



Appeal Decision

Site visit made on 9 May 2023

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2023

Appeal Ref: APP/L2250/W/22/3313299

The Black Horse Inn, 366 Canterbury Road, Densole CT18 7BG

- 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 Folkestone and Hythe District Council.
 - The application Ref 21/1811/FH, dated 4 August 2021, was refused by notice dated 5 October 2022.
 - The development proposed is the erection of three dwellings to the north of the public house, with associated parking and landscaping, and the reconfiguration of the public house car park and beer garden, following demolition of single storey side and rear extensions.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of three dwellings to the north of the public house, with associated parking and landscaping, and the reconfiguration of the public house car park and beer garden, following demolition of single storey side and rear extensions at The Black Horse Inn, 366 Canterbury Road, Densole CT18 7BG in accordance with the terms of the application, Ref 21/1811/FH, dated 4 August 2021, and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Punch Partnerships (PML) Limited against Folkestone and Hythe District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application was refused for four reasons. The fourth reason argued that the application failed to demonstrate that sufficient off-street parking would be provided to address the needs of the existing Public House.
4. I have noted that the Council in its appeal statement has accepted that the layout plan with 19 spaces for The Black Horse Inn is deliverable and would now be acceptable. Provision of the five spaces at the front of the site is dependent on notice being served on those with a right of way across that land, namely those residents in the two houses beyond the rear of the Public House. The Council accept that this could be made the subject of a pre-commencement/Grampian condition.
5. The appellant still makes some representations that 15 spaces would be acceptable for the public house element of the site. On this issue, I am

conscious of all the evidence before me, including the comments on the timing of some of the parking surveys. Together with the representations of local residents and the Highway Authority, I consider that it is necessary in the interests of reducing the potential for on-street car parking on the A260 (Canterbury Road), and thereby to help ensure highway safety and the amenity of residents, that no less car parking should be provided on the site than is already available. Consequently, in any approval the provision of 19 spaces should be a requirement.

6. In these circumstances, and with the Council no longer defending the fourth reason for refusal, I do not intend to consider this matter as a main issue in this appeal.

Main Issues

7. The main issues are:

- the effect of the proposed dwellings on the character and appearance of the area, having regard to the location within the Kent Downs Area of Outstanding Natural Beauty (the AONB),
- whether or not the garden areas would provide future residents of the proposed dwellings with satisfactory living conditions, and
- the effect of the proposal on highway safety having regard to whether or not the vehicular access for Plots 1 and 2 would provide adequate sight lines.

Reasons

Character and appearance

8. The Black Horse Inn is located within the built area of Densole. It is an attractive two storey building with clay tiled roof and painted elevations with public house liveries. It has quite a modest sized front elevation, but the building extends back into the plot. The open frontage is fairly dominated by the large area of hardstanding, which extends to the north and where there is a more informal parking area, with a hedge separating this space from the Canterbury Road.
9. The Public House is set in wider built surroundings where there is a mix of styles and heights of buildings. To the north there is long line of predominantly bungalows with a consistent building line. There are larger bungalows to the south although there are some two storey buildings beyond in this row. The two storey houses of Densole Way are partially visible from parts of the car parking area, as are the two newer properties to the rear of the public house which have two storeys, with additional accommodation in the steeply sloping roof space. On the other side of the road there is a mature hedge which largely screens the open land beyond.
10. The site and surroundings are located within the AONB and the North Downs Special Landscape Area. However, with the exception of the more traditional design and appearance of the Public House, generally the surrounding properties do not clearly display locally distinctive features and designs that would identify them as being within the Kent Downs AONB. The area has, therefore, a reasonably varied design of buildings and where the properties have a mix of heights and roof forms.

11. It is within this area of mixed character that the proposed scheme would be built. The development would include three dwellings on the area of more informal car parking. The buildings would be sited to face the road and align with the bungalows to the north which would be an appropriate layout within this part of the street scene. They would be sited to provide a reasonable separation from the Public House such that this older building would not appear cramped in its surroundings. There would be parking provided to the front and southern side of the proposed dwellings and the replacement/lowered hedge would allow some softening of the road frontage.
12. The buildings have been designed with steeply pitched roofs which would slope down to the heads of the ground floor windows and doors, and with pitched and modest sized dormers to allow accommodation in the roof space. This would give the impression that the buildings were effectively 1½ storeys. The variation to the ridge lines and the provision of the chimneys would add visual interest to the roof form. The dwellings would be higher than the adjoining bungalows, but lower than the ridge of the public house. All these elements of the scheme would combine to provide an attractive row of buildings which would provide a suitable transition across this frontage area between the buildings to the north and the Public House.
13. When travelling from the south along the Canterbury Road, and in the vicinity of the junction, the end gable of Plot 3 would be quite apparent. However, it would be seen in the context of the existing Public House, the car park and the wider built surroundings and, with the suitable proportions of the gable, the end of the row would be an acceptable addition to the street scene.
14. Overall, this row of three dwellings have been designed so that they would assimilate acceptably with the surrounding built form. Their bulk, use of traditional materials and appearance would pay suitable reference to the characteristic elements of this part of the Kent Downs AONB. The development is an acceptable architectural response to the site having regard to the advice in the Kent Design Guide and the Kent Downs AONB Landscape Design Handbook. The scheme would meet with the National Planning Policy Framework (the Framework) requirements that development should be visually attractive as a result of good architecture and layout. There is adequate space at the front in terms of the character of this part of the street scene for effective landscaping.
15. The Framework also requires that great weight should be given to conserving and enhancing landscape and scenic beauty in AONBs, which has the highest status of protection in relation to these issues. For the reasons explained above, the design and appearance of the development would conserve and enhance the landscape and scenic beauty of this part of the AONB. The proposal would also provide compatible development within this part of the North Downs Special Landscape Area.
16. In the light of the above analysis, I conclude that the proposal would have an acceptable impact on the character and appearance of the area, and would conserve and enhance the landscape and scenic beauty of this part of the AONB. Accordingly, the proposal would meet with Policies HB1 and NE3 of the adopted Folkestone and Hythe District Places and Policies Local Plan 2020 (the Local Plan) and the Framework which, in this respect, seek that development

makes a positive contribution to its location and surroundings, enhancing integration while also respecting existing buildings and land uses.

Living conditions

17. The three dwellings would meet with the required internal space standards although all would be modestly sized two bedroom units. Each dwelling would have a reasonably level and private rear garden area which would be accessed off the main ground floor living accommodation and by a side passage. The garden space would accommodate the bin and bike store and would be able to provide a seating and small amenity space to complement the internal living accommodation. The gardens would be bounded by 1.8m timber fences, and the spaces would range in size from 68sqm for Plot 1, 60sqm for Plot 2 and 54sqm for Plot 3. Plot 3 would also have space for a front garden area.
18. There is also a convenient link via a public footpath to the nearby green space at Densole Way which could be used for some types of informal sport and recreation. This public space includes a childrens' play area. While not a substitute for the provision of private garden space, these public spaces would complement the gardens to the properties.
19. However, the Council highlight Policy HB3 of the Local Plan which sets internal and external space standards for new build residential development. The policy requires an area of private garden for the exclusive use of an individual dwelling house of at least 10m in depth and the width of the dwelling. The proposed gardens would extend across the width of the property, but the lengths would range from between 7.3m-7.9m for Plot 1, 6m-6.5m for Plot 2 and 5.6m-6m for Plot 3.
20. Policy HB3 of the Local Plan explains that the Council will only consider variations to the external space standards if it can be demonstrated through the Design and Access Statement or site master planning that such an approach is needed to reflect the character of the area or provide for a mix of units within a development that create a higher density suitable to the urban nature of the site. In such instances, the Policy explains that communal or public open space should be provided or be made available within the immediate locality.
21. To achieve longer gardens, the properties could be reorientated so that they were side on rather than facing the road. This would not provide a sympathetic layout in terms of the relationship to adjoining properties and would be at odds with the character of the street scene. Nevertheless, this alternative layout could achieve the required garden length, although it may not necessarily increase the garden area. Furthermore, such gardens would be likely to have a side boundary with the road and, therefore, could be subject to more road noise for future occupants compared with the rear gardens as proposed. The circumstances of this site, therefore, lead to an appropriate layout having the dwellings facing the road and, thereby, providing shorter garden lengths than the policy would normally require.
22. Taking all these matters together, in the circumstances of the character of this site within the AONB, the layout justifies the shorter garden lengths as proposed. It would not be reasonable given the size of the site for the scheme to provide communal or public open space, although there is existing public open space nearby. In any case, I consider that the proposed private garden

space for each plot would provide satisfactory outdoor amenity space that would be reasonable and proportionate to the size of the dwellings and the likely number of occupants. This space could be designed to provide a modest but pleasant private outdoor play and amenity space and would meet with the requirements of the Framework that development should provide a high standard of amenity for future users.

23. I therefore conclude that the scheme would provide future residents of the proposed dwellings with satisfactory living conditions and, in the circumstances of this site and the character of the area, the scheme would not conflict with Policies HB1 and HB3 of the Local Plan in this respect.

Highway safety

24. The site fronts onto the Canterbury Road (A260). At the present time, the Public House and the two dwellings to its rear have two accesses onto the main road, either side of a short stretch of footway. To the south of the Public House, the road curves such that this affects the visibility of approaching vehicles and to the north, the road is straight but the hedge to the parking area and some of the front boundaries of nearby properties hinder the visibility of approaching vehicles from this direction. To the broadly south west there is also the junctions with Coach Road/Pay Street. The speed limit for this section of the A260 is 40mph.
25. Plot 3 would be accessed via the existing vehicular access that also serves the Public House and the two dwellings to its rear. The Council do not raise objection to this aspect of the scheme.
26. The reason for refusal explains, in summary, that the proposed development would fail to provide adequate vehicle sight lines in respect of Plots 1 and 2 and would therefore be harmful to highway safety. These plots would be provided by a new vehicular access onto the A260 and the existing hedge would be removed/lowered and the plans show low level planting along this frontage.
27. There has been much debate and analysis as to what sight lines can be provided from this new vehicular access and including whether they would meet with the requirements of the Manual for Streets and Manual for Streets 2.
28. The Highway Authority has commented on the required visibility splays based on the 85th percentile vehicle speed. In the northerly direction the Highway Authority seek 2.4m by 99m. The evidence from the appellant's highway consultant is that a visibility splay to the north of 2.4m by 100m could be achieved from the vehicular access. Based on all the evidence, and my observations at the site visit, this would meet an acceptable standard.
29. In the southerly direction the curvature of the road provides a greater limit to visibility of approaching traffic. The Highway Authority seek a visibility splay of 2.4m by 103m and this is based on a Desirable Minimum Stopping Sight Distance. The splay which could be achieved across the frontage of the Public House site, from the proposed access to serve Plots 1 and 2, would be 2.4m by 64m to the nearside kerb and 2.4m by 79m to the centre line of the road.
30. I note that the advice in Manual for Streets is, in summary, that some circumstances make it unlikely that vehicles approaching from the left on the main arm will cross the centreline of the main arm and, if so, the visibility splay to the left can be measured to the centreline of the main arm.

31. Along this section of the road there is no physical segregation between the opposing flows. However, there is a bend in the road for vehicles approaching the appeal site when coming from the south. Visibility of on-coming traffic when approaching that bend is restricted. Whether there is any traffic on the other side of the road which would be approaching the bend from the north is not clearly visible until close to the bend. I agree with the appellant's highway consultant that traffic travelling to the north along the A260 before or at the bend is unlikely to be on the other side of the road, including attempting to overtake another vehicle, because of the road layout and visibility. This is a situation where I am satisfied that the sight line can be measured to the centre line of the road.
32. If this is the case, the evidence indicates that the sight line that would be achievable to the south would meet with the Absolute Minimum visibility splay from the proposed access for Plots 1 and 2. I have carefully considered the arguments regarding whether the situation justifies the application of Desirable Minimum rather than Absolute Minimum distances, including having regard to the advice in Manual for Streets and Manual for Streets 2. I appreciate that the road is classified as an A road and that it is busy. I have also taken into account the representations from local residents and the Parish Council on the highway situation and noted the position of the bus stop. However, I am not satisfied that the evidence has justified the approach to using the Desirable Minimum distance in the circumstances of this case. This includes the evidence in the appellant's transport statement (May 2022), including the information that there have been no recorded accidents, in the latest 10 year period for which data is available, which have been connected with visibility issues along this section of road.
33. In these circumstances, the 2.4m by 79m visibility splay, measured to the centre line of the carriageway to the south, would be acceptable and would achieve an appropriate visibility splay in this direction. I therefore agree with the appellant's highway consultant and give this evidence greater weight than the evidence of the Highway Authority on this issue.
34. Accordingly, I conclude that the development would be provided with a safe and suitable access that would not have an unacceptable impact on highway safety. The scheme would meet the requirements of Policies HB1 and T1 of the Local Plan and the Framework in this respect.

Other Matters

35. I have taken into account all the representation both for and against the scheme, including the objections from Swingfield Parish Council. I have considered the main issues raised above, including highway safety.
36. Additionally, there are concerns with the present appearance and safety of the rear section of the Public House building. This rear section would be removed to make way for replacement car parking and a pub garden. The removal of the run-down rear section and the remodelling of parts of the building would improve the rear part of the site and should address the visual appearance and amenity concerns that have been raised.

Conditions

37. I have had regard to the conditions suggested by the Council, the comments of the appellant, and the advice in the Planning Practice Guidance. I have amended the wording where necessary in the interests of clarity or to meet the tests in the Guidance. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty.
38. A condition requiring the submission and agreement of the external surfaces of the development is necessary in the interests of the character and appearance of the area. Conditions requiring specifications in terms of water usage, sustainable construction and energy efficiency measures are necessary in the interests of ensuring that the development is designed and occupied in a sustainable way.
39. A condition is necessary to address any contamination which may be found during construction in the interests of the health of future occupants. Conditions are necessary to approve landscaping for the site in the interests of the visual amenities of the area. Conditions which ensure that external lighting is bat sensitive and the development incorporates biodiversity enhancement measures are necessary in the interests of protecting and enhancing biodiversity.
40. I agree with the appellant that an archaeological watching brief is not necessary as no clear evidence has been provided to justify such a condition on this site, and therefore this would not be reasonable in these circumstances.
41. An hours of work condition is necessary as there are nearby residential properties and construction work could disturb these residents if it took place at unneighbourly times. Such a condition would be reasonable and directly related to the development. I have used the hours that the Council has suggested but removed the wording that referred to emergencies or with the written permission of the Council as this would not be precise nor enforceable.
42. A condition which requires that notice has been served on the adjoining landowners and it has been demonstrated that the right of way at the frontage of the site has been moved is required to ensure that the parking in this area can be accommodated. This is necessary in the interests of providing sufficient car parking and highway safety. This needs to be a pre-commencement condition to ensure that this is in place before any other works start. Also, an implementation schedule that demonstrates the delivery of the car parking for the Public House is necessary in the interests of ensuring adequate car parking is provided and thereafter maintained. Similarly, a condition is necessary for the provision and maintenance of the car parking associated with the three dwellings.

Conclusion

43. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹. I have concluded that the scheme would have an acceptable impact on the character and appearance of the area, would provide future occupants with acceptable living conditions and that the development

¹ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

would have a safe and suitable highway access. These are all matters which would accord with planning policies and the Framework. There are no planning considerations that weigh materially against the proposal, and which would outweigh these matters.

44. For the reasons given above, the scheme would comply with the development plan when considered as a whole and other material considerations do not indicate that a decision should be made other than in accordance with the development plan. Consequently, and taking all other matters into account, I conclude that subject to the specified conditions, the appeal should be allowed.

David Wyborn

INSPECTOR

Schedule of Conditions

- 1) The development must be begun within three years of the date of this permission.
- 2) The development hereby permitted shall not be carried out except in accordance with the details shown on the submitted plans: 21-3262-100 rev P10, 21-3262-101 rev P4, 21-3262-102 rev P4, 21-3262-103 rev P2, 21-3262-104 rev P2, 21-3262-105 rev P3, and 21-3262-107 rev P1.
- 3) No work on the construction of the external surfaces of the buildings shall take place until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development beyond the construction of foundations shall take place until details to demonstrate that the dwellings hereby permitted shall use no more than 110 litres of water per person per day have been submitted to and approved in writing by the Local Planning Authority. The details shall be implemented as agreed.
- 5) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, which set out what measures have been taken to ensure that the development incorporates sustainable construction techniques such as water conservation and recycling, renewable energy production including the inclusion of solar thermal or solar photo voltaic installations, and energy efficiency. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first use of any dwelling.
- 6) If during development, contamination not previously identified is found to be present at the site, then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted and obtained written approval from the Local Planning Authority, details of how this unsuspected contamination shall be dealt with. Following completion of measures identified in the approved remediation scheme a verification report shall be prepared and submitted to the Local Planning Authority.
- 7) No development beyond the construction of foundations shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.
- 8) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of

any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

- 9) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, become severely damaged or become seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.
- 10) Prior to first occupation, a lighting plan for biodiversity shall be submitted to, and be approved in writing by, the Local Planning Authority. The plan shall show the type and locations of external lighting, as well as the expected light spill in lux levels, to demonstrate that areas to be lit will not adversely impact biodiversity in accordance with the recommendations within Bats and Artificial Lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals. All external lighting shall be installed in accordance with the specifications and locations set out in the approved plan and will be maintained thereafter. No further external lighting shall thereafter be erected.
- 11) Prior to construction of the development above foundation level, details of how the development will enhance biodiversity, including a timetable for implementation, shall be submitted to, and be approved by, the Local Planning Authority. The approved measures shall be implemented and retained thereafter.
- 12) No construction work in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times: Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours.
- 13) Prior to commencement of development, details shall be submitted to the Local Planning Authority demonstrating that the appropriate notice has been served on the adjoining landowners to allow the right of way to be moved and that the right of way has been moved to accommodate the approved parking layout.
- 14) Upon commencement of development, an implementation schedule for the provision of the car parking associated with the public house as shown on the approved plans, shall be submitted to the Local Planning Authority for written approval, with such details as approved implemented in full and in accordance with the approved schedule. The approved parking shall thereafter be retained for its designated use.
- 15) Prior to first occupation of any dwelling or dwellings hereby approved, the parking shown on the approved plans shall be made available, in full, for use by the approved dwellings, and thereafter always retained in association with this use.

End of schedule