



Appeal Decision

Site visit made on 1 February 2022

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 7th February 2022

Appeal Ref: APP/P2114/W/21/3275049

Three Bishops, Main Road, Brighstone, 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) Limited against the decision of the Isle of Wight Council.
 - The application Ref 20/01624/FUL, dated 25 September 2020, was refused by notice dated 24 November 2020.
 - The development proposed is erection of a three-bed detached dwelling (Use C3) to the rear of the public house (Use A4) utilising existing access through the pub's car park, reconfigured parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a three-bed detached dwelling (Use C3) to the rear of the public house (Use A4) utilising existing access through the pub's car park, reconfigured parking and landscaping at Three Bishops, Main Road, Brighstone, PO30 4AH in accordance with the terms of the application, Ref 20/01624/FUL, dated 25 September 2020, and the plans submitted with it, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. In July 2021 the revised National Planning Policy Framework was published (the Framework). The Parties have each had the opportunity to address the implications of this.
3. Although not referred to on the decision notice the Brighstone Parish Neighbourhood Plan 2016 (BPNP Policies) forms part of the development plan for the purposes of this appeal. I have therefore taken it into account.

Background and Main Issues

4. An Acoustic Testing Report was submitted with appeal. The Council confirms that the objections on noise grounds in the second reason for refusal of the planning application are addressed subject to conditions implementing the recommendations in the Report.
5. A Unilateral Undertaking under s106 of the Town and Country Planning Act 1990 providing for a contribution towards affordable housing has been submitted with the appeal. The Council consider that the third reason for refusal, relating to the absence of an Affordable Housing contribution has been addressed.
6. Taking into account the above, the main issues are:

- the effect of the proposal on the character and appearance of the area taking particular account of the effect on the Brighstone Conservation Area (the CA) and the Isle of Wight Area of Outstanding Natural Beauty (AONB); and
- whether or not satisfactory living conditions would be provided for future occupiers of the proposed dwelling given the adjoining PH use and taking particular account of privacy and outlook.

Reasons

7. Policy SP1 of the Island Plan Isle of Wight Core Strategy (including Waste and Minerals) and Development Management Development Plan Document 2012 (the IP) identifies Brighstone as a Rural Service Centre where development on appropriate sites is supported. The appeal site is within the Brighstone settlement boundary near bus stops, shops, the school and other local facilities. BPNP Policy H1 supports new housing within the settlement boundary. Provided planning policies and other material considerations would be satisfied small scale residential development would, in principle, be acceptable.

Character and appearance

8. Brighstone has a somewhat dispersed settlement pattern. 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. This is reflected in the different CA character areas. The appeal site is in the Village Centre Character Area which has a more nucleated settlement. There are a number of Listed Buildings in the CA including the Grade 1 Listed St Mary's Church (the Church).
9. The Conservation Area Appraisal 2009 explains that the Village Centre Character Area is a bustling hub of activity and the centre of village life, but it also contains many residential properties and gardens. The traditional built environment is softened by the abundance of flora, trees and hedges adorning the majority of dwellings and public spaces. A strong visual connection to the wider natural environment is created through the long distance views of the surrounding downland. The Church is a prominent landmark in the predominantly linear pattern of this thriving rural village. The Three Bishops public house (the PH) is on a prominent corner in the village centre some distance from the Church. It fronts onto Main Street and the side, with its service area/fenced compound, adjoins Warnes Lane.
10. The appeal site comprises part of the PH car park and fenced compound. It adjoins Warnes Lane on one side and the school field to the rear. A public right of way continues from the end of Warnes Lane, separating the school field and the playing fields behind the public carpark. There are substantial trees in and adjacent to the shared boundary with the school field. The school field is identified as one of the most important open areas in Brighstone but the PH car park is not identified as part of the important open area.
11. The proposed building would largely occupy the site of the compound behind the PH, and, whilst it would be visible at the side of views towards the Church, it would not significantly intrude upon these. The proposed garden would separate the dwelling from the school grounds and the proposal, even taking into account retained and proposed boundary treatments, overall would not harm the openness of the area to the extent that permission should be refused

on that basis. Nor, due to its location, would the proposal impinge on the wider vistas of the rural areas surrounding the village or alter the overall character of Brighstone as a rural village.

