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## Appeal Decision

Site visit made on 21 February 2023

**by Louise Crosby MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 10 March 2023**

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### **Appeal Ref: APP/A2335/W/22/3311459**

### **Bowerham Hotel, Bowerham Road, Lancaster, Lancashire, LA1 4DT**

- 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 Mr Renwick for Luna Developments against the decision of Lancaster City Council.
  - The application Ref: 22/00551/FUL, dated 29 April 2022, was refused by notice dated 15 September 2022.
  - The development proposed is erection of 373sqm (gross) retail unit, 165 sqm (gross) flexible Class E unit in a single storey building together with 22 car parking spaces and associated development with access from Newsham Road, following demolition of existing building.
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### **Decision**

1. The appeal is dismissed.

### **Preliminary matters**

2. It seems that the Council are not defending the third reason for refusal in relation to surface water drainage. They have agreed that this matter could be dealt with by planning conditions should I be minded to allow the appeal.
3. Regarding the fourth reason for refusal in relation to the loss of formal open space, an executed section 106 agreement has been submitted that would secure a sum of £70,000 for improvements to an existing recreational ground in Lancaster. On this basis the Council are no longer defending this reason for refusal. I shall deal with the appeal on this basis.

### **Main Issues**

4. On the basis of the above, the main issues are the effect of the proposal on:
  - i) the character and appearance of the surrounding area, including a non-designated heritage asset; and
  - ii) the living conditions of neighbouring properties.

### **Reasons**

#### Character and appearance

5. The appeal site is located on Bowerman Road, between the Bowerman Hotel, a non-designated heritage asset, and 3 Hanmer Place a 2.5 storey traditional end terrace residential property fronting Bowerman Road. The front of the appeal site is bounded by a tall stone wall, partially covered in vegetation. This

- prevents the site from being seen from Bowerman Road. The site is currently an area of grassland with a few trees on its boundaries.
6. There is an old stabling building within the appeal site, at the rear of the hotel. The site was latterly used as a bowling green associated with the hotel, but now appears to be used by the hotel as a beer garden. The site is at a lower level than Bowerman Road but much higher than Trafalgar Road which runs along the rear boundary of the site. Trafalgar Road gives access to a number of rows of residential terraced dwellings. Behind No 3, to the north of the site, is a row of 3 terraced dwellings known as 5, 7 & 9 Avondale Road. Access to the site is currently off Newsham Road across the back of the Bowerman Hotel.
  7. The Bowerman Hotel is an imposing square building on the corner of Bowerman Road and Newsham Road. It is a very ornate late Victorian building, built as a public house. It is faced in coursed sandstone ashlar with a rock faced plinth. The elevations of the building contain a mix of styles resulting in a unique looking building. This design, combined with its scale and mass create an important landmark building which is seen in contrast to the smaller, simpler late Victorian terraced dwellings nearby.
  8. To the rear of the Hotel is a simple outbuilding, likely used as stabling in connection with the Hotel when it would have been used as a stopping point for people travelling in the area by horse. The building is a simple unremarkable building of no particular architectural value in itself. Clearly it has historical value in terms of its relationship with the hotel.
  9. The site is located in an area containing a mix of high density terraced housing and shops with living accommodation above. There are a number of such commercial properties opposite the appeal site. The proposal would involve the removal of sections of the tall stone wall at the front of the site and the erection of 2 commercial units in the northern part of the site, close to the side of No 3 and the rear yards of the three terraced dwellings on Avondale Road.
  10. The southern section of the site, closest to the hotel, would contain 22 car parking spaces. The delivery area and storage compound for the proposed units would be located on the rear boundary, adjacent to Trafalgar Road and 9 Avondale Road. Access to the site would be from both Bowerman Road and Newsham Road.
  11. The retail units would be single storey and so significantly lower in height than other buildings nearby. They would be constructed from materials that would respect the character and appearance of the area. The simple, modern design incorporates tall windows to create a vertical emphasis, in keeping with the surrounding area. This would help to assimilate the building into the surrounding area and ensure it would not compete with the ornate Bowerman Hotel. Moreover, the building would be sited some distance away from the non-designated heritage asset.
  12. I do have some concerns about the loss of a parts of the boundary wall along Bowerman Road and its impact on the character and appearance of the surrounding area. However, the loss has been kept to a minimum and importantly a good section closest to the Hotel would be retained. Whilst the loss of the stabling building would be regrettable, because of its association with the Hotel, it would not be so harmful as to count against the proposed scheme.

13. My main concern is with the rear of the building because as a result of the gradient of the site the building would appear unduly tall and thus very prominent when viewed from Trafalgar Road. Although the retail units would be set back from this boundary there would be a lower compound building in part of the gap and these elevations of the new buildings would consist of unrelieved solid walls. As a consequence, the building would appear very large and visually dominant from this road. The harm here would be exacerbated by the proposal to erect a tall acoustic fence on top of the traditional stone retaining wall on this boundary. Because of its location adjacent to the road there would be no opportunity to provide landscaping to reduce the impact.
14. Turning to consider the visual impact of the car parking, this would be located between the commercial units and the Bowerman Hotel. The 22 spaces would be provided in 2 rows with the access road running between them. It is clear that for highway safety reasons car parking is necessary as part of this development. If a scheme were to be delivered with the car parking behind the units then it is likely that it would be less well used or indeed even known about by people visiting the area. This could lead to dangerous on street parking close to the site.
15. Whilst the car parking would change the character and appearance of the site it would only be visible along a short section of Bowerman Road because of the presence of the Bowerman Hotel at one side and the proposed commercial units at the other. The main views of it would be from the properties opposite. The car parking closest to the Bowerman Hotel would be screened by the retained section of wall here. Consequently, on balance I find that the car parking would not appear unduly harmful in the streetscene.
16. Overall whilst I find that on balance the proposal would not harm the setting of the Bowerman Hotel and would preserve the character and appearance of Bowerman Road, I have serious concerns about the harm to the character and appearance of the area around Trafalgar Road. The harm I have identified here would lead to conflict with the advice in the Framework in relation to creating high quality places and the adopted Lancaster District – Part Two: Review of the Development Management DPD (DPD) policy DM29 in so far as it seeks to ensure that new development contributes positively to the identity and character of the area through good design, appropriate siting and scale.

#### Living conditions

17. Dealing first with 3 Hanmer Place, this has no windows in the side elevation, but the rear elevation contains numerous windows. The proposed building would project well beyond the dwelling and its small rear yard. Whilst the section of the proposed building that would project beyond the rear elevation of No 3 would have a pitched roof, pitched away from the boundary, because of its proximity and overall height it would appear incongruous and overbearing, thereby harming the outlook from No 3.
18. This would be particularly so in the rear yard area because of its small size as well as the windows closest to the boundary as the development in conjunction with the outrigger at No 3 would create a dark tunnel at lower levels. On the basis of the submitted drawings I agree that loss of sunlight would not be a serious issue here. There would also be no loss of privacy as there are no windows in the proposed elevations facing No 3.

19. Turning now to the impact on Nos 5, 7 & 9 Avondale Road, this is a short row of 2 storey traditional dwellings with small rear yards backing onto the side of the appeal site where the main building and rear compound would be erected. The submitted sectional elevational drawings show that the proposed building, which would be close to this boundary, would be significantly higher than the rear boundary wall of these dwellings.
20. Moreover, apart from a fire exit door this elevation would be completely unrelieved. It would appear extremely oppressive when viewed from the rear windows of these dwellings and have a severe adverse impact on the amenity value of the rear yards due to it appearing overbearing as a result of the scale and mass so close to the boundary. I appreciate these rear yards contain outbuildings on the boundary, but they are much lower in height than the proposed building. On the basis of the submitted evidence it is unlikely to adversely affect the sunlight reaching solar panels on the roof of a single storey rear outrigger at No 5.
21. The Council have expressed concerns about the effects of potential increased noise from the development on local residents. I have reviewed all of the evidence on this matter, including the additional information submitted by the appellant, dated 25 October 2022. On balance I find that the proposal is unlikely to cause any noticeable increase in noise levels in the daytime when the ambient noise level is already quite high.
22. Any noise at night is likely to come from plant on the flat roofed area of the building when the surrounding area is much quieter. This would be most likely to affect the dwellings on Avondale Road and 3 Hanmer Place. I do have some concerns that a full assessment of the exact plant to be used and its precise location on the building has not been assessed to fully understand the noise impact. Plant can be very noisy and tends to operate 24 hours a day. The lack of comprehensive information in this regard is a serious concern given the proximity of the proposal to a number of residential dwellings.
23. I conclude on this main issue that the proposal would conflict with DPD policy DM29 in so far as it seeks to ensure that new development does not have a significant detrimental impact on amenity in relation to overshadowing, visual amenity, massing and noise pollution.

#### Other matters

24. I appreciate that the proposal would result in the creation of jobs during the construction phase and once the units are operational. It would also have the potential to increase the retail facilities in the area and create a car parking area that could be used by people accessing other services in the area. There is no disputing the site is in an accessible location and that it would make use of an underutilised site in an otherwise built up urban area.

#### Conclusion

25. Whilst the appellant has overcome two of the Council's reasons for refusal, this lack of harm has a neutral effect on the overall planning balance. I have however identified significant harm in relation to my main issues and these are not outweighed by the factors weighing in favour of the proposal set out above.
26. Accordingly, having taken all other matters raised into consideration, I conclude that this proposal would conflict with the provisions of the

development plan and the Framework when taken as a whole and the appeal is dismissed.

*Louise Crosby*

INSPECTOR