



Appeal Decision

Site visit made on 7 March 2023

by A Edgington BSc (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 29th March 2023

Appeal Ref: APP/E2205/W/22/3296983

The Honest Miller, The Street, Brook, ASHFORD, TN25 5PG

- 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 Churchill Property Trading Ltd against Ashford Borough Council.
 - The application Ref 21/01569/AS, is dated 23 August 2021.
 - The development proposed is Proposed refurbishment of Public House, including extensions and fenestration alterations, provision of parking area and seating area with pergola. Conversion of Coach House into a Holiday Let and the erection of 4no. dwellings with associated parking, garaging, access, landscaping and biodiversity enhancements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This is a failure case, and the Council has provided a statement that sets out its concerns which has informed the main issues, set out below.

Main Issues

3. The main issues are:
 - The effects of the development on the character and appearance of the Area of Outstanding Natural Beauty (AONB);
 - Whether the development would preserve the Grade II listed buildings of the Honest Miller and The Coach House, including settings; and,
 - Whether the development would accord with local policies and national guidance with regard to location.

Reasons

Character and appearance

4. Brook sits within the AONB, in a strong rural setting of rolling topography, woodland blocks, and extensive but irregular fields. My observations are supported by the Kent Landscape Character Assessment (LCA) which describes the Hampton: Stour Valley area as having a *backdrop of wooded scarp and rich chalk grassland, gently undulating gault clay, considerable woodland, irregular fields, intensively cultivated, former hedgerows largely removed*. The LCA sets out a recommendation to *conserve*.

5. The village is primarily defined by ribbon development on both sides of The Street, with a cluster of development to the south around the junction with Nat's Lane, and a few very well-spaced dwellings along Troy Town Lane, which forms the southern boundary of the appeal site. This is a very narrow lane and no-through road, with a strong rural character and which has a notably different character and appearance from The Street in terms of openness, width and degree of urbanisation.
6. The paddocks behind the Honest Miller do not appear to be in active agricultural use, but they nonetheless contribute to the distinctive openness and strong rural character of land immediately behind The Street's linear building line. Although the existing ribbon development partially screens the site from The Street, there are glimpsed views of openness across the plot of Tryfan at the junction of Troy Town Lane, as well as open views from the rear of the Honest Miller. I conclude there would also be largely unimpeded views of open fields from within adjoining residential plots. These glimpsed views and sense of open countryside around the ribbon development is a key feature of Brook, which makes a positive contribution to the AONB.
7. The development would introduce two separate access points on Troy Town Lane to service two pairs of dwellings, with one pair of detached dwellings built along the lane's frontage, and backland development of a further pair of dwellings with a barn style design. This would introduce significant built form on the large paddock, as well as the urbanisation of a narrow rural lane arising from the presence of large dwellings, openings with visibility splays, views along an access road to the middle of the appeal site and the proximity of hardstanding areas to the lane.
8. Moreover, although in plan form the appeal site could be considered as infill, the presence of Willowcroft to the east and the Stable Block to the south do not necessarily set a precedent for further development along the lane. Furthermore, the street scene shows that the height, bulk and mass of the proposed dwellings abutting the lane would be considerably greater than that of those existing dwellings. Furthermore, Stable Block is very closely aligned to the rear plot boundary of the frontage development and Willowcroft also has a shallow but deep building pattern along the plot boundary. What is proposed would be a looser and far more expansive spread of development across the site, which would contrast with the underlying building pattern. As such, the development's density, layout and the overall scale of built development would be incongruous and rather suburban. It would therefore be intrusive and unsympathetic to the underlying building pattern.
9. The hedgerow vegetation on the site's southern boundary would provide screening along its southern boundary, particularly in the summer. The planning statement notes that the hawthorn and native hedgerow trees would be retained on the site's frontage. However, this document then goes on to state that the frontage contains *only hawthorns and shrubs which are not of significant amenity value or protected*. I acknowledge that the existing vegetation is scrubby and unmanaged but collectively it contributes to the distinctive character of this rural lane and to the rural character of the AONB. I appreciate that new trees and hedges could be planted but given the proximity to the dwelling's frontages, and the need for visibility splays, it seems unlikely that the informal and naturalistic character of the lane would be restored. In

- any case, if planting is needed for screening it suggests that development may not be wholly appropriate for that location.
10. The development would also introduce frontage activity to the rear of the plots fronting The Street, as well as Willowcroft. This would also be out of keeping with the quiet rural character of the area.
 11. I acknowledge that dwellings in the immediate vicinity of the site are not necessarily sympathetic to the area, but this does not warrant more development. I also appreciate that from further afield the development would be largely obscured by vegetation or at worst appear as a small cluster of additional houses. However, this does not alter my reasoning with regard to the highly likely loss of the distinctive character of Troy Town Lane in particular, and consequently harm to the wider AONB.
 12. Policy ENV3b of the Local Plan (LP) states that the Council shall have regard to conserving and enhancing the natural beauty of the Kent Downs and the High Weald AONB and LP Policy ENV5 specifically sets out to protect and where possible enhance rural lanes which have a landscape importance. There is nothing before me to suggest that these policies are inconsistent with the Framework, and consequently I give them full weight.
 13. As such, the development would conflict with LP Policy ENV3b which states that development in the AONB will only be permitted where location, form, scale, materials and design would conserve and where appropriate enhance or restore the character of the landscape and where it would enhance the special qualities, distinctive character and tranquillity of the AONB. It would also conflict with LP Policy ENV5 as set out above, with regard to Troy Town Lane.
 14. The proposals would also fail to accord with LP Policies SP1, SP6 and HOU5. These, taken together, require development to conserve and enhance the landscape, create high quality design, and preserve or enhance the setting of the nearest settlement. There would also be conflict with Paragraph 130 of the Framework which requires development to be sympathetic to local character and history, including landscape setting, Paragraph 174 which requires development to protect and enhance valued landscapes, and to recognise the intrinsic character and beauty of the countryside, as well as the recommendations in the LCA.

Heritage assets

15. The Honest Miller is a two-storey late 18th century rendered structure with a weatherboarded first floor, and plain tiled hipped roof. The listing also references sash windows on the ground and first floors, and a central panelled entrance door.
16. The heritage statement shows that the original late 18th century structure had a modest and more or less square footprint, and a central fireplace. A side extension with a tiled catslide roof was built in the 1980's. This continues the underlying vernacular styling and use of traditional materials, and is not immediately recognisable as a 20th century addition.
17. A single storey extension with a twin hipped roof form is attached to the rear elevation, was also added in the 1980's. This and the side extension link the main building to what appeared to be a formerly detached 19th century

- outbuilding with a simple rectangular footprint, weatherboarded elevations and a pitched tiled roof.
18. Notwithstanding that the Honest Miller has a slightly dilapidated appearance, its principal elevation, which faces the main road through the village, has a highly attractive and rustic appearance. The symmetry of the entrance door and window arrangement denotes a structure of local importance, and the understated style and use of materials is reflective of other buildings in the village.
 19. However, internally the original footprint of the Honest Miller is very much altered. I noticed what appear to be authentic timber posts supporting the open plan space, a low ceiling and a large brick chimney breast with an open fireplace. The main room has the intimacy of a convivial social space as well as period charm. However, the original layout has been so altered through the removal of partitions, and the installation of the bar area, so as to bear little relation to the smaller cellular plan that would be likely to have been its original plan form. The 20th century rear extension contains stores, the kitchen and toilets, with short sections only of 19th century fabric on the walls of the former outbuilding.
 20. On the first floor, there is a series of small rooms and a bathroom. The stairs are reached via the rear extension which suggests that the original staircase has been removed. There is very little evidence of intact historic fabric or plan form.
 21. Moreover, despite listing in 1957, the side and rear extensions were added in the 1980's. As such, I conclude that evidence of the Honest Miller's original footprint, plan form and scale was largely obliterated by the 20th century extensions. Its significance is primarily derived from its external form, particularly its principal elevation, as well as the use of traditional materials in its roof, windows and walls and the remnants of internal historic fabric.
 22. The Honest Miller appears on late 18th century maps as one of a series of well - spaced buildings lining The Street. The modest Coach House, located close at the front of the plot, appears on maps from the mid-19th century. This is a modest rectangular red brick building with a weatherboarded first floor, flat elevations and tiled hipped roof. There are double carriage doors on the ground floor with a hoist door above, and evidence of a rear door and side window, now bricked up. The internal cobbled floor and much of the upper floor joists appeared original, although strengthened with additional timber.
 23. The Coach House's simple hipped form is evidence of a small ancillary building. It is included in the listing for group value, and its simplicity and subservience reflects its former functional relationship with the Honest Miller. Its significance arises from its simple form, intact historic fabric, and spatial relationship with the former public house and The Street.
 24. The map regression indicates that there has always been open land to the rear of the Honest Miller. However, that is the case for much of the building line along both sides of The Street and reflects only the rural location. The maps show that the Honest Miller has occupied much the same plot for much of its history, and that this plot was only part of what is now the appeal site.

25. The key interface of the Honest Miller with its community of users was derived from its relationship with The Street. There is nothing before me to indicate that the open land to the rear of the Honest Miller, or the paddocks that form the appeal site, contribute to the significance of either the Honest Miller or the Coach House. It is primarily the land to the front and sides of the former public house, that facilitated direct views of the Honest Miller's principal elevation and the associated Coach House, and that forms the settings for both buildings.

Proposals and effects – The Honest Miller

26. The development would extend the former single storey outbuilding on the Honest Miller's northern elevation, and also add a partially glazed room to the eastern elevation. This would remove the existing twin hipped roof form and replace it with two gables. Although these hipped roof forms are in keeping with the host building in terms of scale and appearance, they are above the 20th extension and have little inherent historic value.
27. The remnant external historic fabric of the existing northern extension would be removed. However, the ridgeline would remain the same, and the extension would retain its appearance as being slightly detached from and subservient to the host building. The eastern extension would add considerable depth to the Honest Miller's rear. Nonetheless, it would be unseen in the context of the Honest Miller's principal elevation which would remain unaltered and prominent in the street scene. As such, the key features contributing the significance of the Honest Miller, including setting, would remain largely unaltered.
28. There would be some internal alterations but given the degree of change and alteration to date, I conclude that the development of the Honest Miller would be detrimental to its significance only insofar as it would increase the bulk of the extensions to the rear and through the limited loss of historic material in the former outbuilding. The car park would also be increased in area, at the expense of a small garden area. This would lead to a diminution of the buildings rural and informal charm, and have an adverse impact on setting. Overall, the development would remove some historic fabric and diminish setting and significance, thus amounting to less than substantial harm.

Proposals and effects – Coach House

29. The conversion of the Coach House would result in the reinstatement of window and door openings, as well as roof lights, a lean-to plant room, and an upper window to replace the first floor hoist doors. The works would also result in the loss of what appears to be the original stone cobbled floor surface.
30. The lean-to plant room would be particularly incongruous as it would detract from the underlying simplicity of external form, and that, together with the replacement of the cart doors with full height glazing, and rooflights would reinforce the change of use. As such, the Coach House would lose its utilitarian appearance and the former visual and functional link with the Honest Miller would be diminished.
31. Moreover, the Environment Agency has recommended that in order to remove its objection to the works to the Coach House, the ground floor level should be raised to around 300mm higher than the highest external survey level. This does not appear to be shown on the drawings and as such there is insufficient

information to determine how this would affect the conversion. Nor is there very much information about the removal of internal historic fabric. As such, I conclude that the development would amount to less than substantial harm.

Heritage balance

32. Consequently, the development would conflict with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) insofar as this requires the decision maker to *have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses*. There would also be conflict with LP Policy ENV13 which is concerned with the conservation and enhancement of heritage assets, and LP Policies ENV5, SP1 and SP6 which seek to safeguard local distinctiveness, including features of historic interest.
33. Paragraph 199 of the Framework states that great weight should be given to a heritage asset's conservation. However, Paragraph 202 and LP Policy ENV13 state that where there would be less than substantial harm, that harm should be weighed against the public benefits of the proposal, including, where appropriate securing its optimum viable use.
34. The description of development sets out that refurbishment rather than change of use is proposed. Although there is no financial evidence before me, having viewed the existing facilities and internal layout I see no reason to doubt that the relatively modest increase in floor space, and upgraded internal and outdoor amenities would not be beneficial to the Honest Miller's long-term viability. This would amount to a public benefit sufficient to outweigh the less than substantial harm identified above, and would also ensure appropriate maintenance and the securing of the building's future.
35. The Coach House's current use as a store is not necessarily sustainable in the long term, and in principle I can see advantages in its use as holiday accommodation sufficient to outweigh the harm identified above. However, there is a lack of information with regard to flood mitigation in particular. As such I am unable to conclude that the public benefits of the development would outweigh the harm identified.

Location

36. Brook is a small village with a long linear form, situated about 5 miles from Ashford. The site is outside the defined settlement boundary and for planning purposes would be considered under LP Policies HOU3a and HOU5. LP Policy HOU3a states that in relation to Brook, residential development and infilling could be allowed within a settlement's built-up confines. LP Policy HOU5 is concerned with windfall development in the countryside, as long it is adjoining or close to existing built-up areas of named villages.
37. The southern limb of the appeal site, accessed from Troy Town Lane, sits between two residential plots and there is a further residential plot opposite the site's southern boundary, on the other side of Troy Town Lane. As such, the appeal site sits within the existing building pattern. However, this part of the site is outwith the recently adopted settlement boundary, and Brook is not a named village in LP Policy HOU5. As such, the proposed dwellings would be in conflict with LP Policies HOU3a and HOU5.

38. LP Policies SP1 and SP2 highlight that new development should be located in accessible and sustainable locations with a wide range of sustainable transport options. The appellant argues that there is a bus service with one inward and one outward service per day. However, it appears that this is a school bus and interested parties have also noted that this service has been discontinued since the appeal was lodged.
39. The route from Ashford requires travel down country lanes, and it seems very likely that future occupiers would be reliant on private vehicles for amenities, essential services, schools and employment. The traffic associated with servicing a refurbished and extended public house/restaurant, together with increased footfall, holiday accommodation and four family dwellings would add to the underlying traffic using these lanes, and given the lack of public transport, footways and lighting, there do not appear to be feasible or alternative sustainable options. Moreover, a public house /restaurant will generate a requirement for supplies and refuse collection which cannot be accommodated by any means other than vehicles.
40. Nonetheless, it is not disputed by the parties that the Council does not have a five year housing land supply. As such, the policies which are concerned with settlement strategy, LP Policies SP1 and SP2, as well as policies LP Policy HOU3a and HOU5 which are concerned with rural development, carry less than full weight.
41. The development would conflict with LP Policies SP1, SP2, HOU3a and HOU5 as set out above, but with reduced weight only. Moreover, although Brook does not have amenities apart from the village hall, the nearby village of Wye has schools and convenience stores. Paragraph 79 of the Framework states that where there are groups of smaller settlements, development in one village may support services in a village nearby. As such, limited residential development in Brook would be consistent with the Framework in this regard. This is considered later in the planning balance.

Other Matters

Enabling Development

42. Historic England (HE) guidance¹ with regard to enabling development sets out that enabling development is *development that would not be in compliance with local or national planning policies and would not normally be given planning permission except for the fact that it would secure the future conservation of a heritage asset*. This is further clarified in Paragraph 202 of the Framework which states that *conflict with planning policies may be justified if the development proposed would secure the future conservation of the assets and the wider benefits outweigh the disbenefits of not adhering to those policies*.
43. The case for enabling development requires there to be a conservation deficit, which is the difference between the cost of repair and conversion to the asset's optimum viable use, and the market value of that repaired and renovated asset, allowing for all development costs.
44. The guidance also sets out the steps required to demonstrate that enabling development might be justified, beginning with a conservation needs/works

¹ Historic England June 2020

assessment, and working through alternative solutions, market testing, repair and maintenance costs assessment, market value assessment, scheme design, development appraisals and a delivery plan. No such evidence has been submitted. As such, I am unable to conclude that the works to the heritage assets would generate a conservation deficit and therefore there is no evidence to indicate that enabling works are needed. Consequently, the evidence before me indicates that the restoration of the heritage assets would be unrelated to the development of four additional dwellings. Nor do the four dwellings contribute to the public benefits arising from the development of the Honest Miller and the Coach House.

Biodiversity

45. The Council has raised a concern in relation to Stodmarsh Lakes, which are a set of lakes designated as a Special Protection Area, Ramsar site, Special Area of Conservation and Site of Special Scientific Interest. Parts of the area are also designated as a National Nature Reserve.
46. The appellant has confirmed that the scheme would not be able to achieve nutrient neutrality within its boundaries and would be reliant on 4.7 hectares to be converted from general cropping to woodland planting. No site within the relevant catchment has been identified.
47. The appellant has forwarded a copy of a report to be discussed by the Council on 30 March 2023. This is an update on the Council's strategic nutrient mitigation proposals. It appears to set out a strategic direction, stating that the Council is in pre-application discussions with landowners and interested parties. However, even if those discussions are successful, applications would need to be determined through the normal procedures.
48. Moreover, the report also sets out that the solutions proposed would address nutrient neutrality for all the housing sites allocated in the Local Plan 2030. As far as I am aware the appeal site is not an allocated housing site in that plan. As such, even if the mitigation proposals were implemented, they would not necessarily have the capacity to accommodate the nutrient burden arising from this development. On this basis I am unable to conclude that appropriate mitigation for this site could be identified and approved within a reasonable timescale. In any case, as I have found harm sufficient to dismiss the development for other reasons, there is no need for me to consider this further.

