



Appeal Decision

Site Visit made on 15 March 2021

by Ian Radcliffe BSc(Hons) DMS MCIEH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2021

Appeal Ref: APP/J0405/W/20/3264021

The Three Horseshoes, Mentmore Road, Cheddington, Buckinghamshire LU7 0SD

- 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 Buckinghamshire Council - North Area (Aylesbury).
 - The application Ref 20/00685/APP, dated 24 February 2020, was refused by notice dated 17 November 2020.
 - The development proposed is the erection of two semi-detached, three-bedroom chalet bungalows following demolition of pub outbuildings, replacement outbuilding, reconfiguration of public house car park and beer garden, and associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of two semi-detached, three-bedroom chalet bungalows following demolition of pub outbuildings, replacement outbuilding, reconfiguration of public house car park and beer garden, and associated parking and landscaping at The Three Horseshoes, Mentmore Road, Cheddington, Buckinghamshire LU7 0SD in accordance with the terms of the application, Ref 20/00685/APP, dated 24 February 2020, subject to the conditions in the schedule at the end of this decision.

Applications for costs

2. An application for costs was made by the appellant against Buckinghamshire Council. This application will be the subject of a separate decision.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on highway safety.

Reasons

4. The appeal site is located within the defined settlement boundary for Cheddington where in accordance with the development plan residential development is acceptable. The two proposed dwellings would be located on land to the rear of the public house currently occupied by part of its garden.

Highway safety

5. The existing access to the public house car park would serve the proposed development and continue to provide access to the car park. Visibility for exiting vehicles at the site access is restricted on one side by the position of the public house set close to the edge of the carriageway and on the other by the side and front boundary to the adjacent dwelling. As a result, the visibility

- splays that exist of 2.4m x 17m to the north and 2.4m x 23m to the south fall far short of the 2.4m x 43m standard sought in national technical guidance 'Manual for Streets' (MfS) for a road with a 30mph speed limit.
6. 'Manual for Streets 2' (MfS2) advises that based on research, unless there is local evidence to the contrary, a reduction in visibility splays below recommended levels will not necessarily lead to a significant problem¹. Parking on Mentmore Road in the vicinity of the appeal site is unrestricted. It is common ground that the public house would retain adequate on-site parking and so would not result in on road parking. However, if other vehicles park on the opposite side of Mentmore Road close to the appeal site this forces oncoming traffic from the north to drive on the opposite side of the road which would reduce visibility further with regard to oncoming vehicles from this direction. In my judgement, these site specific circumstances weigh against any notable reduction in visibility splays.
 7. Over the most recent twenty years for which data is available there have been two personal injury incidents on Mentmore Road with one occurring directly outside the public house. Whilst neither involved vehicles entering or exiting the site this does not make the access safe. This is because as a substandard access the probability of an incident remains significantly increased and the collision data referred to does not include near misses and damage only incidents.
 8. Drivers exiting the car park are likely to exercise caution due to the restricted visibility and move forward slowly to give themselves and oncoming traffic time to avoid incidents. MfSII noted this effect on driver behaviour in relation to urban junctions with parking². As a result, it found that some encroachment of visibility splays may be acceptable where traffic speeds are low. However, in the absence of a speed survey this has not been shown to be the case in this appeal.
 9. Based on the TRICS database the Council estimates that the public house generates 73 two way movements per day and that the proposed housing would increase this by 8 to 12 movements. This is over a 10% increase. The appellant has chosen to consider the effect of the proposal on the generation of traffic movements by focussing on the pm peak. As a result, the appellant concludes that in comparison to the movements generated by the public house the proposal would result in a far smaller intensification of use of less than 2%. In my judgment, selectively focussing only on the pm peak underplays the increase in use of the access. Moreover, as the assessment is incorrectly based on the public house having a floor area of 350 square metres, when it actually has a floor area of less than half this size, it significantly overestimates the amount of traffic generated by the public house.
 10. For these reasons, I therefore consider the Council's figures to be more representative and accurate. Whilst the use of the access by public house traffic will vary from day to day according to the activities taking place, this does not alter my judgement that overall the proposed development would result in a material intensification in use of the access.
 11. Given therefore that visibility at the public house access is considerably substandard, the intensification in use is sufficient for me to find that without

¹ Paragraph 10.5.9

² Page 80

improvements the effect of the proposal on highway safety would be unacceptable.

12. Reference has been made to a dismissed appeal in Suffolk³ for residential development next to an inn where the Inspector found that although the proposed access would have substandard visibility splays it was acceptable in terms of highway safety. In that appeal though visibility was only substandard in one direction and not necessarily by a significant amount. In addition, the Inspector had the results of recent speed surveys to inform her decision and permission was sought for only one dwelling. As a result, the circumstances of that appeal are notably different from the case before me. The fact that the Inspector found that proposal to be acceptable in terms of highway safety is therefore not a consideration of material weight in favour of the proposal.
13. A recent permission granted by Buckinghamshire Council for residential development to the rear of The Boot Public House in Soulbury has been referred to in support of the appeal on the basis that it shows inconsistency in the Council's decision making. Unlike the appeal proposal though, visibility at the site access is substandard in only one direction. Whilst this is in relation to oncoming traffic on the nearside of the road, and it is stated that the restriction in visibility is greater in this direction than it is at the appeal site, the Council found that the bend in the road would mean that approaching vehicles would be likely to be travelling below the speed limit. This is not the case with the appeal site where Mentmore Road is straight and so no similar reduction in speed can be expected.
14. In addition, the Soulbury permission was for only one dwelling rather than two. In the context of a public house with a higher parking provision and requirement than The Three Horseshoes this would result in a lesser intensification in the use of the access than in the appeal before me. The Soulbury permission is therefore noticeably different to the appeal proposal and a different conclusion in relation to highway safety was legitimately reached. As a result, this permission is not a consideration of material weight in favour of the appeal.
15. Two highway options have been suggested by the appellant to improve visibility at the site access by creating protected space to allow a vehicle exiting the site to edge out so that the driver would have a view of oncoming traffic in both directions that would comply with national guidance. In my judgement, both alternatives would have a dampening effect on speed.
16. The highway is not within the control of the appellant and further work is necessary to progress any scheme that would alter it. However, on the basis of what I have read and seen, there is a reasonable prospect that a scheme could be approved and carried out that would improve visibility at the site access to an acceptable standard without unduly hindering the free flow of traffic.
17. A negatively worded condition would therefore be appropriate in this case preventing the commencement of the development until alterations to the highway have been agreed. Such a condition would also prevent occupation of the proposed dwellings until the approved scheme had been carried out.
18. For the reasons given above, I therefore conclude that, subject to appropriate traffic management measures, the proposed development would not harm

³ Ref APP/W3520/W/15/3028958

highway safety and so would comply with emerging policy T5 of the Vale of Aylesbury Local Plan, the National Planning Policy Framework, policy 17 of the Buckinghamshire Council Local Transport Plan 4 and Guidance 5 of the Buckinghamshire Council Highways Development Management Guidance document.

Other Matters

19. The public house is identified as a village asset in the Cheddington Neighbourhood Plan. As it would remain and a beer garden and car park would be retained, with an appropriate number of parking spaces according to the Council's calculations, the proposed development would not harm its viability.
20. New development increases the demand on local services and infrastructure. However, as the scheme would create two dwellings it would be a small development that falls well below the threshold at which local and national policy requires that financial contributions to address such impacts are made.
21. The rear of the beer garden would be next to the side of the back garden serving the bungalow on plot 2. Whilst this is likely to mean that in warm weather when the beer garden is in use chatter and raised voices are likely to be heard on plot 2, this is not an uncommon situation with public houses in residential areas. As a result, acceptable living conditions would be provided for future occupiers of the proposed dwellings.
22. On the basis of the proposed plans, in the event that the car park was full, the car park is sufficiently wide to allow emergency vehicles to access the proposed bungalows.

