
Appeal Decisions

Site visit made on 27 January 2020

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2020

Appeal A Ref: APP/Y2736/W/19/3228532

Malt Shovel Inn, Main Street, Hovingham YO62 4LF

- 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) Limited against the decision of Ryedale District Council.
 - The application Ref 18/01048/FUL, dated 27 September 2018, was refused by notice dated 21 March 2019.
 - The development proposed is described as "Construction of a pair of semi-detached dwellings to the rear of the Malt Shovel, including reconfiguration of the car park to serve both the retained pub and proposed houses".
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Appeal B Ref: APP/Y2736/W/19/3237018

Malt Shovel Public House, Main Street, Hovingham YO62 4LF

- 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) Limited against the decision of Ryedale District Council.
 - The application Ref 19/00692/FUL, dated 13 June 2019, was refused by notice dated 15 August 2019.
 - The development proposed is described as "Erection of 2 no. three bedroom semi-detached dwellings with shared access through the car park to serve both the retained public house and proposed dwellings".
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Decision

1. Appeal A is dismissed.
2. Appeal B is allowed and planning permission granted for erection of 2no. three bedroom semi-detached dwellings with shared access through the car park to serve both the retained public house and proposed dwellings at Malt Shovel Public House, Main Street, Hovingham YO62 4LF, in accordance with the terms of the application, Ref 19/00692/FUL, dated 13 June 2019, subject to the conditions detailed in the attached schedule.

Application for costs

3. An application for costs was made by Punch Partnerships (PML) Limited against Ryedale District Council. This application is the subject of a separate Decision.

Procedural Matter

4. As set out above there are two appeals on this site. They differ in the detail of design and layout. I have considered each proposal on its own merits.

However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

5. The Public House located to the west of the appeal site has been referred to in the submitted documentation as various names including the Malt Shovel Inn and the Malt Shovel Public House. As been noted in some of the evidence, and confirmed during my site visit, the name of this Public House has been renamed to the Hovingham Inn. For the sake of brevity, I will refer to the Hovingham Inn as the “public house” in my decision.

Main Issues

6. The main issues are the effect of the proposals on highway safety with regard to parking; the effect of the proposals on the viability of a protected community facility; whether the proposals would preserve or enhance the character or appearance of the Hovingham Conservation Area; and the effect of the proposals on the living conditions of the occupiers of 24 Pasture Lane (No 24) with regards to outlook, light and privacy.

Reasons

Highway safety

7. The appeal site, whilst in separate ownership and currently fenced off, does form part of the car parking area for the public house. The proposed development would result in the reduction of the car park from 36no. spaces to around 14no. spaces with an additional 2no. spaces designated for the proposed properties. The site is located in the rural village of Hovingham which the Council have described as been supported by limited public transport. Patrons to the public house would most likely use private vehicles to visit the premises.
8. The appellant has submitted a transport statement which includes a parking survey and parking analysis for the existing and proposed arrangements. On the days in which the survey was undertaken, it identified that the peak number of vehicles within the car park was 15 vehicles and this happened only on several occasions. It is noted that between the hours of 10:30 and 13:30 on the Saturday, the car park was at full capacity, this being the time when the monthly market occurred.
9. I have taken the period when the car park was at full capacity as an exception, as this happened during the hours of the monthly market when it is likely traffic and parking in the village is generally disrupted. Therefore, given the statistics provided in the transport assessment, there is surplus within the existing 36no. space car park and I am satisfied that the proposed car park would be able to accommodate vehicles associated with the public house. There may be occasions when the proposed car park reaches capacity however the additional demand is likely to be low and parking would be available on Main Street.
10. Concerns have been raised that the loss of the car parking spaces would lead to an increase in vehicles being parked on Main Street. The statistics provided by the appellant indicates that this may happen on occasions. I acknowledge that parking is required on Main Street for existing residential properties and other buildings including the Village Store and Village Hall. However, Main Street, adjacent to the public house, is a wide road with no parking restrictions

and a speed limit of 30mph. Main Street would be able to accommodate additional parking demand without adversely compromising highway safety and the free flow of traffic in this area.

