



Appeal Decision

Site visit made on 11 February 2020

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 April 2020

Appeal Ref: APP/B3410/W/19/3240657

Land at Coach and Horses PH, High Street, Abbots Bromley WS15 3BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Punch Partnerships (PML) Ltd against East Staffordshire Borough Council.
 - The application Ref P/2019/00121, is dated 25 January 2019.
 - The development proposed is erection of 2no detached dwellings and new vehicular access, retention of existing public house (Use Class A4) and reconfiguration of car park, together with all associated landscaping and other ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2no detached dwellings and new vehicular access, retention of existing public house (Use Class A4) and reconfiguration of car park, together with all associated landscaping and other ancillary works at land at Coach and Horses PH, High Street, Abbots Bromley WS15 3BN in accordance with application, Ref P/2019/00121 dated 25 January 2019 subject to the schedule of conditions at the end of this decision.

Application for costs

2. An application for costs was made by Punch Partnerships (PML) Ltd against East Staffordshire Borough Council. This application is subject to a separate Decision.

Procedural Matter

3. The Council failed to determine the application within the prescribed period. However, following submission of the appeal, the Council have prepared an appeal statement. This advises that had the Council determined the application, planning permission would have been refused. A putative reason for refusal is given and identifies that the principal concerns relate to the main issues set out below.

Main Issue

4. The main issue in this appeal is whether the proposed development would preserve or enhance the character or appearance of the Abbots Bromley Conservation Area (CA) and the effect of the proposal upon the setting of nearby listed buildings namely the Coach and Horses Public House.

Reasons

5. The appeal site comprises part of the car park of the Grade II listed Coach and Horses public house. The public house is a rendered two storey building and sits in a large plot dominated by the car park and hardstanding which undermine its setting. Located between the site and the public house is a single storey outbuilding that acts as a visual and physical barrier between the two.
6. The section of the car park, subject of the appeal, is a transition between the historic High Street and modern properties on Radmore Lane which largely sit outside of the CA. A red brick wall extends around the corner into Radmore Lane. The wall has areas of deterioration with weathered and damaged brickwork and unsympathetic modern coping.
7. The Abbots Bromley Conservation Area Appraisal (CAA) sets out that the CA is characterised by a linear, softly curving street through the village with attractive frontages lining the main roads of Bagot Street and High Street. Properties in the CA are of a human scale arranged either in narrow linear plots or smaller outhouses and sheds sitting gable end to the street. The public house marks a strong gateway into the village.
8. From the evidence before me red brick and tiled roofs are the prevailing materials creating a generally consistent colour palette. Buildings are of a human scale but tend to vary in terms of scale, proportions and detailing. The juxtaposition of lower and taller buildings adds further townscape interest, particularly along High Street, contributing to the CA's distinct character and appearance.
9. The development proposed would have the form of a two-storey building and a smaller building sitting gable end to Radmore Lane. This traditional design along with the fenestration and detailing proposed would reflect the vernacular and appearance of properties in the CA.
10. I acknowledge the concerns of the Council that Plot 1 would be taller and wider than the nearby outbuilding and that the ridge height of Plot 2 would be similar to the height of the chimney stack of the public house. However, this juxtaposition and contrast in height and width between buildings is a noticeable feature of the CA. I find that the eaves levels, overall height and proportions of the dwellings would be sympathetic to the human scale of buildings in the CA.
11. Notwithstanding the site levels, I find that the proposed development would sit comfortably between the historic public house and the modern properties along Radmore Lane successfully integrating into the street scene. Whilst the dwellings would be elevated from road level the visual impact from High Street would be limited due to the position of the existing outbuilding and the siting of the dwellings.
12. Overall the appearance, scale and form of the proposed development, in my judgement, would be a pleasant reflection of attractive historic buildings in the

CA and not disproportionate imitations. It would create a compact but interesting streetscape along this section of Radmore Lane through its appearance and form positively contributing to the character and appearance of the CA and the setting of the listed public house.