Conclusion

23. For the reasons given above, I therefore conclude that the appeal should be allowed.
24. In the interests of certainty, I have imposed a condition specifying the relevant drawings that the development is to be carried out in accordance with. To ensure that the development complements the appearance of the area the development needs to incorporate the external materials specified on the relevant plan. For the same reason, details of finished levels, landscaping and boundary treatments are required. To ensure that planting becomes well established it needs to be protected. Given that the dwellings have been carefully designed, in order to safeguard the living conditions of neighbours in the future, the insertion of additional windows in the side of the dwelling on plot 1 needs to be subject to control.
25. In the interests of highway safety, traffic management measures within the highway to improve visibility for exiting vehicles needs to be secured. For the same reason adequate provision for on-site parking and turning needs to be provided. To enhance biodiversity, ecological improvements need to be agreed and implemented.
26. I have required all these matters by condition, revising the conditions suggested where necessary to reflect the advice contained within Planning Practice Guidance. The appellant has provided written agreement to the Council's suggested conditions. By necessity the conditions regarding traffic management measures and ground and finished ground floor levels need to be pre-commencement conditions. Two other conditions suggested by the Council in relation to details regarding landscaping and boundary treatments have also

been drafted as pre- commencement conditions. However, I am not persuaded that this is necessary and have amended these conditions accordingly.

27. Given the traffic management measures condition, the condition suggested to secure the existing substandard visibility splays at the site access is unnecessary. A condition has been suggested regarding foul and surface water drainage. However, as such matters are controlled by Building Regulations it is not relevant to planning. As a result, I have not attached either of these two conditions.

Ian Radcliffe

INSPECTOR

Schedule of conditions

- 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: 10.00D, 10.01A, 10.02B, 10.03C and 10.04C
- 3) The materials proposed to be used on the external surfaces of the development shall be as indicated on the approved drawing number 10.02B.
- 4) Development shall not commence until full details of traffic management measures within the highway, that enable vehicles exiting the site to safely encroach onto the carriageway and achieve the relevant visibility splays contained in Manual for Streets (MfS) (or any national technical guidance that replaces MfS with or without modification), have been submitted to and approved in writing by the local planning authority. The development shall not be occupied until the approved measures have been fully implemented.
- 5) No development shall take place until full-details of the finished levels, above ordinance datum, of the ground floor of the proposed buildings, 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 a scheme of work that shall first have been submitted to and approved in writing by the local planning authority.
- 6) Notwithstanding condition 2, prior to the commencement of above ground works, full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. For hard landscape works, these details shall include; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; where relevant. For soft landscape works, these details shall include new trees and hedgerows and trees to be retained showing their species, spread and maturity, planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities.
- 7) The landscaping works shall be carried out as approved prior to the first occupation of the development so far as hard landscaping is concerned

and for soft landscaping, within the first planting season following the first occupation of the development or the completion of the development whichever is the sooner. 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.

- 8) Notwithstanding condition 2, prior to the commencement of above ground works, details of all screen and boundary walls, fences and any other means of enclosure, including any boundary treatments that are to be retained, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter only be carried out in accordance with the approved details and the dwellings hereby approved shall not be occupied until the details have been fully implemented.
- 9) The scheme for parking, and manoeuvring indicated on the submitted plans shall be laid out prior to first occupation of the development hereby permitted and that area shall not thereafter be used for any other purpose.
- 10) Prior to first occupation of the development hereby permitted a scheme for Ecological enhancements (swift boxes) shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to first the occupation of the development and shall be maintained as such thereafter.
- 11) 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 other than those expressly authorised by this permission shall be constructed on the side elevation of the dwelling on Plot 1.

-----End of Conditions Schedule-----