
Appeal Decision

Site visit made on 13 August 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2019

Appeal Ref: APP/A1910/W/19/3228640

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 Ben Sterling against the decision of Dacorum Borough Council.
 - The application Ref 4/01847/18/OUT, dated 23 July 2018, was refused by notice dated 13 December 2018.
 - The development proposed is the demolition of the existing bungalow and garage and replacement with four (or three) 2-bed dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application is made in outline with all detailed matters reserved for separate consideration. As such, the layout plans and elevations are submitted on an illustrative basis. However, they indicate both a 4 dwelling and alternatively, a 3 dwelling proposal. Whilst I have taken into account that there may be alternative ways of developing the site, I have primarily considered the illustrative plans on the basis of what the likely impacts of the erection of the number of dwellings proposed would be. Nevertheless, in relation to some matters the appellant has referred to the illustrative plans in considerable detail. Accordingly, I have specified in my decision those areas where I have given the illustrative plans particular consideration.
3. Notwithstanding the reference to an 'existing' bungalow in the application form and decision notice, I have amended this in my heading to refer to the 'existing' bungalow at the site.
4. Subsequent to the Council's determination, the National Planning Policy Framework was revised in February 2019 (the Framework) and I have taken it into account when making my determination.

Main Issues

5. The main issues are the effect of the appeal proposal on:
 - The character and appearance of the area having particular regard to the setting of Church House, a Grade II listed building, and the setting of the Kings Langley Conservation Area, and;
 - The living conditions of the occupants of 3 The Orchard and the future occupants of the proposal with particular regard to outlook.

Reasons

Character and appearance and designated heritage assets

6. The Orchard is a cul-de-sac adjoining part of Kings Langley Conservation Area (CA) comprising mostly semi-detached and terraced two storey dwellings dating from the second half of the twentieth century. The CA comprises three sections, and the appeal site adjoins the part that contains the central High Street. Its significance lies in part in the way the mix of buildings and spaces reflect the evolution of the village from its medieval origins.
7. The appeal site is a detached bungalow on a corner plot adjoining Church House, a Grade II listed building. Church House is a converted former malt house that once formed part of Kings Langley brewery. It has a distinctive deep footprint that presents hard onto the corner of Church Lane and The Orchard. Its significance principally derives from both its form, which reflects its historic function, and its impressive use of chequerboard flint and red brick panels in the most prominent elevations. I have a statutory duty¹ to give special attention to the desirability of protecting the setting of listed buildings.
8. The appeal site shares a similar relationship and set back to the street, consistent materials, roof form and detailing such that there is a coherence with the semi-detached dwellings close by. The limited volume and height of the bungalow together with its established gardens gives a sense of space at a prominent corner location. This emphasises its lower level within The Orchard which defers to the presence of Church House in the street scene and respects the greater status and contribution of the historic building. In addition, the open aspect of its principal elevation to the road contributes positively to the pleasant, spacious character of the area.
9. The appeal site can be seen in views from Church Lane and The Orchard that include the long side elevation of Church House, and therefore, forms part of the surroundings in which this heritage asset is experienced. Based on the illustrative plans and configuration of the site, the introduction of three or four two-bedroom houses would significantly increase the height and bulk of built form at the appeal site. As a result, it would adversely reduce the sense of spaciousness within the setting of Church House and The Orchard generally. In particular, this would diminish the deferential relationship that the modest bungalow and associated outbuildings currently have with the higher status historical building.
10. In addition, notwithstanding the illustrative nature of the plans, the appellant refers several times to the provision of a fence² along the front northern boundary of the appeal site, high enough to provide for private garden areas for some of the dwellings in the 4 house scheme, and therefore markedly higher than the present low brick front boundary wall. As such, the open relationship of the principal elevation with the street would be significantly undermined at a particularly prominent section of The Orchard. Moreover, as the houses that are closest to the appeal site also have low boundaries and open aspects to their principal elevations, the proposed enclosure would have a contrasting, discordant effect.

¹ Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990

² Computer generated image in appellant's statement

11. Furthermore, the sub-division of the site into 3 or 4 smaller and narrower plots would not respect the established regular rhythm of the semi-detached houses that are situated closest to the appeal site, which is clearly discernible notwithstanding that some properties have had extensions and alterations. In this context, the development would have an incongruous appearance.
12. Taking these factors together, the development would be harmful to the setting of Church House as well as the setting of the CA and on that basis, would harm their significance. However, considering the relatively minor scale of the development overall, the harm to the significance of the respective designated heritage assets would be less than substantial.
13. Paragraph 196 of the Framework indicates that in such circumstances the harm should be weighed against the public benefits of the proposal. The benefits primarily relate to the provision of 3 additional houses to the overall supply in an area of need. In addition, there would be the economic benefits associated with both the construction of the development, and the future activity and spending of the occupants. Furthermore, the development is likely to result in financial contributions to the Council³. Nevertheless, paragraph 193 indicates that great weight should be given to protecting the significance of designated heritage assets. Therefore, the modest benefits arising from the provision of the additional houses proposed are insufficient to outweigh the harm to the settings of the listed building and CA.
14. In support of the proposal the appellant refers to the permanent timber outbuilding at the appeal site constructed under permitted development which he considers has a more harmful impact on the listed building and character of the area than the appeal proposal would. Although the rudimentary appearance of the outbuilding has a negative impact on the street scene, it is nevertheless commensurate with a subordinate ancillary building. The image provided by the appellant comparing the appeal proposal with the impact of the existing outbuilding, does not lead me to conclude that it is presently so harmful that it outweighs the degree of harm that would arise from the increase in height and bulk associated with the proposed development.
15. I acknowledge that the illustrative plan for the 4 house scheme shows a footprint that would be set back further into the site than the position of the existing garage building, and that the illustrative plans for both scenarios may allow for a greater gap with the rear elevation of the listed building than is presently the case. However, this does not fully address the visual impact the significant increase in bulk and height of either illustrative scenario would have overall. Furthermore, the illustrative plans take no account of any associated outbuildings for the proposed dwellings which would be likely to be located in the garden areas shown close to the listed building. Given that sheds and outbuildings for 2 bed houses are commonplace, it would not be realistic to assume that there would be none.
16. I have had regard to the Dacorum Urban Design Assessment for Kings Langley, January 2006 which gives general design guidelines reflecting the "norm" for the inner zone in which the appeal site is located, the contents of which are generalised and therefore, not sufficiently specific as to suggest that the appeal proposal would not have a harmful impact. I have also considered the average

³ New Homes Bonus and Community Infrastructure Levy Charge

calculations⁴ provided by the appellant in relation to the nature of nearby development. Nevertheless, these do not include a comparison with the existing bungalow and in any event, such average calculations have limited relevance when considering the impact on the specific arrangement of built form as it is actually experienced.

17. Whilst the 1924 OS map shows that there were buildings located close to Church House historically, their scale and position suggest that these are likely to have been associated with its former use as a brewery and would not justify new, otherwise unrelated built form in such proximity.
18. I am referred to an example⁵ of development having been permitted in the curtilage of a listed building in Kings Langley. However, I am only provided with limited details which do not refer to the significance of the respective listed building. As such, I am unable to make a meaningful comparison with the scheme before me. I also observed the use of gables in specific buildings and a recent care home development in Kings Langley⁶, but none of these examples alter my view in relation to the proposal before me which I have considered on its own merits.
19. I am further referred to the boundary treatments relating to residential development nearby. The terraced houses to the west of the appeal site which present their rear gardens and fences onto The Orchard, although not entirely obvious, appear to present their principal elevations onto the High Street. Consequently, they have a markedly different relationship with The Orchard than the appeal site. Furthermore, the boundary treatment at 7 Church Lane relates to a detached bungalow, the immediate context of which does not have the same degree of coherence and rhythm of dwellings with an open aspect as the appeal site. Hence, these examples attract little weight in support of the appeal proposal in this regard.
20. Although the appellant asserts that careful boundary treatment and positioning of front doors might prevent one noticing the number of overall dwellings, this is a design approach that is based upon concealing a fundamental aspect of the development, and I am not persuaded that with separate occupants within each unit, such an approach would be achievable in the long term.
21. My attention is drawn to a post application advice letter from the Council dated 4 June 2019 in which the Council suggest there may be potential for a 3 dwelling terrace scheme at the site. However, this informal advice sets out a number of reservations and states that it is dependent on the provision of full details of an exceptional design. As such it does not relate to the illustrative 3 dwelling scheme provided, and therefore, attracts little weight in favour of the appeal proposal.
22. I have had regard to the representations made in relation to the previous recent appeal decision⁷ at the appeal site. That appeal decision related to an outline application with all matters reserved, for 4 two-bedroom dwellings, and therefore has many similarities to the proposal before me. For the reasons already outlined, I concur with the findings of that Inspector that the proposed

⁴ Appendix to Site Coverage and Bulk document

⁵ 4/01389/15/LBC 44 High Street.

⁶ All Saints Church, 3 Church Lane, 67 High Street and Care Home at junction of Langley Hill and High Street in appellant's "Reply to LPA comments".

⁷ Reference APP/A1910/W/18/3207843 dated 15 April 2019

increase in built form would lead to a severely cramped and incongruous development that would be harmful to the setting of the CA and Church House.

23. Notwithstanding that changes to detailing would be possible and that materials could be considered at a reserved matters application stage, I find that there is sufficient information provided to make a fundamental assessment as to the likely impact that a 3 or 4 house development is likely to have on the character and appearance of the area. The illustrative plans fail to provide evidence that an acceptable scheme for either 3 or 4 dwellings is capable of being advanced at the reserved matters stage without resulting in harm to the character and appearance of the area, including harm to the settings of designated heritage assets.
24. Accordingly, the proposal would be contrary to policies CS11, CS12 and CS27 of the Dacorum Borough Council, Core Strategy 2006-2031, September 2013 (CS) which, amongst other matters, seek developments that enhance the spaces between buildings and integrate with the character of the area as well as conserve the historic environment. Furthermore, it would conflict with saved policies 119, 120 and Appendix 3 of the Dacorum Borough Local Plan 1991-2011, April 2004. Policy 119 seeks to preserve the special character of listed buildings and policy 120 seeks to protect the character and appearance of conservation areas. Appendix 3 gives more detailed guidance in relation to the layout and design of residential areas in order that the character of the surrounding area is respected.

Living conditions

25. The illustrative plans include a 4 dwelling scheme with Unit D joined to, and located immediately to the rear of the middle terraced Unit B. Other than rooflights, this would be likely to restrict Unit B to a single north facing aspect for windows. The plans indicate that the occupants of Unit D would primarily look onto a parking area serving the other Units from its upper floor windows and that, due to their proximity to Unit D and its garden, Units A and C would be likely to have constrained window arrangements in their rear elevations as otherwise, there would be intrusive views affecting the privacy of the occupants of Unit D. Consequently, overall, future occupants of the development are likely to have a poor outlook.
26. Although, it may be possible to reconfigure the layout to a certain extent, given the limited size of the site, two storey nature and quantum of development proposed, this is unlikely to make a fundamental difference.
27. The length and position of Unit D in the illustrative 4 dwelling scheme would result in a considerable expanse of side elevation and roof form located to the east of the rear garden of 3 The Orchard. Even accounting for the difference in levels and the separation distance, it would be likely to be sufficiently close to have a harmful impact on the outlook from the upper floor rear windows and an enclosing effect upon the rear garden of No.3. Consequently, it would be unacceptably harmful to the living conditions of the occupants.
28. I acknowledge that the illustrative alternative 3 dwelling scheme would be less likely to result in the harm identified. Nevertheless, the appeal proposal seeks permission for up to four dwellings, and I have determined the scheme on that basis. Accordingly, due to the likely outlook, I find that the proposal for four dwellings would result in harmful living conditions for the future occupants of

the proposal. Furthermore, it would be likely to result in an unacceptably poor outlook for the occupants of 3 The Orchard. Consequently, the proposal would conflict with policy CS12(c) of the CS that seeks, amongst other matters, a high quality of site design that avoids visual intrusion to the occupants of the surrounding properties.

Other Matters

29. The appellant raises concerns that he was required to provide more heritage information than other applications considered by the Council which affected designated heritage assets. However, this is a matter that lies outside the scope of this decision, which I have determined on its own merits on the basis of the evidence before me.
30. The proposal is likely to be able to meet with the relevant local and national policies in terms of parking, access and highway safety. However, the absence of harm in this regard does not weigh in favour of the proposal, as it would be required in any event.

Planning Balance and Conclusion

31. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise⁸. In this case, I conclude that the proposal would be contrary to the policies of the development plan that relate to the protection of the character and appearance of the area, designated heritage assets and the living conditions of surrounding residents.
32. The Framework is a material consideration in planning decisions and at paragraph 11 it states that where policies which are most important for determining the application are out of date, permission should be granted unless specific policies within the Framework provide a clear reason for refusing the development proposed; or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
33. There is no dispute between the parties that the Council is presently unable to demonstrate a 5 year supply of deliverable housing sites and as such, it is the appellant's view, that the tilted balance set out in paragraph 11d)ii of the Framework should apply. However, it is not part of the Council's case that there is an objection to the principle of residential development at this location.
34. In considering the application of paragraph 11 of the Framework, the first step is to determine whether the policies which are most important for determining the application are out of date. Those set out above in relation to the main issues broadly accord with the corresponding policy in the Framework. In any event, there are specific policies in the Framework that indicate that development should be restricted. Footnote 6 to paragraph 11 of the Framework gives examples of such policies which includes "designated heritage assets". For the reasons already set out above, the proposal would conflict with the Framework policy in relation to designated heritage assets. This provides a clear reason for refusing the appeal proposal. As such, the tilted balance in paragraph 11d)ii would not apply in these circumstances.

⁸ Section 38 (6) of the Planning and Compulsory Purchase Act 2004 & s70(2) of the Town and Country Planning Act 1990

35. I now move on to the planning balance in relation to section 38(6) of the Planning and Compulsory Purchase Act 2004 in order to consider whether there are any other relevant material considerations, apart from the Framework, that might indicate that my decision should be taken otherwise than in accordance with the development plan.
36. The proposal would contribute towards the overall housing supply, comprising a housing type in need, which would be in an accessible location and result in some economic benefits as well as financial contributions for the Council. These factors weigh in favour of the proposal but given the scale of development, such benefits would be modest in nature and therefore, attract limited weight. On the other side of the balance, the proposal would result in harm to the character and appearance of the area including designated heritage assets and is likely to result in unacceptable living conditions for future and existing occupants. As indicated above this harm conflicts with the relevant development plan policies and is of a degree which attracts significant weight, particularly so given the special regard given to the desirability of preserving the setting of the listed building. Therefore, the decision should be taken in accordance with the development plan policies.
37. For the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector