Planning Inspectorate

Appeal Decision

Site visit made on 16 June 2025

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 July 2025

Appeal Ref: APP/Z3825/W/24/3355997
The Owl, Dorking Road, Kingsfold, West Sussex RH12 3SA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Punch Partnerships (PML) Limited against the decision of Horsham District Council.
- The application Ref is DC/23/1909.
- The development proposed is the erection of two three-bed semi-detached dwellings (Use C3) on land adjacent to the public house accessed from Marches Road, with associated parking and landscaping, including utilizing new vehicular access to the public house, reconfiguration of delivery bay, beer garden and car park of public house.

Decision

1. The appeal is allowed and planning permission is granted for the erection of two three-bed semi-detached dwellings (Use C3) on land adjacent to the public house accessed from Marches Road, with associated parking and landscaping, including utilizing new vehicular access to the public house, reconfiguration of delivery bay, beer garden and car park of public house at The Owl, Dorking Road, Kingsfold, West Sussex RH12 3SA in accordance with the terms of the application, Ref DC/23/1909, subject to the conditions in the attached Schedule.

Application for costs

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

Main Issue

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

Reasons

4. The appeal site consists of The Owl Public House and its associated garden and car park. The site is served by existing vehicular accesses from Dorking Road (the A24) and from Marches Road. The A24 is a busy two lane carriageway that bisects Kingsfold, a built-up area focussed on the junction between Marches Road and the A24. There is a footway on the opposite side of the A24 from Kingsfold Court through the built-up area and a further footway adjacent to the junction with Marches Road. Vehicular accesses serving residential properties are present on either side of the A24.

5. The proposal is for a pair of semi-detached dwellings fronting Marches Road. The dwellings would use the existing access from Marches Road. The car park serving

the public house would be accessed from a new access from the A24. The existing access from the A24 would be stopped up.

6. The A24 is subject to a 40 miles per hour (mph) speed limit. Based on the speed limit, the Design Manual for Roads and Bridges (DMRB) would require visibility splays of 2.4m x 120m. While vehicle speeds may occasionally exceed the 40 mph speed restriction, the appellant's speed survey demonstrates that the 85th percentile was 38.2mph on the nearside of the carriageway and 38.5mph on the farside of the carriageway. Moreover, an automatic traffic count speed survey for Dorking Road submitted by Kingsfold Residents Association (KRA) indicates that the 85th percentile speeds were lower than those recorded within the appellant's survey on both sides of the carriageway.

7. The evidence before me indicates that the A24 is not lightly trafficked, but does not form part of the Strategic Road Network. Based on the characteristics of the road being within a built-up area, including the footway, domestic accesses and bus stops, the lower speeds recorded within the speed surveys would allow for a reduction in the DMRB standards. The Local Highway Authority acknowledge that the speeds below the 40mph limit would also mean that the standards within the Manual for Streets (MfS) could be reduced.

8. The reduced visibility distances, adjusted for wet weather conditions, to either side of the proposed access required under MfS can be achieved allowing for the safe entrance and egress of vehicles to and from the site. Moreover, visibility based on the stopping sight distances in the case of vehicles entering the site from the A24 can also be achieved. The Council does not dispute that the proposal would meet the required standards within the MfS, but provides no indication of the standards that should be applied and the visibility splays that are required.

9. Based on the evidence before me, including the speed surveys carried out by the appellant and the KRA and the characteristics of the A24, the reduced standards set out within the MfS and MfS2 are appropriate. As the proposal has demonstrated that visibility in accordance with the reduced standards can be provided, safe and suitable access to the site can therefore be achieved for all users.

10. Concerns have been raised in respect of the accident record in the vicinity of the site. While representations have suggested that further unreported incidents have occurred close to the site, I have not been presented with sufficient information regarding the location and severity of these incidents. Moreover, the location and severity of the accidents identified do not demonstrate that the proposed access would result in further incidents in the area.

11. The proposed dwellings would be located in the area that forms the car park serving the public house and would lead to a reduction in the number of spaces. While the number of spaces associated with the public house would be lower, the Council has not disputed that the provision of 50 car parking spaces would be sufficient and would not adversely affect the viability of the business. I see no reason to disagree with this conclusion.

12. I conclude that the proposal would not have an unacceptable effect on highway safety. The development therefore accords with Policy 40 of the Horsham District Planning Framework 2015 (PF), which states that development will be supported if it, amongst other things, provides safe and suitable access for all vehicles, cyclists,

horses riders, public transport and the delivery of goods. The development also accords with the National Planning Policy Framework (the Framework), which requires that safe and suitable access to the site can therefore be achieved for all users.

Other Matters

13. The proposed dwellings would be set in from the boundary of the site. The first floor windows within the rear elevation would allow for limited views of the dwellings and rear gardens of the properties of Broadwood Cottages. Nevertheless, due to the position and orientation of the dwellings, the oblique views from the first floor windows would not lead to significant harmful looking that would result in a harmful loss of privacy. Moreover, given the scale and position of the dwellings, the proposal would not result in a loss of natural light for occupants of neighbouring dwellings or result in an overbearing development that would harm the outlook from neighbouring properties.

14. The appeal site is within the Sussex North Water Supply Zone, which affects the Arun Valley Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar sites. The SPA, SAC and Ramsar sites are European sites protected under the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). Under the Habitats Regulations, an Appropriate Assessment is required in relation to the effect of the development on the integrity of the sites. This responsibility falls to me as competent authority in the context of this appeal.

15. The Planning Practice Guidance (PPG) on AA indicates that any measures used to inform the decision about the effects on integrity need to be sufficiently secured and likely to work in practice. The appellant has submitted a water neutrality statement that states that the proposal would be water neutral subject to the delivery, management and maintenance of measures identified, which can be secured by a condition if I were minded to allow the appeal. Therefore, taking into consideration the measures which would mitigate the proposed development, and the absence of an objection from Natural England, I conclude that the proposal would not have an adverse effect on the integrity of the SPA, SAC and Ramsar sites.

Planning Balance

16. There is no dispute that the site is outside of a built-up area boundary, as defined by the PF. Moreover, the site is not allocated for development in the NP or the Warnham Neighbourhood Development Plan 2019 (NDP). Consequently, the proposal is in conflict with Policies 2, 4 and 26 of the PF and Policy W1 of the NDP.

17. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the PF and the NDP. The proposal conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.

18. The Council concede that it is unable to demonstrate a five year supply of deliverable housing sites. As such, paragraph 11d of the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed

against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

19. Paragraph 14 of the Framework states that in situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made. As the NDP became part of the development plan over five years ago, the presumption (at paragraph 11d) applies.

20. The proposal would make a positive contribution to housing supply with associated social and economic benefits during the period of construction and once the dwellings are occupied. This is particularly the case given the Council's housing supply positions. The Framework explains that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. In addition, the proposal would accord with emerging Policy 2 of the Horsham District Local Plan (LP). The Council indicate that the LP is at Regulation 19 stage and that moderate weight can be attributed to the LP.

21. In the particular circumstances of this case, while the proposal would conflict with the relevant policies of the development plan, I have concluded that the proposal would not have an unacceptable effect on highway safety and would make a positive contribution to housing supply. The adverse impacts would not therefore significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole.

Conditions

22. Suggested planning conditions have been provided by the Council. I have considered the conditions having regard to the Framework and advice contained in the PPG. I have adjusted the wording of some conditions to improve precision.

23. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interests of certainty.

24. A condition is included requiring submission of details in respect of a drainage strategy related to foul and surface water disposal. As this would affect the early stages of construction, the condition needs to be discharged prior to the commencement of the development.

25. Conditions relating to the construction of the access, including stopping up of the existing access, provision and retention of visibility splays and the layout of refuse and recycling bin storage are required in the interests of highway safety. Adequate parking would be secured by a condition.

26. The sustainability of the development, including minimising energy use, water neutrality and climate change would be addressed by conditions relating to cycle parking, the provision of Electric Vehicle Charging Points, installation of superfast broadband and water efficiency measures, whilst the quality of the environment

would be protected by conditions in respect of biodiversity enhancement and hard and soft landscaping.

27. In order to protect the living conditions of the occupants of neighbouring properties in respect of privacy, a necessary condition is included to restrict the insertion of new windows and require first floor side windows to be obscure glazed and non-opening.

28. A condition restricting the hours of construction is required to safeguard the living conditions of local residents during the construction phase.

Conclusion

29. The proposed development would conflict with the development plan. Material considerations indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.

J Pearce

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 drawing numbers 23.3413.103 Revision P2, 23.3413.110 Revision P1, 23.3413.111 Revision P11, 23.3413.112 Revision P3, 23.3413.114 Revision P1, and 23.3413.115 Revision P2.

3) No development shall take place until a drainage strategy detailing the proposed means of foul and surface water disposal has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved strategy.

4) No development above ground floor slab level shall take place until full details of the water efficiency measures and rainwater/greywater harvesting system required by the approved water neutrality strategy (Water Neutrality Statements 1 and 04 received 05.12.23 and 17.04.2024) have been submitted to and approved in writing by the local planning authority.

