



Appeal Decision

Site visit made on 24 September 2020

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 October 2020

Appeal Ref: APP/X0415/D/20/3248043

The Squirrel Public House, Penn Street, Penn Street Village, HP7 0PX

- 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 Chiltern District Council (now Buckinghamshire Council).
 - The application Ref PL/19/2309/FA, dated 2 July 2019, was refused by notice dated 4 February 2020.
 - The development proposed is erection of a pair of semi-detached dwellings on land adjacent to Public House, with associated car parking and private amenity space. Relocation of existing Oil Tank.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the description of the development as found on the Council's decision notice as it more concisely describes the development than that on the appellant's original application form.
3. Since the determination of the application it is noted that Chiltern District Council, as per the decision notice, is now Buckinghamshire Council.

Main Issues

4. The main issues are (i) whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework 2019 and any relevant development plan policies, (ii) the impact of the proposal on Penn Street Conservation Area and Chilterns Area of Outstanding Natural Beauty and (iii) the impact of the proposal upon the amenities of future occupiers.

Reasons

Green Belt development

5. The appeal site is located within the Green Belt and proposes the erection of a pair of semi-detached dwellings in part of the garden area which is currently part of a The Squirrel Public House (the public house).
6. The National Planning Policy Framework 2019 (the Framework) is clear that construction of new buildings in the Green Belt should be regarded as inappropriate. As an exception to this paragraph 145 e) allows for limited

infilling in villages. Chiltern District Local Plan 1997¹ (LP) Policy GB2 is broadly consistent with the provisions of the Framework relating to Green Belt development in allowing limited infilling but makes reference, in d), to LP Policy GB4.

7. LP Policy GB4 allows for limited infilling, in existing rows of dwellings and other substantial buildings and has three main criteria i), ii) and iii). Whilst it does allow for infilling, and thus is broadly consistent with paragraph 145 e) I find that LP Policy GB4 is at odds with the Framework in so far as it has a very restrictive approach to infilling within the Green Belt whereas the Framework is much less prescriptive. The terms 'limited' and 'infilling' are not defined in the Framework, these are essentially a question of fact and planning judgement having had regard, for example, to the nature and size of the development itself, the location of the application site and its relationship to existing development adjoining and adjacent to it. For this reason I attribute limited weight to the specific criteria stated within LP Policy GB4.
8. The appeal site is within a village, as required by the Framework, when taking into account the existing development adjoining and adjacent to the site. Whilst the proposal would "sit back" from the built frontage of Penn Wood View it would stand between the existing built form of both the rear of Penn Wood View and the public house. There is further built form, on the same side of the road, to the South of the public house. The proposal, when considering the location of the application site and its relationship to the existing development adjoining it, I find would constitute infilling between existing built form. Given that the proposal is for two dwellings I also find this would fall within the scope of being limited infill.
9. The proposal would be consistent with overall objectives of LP Policy GB2 which seeks to manage development in the Green Belt and allow limited infilling. The proposal would be contrary to the specifications set out within LP Policy GB4, which seeks to manage limited infill development, however for the reasons outlined above I attribute limited weight to the application of the specific criteria of this policy.
10. As a result of this I find that the principle of erecting dwellings in this area would stand within the exception outlined in paragraph 145 e) of the Framework and the proposal would represent not inappropriate development in the Green Belt. Given that I find the proposal falls within the defined exceptions in paragraph 145 of the Framework there is no requirement to go on to assess the impact upon openness of the Green Belt.

Penn Street Conservation Area and Chilterns Area of Outstanding Natural Beauty

11. The appeal site is located in both the Penn Street Conservation Area (CA) and Chilterns Area of Outstanding Natural Beauty (AONB). The appellant's final comments infer that the reason for refusal does not specifically outline impact on the AONB but I note that both LP Policy LSQ1 and Core Strategy for Chiltern District 2011 Policy CS22 are cited within the second reason for refusal. Both policies are concerned with the AONB which is important to the character of the CA and its setting within the wider landscape. The Council's delegated report does make reference to destroying the important space around the public

¹ (including alterations adopted 29 May 2001) Consolidated September 2007 and November 2011

house and views within the AONB as well as not preserving or enhancing the natural beauty of the AONB.