13. The proposal also involves a new opening through part of the boundary wall and a reduction in its height, in part necessary to achieve a satisfactory visibility splay. The boundary walls in the CA vary considerably in terms of their height and design and are not a defining feature of it.
14. Taking into consideration the variety of boundary treatments in the CA and the poor condition of the wall I find that the reduction of its height and the removal of a small section of it would not undermine the character and appearance of the CA or the setting of the public house.
15. I note that the Council also alleges harm to the setting of the public house and the character and appearance of the CA by the proposed removal of the existing gates and piers. However, I have not been provided with any evidence regarding their historic or architectural significance to substantiate this claim.
16. Consequently, I conclude that the proposed development would preserve the character and appearance of the CA and would not harm the setting of the listed Coach and Horses public house or its outbuilding.
17. The proposed development would therefore accord with Policies SP1, SP24, SP25, D1 and DP5 of the East Staffordshire Local Plan (2015) (LP) which, amongst other things, require new development to integrate with the character of the townscape; reinforce character and identity through local distinctiveness; protect, conserve and enhance heritage assets and their setting; and high quality design that responds positively to its context. It would also accord with the National Planning Policy Framework (the Framework) and the supporting aims of the Abbots Bromley Village Design Statement.

Other Matters

18. I note the representations made in respect of the application and appeal. Based on the evidence before me and taking into account the advice of the Highways Officer, I am satisfied that the proposed visibility splay is adequate, that adequate space is available within the site to manoeuvre vehicles, adequate parking for the development will be provided and that the proposed development would not adversely affect highway safety. Planning conditions would manage the access, parking and turning matters.
19. I also find that the remaining spaces for the public house would be adequate and that there is no requirement for double yellow lines in the area based on the information before me.
20. I note the comments made that an alternative access or shared access with the public house would be more appropriate. This is not before me as part of this appeal and as such I am not in a position to comment on its suitability.
21. I acknowledge that there may be a need for smaller affordable houses in the village. However, Paragraph 63 of the Framework is clear that affordable housing should not be sought on residential schemes that are not major developments i.e. 10 dwellings or greater. As such, notwithstanding LP Policy SP16 there is no requirement for the development to provide affordable

- housing. The provision of housing would make a modest contribution to the village in terms of supporting services and facilities.
22. In terms of precedent every appeal is considered on its own merits. There is no substantive evidence to indicate that the proposal would result in a precedent for similar developments in the village.
23. I acknowledge the comments in respect of car headlights shining into nearby properties. However, the Council has not raised concerns regarding the impact of the proposed development on the living conditions of nearby residents. I find no reason to disagree.
24. In terms of the impact on trees and hedges the Council has not raised concerns regarding the proposed development's impact and I have no reason to disagree. Furthermore, planning conditions would manage tree protection matters.
25. There is no evidence before me that the appeal site is or functions as an area of open space or as a "green lung". I therefore find that the development would not undermine the availability of such spaces in the village or that a modestly sized development would increase air pollution in the village to such an extent that it would cause a detriment.
26. Whilst bins would be put out each week, considering the short length of time they would be on the street I find that they would not pose a hazard risk. The siting of commercial bins at the public house do not concern the planning merits of the proposal and as such have no bearing on the determination of this appeal.

Conditions

27. The Council has suggested 24 conditions in the event that the appeal was to be allowed. I have considered these, together with the appellant's comments, in relation to the contents of the Framework and the Planning Practice Guidance (PPG). In the interests of precision, clarity and brevity I have undertaken some rationalisation of the conditions suggested by the Council. In particular, I have consolidated 5 suggested conditions relating to highways into 2 conditions. I have also consolidated details of materials.
28. In addition to the standard time three-year limit condition for implementation; it is necessary to specify the approved plans in the interests of certainty. Conditions relating to the external materials including a sample panel of brickwork, joinery details, landscaping and finished floor levels and site levels have been imposed to ensure the satisfactory appearance of the development.
29. The site is located within a 'Radon Affected Area'. As such conditions for a gas contamination report for the identification and remediation of any potential contamination within the site is necessary in the interests of the health and safety of future occupants. A condition requiring a noise mitigation scheme has been imposed in the interests of safeguarding the living conditions of future occupants.
30. A condition requiring measures for tree protection has been imposed in the interests of safeguarding important trees on site. A condition for submission of a surface water strategy has been imposed in the interests of achieving sustainable development.