5) No development above ground floor slab level shall take place until a management and maintenance plan for the rainwater harvesting system has been submitted to and approved in writing by the local planning authority. The management and maintenance plan shall include the following details:

- The sampling regime and parameters etc, recognising that the sampling will need to be undertaken a DWI certified sampler and analysed by a UKAS accredited lab;
- Detail on how any failure of any samples will be investigated and managed;
- Details, including a plan or schematic, showing the supply - storage tanks, treatment etc, and means to record the total water consumption of each unit;
- Detail on what type of treatment that will be installed on the supply with information clearly indicating that it is appropriate for the amount of water being used;
- Detail on how the treatment system, pipework, tanks etc will be cleaned and maintained and who will maintain them for the lifetime of the development. This should include any re-activation of the system after it has been out of use due to lack of rainfall/use;
- The completion and sharing of the Regulation 6 risk assessment by a suitably competent person (as required by the Private Water Supply (England) Regulations 2016) prior to the water supply being put into use;
- Detail on the continuity of supply during dry periods extending beyond 35 days;
- Arrangements for keeping written records of all sampling, results of analysis, inspection, cleaning, and maintenance;
- Details of contingency plans to ensure any failure's or reported concerns with the supply are investigated and rectified as soon as possible,

including timeframes. This should include notification of the investigation and corrective actions to the local authority.

The management and maintenance plan shall be operated in full at all times.

6) No dwelling hereby permitted shall be occupied until evidence has been submitted to and approved in writing by the local planning authority that the approved water neutrality strategy for that dwelling has been implemented in full. The evidence shall include the specification of fittings and appliances used, evidence of their installation, and completion of the as built Part G water calculator or equivalent. The installed measures shall thereafter be retained.

7) No development above ground floor slab level shall take place until a Biodiversity Enhancement Layout, providing the finalised details and locations of the habitats and enhancement measures contained within the Briefing Note Biodiversity Metric Calculation (Kingdom Ecology, October 2023) and Small Sites Metric, has been submitted to and approved in writing by the local planning authority.

The habitats and enhancement measures shall be implemented in accordance with the approved details prior to occupation of the development hereby permitted and all features shall be retained in that manner thereafter.

8) All enhancement measures and/or works shall be carried out in accordance with the details contained in the Briefing Note Biodiversity Metric Calculation (Kingdom Ecology, October 2023) and Small Sites Metric, as already submitted with the planning application and agreed in principle with the local planning authority prior to determination. This may include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details.

9) No part of the development hereby permitted shall be occupied until the necessary in-building physical infrastructure and external site-wide infrastructure to enable superfast broadband speeds of a minimum of 30 megabits per second through full fibre broadband connection has been provided to the premises.

10) Prior to commencement of the dwellings hereby permitted, the new vehicular access serving The Owl public house shall be constructed in accordance with the details shown on drawing number 23.3413.111 Revision P11. The new vehicular access shall not be used until visibility splay of 2.4 metres by 63.4 metres to the north and 2.4 metres by 62.8 metres to the south have been provided. The splays shall thereafter be maintained and kept free of all obstructions over a height of 0.6 metres above adjoining carriageway level. Within one month of the first use of the new vehicular access, the existing access serving The Owl from the A24 shall be permanently stopped up in accordance with drawing number 23.3413.111 Revision P11.

11) No part of the development hereby permitted shall be occupied until the parking, turning and access facilities necessary to serve that dwelling have been carried

out in accordance with the details shown on drawing number drawing number 23.3413.111 Revision P11 and shall thereafter be retained.

12) No part of the development hereby permitted shall be occupied until a fast charge electric vehicle charging point for that dwelling has been installed. As a minimum, the charge point specification shall be 7kW mode 3 with type 2 connector. The means for charging electric vehicles shall thereafter be retained.

13) No part of the development hereby permitted shall be occupied until full details of all hard and soft landscaping works shall have been submitted to and approved, in writing, by the local planning authority. The details shall include plans and measures addressing the following:

- Details of all existing trees and planting to be retained;
- Details of all proposed trees and planting, including schedules specifying species, planting size, densities and plant numbers and tree pit details;
- Details of all hard surfacing materials and finishes; and
- Details of all boundary treatments.

The approved landscaping scheme shall be fully implemented in accordance with the approved details within the first planting season following first occupation of any part of the development hereby permitted. No trees or hedges on the site shall be wilfully damaged or uprooted, felled/removed, topped, or lopped within 5 years of the completion of the development. Any proposed or retained planting, which within a period of 5 years of planting, dies, is removed, or becomes seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species

14) No part of the development hereby permitted shall be occupied until the windows on the south elevation serving, as annotated on drawing number 23.3413.112 Revision P3, have been fitted with obscure glazing. No part of that window, that is less than 1.7 metres above the floor of the room in which it is installed, shall be capable of being opened. Once installed the obscure glazing and non-openable parts of those windows shall be retained permanently thereafter.

15) Prior to occupation of the development hereby permitted, the covered and secure cycle parking spaces shall be constructed in accordance with the plans and details shown in drawing number 23.3413.111 Revision P11 and shall thereafter be retained.

16) Prior to occupation of the development hereby permitted, the storage of refuse and recycling shall be implemented in accordance with drawing number 23.3413.111, Revision P11 and shall thereafter be retained.

17) No works for the implementation of the development hereby approved shall take place outside of 08:00 hours to 18:00 hours Mondays to Fridays and 08:00 hours to 13:00 hours on Saturdays nor at any time on Sundays, Bank or public Holidays.

End of Schedule