12. The reason for refusal makes reference to destroying the spacious setting of the public house, as a non-designated heritage asset. I do not read the reason for refusal as citing a lack of public benefits to outweigh any perceived harm to the public house through development. The second reason for refusal is clear in its statement that the less than substantial harm, referred to by the Council, is to the Conservation Area and that they consider there no public benefits to balance the harm identified.
13. From my site visit I find that the proposal will not affect the ability to see or experience the built form along Penn Street itself, however, I find that the area around the Public House, combined with the common on the opposite side of the road, creates a notably open and green feel. There are also views from the common out through the appeal site towards the East. I acknowledge that the trees, to the front of the site, are to be retained but this will still leave the site open to views from the South West.
14. I also find that the proposal will have a negative spatial and visual impact and most significantly introduce vehicular parking on to what is currently an open grassed area. The provision of four car spaces, as proposed, would result in parking dominating the front garden of one of the plots and with the parking provision being in the most open view of the development from the South West. The visual impact of this would fail to enhance or preserve the AONB. Furthermore, the CA appraisal acknowledges the common as an attractive green space and focus for the area.
15. I note the submission of the location plan under CH/2017/1193/FA for the neighbouring property and concur that the left dwelling (as viewed from the road) may have a width and depth similar to that of existing adjoining development. The same cannot be said, however, for the other dwelling whose frontage would be at an angle and would be partly utilised to accommodate parking for the proposal. It would also have an awkward, triangular, shaped garden which is not similar to the size and shape of existing adjoining development. When combined with the angle of the public house I find that the proposal does not comfortably, or naturally, fill the site and create a harmonious relationship with existing development.
16. I note the Historic England guidance, and the appellant's assessment of the significance of the public house which contends that the setting of the public house provides some input to such significance. It also states that the surrounding development has minimised the extent to which the former gardens contributes to the historic and aesthetic significance. Despite this I do not find the proposal will maintain and strengthen the sense of place. The gardens may have been reduced in contribution but I still find they make a positive contribution and further erosion would be negative for both the public house and the CA.
17. Whilst the design of the dwellings themselves appear to have been developed taking some design cues from built form in the area I find that the setback from the building line, and the general position within the plot, is not compatible with the character of the area. The set back of the appeal site from the road is at odds with the adjoining development which creates the existing

built frontage. The awkward plot layout, for one of the dwellings, combined with my findings above leads me to conclude that the proposal is not in keeping with the strongly uniform design noted by the CA Appraisal and would destroy the spacious setting of the public house. This harm to the public house, as a non-designated heritage asset, is taken into account overall and given moderate weight.

18. I find that the proposal would be contrary to LP Policies CA1 and CA2, however, both the appellant and the Council concur that LP Policy CA1 and LP Policy CA2 should be given limited weight. I concur and note both parties state that appeal decisions, though not before me, have taken this approach.
19. The proposal would be contrary to LP Policy GC1 which requires development to relate well to the characteristics of the site on which it is to be located and that the layout of any development should not be dominated by car parking. It would also be contrary to LP Policy LSQ1 which requires the siting of development to at least conserve the AONB, CS Policy CS20 which requires development to respect the character of the surrounding area and CS Policy CS22 which requires proposals to conserve and enhance the special landscape character, heritage, distinctiveness of the AONB.
20. From the appellant's final comments it is noted they, and the Council, concur that the proposal will result in less than substantial harm within paragraph 196 of the Framework. The proposal should be weighed against the public benefits of the proposal.
21. Whilst the proposal would deliver two new dwellings the benefits of a small scheme would be modest, as would be the subsequent household spend in the local area, Council Tax receipts and new homes bonus. These are noted as public benefits but the harm identified to the designated heritage asset would be less than substantial harm which still attracts great weight in accordance with paragraph 193 of the Framework. I do not find that the limited public benefits outweigh the great weight applicable to the less than substantial harm found. Therefore, the proposal would fail to preserve or enhance the character or appearance of the Conservation Area, and it would fail to conserve and enhance the landscape and scenic beauty of the AONB.

