



Appeal Decisions

Site visit made on 15 October 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th October 2019

Appeal A: Appeal Ref: APP/N1920/W/19/3230680 47 High Street, Bushey, WD23 1BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Other OPM Property Services Ltd OPM Property Services Ltd against Hertsmere Borough Council.
 - The application Ref 19/0425/OUT, is dated 14 March 2019.
 - The development proposed is described as outline application with all matters reserved for two storey rear and side extension with conversion of the loft space into habitable space to provide 4 additional flats.
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Appeal B: Appeal Ref: APP/N1920/W/19/3232102 47 High Street, Bushey, WD23 1BD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Other OPM Property Services Ltd OPM Property Services Ltd against Hertsmere Borough Council.
 - The application Ref 19/0477/OUT, is dated 18 March 2019.
 - The development proposed is described as outline application with all matters reserved for two storey rear extension with conversion of the loft space into habitable space to create 12 luxury HMOs, retaining the existing pharmacy/chemist function at ground floor.
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Decision

Appeal A: APP/N1920/W/19/3230680

1. The appeal is dismissed, and planning permission is refused for a two-storey rear and side extension with conversion of the loft space into habitable space to provide 4 additional flats.

Appeal B: APP/N1920/W/19/3232102

2. The appeal is dismissed, and planning permission is refused for a two-storey rear extension with conversion of the loft space into habitable space to create 12 luxury HMOs, retaining the existing pharmacy/chemist function at ground floor.

Procedural Matters

3. As set out above there are two appeals for the site No 47 High Street (No 47). They differ only in the internal accommodation proposed with the scale and

design of the rear of No 47 identical in both appeals. I have considered each proposal on its individual merits. However, to avoid duplication, as the same issues apply to both appeals, I have dealt with the two schemes together, except where otherwise indicated.

4. Appeal A proposes the provision of an additional four flats and Appeal B would provide 12 Home in Multiple Occupation (HMO) units. The applications in both appeals were submitted in outline, with all matters reserved. I have dealt with the plans submitted as indicative only.
5. The previous planning history of the appeal site has been brought to my attention with regards an extant planning permission for a rear extension¹ and for a single storey rear and side extension². Whilst the appellant states that the extensions are designed in accordance with the already approved schemes, no details of the schemes have been submitted as evidence.
6. In both appeals the Council has concerns that the appellant has submitted insufficient information with which to determine the impact of the proposals on heritage and non-designated heritage assets, neighbouring amenity, the character and appearance of the area, highway/pedestrian safety, parking, impact on trees and in the case of Appeal B the provision of affordable housing. These have defined the main issues.

Main Issues

7. In both Appeal A and B the main issues are the effect of the development on:
 - The character and appearance of the Conservation Area (CA); and,
 - The living conditions of the occupiers of neighbouring properties; and,
 - the protection of trees.
8. With regard Appeal B only, there is an additional main issue of the effect of the proposed development on the provision of affordable housing.

Reasons

9. In both appeals the appeal site comprises the R C Tween Ltd chemists located in a central position along Bushey High Street. The building comprises a two-storey building with residential accommodation at first floor level and within the loft space. The ground floor, fronting the High Street forms the commercial premises. This section of the High Street comprises similar buildings with retail or commercial uses on the ground floor. To the rear of the site is the three-storey residential accommodation of Bushey Park. No 47 is located within the Bushey High CA and is included on the list of locally important buildings.

Character and Appearance of the Conservation Area

10. The appeal site is located within the Bushey High Street CA and therefore I have a duty under Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to consider the effect of the development proposed and requires special attention to be paid to the desirability of preserving or enhancing the character and appearance of that area.

¹ 15/1673/FUL

² TP/05/1190

11. The Bushey High Street CA has a wide range of architectural style and age of properties. The High Street comprises residential and commercial properties that line each side of the main road dating from c1500 to the twentieth century. At its west end lies Bushey Hall School which stands on the site of a former Jacobean manor house and at the east end of the High Street is a wide fronted property Bushey Hall with parkland to the rear. The CA has a strong linear character with both an urban centre and a village green. The High Street comprises mostly adjoining properties of two and two and a half storeys which line each side of the street frontage. The rear parts of most of the properties on the High Street are accessed through small gaps between properties or from the back of the property. No 47 forms part of a group of locally listed buildings (Nos 39,41,43, 45, 47 High Street) designated as they have a strong design in the neo-Tudor style and retain most of their original features. In addition, Nos 39-47 and the adjacent No 37 High Street, which is a 16c statutory listed building, when combined make a significant contribution to the CA.
12. In both appeals the High Street front elevation would be retained but would involve new development and alterations to the rear of No 47 which is an existing rear yard comprising of a row of single storey outbuildings along the boundary wall abutting No 49 High Street and a number of temporary shed like structures. The development proposed in both appeals would comprise the construction of a part single, part two storey rear extension and an increase in loft space with associated roof alterations. Access to the development proposed would be via an existing side entrance at the rear of No 47 and an internal staircase providing access to the upper floors.
13. Whilst the appellant states that as the development proposed would be to the rear of No 47 and therefore out of public view, there would be no adverse effect on the CA. However, good design is required to all elevations of a property in order to preserve the character of the CA as a whole. The development proposed in both appeals would result in significant alterations to the rear of the host property which would have a contrived appearance due to the unusual part flat, part pitched roof design of the extension and a scale which would give the appearance of a three-storey building. The flat flank and angled rear elevation wall would have an unsympathetic array of windows and would appear to be significantly at odds with the fenestration of the adjacent properties. This would result in the rear of No 47 appearing to be incongruous in the context of the neighbouring properties and would significantly detract from and fail to preserve or enhance the character and appearance of the locally listed host property and the CA as a whole.
14. In both appeals the unsympathetic scale and design of the development proposed which are depicted in the computer-generated graphics³ would result in less than substantial harm to the character and appearance of the CA. Appeal A would provide 4 new accommodation units and Appeal B would provide 12 new accommodation units and as a result both would make a contribution to the local housing provision and therefore would have some limited public benefits. However, these limited public benefits would not outweigh the significant harm previously identified to the CA.
15. I conclude that in carrying out my duty under Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 that the development

³ Appellants Final Comments Appendix 6

proposed in Appeal A and Appeal B would have less than substantial harm on the CA which would not be outweighed by the public benefits.

16. The development proposed in Appeal A and Appeal B would be contrary to policies CS14 and CS22 of the Hertsmere Local Plan Core Strategy (2013) (CS), policies SADM29 and SADM30 of the Site Allocations and Development Management Policies Plan (2016) (SADMPP), the National Planning Policy Framework (2019) (the Framework) when taken as a whole, as well as guidance contained in the Planning and Design Guide (2016) (SPD), which when read together seek to ensure the protection or enhancement of heritage assets, including CA's and where appropriate seek to obtain improvements which enhance the area and that new development is of high quality design.

Living Conditions

17. Beyond the rear boundary wall of No 47 lies the three-storey residential accommodation of Bushey Park, which the first and second floor windows of the development proposed in both appeals would directly overlook. Whilst the appellant states there would be no direct views from the rear windows due to the tree line at the rear of the yard area, based on my site visit when the trees were in full leaf, the windows of the Bushey Park properties were readily visible from ground floor level and there is no evidence to indicate that similar views would not be available from the upper floor windows of the development proposed. As a result the development proposed would overlook Bushey Park resulting in a loss of privacy and would have a significant harmful effect on the living conditions of the occupiers of those properties.
18. Further, due to the angle of the two-storey flank wall elevation in both appeals, the position of the fenestration would allow views into the rear windows of the neighbouring property No 49 High Street and the existing upper floor window on the shared boundary wall with the adjoining No 45 High Street would be directly affected by the development proposed.
19. Whilst the parties dispute whether the 45-degree rule has been breached, the indicative plan⁴ clearly shows the line being drawn from the middle of the window and not from the nearest edge of the neighbouring window as set out in the guidance provided in the SPD. Whilst it is acknowledged that the angled flank wall of the proposed rear elevation seeks to mitigate the effect of blocking of daylight and loss of privacy to No 49, in this case that result would not be achieved, to the detriment of the living conditions of the occupiers of the neighbouring property.
20. Overall, the development proposed in Appeal A and Appeal B would result in overlooking and loss of privacy to the detriment of the living conditions of the occupants of Bushey Park and the neighbouring No 49 High Street. Further, as the 45-degree rule would be breached, daylight and sunlight would be blocked to windows of No 49 High Street, adversely affecting the living conditions of the occupants of that property.
21. I conclude that the due to the adverse effect on the living conditions of the occupants of the neighbouring properties the development proposed would be contrary to Policy CS22 of the CS, policies SADM3 and SADM30 of the SADMPP, the Framework as well as guidance contained in the SPD, which when

⁴ Appeal B HMO_TP_V1.0_015

read together seek to ensure that new development would not have adverse impacts on the living conditions of occupants of neighbouring properties.

Trees

22. To the rear of No 47 close to the boundary wall with Bushey Park are two mature trees which given their location within the CA are afforded protection. These make an important contribution to the CA and the visual separation of the appeal site from Bushey Park located to the rear beyond the boundary wall. No evidence has been submitted in the form of an Arboricultural Impact Assessment, Arboricultural Method Statement or Tree Protection Plan to show how the trees would be preserved or how they would be protected during construction had the appeal been allowed. The appellant states that it is the intention to retain the trees to the rear of the site and the aforementioned reports would be produced at the reserved matters stage and an appropriate condition could be imposed, if I were minded to allow the appeal.
23. However, I have no evidence before me to demonstrate how the trees effected by the development will be protected given they are afforded protection by reason of being located within the CA. I therefore conclude that there would be conflict with Policy CS12 of the CS and Site Allocations and Development Management policies SADM30 and SADM12 of the SADMPP and the Framework, which when read together seek to ensure that new development has no adverse impact on protected trees.

Appeal B

Affordable Housing

24. Policy CS4 of the CS states that residential development exceeding the threshold of 10 units would be required to deliver affordable housing. As the development proposed would construct 12 units to be used as a HMO, Policy CS4 would be triggered in this case and provision of affordable housing is required to be made. However, the appellant has submitted no evidence in Appeal B to show how the required provision would be made. Whilst the appellant has acknowledged that affordable housing should be provided, no mechanism has been proposed and therefore there is no certainty that it would be provided.
25. I conclude that the development proposed in Appeal B would be contrary to the SADMPP, policies CS4 and CS21 of the CS, the Affordable Housing Supplementary Planning Document (2015) and the Planning Obligations Supplementary Planning Document (2010) and the Framework which when read together seek to ensure new development makes provision for affordable housing.

Other Matters

26. I note that in both appeals the Council considers the principle of development to be acceptable. The appellant has made reference to the Council's decision-making process and failure to determine the application within the required timescale. As the appellant has subsequently exercised his right to appeal on the basis of non-determination, I have determined the appeal on that basis.
27. In both appeals the appellant has referred to other properties in the surrounding area which have extensions to the rear, though no further details

have been submitted and therefore as circumstances may be different it has not altered my decision. In Appeal A the appellant has referred to another appeal⁵ decision which I have had regard to, but as the circumstances relating to that development were different and I note was a full application, it has not changed my decision on Appeal A.

Conclusions

28. For the reasons set out above Appeal A is dismissed and Appeal B is dismissed.

Paul Wookey

INSPECTOR

⁵ APP/X5990/W/15/3010451