31. Conditions relating to access arrangements, the laying out of parking and turning areas and footpath and visibility splay is imposed in the interests of highway safety.
32. The Council has suggested removing permitted development rights for the enlargement, improvement or other alteration of a dwellinghouse, additions or alterations to the roof, the construction of a porch, or a building or enclosure incidental to the enjoyment of the dwellinghouse falling within Classes A, B, C, D and E of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
33. I acknowledge that Paragraph 53 of the Framework advises planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. In this particular instance taking into consideration the historic context of the proposed development located within a CA and near to listed buildings, in my judgement, a condition to remove permitted development rights is necessary and reasonable to ensure the satisfactory appearance of the development.
34. A condition specifying the finish and fitting of the rooflights is not necessary as this information would be provided as part of the details of the materials. In addition, a condition requiring the proposed boundary treatments to be erected prior to occupation of the development is unnecessary as it is unlikely that the dwellings would be occupied prior to it being completed in its entirety.
35. The Council suggested conditions for the rainwater goods to be black in colour and for the bin and cycle storage to be implemented. However, I find that in this particular instance these conditions would not be necessary and have not been imposed as there is sufficient information on the submitted plans.
36. The Council submits that all plumbing and service pipework, heat flues, soil and vent pipes and utility meters or cupboards should be located inside or to the rear of the dwellings. However, the position of these services are subject to different legislation i.e. Building Regulations, as such I do not consider it reasonable to impose this condition.
37. The Council has sought to prevent the installation of gates at the access. However, no clear justification as set out in the PPG has been provided for the suggested condition and therefore, I do not find that it would be reasonable and thus it has not been imposed.
38. There are six conditions which require compliance prior to commencement of development, namely finished floor levels and changes in levels, gas contamination, tree protection, surface water drainage and the parking and turning areas for the existing public house. I am satisfied that these conditions are necessary. The procedure set out in Regulation 2(1)(b) of the Town and Country Planning (Pre-commencement Conditions) Regulations 2018 has been followed and the appellant has provided written acceptance of these pre-commencement conditions.

Conclusion

39. For the reasons set out above the appeal is allowed.

B Thandi

INSPECTOR

Schedule of conditions (17 in total)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Topographical Survey Drawing No ENC/SEE7/12128/Top; Proposed Site Layout Drawing No 17.2467.100 Rev P11; Proposed Floorplans & Roof Layout Drawing No 17.2467.101 Rev P8; Proposed Elevations Drawing No 17.2467.102 Rev P9; Location & Block Plan Drawing No 17.2467.105 Rev P8; Proposed South East Elevations and Street Scene Drawing No 17.2467.106 Rev P10; and Visibility Splay at Proposed Residential Access Drawing No VS01 Rev A.
- 3) No site clearance, preparatory work or development shall commence until an assessment of the risks posed by any gas contamination shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified practitioner, in accordance with British Standard BS 8485:2015+A1:2019 and shall assess any contamination on the site.
- 4) No development shall take place where following the risk assessment land affected by gas contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified practitioner shall be submitted to and approved in writing by the local planning authority before the development is occupied.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings and proposed ground levels, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 7) No development of the dwellings hereby permitted shall take place until the access and spaces for parking and turning of vehicles for the existing public house has been laid out in accordance with the Proposed Site Layout Drawing No 17.2467.100 Rev P11. These areas shall then be retained thereafter for the life of the development.
- 8) No building hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first

prior to development have been submitted to and approved in writing by the local planning authority.

- 9) No development shall commence above foundation level until details and samples of the materials to be used in the construction of the external surfaces of the development, including rooflights, hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and samples.
- 10) No development shall take place above foundation level until details of the design, materials and finish of the external joinery including drawings at scale 1:5 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.
- 11) No development shall take place above foundation level until a sample panel of all new facing brickwork showing the proposed bricks, face-bond and pointing mortar have been provided on site and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample panel.
- 12) Before the development is first occupied a scheme for protecting it from noise from the public house car park shall have been submitted and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the development is occupied and retained thereafter for the lifetime of the development.
- 13) The development hereby permitted shall not be occupied until details of the soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied.
- 14) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 15) The development shall not be occupied until the means of access, parking and turning areas and footway shown on Drawing No 17.2467.100 Rev P11 shall have been constructed in accordance with the approved plans. These areas shall be retained thereafter for the life of the development.
- 16) The development hereby permitted shall not be first occupied until the visibility splay shown on Drawing No VS01 Rev A has been provided. The visibility splay shall be retained thereafter for the life of the development.
- 17) 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 enlargement, improvement or other alteration of the dwellinghouses, additions or alterations to the roofs, construction of porches, or buildings or enclosures

incidental to the enjoyment of the dwellinghouses falling within Classes A, B, C, D and E shall be constructed.