12. I consider that the proposal would not harm the setting in which the historic and architectural character of the Church is experienced. Nor, given the intervening distance, vegetation and buildings, would there be harm to the settings in which the historic and architectural characters of other nearby Listed Buildings, including the Grade II Listed Elmlea, the Grade II Listed Village Shop or the Grade II listed Wayside Cottage Brighstone Post Office are experienced.
13. Although many houses front onto Main Road in a linear fashion, there are a number of short roads off Main Road that support residential properties including Warnes Lane. The proposed dwelling would have its main frontage close to, and facing, Warnes Lane. It would be to the rear of, and in line with, that part of the PH building which extends along Warnes Lane. Buildings on the other side also face towards Warnes Lane, albeit set further back and, in some cases, obscured from public view by trees and hedges. Due to this positioning in relation to Warnes Lane I consider that the siting of the proposed dwelling would not be out of keeping with the prevailing linear pattern of development or amount to unsatisfactory backland¹ development.
14. The proposed modest three bedroom dwelling would be parallel to Warnes Lane and would have lowered eaves and a shallow pitched roof with windows either side of a central door. It would be faced in natural stone with brick detailing on the corners and around windows. There would be a chimney stack at the end of the roof and two dormers facing the retained PH carpark.
15. There is no single architectural style in the local area and during my visit I noted a variety of size, designs and window arrangements. Overall, I consider the proposed design would not be out of keeping with the traditional local vernacular. The proposed dormers would face the PH car park and would not intrude into the street scene and I note there are some dormers and rooflights nearby. I consider the proposal would have a neutral effect on the character and appearance of the CA taken as a whole, which amounts to its preservation.
16. The development would also be within the AONB which has the highest level of protection of landscape and scenic beauty. The extensive AONB has a complex and diverse landscape. The geology; habitats; historic and current land use and settlement pattern; boundary features; peace, tranquillity and 'dark skies'; traditions, customs and cultures; all add to its special qualities and 'sense of place'. The settlement of Brighstone is set within this wider landscape and is close to the coast, fields and downs.
17. The Isle of Wight, Area of Outstanding Natural Beauty Management Plan 2019-2024 (the AONBMP) supports managed change. The scale of the proposal is very modest and relates to a site in the centre of the village. The proposed windows would generate additional light during hours of darkness. However, taking account of light spill from the PH, the local shop, the street light in the public car park and other nearby windows I consider that this would not have an unduly harmful effect on dark skies, particularly as the appellant offers to install timed black out blinds and/or low transmission glazing which could be secured by condition. Overall I find that there would be no harmful effect on

¹ Backland is often used to refer to land that may not be visible from, or front onto, a road

the character of the AONB or unmanageable conflict with the dark skies aspirations of the AONBMP and BPNP Policy POE2.

18. For the reasons set out above I conclude the proposal would not have a harmful effect on the character and appearance of the village, the AONB or the setting of Listed Buildings and would preserve the character and appearance of the CA. I find no conflict with those objectives of Policies DM2, DM10, DM11 and DM12 of the IP, BPNP Policy D1 or BPNP Policy POE1 which seek to ensure development respects the character and appearance of the local area taking particular account of heritage assets and the landscape and scenic beauty of the AONB.

Living Conditions.

19. Most of the windows in the PH facing towards the appeal site would be at sufficient distance so as not to cause unacceptable intervisibility between them and the proposed first floor side window. There is a ground floor window in the PH facing towards and nearer to the site. However, views up from this window towards the dwelling would be oblique and overlooking would not be so great as to result in an unacceptable loss of privacy. The dormer windows to the rear would face across the proposed garden so there would be sufficient privacy from users of the PH carpark and garden.
20. Windows in 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 PH towards the dwelling.
21. Due to the respective positions of the existing and proposed buildings, the distance from retained trees and the amount of open space I consider the outlook for future occupiers of the proposed dwelling and users of the PH would be satisfactory. I conclude that satisfactory living conditions would be provided for future occupiers of the proposed dwelling and that unacceptable harm to users of the PH would not be caused. Accordingly I find no conflict with Policy DM2 of the IP which seeks high quality and inclusive design.