11. I have had regard to the Councils statement of case including the statement by the Highway Authority which refers to the documents "Transport Issues & Development – A Guide 2003" (TIDG) and "Interim Guidance on Transport Issues including Parking Standards and advice on Transport Assessments and Travel Plans". The TIDG provides guidance on parking requirements which the Highways Authority have indicated advises that the public house should have a car park area with over 51 spaces. The TIDG however does not comply fully with the National Planning Policy Framework (the Framework). The Framework states in paragraphs 105 and 106 that local parking standards for non-residential development should take into account a number of factors and maximum parking standards should only be set where there is a clear and compelling justification. I have not been presented with any clear and compelling evidence to suggest that the public house requires over 51 parking spaces.
12. There are concerns that the appellants parking survey within the transport assessment should have been undertaken over a longer period with doubts whether the public house was open. No evidence has been submitted suggesting the public house has been closed for any significant period and there is an indication that the public house has been operational for some time with a reduced car park area. It is noted that a car parking space may have been lost due to placement of a gas tank in the parking area. I remain satisfied however that the proposals would not compromise highway safety in the area.
13. I therefore find that the proposals would not have a harmful effect on highway safety with regard to parking. The proposals would be in accordance with Policy SP20 of the Ryedale Plan – Local Plan Strategy 2013 (RPLPS) which seeks proposal to not have a detrimental impact on road safety, traffic movement or the safety of pedestrians and cyclists.
14. The appellant has referred to examples of other schemes in the country which have been granted planning permission. However, I do not consider these to be directly comparable to the appeal schemes particularly with regard to location and development plan policy. In any case, I have determined the appeal on its own merits.

Viability

15. Policy SP11 of the RPLPS states that existing facilities that contribute to the vitality of the village and the well-being of local communities will be protected from loss/redevelopment. The Council consider the public house to be a protected community facility. The proposed developments would not result in the loss of the public house building and it appears that the public house is currently in use.
16. As detailed above, I am satisfied that the proposed reduction in the public house car park would not lead to harmful effects to highway safety and there would be sufficient parking provision to accommodate patrons visiting the public house. It has been indicated that the ability for the public house to cater for food is critical and the proposals would limit the potential for the business to operate sustainably in the future. Insufficient evidence has been submitted

however, to convince me that the proposed developments and reduction in the car park would have a harmful effect on the vitality or viability of the public house.

17. The proposed developments would not have a harmful effect on the vitality or viability of the public house which has been described as a protected community facility. The proposals would accord with Policy SP11 which seeks to protect community facilities that contribute to an areas vitality from being lost or redeveloped.

Conservation Area

18. The appeal site is an open parcel of land located to the east of the public house with residential properties to the north and the Village Hall with its associated recreation land to the south. The site lies within the Hovingham Conservation Area (HCA).
19. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Moreover, paragraph 193 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
20. The HCA is characterised by traditional village vernacular of predominantly houses and cottages. Beyond the main street of buildings lies further built development of variant layout and form. There is a mix of buildings within the HCA of different sizes, styles and ages. In my view the significance of the HCA is derived from the linear main street form with buildings located beyond of variant layout, design and scale.
21. The proposed buildings would be sensitive in design, scale and height. The proposals, particularly the scheme in Appeal A, may have wider gables and higher ridge and eaves than surrounding properties. However, given the variation in the massing of buildings in the area, the proposals would not appear as overly bulky features that would adversely detract from the HCA.
22. The scheme in Appeal A would not be directly adjacent to the neighbouring property to the north. The existing layout of the surrounding properties is not linear in form and therefore the positioning of the proposal in Appeal A would not be out of keeping with the variant layout style of the area.
23. The proposed properties in Appeal B would have main frontages that face west which is different to the east facing orientation of the properties directly to the north. The proposals would not form part of the residential cul-de-sac to the north with them being accessed from the west. The positioning of the proposed properties would not appear visually unusual, particularly in the context of the wider area which has buildings of various orientations. The layout and siting of the proposals would not have a detrimental effect on the existing pattern of development or be harmful to the surrounding built environment.
24. I therefore find that the proposals would preserve the character and appearance of the HCA and not have a harmful effect on the surrounding built environment. The proposals would be in accordance with Policies SP12 and SP16 of the RPLPS which seeks proposals to conserve designated historic

assets and their settings including Listed Buildings and Conservation Areas; and respect the context provided by its surroundings.

