



Appeal Decision

Site visit made on 2 July 2020

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2020

Appeal Ref: APP/P2114/W/20/3246188

Three Bishops, Main Road, Brighstone, Isle of Wight PO30 4AH

- 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 Isle of Wight Council.
 - The application Ref 19/01244/FUL, dated 11 October 2019, was refused by notice dated 22 January 2020.
 - The development proposed is the erection of a four bed detached dwelling (Use C3) to the rear of the public house (Use A4) with associated access, parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - The character and appearance of the area having particular regard to whether it preserves or enhances the Brighstone Conservation Area (CA), including trees and reference to the Isle of Wight Area of Outstanding Natural Beauty (AONB), and;
 - The living conditions of users and residents of the public house and future residents having particular regard to privacy and outlook, and;
 - The living conditions of future residents having particular regard to light levels and the suitability of garden provision, and;
 - The provision of affordable housing.

Reasons

Character and appearance

3. The Brighstone CA has five components covering parts of the village which reflect the dispersed settlement pattern of earlier periods. The appeal site is within the Brighstone Village Centre character area which in contrast to some other parts of the CA has a more nucleated settlement around the listed St Mary the Virgin church. The significance of the CA is derived from a combination of factors including how the buildings and spaces in the settlement have evolved over time. In the village centre there are a concentration of vernacular cottages with buildings generally facing onto the adjacent road.

However, there is an informal and spacious quality to the spaces and planting between buildings that together with the proximity to the surrounding expansive countryside results in an attractive rural character and appearance to the area and CA.

4. In considering the impact of the proposal, I am mindful of my statutory duty¹ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
5. The development would also be within the AONB. Having regard to the Isle of Wight, Area of Outstanding Natural Beauty Management Plan 2019-2024 (AONBMP), the special and sensitive character of the AONB is derived in part from the pattern of coast, woodlands, downs and fields but also includes its cultural heritage. The settlement of Brighstone is set within this wider landscape and is close to the coast, fields and downs. Paragraph 172 of the National Planning Policy Framework (the Framework) stipulates that great weight should be given to conserving and enhancing landscape and scenic beauty in the AONB.
6. The appeal site comprises an area of land currently used as part of the car park for the Three Bishops inn. The public house building is situated on the corner of Main Road and Warnes Lane and therefore, respects the linear settlement pattern along the alignment of the road. It is noted as making an important contribution to the CA in the Brighstone Conservation Area Appraisal, adopted December 2009 (BCAA)². The main qualities of the car park to the rear are derived from an absence of built form, mostly informal surface treatment and the established trees along its boundaries. In combination with the adjacent school field, immediate school grounds and public car park there is a significant area where built form is largely absent which contributes to the sense of spaciousness and informal rural qualities of the village.
7. Moreover, views across the area are possible with the line of boundary trees visible from the access onto Main Road. More significantly, views towards the spire of St Mary the Virgin Church can be seen from the public car park at Warnes Lane and public right of way along the western edge of the site. This view is noted as important in the BCAA map and the low-key informal appearance of the appeal site in the foreground allows the church spire to take precedence. Taking these factors together, the site makes a positive, albeit limited contribution, to the spacious rural character and appearance of the area and the CA.
8. The proposal would introduce a detached two storey dwelling and fencing to create boundaries along the northern and eastern sides of the proposed garden. As such, it would have a notable physical presence that would encroach into an area that is free from built form, thereby reducing the spacious quality of the area. Additionally, notwithstanding the proposed use of stone cladding and some attempts at traditional detailing, the height, proportions and footprint of the dwelling have more in common with modern sub-urban development. As such its overall aesthetic appearance would not be a convincing replication of the attractive vernacular cottages nearby.

¹ Section 72 Planning (Listed Buildings and Conservation Areas) Act 1990

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9. This would be compounded by the orientation of the building whereby the principal elevation would face towards the back of the public house rather than towards the road frontage with Warnes Lane. By comparison to the north east elevation, the lack of symmetry and entrance point on the north west elevation³ give the impression of a secondary side elevation. Therefore, I do not agree that the property would be dual fronted as is asserted by the appellant⁴.
10. Moreover, the development would be prominent in the foreground in views towards the church spire from the west, and although it would not prevent views of the spire, it would detract from its status in the overall composition. Drawing these factors together, the siting and form of the dwelling has little basis in the surrounding context and would appear adrift from, and incongruous to other nearby buildings. Consequently, it would have a disconcerting and harmful impact on the character and appearance of the area.
11. Nevertheless, I accept that, given the physical separation and distance, the proposal would not prevent the retention of the trees present along the boundaries of the site. This is reinforced by the Arboricultural Implications Assessment and Method Statement⁵ provided. Moreover, the conservation area status of the land would allow a degree of control over future works to the trees which would aid their long-term contribution towards the CA.
12. However, for the reasons mentioned above, the proposal would be harmful to the character and appearance of the CA, albeit that given the relatively modest nature of the proposal, this would be less than substantial harm. Paragraph 196 of the National Planning Policy Framework (the Framework) indicates that where the development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The proposal would provide an additional family dwelling in a reasonably accessible location which would contribute towards the housing supply. Moreover, there would be economic benefits arising from its construction as well as long term social and economic benefits from the activities of the future occupants.
13. In addition, the site represents previously developed land as defined within the Framework as it forms part of the curtilage of the public house. General support for the efficient use of such land is given in paragraph 117 of the Framework which weighs in favour of the proposal. Nevertheless, the definition expressly states that it should not be assumed that the whole of the curtilage should be developed and paragraph 122 of the Framework, which also supports development that makes efficient use of land, stipulates that account must be taken of the desirability of maintaining an area's prevailing character and setting.
14. In combination these factors count in favour of the proposal. However, given its modest scale, they attract limited weight overall. Therefore, the public benefits do not surmount the great weight I must give to conserving the significance of designated heritage assets under paragraph 193 of the Framework.

³ Drawing 17.2291.102 P3

⁴ Paragraph 5.28 Appellant's Statement of Case

⁵ Eco Urban Limited 181073 AIA 3, 14 November 2019

15. Additionally, policy P26 of the AONBMP supports the positive management of change to designated assets during the consideration of proposals that affect the historic environment. Notwithstanding that the scale of the proposal is modest and relates to a site within a central part of the village, it nevertheless forms part of the cultural heritage and therefore, contributes towards the wider scenic beauty of the AONB. The localised harm to the spaciousness within the street scene would therefore conflict with the overarching objectives for the Isle of Wight AONB⁶. This is a matter to which I give great weight.
16. I have also considered the likely impact of the proposal upon listed buildings given my statutory duty to give special regard to the desirability of preserving the buildings or their setting. The modest scale of the proposal when combined with the distance from St Mary the Virgin Church, Elmlea and the Village Shop⁷, would not result in harm to the significance of those designated heritage assets, and I have not seen evidence to the contrary.
17. My attention is drawn to planning permission⁸ for two dwellings elsewhere in Brighstone. However, based on the limited information provided, these appear to be some distance from the appeal site and not within the CA. It follows that the context and assessment required would have been considerably different to the proposal before me. As such, this permission is of little weight. In any event, I have considered the proposal on its own merits.
18. Whilst planning conditions could be used to specify the use of traditional materials and boundary treatments, these would not fully overcome the extent of the harm I have identified.
19. Accordingly, I find that the proposal would be unacceptably harmful to the character and appearance of the area and would fail to preserve or enhance the character and appearance of the CA and special qualities of the AONB. Therefore, it would conflict with policies SP5, DM2 and DM11 of the Island Plan, Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document, March 2012 (IP) which amongst other matters, support proposals for high quality design that protects, conserves and enhances the existing and historic environment. It would also conflict with policy DM12 of the IP which amongst other matters, requires development to reflect the objectives of the AONBMP.
20. In addition, the proposal would be contrary to policy D1 of the Brighstone Parish Neighbourhood Plan 2016-2027, September 2016 (NP) which expects the design of proposals to be in keeping with the local area.
21. Policies SP1 and DM10 of the IP are also cited on the decision notice. These respectively set out the spatial strategy for development across the Island and seek to generally preserve retail units and services within Rural Service Centres such as Brighstone. Based on the evidence before me, it is not part of the Council's case that the location of the dwelling would conflict with the spatial strategy and neither is it asserted that it would undermine the future use of the public house. Accordingly, I have found no conflict with these policies.

⁶ Paragraph 3.13 Isle of Wight, Area of Outstanding Natural Beauty Management Plan 2019-2024

⁷ Section 5, Heritage Statement prepared by WYG, October 2019

⁸ Reference P/00797/17 August 2018

Living conditions of public house and future residents

22. The proposal would maintain a reasonable separation distance between the dwelling and public house and there would be an approximately 1.8m high boundary introduced. In addition, the siting of the dwelling would be aligned towards the more distant parts of the public house building. This would prevent unacceptable levels of inter-visibility between windows and preserve a reasonable degree of privacy for the respective occupants. The upper floors of the dwelling would overlook the pub garden. However, this is not a domestic garden and provides a play area and beer garden for the use of customers. Accordingly, the likely degree of overlooking would be commensurate with the semi-public communal use of the area. The fencing proposed would prevent unreasonable overlooking from users of the public house towards the dwelling.
23. Furthermore, the distance maintained between the buildings would be such that it would avoid an unduly enclosing effect on the users of the public house or the outlook from the proposed dwelling. The street scene drawing⁹ provided assists in illustrating this.
24. Accordingly, it is not shown that unacceptable harm would be caused to the occupants and users of the public house or proposed dwelling having regard to privacy and outlook. Therefore, in relation to this issue there would be no conflict with policy DM2 of the IP which seeks high quality and inclusive design for new development.

Living conditions of future residents

25. The Arboricultural Implications Assessment and Method Statement shows that trees would be retained along the southern and western boundaries of the proposed garden area which would result in some shading. Although the Council does not raise concerns regarding the size of the garden space, the parties disagree as to whether the level of shading would unreasonably affect light levels within the house and sunlight within the garden.
26. The submitted shadow study¹⁰ demonstrates that there would be some sunlight within the rear garden over the course of the year. In summer months the area nearest the house and bi-fold doors would allow for sitting out in the sun during the afternoon and part of the evening with some areas of sunlight in spring and autumn. Based on the evidence provided, it is not shown that the degree of shading would be to such a degree that it would inhibit the enjoyment of the garden overall.
27. Moreover, the mostly open plan layout of the ground floor means that some rooms have windows facing more than one aspect. A significant amount of fenestration faces west, some distance from the boundary trees and is likely to enjoy good levels of natural light during afternoon and evening. There is limited evidence to indicate that the internal living conditions would be unacceptably compromised due to shading from the boundary trees.
28. Accordingly, I find that the proposal would provide acceptable living conditions for future residents having regard to light levels and garden provision. On this

⁹ Drawing no. 17.2291.103 P3

¹⁰ Drawing no. 17.2291.105 P3

basis, there would be no conflict with policy DM2 of the IP, which amongst other matters, seeks to support new development that is of high quality.

Affordable housing

29. Policy DM4 of the IP requires new residential development of 1-9 units in Smaller Regeneration Areas such as Brighstone to provide financial contributions towards the provision of affordable housing. There is no dispute between the parties that a contribution should be made in accordance with the guidance in the Island Plan, Affordable Housing Contributions, Supplementary Planning Document, March 2017 (SPD).
30. The appellant has provided a signed Unilateral Undertaking dated 31 March 2020 that sets out a formula for a financial contribution to be made which accords with the SPD.
31. Both the IP and SPD predate the Framework dated February 2019, which stipulates at paragraph 63 that the provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas. However, such rural areas include areas in the AONB and hence, policy DM4 is generally consistent with advice in the Framework. Therefore, the obligation would meet the requisite statutory tests in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended). These are reiterated in paragraph 56 of the Framework which states that they must be necessary to make the development acceptable in planning terms.
32. Accordingly, I find no conflict with policy DM4 of the IP as the proposal would make suitable provision for affordable housing.

Other matters

33. Reference is made to policy H1 of the NP which gives general support for housing within the settlement of Brighstone and prioritises the use of previously developed land. The appellant asserts that the proposal complies with this policy. However, the policy also indicates that such development should comply with policy D1 of the NP and I have found otherwise. In these circumstances, policy H1 would not provide support for the proposal.
34. I have had regard to the representations received. In support of the proposal it is suggested that the development would assist in the retention of the public house. Be that as it may, in the absence of substantive evidence to show or secure such a link, this matter attracts little weight.
35. Many of the objections raise concerns regarding highway safety, in particular in relation to the inadequacy of the remaining car park provision for the public house and the loss of a more direct pedestrian route to the village centre through the car park. Having regard to the Island Plan, Guidelines for Parking Provision as Part of New Development, Supplementary Planning Document, January 2017 and the comments of the Island Roads Highways Representation¹¹ it is not shown that the proposed parking level would fail to meet the adopted guidelines. Furthermore, the Highway Authority refer to the pedestrian route used as informal. This is reinforced by its absence on the

¹¹ Dated 3 December 2019

definitive public rights of way map extracts provided¹². Whilst I appreciate that there may be discussions underway to establish a public right of way, the outcome and timing of any such procedures are uncertain and I am obliged to determine the appeal based on the circumstances before me.

Conclusion

36. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹³. Although I have not found harm in relation to living conditions of future occupants and users of the public house and found suitable provision is made for affordable housing, the proposal would nevertheless result in harm to the CA and AONB. Significant weight is given to the conflict with the development plan policies in relation to the character and appearance of the area and the Framework indicates great weight should be given to conserving the significance of designated heritage assets and the scenic beauty of the AONB. Accordingly, the modest benefits wrought by a single dwelling would not justify my determining the development other than in accordance with the adopted development plan and Framework.
37. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

¹² Appendix B, Council's Statement of Case

¹³ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.