Living conditions

49. The gable wall of Unit 1 would be more than 20 metres from the rear elevation of Tryfan, which fronts The Street. Given its distance, the ridge height of around 7.5 – 8 metres, together with the hipped and barn style roof form which would reduce its bulk, I see no reason why the occupiers of Tryfan would experience significant harm to their living conditions in relation to outlook.

Car parking and highway issues

50. Concerns have been raised by interested parties in relation to car parking provision for the Honest Miller. However, notwithstanding that there will be a modest increase in floor space, I agree with the Council that the level of operations and associated parking demand would not necessarily be significantly increased. Additional parking would be required for the Coach House, but this would be for one or two cars only.

51. It is unclear to me whether the highway authority has commented on the development in relation to increased use of Troy Town Lane, refuse collection and emergency access which are issues raised by interested parties. However, as I have found harm in relation to other issues it is not necessary to consider this further.

Flood Risk

52. There is a large body of evidence before me with regard to flood risk, including photographs showing flooding on The Street. Although the Environment Agency has withdrawn its objection following the submission of the Flood Risk Assessment (FRA), I have concluded that it is appropriate to review the evidence with regard to flood risk.
53. The Environment Agency's flood maps show that the frontage of the site, that is part of the car park including the Coach House's footprint, are located within Flood Zone 3, as is the entire road between the Honest Miller and the Troy Town Road junction.
54. The FRA models flood depths. I agree that at reference point 10, on the higher side of the Coach House, there would be a flood depth of 30mm in the 1% AEP. However, at reference point 5, which falls within the Coach House's footprint, the flood depth in that same event is modelled at 190mm. Moreover, whilst the Coach House's ground floor level could be raised above the flood level, this does not appear to be indicated on the drawings. The floor plans show limited headroom on the first floor, and consequently raising the ground floor levels could reduce first floor headroom to an extent not clearly indicated. It is also likely that an enlarged area of hardstanding, resulting from the increased area of the car park will lead to increased runoff and cause more flooding issues along this section of road.
55. The proposed dwellings would be in Flood Zone 1, and it is intended that downpipes are routed to underground attenuation. However, the drainage strategy states that excess water would be diverted to low land. This land is not identified. Given the proximity of Flood Zone 3 to the appeal site it seems likely that surplus water could aggravate existing issues of flooding. This could lead to accessibility problems at the entrance of Troy Town Lane in times of inundation. However, notwithstanding my concerns in relation to flood risk, as I have found harm in relation to other issues it is not necessary for me to consider this issue further.

Procedural issues and precedent

56. The appellant has raised concerns in relation to procedural matters and the Council's handling of the application, but such concerns are outwith the scope of the appeal.
57. I am aware that there are other applications for the site which are pending consideration. However, I am able to determine the application as it were made to me in the first instance and each appeal is determined on its merits. I am also aware that there is an extant permission for glamping tents but that is not comparable to this appeal and carries no weight in its favour.
58. The appellant has also drawn my attention to a recent appeal at Tenterden. However, this is for 141 dwellings, and the reasons for refusal do not include

reference to heritage assets or the AONB. As such, the tilted balance applied to that appeal, which is not the case for the appeal before me.

Planning obligation

59. The Council has indicated that if the appeal was allowed a Section 106 obligation would be required to make provision for affordable housing, and other infrastructure contributions. Had the Council determined the appeal the lack of an obligation would have been a reason for refusal. There is no such obligation before me.
60. The appellant has advanced the argument that the red line boundary could be altered to ensure that the developable area of the site is less than 0.5 hectares, which is the threshold for contributions set out LP Policy HOU1. However, this was an option open to the appellant at application stage. I have to determine the appeal before me as to do otherwise could be prejudicial to other parties. In any case, as the appeal is to be dismissed on other grounds it is not necessary for me to consider this further.

Planning Balance and Conclusion

61. Four additional dwellings would make a small contribution to local housing supply. Moreover, the renovated public house/restaurant would make a small economic and social contribution to the area and outweigh the harm identified with regard to diminished significance of the Honest Miller.
62. It is not in dispute that the Council does not have sufficient housing land supply. Paragraph 11d) of the Framework states that where the policies most important for determining an application are out of date as a consequence of insufficient housing land supply, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusal. In this case, and notwithstanding that the policies concerned with spatial strategy and rural development carry less than full weight, the Framework provides clear reasons for refusal in relation to the Coach House, the AONB and Stodmarsh Lakes. The benefits arising from the development would be insufficient to outweigh the harm I have identified above.

Conclusion

63. The development would conflict with the local development plan, national guidance and legislation, and there are no material considerations of such weight to lead me to conclude other than that the appeal should be dismissed.

A Edgington

INSPECTOR