25. I have had regard to the Council's statement of case including concerns from the Building Conservation Officer that close boarded boundary treatment can appear suburban. Given the location of the appeal site and in relation to its surroundings, close boarded fencing would appear overbearing and the use of less intrusive boundary treatment would be required.
26. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
27. The grade II listed buildings of Malt Shovel, Home Cottage and Listers Cottage have been described as been within proximity to the appeal site. The Council have not raised any concerns that the proposals would have harmful effects on the setting of these listed buildings. Given the distance of the appeal site to these listed buildings and the proposed design of the properties, I find that the proposals would sustain the setting of these grade II building heritage assets. The proposals would accord with the policies of the Framework which seek to conserve and enhance the historic environment.

Living conditions

28. The development in Appeal A proposes a property that would be large in both height and depth which would be set forward of the front building line of No 24 and developed close to the boundary with this neighbouring property. There are windows and doors in the front elevation of No 24 which would be in close proximity to the proposed property. Due to its height and scale, the proposal would create a dominant expanse of built development along the boundary when viewed from No 24.
29. The proximity of the windows and doors of No 24 to the proposed development would result in the building having an unavoidable and overbearing presence that would dominate the outlook from No 24 and harm the living conditions of the occupants.
30. Due to the positioning of the proposed property and the large expanse of built development along the boundary with No 24. This would have a detrimental effect on the light into the windows of No 24 therefore creating overshadowing that would have an adverse effect on the living conditions of the occupiers of this property.
31. There are openings proposed in the side elevation of the property which would look directly towards the front windows of No 24. The use of obscure glazing in the side elevation windows and doors, which has been offered by the appellant, would overcome any concerns of privacy loss. This matter however, would not outweigh the harm I have identified above.
32. I therefore find that the proposed development in Appeal A would have a harmful effect on the living conditions of the occupiers of No 24 with regards to outlook and light. The proposal would be contrary to Policy SP20 of the RPLPS which seeks new development to not have a material adverse impact on occupants of neighbouring buildings.

33. The Council have not raised any concerns with the effect of the proposal in Appeal B on the living conditions of neighbouring occupiers and I have found no harm in this regard.

Other matters

34. A number of concerns have been raised to the proposed schemes including from Hovingham with Scackleton Parish Council, the Hovingham Village Hall Management Committee, the Howardian Hills Area of Outstanding Natural Beauty (AONB) Manager and local residents.
35. These concerns include the proposed access being unsuitable and the car parking spaces not being sufficient in size and do not include disabled parking. The Council and the Highways Authority have not raised any concerns in regard to these matters. There is also insufficient evidence to suggest that the proposal would have a harmful effect on the living conditions of neighbouring occupiers with regards to noise and pollution as well as having a harmful effect on services in the area. The AONB Manager has raised concerns over the proposed use of stonework for the external walls of the properties however, this can be controlled by planning conditions. I have also had regard to other matters raised relating to the proposal blocking views and that the social and affordable housing need is not met. These matters raised do not result in the proposal in Appeal B having a harmful effect on highway safety, the viability and vitality of the public house, the character and appearance of the HCA and the living conditions of neighbouring occupiers.

Conditions

36. The conditions imposed are those that were submitted by the Council and the Highways Authority and which were agreed by the appellant. In the interests of precision and clarity I have undertaken some minor editing and rationalisation.
37. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty. In the interests of highway safety conditions are imposed for a construction management plan and to ensure the car park is used for its intended purposes. To ensure the development does not compromise the character and appearance of the HCA, conditions are necessary in relation to materials, landscaping, means of enclosures, windows and doors. A condition removing permitted development rights is also necessary to ensure the HCA is preserved. To prevent undue risk to the local environment it is necessary to attach conditions relating to drainage and archaeology.

Conclusions

38. I conclude that the scheme subject of Appeal A would not have harmful effects on highway safety; and viability of a protected community facility and would preserve the character and appearance of the HCA. These matters however would not outweigh the harm I have identified in relation to the living conditions of the occupiers of No 24 with regards to outlook and light.
39. The scheme subject of Appeal B would not have a harmful effect on highway safety in regard to parking; viability of a protected community facility; and the living conditions of neighbouring occupiers; and would preserve the character and appearance of the HCA and surrounding area.

40. For the reasons set out above, and having had regard to all other matters raised, I conclude that Appeal A should be dismissed, and Appeal B be allowed.

Chris Baxter

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Numbers 18.3039.100 P8; 18.3039.101 P3; 18.3039.110 P8; 18.3039.111 P6; 18.3039.112 P8; 18.3039.113 P9; ENC/080818/2DD1-Top.
- 3) The parking spaces, turning areas and access hereby approved as shown on Drawing Number 18.3039.110 P8 shall be fully constructed prior to the occupation of the proposed properties and thereafter kept available for their intended purposes at all times.
- 4) Before the development hereby approved is commenced a Construction Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Management Plan shall be adhered to throughout the construction period of the development. The Plan shall include the following details:
 - a. The parking of vehicles of site operatives and visitors;
 - b. Loading and unloading of plant and materials;
 - c. Storage of plant and materials used in the construction of the development;
 - d. Erection and maintenance of security hoarding;
 - e. Wheel washing facilities;
 - f. Measures to control the emissions of dust and dirt during construction;
 - g. A scheme for recycling/disposing of waste;
 - h. HGV routing and timing to avoid school starting and leaving times during term.
- 5) Before the development hereby approved is commenced details and samples of the materials to be used on the exterior of the building and ground surfacing material the subject of this permission shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 6) Before the end of the first planting season (November- March inclusive) following the commencement of development, plans showing details of landscaping and planting schemes shall be submitted to and approved in writing by the Local Planning Authority prior to any such planting taking place. The schemes shall provide for the planting of trees and shrubs and show areas to be grass seeded or turfed where appropriate to the development. The submitted plans and/or accompanying schedules shall indicate numbers, species, heights on planting, and positions of all trees and shrubs including existing items to be retained. All planting, seeding and/or turfing comprised in the above scheme shall be carried out in the first planting season following the commencement of the development, or such longer period as may be agreed in writing by the Local Planning Authority. Any trees or shrubs which, within a period of five years from being planted, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar sizes and species, unless the Local Planning Authority gives written consent to any variation.

- 7) Before the development hereby approved is commenced, the developer shall construct on site for the written approval of the Local Planning Authority, a one metre square free-standing panel of the external walling to be used in the construction of building. The panel so constructed shall be retained only until the development has been completed.
- 8) Before the development hereby approved is occupied, details of the materials and design of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. Thereafter these shall be erected in accordance with the approved details and prior to the occupation of any dwelling to which they relate.
- 9) Prior to their installation, details of all windows, doors and garage doors, including means of opening, depth of reveal and external finish shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 10) The site shall be developed with separate systems of drainage for foul and surface water on and off site.
- 11) There shall be no piped discharge of surface water from the development prior to the completion of surface water drainage works, details of which will have been submitted to and approved by the Local Planning Authority. If discharge to public sewer is proposed, the information shall include, but not be exclusive to:-
 - a) evidence to demonstrate that surface water disposal via infiltration or watercourse are not reasonably practical;
 - b) evidence of existing positive drainage to public sewer and the current points of connection; and
 - c) the means of restricting the discharge to public sewer to a maximum rate of 3.5 litres a second, up to and including 1 in 100 year rainfall events
- 12) A) No demolition/development shall commence until a Written Scheme of Investigation for an archaeological strip, map and record excavation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:
 1. The programme and methodology of site investigation and recording
 2. Community involvement and/or outreach proposals
 3. The programme for post investigation assessment
 4. Provision to be made for analysis of the site investigation and recording
 5. Provision to be made for publication and dissemination of the analysis and records of the site investigation
 6. Provision to be made for archive deposition of the analysis and records of the site investigation
 7. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 12A.

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 12A and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015, (or any instrument revoking or re-enacting that Order) planning permission shall be required for development or alterations falling within Classes A, B, C, D, E, F, G and H of Part 1, Schedule 2 and Class A, C and F of Part 2, Schedule 2.