bird-nesting period of 1st March to 31st August inclusive, unless a scheme to minimise the impact on nesting birds during development has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented as approved.
- 17) No dwelling shall be occupied until a scheme for the provision of biodiversity enhancements including a plan or drawing showing the location of these enhancements has been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall thereafter be performed, observed and complied with.
- 18) All existing trees shown to be retained and protected in the document entitled "Arboricultural Implications Assessment and Method Statement" by Ecourban Ltd (April 2018) shall be protected by 2m high (minimum) welded mesh panels, supported by a metal scaffold framework, constructed in accordance with Section 6.2 of British Standard 5837:2012, or any subsequent revision. The development shall be carried out in full accordance with the aforementioned Arboricultural Implications Assessment and Method Statement.
- 19) The protective fencing specified by Condition 18 shall be erected prior to the commencement of any development works, including any initial clearance, and shall be retained fully intact and upright in its approved

locations at all times, until the completion of all building operations on the site. No activity of any description shall occur at any time within these protected areas, including but not restricted to the following: (a) mixing of cement or any other materials, (b) storage or disposal of any soil, building materials, rubble, machinery, fuel, chemicals, liquids waste residues or materials/debris of any other description, (c) siting of any temporary structures of any description including site office/sales buildings, temporary car parking facilities, porta-loos, storage compounds or hard standing areas of any other description, (d) soil/turf stripping, raising/lowering of existing levels, excavation or alterations to the existing surfaces/ ground conditions of any other description, (e) installation/siting of any underground services, temporary or otherwise including drainage, water, gas, electricity, telephone, television, external lighting or any associated ducting, (f) parking/use of tracked or wheeled machinery or vehicles of any description. In addition to the protection measures specified above, no fires shall be lit within 20 metres of the trunks of any trees or the centre line of any hedgerow shown to be retained and no signs, cables, fixtures or fittings of any other description shall be attached to any part of any retained tree.

- 20) Cellular confinement systems and ground protection measures shall be implemented in full accordance with the details contained within the submitted document entitled "Arboricultural Implications Assessment and Method Statement" by Ecourban Ltd (April 2018).