Amenities of future occupiers

22. The appellant has commissioned a Noise Impact Assessment (NIA). The microphone (mic) used to measure noise levels was located to the front of the appeal site according to the site plan attached to the report. Despite the fact the report concluding that there was acceptable impact upon future residents I would have considered that the largest source of noise would have been the beer garden of the Public House itself where items such as the children's play equipment is noted. This is acknowledged by the appellant. It is not clear why the mic (or indeed a second mic if needed) was not located to the rear of the appeal site, closer to where the most likely source of noise would be located if the development were undertaken.
23. I note that some modelling and calculations were undertaken in relation to summer months as well as an acoustic feature correction being added to the day and time values. Looking at the evidence before me I have concern that the location of the mic, measuring the noise levels, is away from this and that

- measurements were only undertaken in winter which may not overall give a true indication of the noise levels to be experienced by occupiers of the proposal even with the modelling utilised. Adding an acoustic feature correction, to values which may be incorrect to start, casts doubt over the data utilised.
24. The presence of existing residential dwellings located in very close proximity to the public house is not an indication of an adequate acoustic environment as suggested by the NIA. There is evidence, from neighbouring residents, to suggest that there is a noise issue with the Public House beer garden particularly in the summer months.
25. The appellant contends, in email correspondence, that the summer months comprise only a brief period of time during the year but in a good year this could be say a quarter of the year or more. Based upon the evidence before me I am not convinced that the future occupiers of the proposal would be provided with an adequate level of amenity in terms of thermal comfort with potentially only being to open windows away from the Public House at certain periods. This is particularly in relation to Plot 2 which adjoins the beer garden.
26. Overall, I have concerns that the submitted NIA has underestimated the noise levels, particularly in the summer months where future residents are more likely to need to open windows. The assessment of noise levels is crucial to ensure the development is both appropriate for the location and to assess what levels of mitigation are required. An underestimation of noise levels could very well lead to substandard mitigation and a detrimental impact on the amenity of future occupiers. I have considered whether conditions could be utilised to try and secure mitigation measures but, in this case, I feel that inadequate information has been provided to ascertain the mitigation measures required.
27. LP Policy GC8 will not accept proposals for residential development in areas which are, or are expected to become, subject to high noise levels and/or disturbing noise characteristics. I find this is consistent with paragraph 180 of the Framework which seeks to ensure decisions which ensure new development is appropriate for its location taking into account the likely effects on living conditions. LP Policy GC8 may be less forthcoming in the use of mitigation conditions but both LP Policy GC8 and paragraph 180 do seek to protect the amenities of occupiers of residential properties and ensure that new development is appropriate for its location.
28. For these reasons I would still attach moderate weight to LP Policy GC8 and find the proposal contrary to it as it seeks to prevent residential development in areas which are, or are expected to become, subject to high noise levels/disturbing noise characteristics. Even if I did only attach limited weight to LP Policy GC8 I still find the proposal would be contrary to LP Policy GC3 which seeks to achieve good standards of amenity for future occupiers of development.
29. The proposal would also be contrary to paragraph 180 of the Framework which seeks to ensure that new development is appropriate for its location taking into account the likely effects on living conditions.

Other Matters

30. The appellant contends that the Council cannot demonstrate a five-year housing land supply (5YHLS), however, this is not raised by the Council with their delegated report or statement of case. I have no evidence before me as to the Council's 5YHLS but in the event that paragraph 11 d) was engaged the proposal would provide some benefits including a contribution to housing stock and limited economic benefits which would arise from the construction and occupation of the dwellings. There may also be limited environmental benefits.
31. It is also noted that it is stated that a portion of the proceeds will go to refurbishment of the public house and that the applicant is prepared to accept a Section 106 agreement in respect of the above works. Despite this I have no completed section 106 agreement before me so can attribute limited weight to the stated works. Taking into account these material considerations they do not clearly outweigh the cumulative harm found.
32. Furthermore, paragraph 11 d) of the Framework that states planning permission should be granted unless i) the application of policies in the Framework that protect areas provides a clear reason for refusing the development proposed. Footnote 6 confirms an AONB and designated heritage assets as such policies. My findings in my second main issue regarding the Conservation Area and the Area of Outstanding Natural Beauty provide a clear reason for dismissing the appeal.

Conclusion

33. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR