



Appeal Decision

Site visit made on 20 December 2018

by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 15 April 2019

Appeal Ref: APP/A1910/W/18/3207843

1 The Orchard, Kings Langley WD4 8JR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Ben Sterling against the decision of Dacorum Borough Council.
 - The application Ref 4/00436/18/OUT, dated 14 February 2018, was refused by notice dated 2 July 2018.
 - The development proposed is the demolition of existing bungalow and garage and replacement with 4 two bedrooomed dwellings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Ben Sterling against Dacorum Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. A number of additional plans were submitted with the appeal, some marked as 'plans added during the application' and some documents submitted following the Council's decision. I have considered all of these plans, noting that the planning application has been submitted in outline and that all detailed matters are reserved for a separate reserved matters application. I have, however, considered the indicative plans from the point of view of establishing whether it would be possible in principle to erect four two-bedroom dwellings on the site and hence the impacts that would be likely as a result of the erection of such dwellings on the site.
4. The appellant has latterly submitted a delegated Officer's Report, which they became aware of on Thursday 24 January 2019 in respect of a different case on the same site. This sets out on pages 16 and 17 that the Council cannot demonstrate a deliverable 5-year housing land supply. The Council have provided no information to indicate that the housing under-supply position has changed and I have therefore taken account of this position in my decision.
5. The National Planning Policy Framework was revised in February 2019 (the Framework). I have also taken this into account as part of the determination of this appeal.

Main Issues

6. The main issues relate to:

- (i) whether the local planning authority can demonstrate a five-year deliverable supply of housing sites;
- (ii) the effect of the development upon the setting of the Kings Langley Conservation Area and the adjacent Grade II listed building known as Church House;
- (iii) the effect of the proposal on the character and appearance of the area and the impact of the development upon the occupiers of the proposed dwellings and No 3 The Orchard in respect of outlook.

Reasons

- 7. The appeal site is located within The Orchard, which is a suburban street in the large village of Kings Langley. The village offers a range of services and facilities within a short walking distance of the appeal site.
- 8. The Orchard is predominantly comprised of semi-detached houses, with the appeal site being a corner plot occupied by a single storey pitched roof dwelling and associated single garage.
- 9. From the submissions made it is clear to me that the Council consider that the principle for the redevelopment of the site for continued residential use is acceptable.
- 10. The appellant has recently constructed a timber structure on the site, and this has been described as an 'outbuilding' or 'shed'. It appears to be the appellants intention to complete this structure (along with potentially others) and it is referred to by the appellant as a fallback position. I deal with this matter later in the decision.

5 Year Housing Land Supply

- 11. The Council originally claimed that they could demonstrate a deliverable 9 years housing land supply against their adopted development plan. The appellant disputed this in their submitted 'Dacorum Housing Supply' document, although this document does not provide an alternative supply figure to that advanced by the Council at this time.
- 12. Late on in appeal proceedings, the appellant submitted a delegated officer report on another case for the same site, which clearly demonstrates that the Council cannot demonstrate a deliverable five-year housing land supply. For this reason, I have therefore considered the proposals in light of the 'tilted balance' being engaged, i.e. paragraph 11 of the revised Framework.
- 13. In turning to Paragraph 11, and for the purposes of this appeal specifically Paragraph 11 d) ii: this requires a balance to be undertaken, beginning with the approach that permission should be granted unless the adverse impacts significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

14. The provision of a net three dwellings on the site would make a positive contribution towards the supply of dwellings in the area and this weighs in favour of allowing the appeal.

The settings of the Grade II Listed Building and Conservation Area

15. The appeal site is located outside, but adjacent to the Kings Langley Conservation Area (CA), where the rear boundary of the appeal site is contiguous with it. Both the CA and the Listed Building are each a designated heritage asset in their own right, as defined in Annex 2 of the Framework.
16. Church House is a flint and brick Grade II Listed Building (dated 1826), which was a former brewery maltings before conversion. The building is architecturally striking and is unlike any of the other buildings in the immediate vicinity, or this part of the CA. A 'chequerboard' style pattern of brick and flint repeats along its length running into The Orchard, finished with a plain brick gable to the rear. There is little to detract from this distinctive building and the appeal site forms part of the setting of Church House where the rear garden of 1 The Orchard contributes to the space around it. Therefore, any new development in the garden would affect the setting of Church House.
17. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. Further, at Section 66 of the same Act, it is clear that special attention must be paid to Listed Buildings and their settings. Paragraph 193 of the revised Framework makes clear that great weight should be given to the conservation of designated heritage assets, and to their setting.
18. Whilst not located within the CA, the proposal would likely have a negative effect on its setting. Because of the quantum of development proposed, the appeal proposals would be likely to result in the permanent closure of the gap between the bungalow and Church House and this would adversely impact on both the setting of the Listed Building and the CA resulting from this enclosing effect. I consider the harm to the setting of the LB in particular however, to be less than substantial.
19. Paragraph 196 of the Framework sets out that where a development proposal will lead to 'less than substantial' harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
20. The proposal would result in the net gain of three dwellings for market sale in an area of identified need. There are other benefits associated with construction jobs and spending locally by future occupiers. Given their magnitude these benefits attract some weight in favour of the proposals and can also be considered in the context of paragraph 196 of the Framework, a public benefit. However, the public benefits do not outweigh the identified harm the development would cause to the setting of the CA and Church House.
21. The appellant claims that the fallback of timber structures, which were partially constructed at the time of my site visit, would be more harmful to the adjacent Listed Building than the proposal. I have no formal plans showing what the completed development would look like and there is little to persuade me that the appeal proposals must be preferable and by implication, allowable. I consequently give this consideration little weight.

22. Overall, I consider the proposal would harm the setting of the Listed Building and the Conservation Area, contrary to policy CS27 of the Core Strategy. This policy, amongst other things seeks to protect the 'integrity, setting and distinctiveness' of Listed Buildings and Conservation Areas.

Character and Appearance

23. The application was made in outline, with all matters reserved. To that end, an assessment of what quantum of development the site can deliver is fundamental. The illustrative layouts submitted show two alternatives to the scheme design: one where there is a terrace of three dwellings (units A, B and C) and one detached dwelling (D), and another where the terrace (A, B and C) is joined to unit D (where it would adjoin Unit B).
24. In both scenarios, I find serious shortcomings relating to what I see is the overdevelopment of the site. I note that there are some exceptions in the area, but the proposals significantly depart from the otherwise more spacious plots that surround each dwelling within this part of The Orchard and from the overall uniformity of layout in the immediate locality. The proposals would result in a severely cramped and incongruous development which would turn its back on the street, harming both its character and appearance.
25. The general bulk of the proposals is also of concern, particularly in relation to the suggested two storey blank gable of unit A and how it would be seen within the overall context of the street scene of The Orchard. I acknowledge that this is an outline application with all detailed matters reserved for a future application, but I am being asked to consider whether the proposal is acceptable in principle and this is an area of significant concern that ought to have been considered as part of this outline application.
26. Window openings and different external detailing could perhaps seek to address my concerns above. However, the proposed layout would remove the existing 'grading' of rooflines that exists as a result of the bungalow by the creation of a two-storey terrace terminating in a significant gable.
27. Based on the illustrative plans submitted in support of the application, I consider that it is highly likely that the four 2 bedroomed units on the site would appear dominant and bulky in the street-scene. Hence, I consider that material harm would be caused to the character and appearance of the area.
28. The reorientation of the proposed terrace of three dwellings to have rear gardens where there was once a front garden for the existing bungalow would necessitate a significant boundary treatment in order to preserve privacy for occupiers. This would change the street scene in this part of The Orchard to the degree that it would introduce the awkward and unattractive presence of a high garden fence. This would not integrate with the existing streetscape character.
29. For the collective reasons outlined above, I consider that the principle of development of the site for four dwellings would cause significant harm to the character and appearance of the area and would not therefore accord with the design aims of Core Strategy Policy CS12(f) which states that proposed development should integrate with the streetscape character, nor would it accord with the relevant parts of the Framework.

Living Conditions

30. The Council consider that the living conditions of the adjacent occupiers at 3 The Orchard would be compromised by the proposals. I consider that there would be an increase in the amount of overlooking into the rear garden of No3 and this weighs against allowing the appeal. Given the overall size of the site, I do not consider that it would be possible to fundamentally change the layout to address the concerns I have in relation to the relationship with No3 The Orchard at reserved matters stage.
31. The indicative garden area of unit D would be small, but this in itself would not be so harmful as to justify refusal of planning permission. However, the contrived and awkward relationship the three terraced units would have with indicative Unit D remain of concern and reinforce my view that this quantum of development would lead to a material loss of outlook for future occupiers of the dwellings.
32. I acknowledge that this is an outline application and that there would be an opportunity, at reserved matters stage, to adjust the layout and ridge heights. However, four dwellings are proposed for the appeal site and so there would be little opportunity to deviate from the indicative plans. In any event, I do not consider that minor changes to indicative proposals at reserved matters stage would address all of my identified concerns and I am not convinced that the site has the capacity to deliver the number of residential units being proposed.
33. I therefore consider that the likely effects of the appeal proposal on the living conditions of 3 The Orchard taken together with the likely effects of the living conditions of future occupiers to be unacceptable, contrary to the design aims of Policies CS11 and CS12 of the Core Strategy and the relevant parts of the Framework.

Other Matters

34. The appellant has referred me to the potential to erect structures on the site and that this would happen in the event that planning permission were to be refused. I am not persuaded that any such 'fall back' development would likely occur, and, in any event, I have determined this appeal on its individual planning merits. It is also not clear to me that any such permitted development scheme would be directly comparable with the erection of four dwellings on the site.

Planning Balance and Conclusion

35. The proposal would boost the supply of housing in the Borough at a time when the evidence before me indicates that the local planning authority cannot demonstrate a deliverable five-year supply of housing sites. However, the contribution towards housing supply from a net three dwellings would not be substantial. There would be some economic benefits associated with the re-development of the site for a net three dwellings, although again such benefits would be quite limited.
36. Weighed against the above is my conclusion that harm, albeit less than substantial harm, would be caused to the setting of a listed building and the CA. These are matters to which I afford great weight. Furthermore, and based on the illustrative plans, the evidence has led me to conclude that the erection of four dwellings on the site would not be acceptable in principle, as significant harm would be caused to the character and appearance of the area. These

adverse impacts would significantly and demonstrably outweigh the aforementioned benefits. On balance therefore, and taking into account the appellant's fall back arguments, the appeal should be dismissed.

Sian Griffiths

INSPECTOR