Unilateral Undertaking

22. Policy DM4 of the IP; BPNP Policy H2 and the Affordable Housing Supplementary Planning Document 2017 require new residential development to provide financial contributions towards the provision of affordable housing. As the appeal site is in the AONB these Policies are generally consistent with the Framework. The submitted Unilateral Undertaking sets out a formula for such a financial contribution. I find no reason to doubt that the obligation is necessary; directly related to the development; and fairly and reasonably related in scale and kind to the development
23. Accordingly I find no conflict with policy DM4 of the IP or BPNP Policy H2 as the proposal would make suitable provision for affordable housing.

Other Matters

24. The Council advises it cannot demonstrate a five year supply of deliverable housing land. The Housing Delivery Test indicates that the delivery of housing

was substantially below the housing requirement over the previous three years. The proposal would deliver one additional, much needed, dwelling as a windfall previously developed site. Occupiers of the proposed dwelling would add spend to the local economy and help support the vitality of the local community and local services.

25. I have taken account of representations made. 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.
26. Access to two parking spaces for the proposed dwelling would be from Main Street through the existing PH carpark where 21 car parking spaces would be retained for PH use. A number of objections raise concerns regarding highway safety, in particular in relation to the inadequacy of the remaining carpark for the PH and letting rooms and turning of service vehicles. The tenant of the PH raises no concerns about the effect of the proposal on the PH business. The Council considers that the level of retained parking would be acceptable. It would meet the standards set out in BPNP Policy TT1 and I see no compelling reason to come to a different conclusion.
27. Concern has been raised about the loss of a route through the PH carpark which avoids walking along Warnes Lane to the school, the public right of way and carpark. The Highway Authority refer to this as informal. Whilst I acknowledge the concerns raised about safety because of the narrowness of Warnes Lane, there appears to be no public right to cross the PH car park and I have seen nothing that leads me to believe the landowner could not prevent public access at any time. Moreover, unregulated passage through an informal carpark, especially at busy times, could also result in safety issues. The Highway Authority has no objections on highway safety grounds and this was not a reason for refusal of the application. I find no compelling reason to come to any different view.
28. A colleague Inspector dismissed appeal Ref APP/P2114/W/20/3246188 for a dwelling in the carpark of the PH. However, the then proposed dwelling was larger, set further back in the carpark, intruded into views of the Church and did not relate well to Warnes Lane or the local pattern of development. I do not consider that dismissal sets a precedent for the proposal before me.
29. Queries have been raised about the boundary between the PH and the village shop. However, it seems to me there would be ample land to ensure that parking and access could be satisfactorily provided within the PH site and the precise position of the boundary is a private matter between the land owners.
30. The proposed dwelling would connect to the existing public sewer. The Nitrogen Neutrality Statement dated 9 November 2021 prepared by Aqua Callidus states that both Brighstone Stream and Sandown Waste Water Treatment Works (WWTW) discharge off the south coast of the Island, and neither is considered by Natural England to affect the nutrient balance in the waters of Special Protection Area of The Solent (the Solent), as defined in Natural England Advice note version 5 "Achieving Nutrient Neutrality for New Development in The Solent Region" June 2020. As the development would connect to Sandown WWTW it is not necessary to demonstrate nutrient neutrality.

31. Surface water run off would be managed by permeable surfaces on the car parking areas, attenuation storage and the use of water butts. Subject to suitable conditions Southern Water and the Council raise no objections on the grounds of drainage. I see no reason to come to a different view.

Conditions

32. I have considered the conditions referred to by the Council and the appellant. Where appropriate I have amended the wording proposed to align more closely with the National Planning Practice Guidance and the Framework. As well as the standard condition specifying the time limit for commencement of development, compliance with the approved plans is necessary to provide certainty. Materials for external surfaces and hard and soft landscaping should be controlled in the interests of the appearance of the area.
33. An Arboricultural Implications Assessment and Method Statement has been provided so it is not necessary to require another. It is necessary to ensure its recommendations are implemented prior to the commencement of development.
34. A condition requiring implementation of the proposed parking arrangements is necessary to ensure the parking is provided in the interests of highway safety. Control over drainage is necessary to reduce flooding, to reduce pollution, to manage nutrients discharged to the Solent and in the interests of public health. I note the contents of the Nitrogen Neutrality Statement but circumstances can change and as a precaution I consider the wording proposed by the Council to be necessary.
35. To protect future occupants from noise it is necessary to ensure the proposed noise mitigation is implemented. In the interests of tranquillity and dark skies a condition controlling light spill, as proposed by the appellant, is necessary.

Planning Balance and Conclusion

36. I have found that the proposal would not have a harmful effect on the character and appearance of the village, the AONB or the setting of Listed Buildings and would preserve the character and appearance of the CA. Satisfactory living conditions would be provided for future occupiers of the proposed dwelling and unacceptable harm to users of the PH would not be caused. A contribution would be made towards the provision of affordable housing.
37. I acknowledge the concerns about the extent of retained parking and the desire to continue to use the informal access through the PH carpark. However, these matters do not outweigh the benefits of the proposal.
38. The proposal would comply with development plan Policies and I have found insufficient material considerations that would lead me to a conclusion other than in accordance with the development plan. For the reasons given above the appeal should succeed.

S Harley

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: 17.2291.120 Rev P2, 17.2291.121 Rev P1, 17.2291.122 Rev P1, 17.2291.123 Rev P2, 17.2291.124 Rev P2, and ECO 4.
- 3) Construction of the dwelling hereby approved shall not proceed above foundation level until details of the materials and finishes, including mortar colour, to be used in the construction of the external surfaces have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 4) The dwelling hereby permitted shall not be occupied until space has been laid out within the site in accordance with drawing number 17.2291.120 Rev P2 dated August 2020 for 21 cars attributable to the public house and 2 cars to the dwelling to be parked, and for vehicles to turn so that they may enter and leave onto Main Road in forward gear. The space shall not thereafter be used for any purpose other than that approved in accordance with this condition.
- 5) The development shall not be occupied until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works have been carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. refuse or other storage, lighting, etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines, etc, indicating lines, manholes, supports, etc).
- 6) 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.
- 7) No development shall take place until the tree protection measures within section 5 of the Arboricultural Implications Assessment and Method Statement (EcoUrban Ltd September 2020) are installed and these shall be retained throughout the development of the site.
- 8) The development hereby permitted shall not be occupied until a scheme for the drainage and disposal of surface and foul water from the development hereby permitted has been submitted to and approved in writing by the local planning authority. The details shall confirm the Waste Water Treatment Works (WWTW) that will treat drainage from the development hereby permitted.

Should the development hereby permitted be served by a WWTW other than the Southern Water facility at Sandown and discharge drainage into

the Solent, details of a nutrient budget and any necessary mitigation to prevent harmful impacts on the integrity of the Solent and Southampton Water Special Protection Area shall be submitted to and agreed by the Local Planning Authority prior to the commencement of development. The development hereby permitted shall be carried out in accordance with the approved scheme, which shall be completed prior to the occupation of the dwelling hereby permitted and shall be retained thereafter.

- 9) The following noise monitoring measures shall be implemented prior to occupation of the development, as specified within the Airtight & Noisecheck Limited Acoustic Testing report dated 29th April 2021 and referenced 18266:
- Acoustic trickle vents of the specification detailed in the report
 - Glazing to the windows to achieve a minimum noise attenuation of 28dBA
 - Wooden close boarded fencing of a minimum density of 10kg/m2

These shall be maintained thereafter.

- 10) Construction of the dwelling hereby approved shall not proceed above foundation level until a scheme for limiting light spill from rooflights and external lighting, if any, has been submitted to and approved in writing by the Council. Development shall be carried out and maintained in accordance with the approved scheme and be retained thereafter. No other rooflights or external lighting other than that agreed by this condition shall be installed on site.

End of Schedule.