



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: 22 August 2019

Appeal Ref: APP/B1930/W/19/3228863

Redclyffe, 21 Salisbury Avenue, Harpenden AL5 2QF

- 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 Beechcroft Developments Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/18/2276, dated 17 August 2018, was refused by notice dated 16 November 2018.
 - The development proposed is the change of use from Class C2 (care home) to Class C3 (residential) and construction of additional three storey building to incorporate eleven apartments with undercroft parking facilities, rooftop patios, office and associated landscaping, following the demolition of existing single and two storey extensions.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description given in the appeal form and decision notice rather than that on the planning application form as this more accurately describes the proposed development.
3. Since the Council made its determination the Harpenden Neighbourhood Plan 2019 (NP) has been adopted on 20 February 2019 and forms part of the development plan. Both main parties have been given the opportunity to comment on the policies of the NP that they consider relate to the appeal proposal. Furthermore, some interested parties have made direct reference to it in their comments. On that basis, I do not consider that any part will be prejudiced by considering the appeal against the NP.

Main Issues

4. The main issues are the effect of the appeal proposal on:
 - The character and appearance of the area with particular regard to the Harpenden Conservation Area and 21 Salisbury Avenue, a locally listed building, and;
 - The living conditions of the occupants of 25 and 25a Townsend Lane with particular regard to privacy of their garden area.

Reasons

Character and appearance

5. The Harpenden Conservation Area covers an extensive section of the town, and its significance lies in part in the way the buildings and spaces it contains reflect the evolution and growth of the settlement over many years. The appeal site once formed part of the St Nicholas estate, which now contains many regularly arranged large, detached, late Victorian and Edwardian houses of impressive proportions, displaying considerable architectural detailing and set within generous verdant grounds. The appeal property includes 21 Salisbury Avenue, a locally listed building, whose asymmetrical form illustrates elements of both Arts and Crafts and Classical styles of architecture typical of a predominantly Victorian phase of suburban growth. Notwithstanding the later unsympathetic extensions, the original building is nevertheless clearly discernible, and makes a positive contribution towards the character of the CA.
6. The previous use of the locally listed building as a care home resulted in significant extensions, the form and detailing of which are functional and somewhat incoherent, paying little regard to the prevailing characteristics of the surrounding CA. Furthermore, as they are attached to No.21, they harm the integrity of the locally listed building.
7. The proposal would remove the unsympathetic extensions and restore No.21 to a standalone building containing apartments for older occupants. In addition, a large separate L shaped building containing further apartments would be located to the north west and rear of the host building. There is no dispute between the parties that the restoration of the host building would enhance the significance of the locally listed building¹. Therefore, the parties disagree about the impact of the large L shaped element of the appeal proposal.
8. In this regard, a recent appeal decision for a similar type of development at the appeal site² is of considerable relevance. In dismissing the previous scheme, the Inspector in that case found harm resulted to the character and appearance of the CA due to the substantial scale and mass of the L block. He made particular reference to the bulk of the roof form that was out of keeping with the surroundings, and the elongated unbroken visual mass of the built form which together were too dominant in comparison to No.21. Additional harm resulted from a lack of articulation and detailing which neither accurately reflected the traditional form of the host building, nor provided a modern distinctive design.
9. The substantial L shaped building in the proposal before me, would have a mass and footprint that would be disproportionately large in comparison to the surrounding pattern of development. I accept that in comparison to the previous appeal decision, revisions to the design to use a conventional roof form with a reduced ridge and eaves height would reduce the overall bulk and massing to a degree. Even so, this would not fully conceal the relative bulk of the structure necessary to contain the quantum of proposed accommodation. As such, the considerable mass of the block would harmfully contrast with, and erode, the sense of space characteristic of the CA.

¹ Officer report

² Reference APP/B1930/W/18/3194037 dated 7 February 2019

10. Due to its scale and mass, the rear portion of the L shaped block would have a looming presence that would be particularly visible in views into the site from Salisbury Avenue, especially given the gap between the host building and the wing located to the north-west. This would adversely contrast with the spacing between buildings generally seen in the area, which forms part of the significance of the CA.
11. Furthermore, notwithstanding the staggered building line employed in the north-western and rear elevations, they would nevertheless comprise a significant length of built form amounting to a considerable physical bulk, that would be visible in private views from several of the surrounding residential properties and which I was able to observe on my site visit. Taking these factors together, I do not agree that the L shaped block would be clearly subservient to No.21, and in this regard, this element of the proposal, would have a significantly more marked impact than the existing lower, albeit large, rear extension that is currently present at the appeal site.
12. In addition, the utilitarian appearance of the wide, centrally located entrance to the undercroft parking in the north-east elevation, would be clearly visible from Salisbury Avenue and would have an unduly conspicuous presence, with proportions considerably at odds with the prevailing historic built form.
13. Furthermore, the architectural details proposed in the L shaped block elevation fronting onto, and therefore most conspicuous from Salisbury Avenue, appear in the submitted drawing³, to be somewhat crudely executed in comparison to the richness of the features at No.21. The predominantly flush elevation would lack the articulation seen in the bay windows at No.21 and the window proportions and detailing lack the same finesse. Given that the decorative detailing contributes significantly to the character and appearance of the CA, such a dilution in appearance in proximity to the authentic detailing at No.21 would harm the significance of the CA.
14. I acknowledge that the design concept before me seeks to use one wing of the L shaped building to echo the displaced former villa at 23 Salisbury Avenue, shown on the historic OS maps⁴. Nevertheless, the presence and visibility of the proposed large rear block in the intervening space between No.21 and the wing, as well as the dilution in detailing, significantly undermines the positive impact of this approach.
15. Therefore, notwithstanding the proposed removal of the existing unsympathetic extensions, the proposal would overall, result in less than substantial harm to the character and appearance of the CA as a designated heritage asset, when taken as a whole.
16. Policy ESD2 of the NP is consistent with paragraph 196 of the Framework, and states 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.
17. In terms of public benefits, significant weight is attributed to the contribution 11 dwellings providing accommodation for older people in an accessible location, would make to address a specific housing need. In addition, paragraph 68 of the Framework emphasises the important contribution small

³ Drawing A00476 D0201 P1

⁴ OS map 1924 extract – Design and Access Statement

and medium sized sites can make to meeting the housing requirements of an area as they can often be built out relatively quickly.

18. Furthermore, the proposal would reuse a brownfield site bringing the site, which has been vacant for a number of years, back into use. This attracts substantial weight in accordance with paragraph 118(c) of the Framework. There would be short term economic benefits arising from the construction of the development and in the longer term in relation to the economic benefits the future occupants are likely to bring to the local area. In addition, there would be financial benefits to the Council arising from the New Homes Bonus and Council tax associated with the development. These benefits attract moderate weight.
19. Nevertheless, in line with paragraph 193 of the Framework, the harm to the CA, albeit less than substantial, attracts great weight and I am mindful of my statutory duty⁵ to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA in the overall balance. As such, the cumulative weight of the public benefits in favour of the proposal do not outweigh the harm to the significance of the CA.
20. Accordingly, the proposal would fail to preserve or enhance the character and appearance of the CA and as a result, would conflict with saved policies 2, 4, 69, 70 and 85 of the City and District of St Albans Local Plan Review, November 1994 (LP). These policies, amongst other matters, seek to protect and enhance the character and appearance of the surrounding area, having particular regard to conservation areas. However, as the locally listed building would be retained as part of the proposal, I do not find it would conflict with policy 87 of the LP, which primarily seeks to prevent the demolition of locally listed buildings, and in relation to alterations and extensions that affect them, seeks to preserve features of architectural or historic interest.
21. In addition, the development would conflict with policies ESD1 and ESD2 of the NP which require, amongst other matters, new development to be of a high quality design that makes a positive contribution that is sensitive to local character and heritage.

Living conditions

22. Apartment 9 would have a first floor balcony in the north-west elevation facing towards detached dwellings at 25 and 25a Townsend Lane. The separation distance between the balcony and the built form at No.25, is just over 27 metres in total, with the boundary of the appeal site and No.25 situated approximately half way in between.
23. Policy 70 of the LP indicates that an acceptable level of privacy for dwellings and private garden areas would normally be safeguarded if there is a separation distance of at least 27 metres and a permanent rear boundary screen achieving 1.8 metres in height. It further states that balconies will not be permitted if the privacy of adjacent dwellings and private gardens are prejudiced, but does not suggest a corresponding distance in this regard.
24. Considering the separation distance, height of the existing boundary fencing, and screening likely to be provided by established and proposed landscaping within the site, the proposed balcony for apartment 9 would not result in

⁵ Section 72 Planning (Listed Building and Conservation Areas) Act 1990

unacceptable levels of overlooking to either the dwellings or rear garden areas for 25 or 25a Townsend Lane. In this regard I concur with the findings of the Inspector at the recent appeal⁶, who specifically considered the likely impact of a balcony having a similar relationship with 25 and 25a Townsend Lane as the one before me.

25. I have had regard to the concerns raised by some other residents in relation to the impact of the proposal on their living conditions which they consider would result in a loss of privacy and an overbearing impact. However, these were not specific concerns raised by the Council. Nevertheless, based on my observations and the submitted plans, given the respective distances to other properties, intervening boundary treatments and landscaping the proposal would maintain a relationship with the surrounding residential properties that would provide adequate levels of privacy. Furthermore, although I have already identified that largely due to its scale, there would be a general harm to the character and appearance of the area, the impact would not be so overbearing to surrounding occupants such that their living conditions would be unreasonably compromised.
26. Accordingly, I find that the privacy of the occupants of Nos.25 and 25a would not be unreasonably compromised and consequently, the appeal proposal would not be harmful to their living conditions. Therefore, I do not find conflict with policy 70(vi) of the LP which seeks to ensure new housing development results in a tolerable level of privacy between dwellings.

Planning Balance and conclusion

27. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (the Framework) must be taken into account in preparing the development plan and is a material consideration in planning decisions⁷.
28. There is no dispute between the parties that the Council is unable to demonstrate a five year supply of deliverable housing sites. In such circumstances paragraph 11(d) of the Framework 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 (the tilted balance).
29. The policies in the LP significantly predate the Framework, and as such, they attract commensurate weight according to their degree of consistency with it⁸. Although they seek to preserve and enhance the character and appearance of the CA, they do not refer to the balancing exercise set out in paragraph 196 and in this regard, I have given greater weight to the Framework. However, the policies in the NP have been adopted since the publication of the Framework and are consistent with it. In relation to proposals affecting heritage assets, Policy ESD2 of the NP includes a similar balancing exercise to

⁶ Reference APP/B1930/W/18/3194037, paragraph 23.

⁷ Paragraph 2 of the National Planning Policy Framework

⁸ Paragraph 213 of the National Planning Policy Framework

that set out in paragraph 196 and therefore, it is not out of date and attracts full weight.

30. In any event, in considering the application of paragraph 11, it is also necessary to determine whether there are specific policies in the Framework that indicate that development should be restricted. Footnote 6 of the Framework gives examples of such policies which includes those concerning designated heritage assets. For the reasons already set out above, the proposal would fail the balancing test set out in paragraph 196 of the Framework. Accordingly, this would provide a clear reason for refusing the appeal proposal and, in such circumstances, the tilted balance in paragraph 11(d)ii would not apply.
31. On this basis, I am not aware of any other relevant considerations of such weight that indicate that my decision should be taken otherwise than in accordance with the development plan in line with section 38(6) of the Planning and Compulsory Purchase Act 2004.
32. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector