



Appeal Decision

Site visit made on 29 October 2019

by Thomas Bristow BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 December 2019

Appeal Ref: APP/N5090/W/18/3212086

Birches, 18 Totteridge Village, Whetstone N20 8JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Ash Holdings Ltd. against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/3402/FUL, dated 29 May 2018, was refused by notice dated 6 September 2018.
 - The development proposed is described on the application form as 'demolition of existing house and erection of 7no. apartments, with access, landscaping and associated works'.
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Decision

1. The appeal is dismissed.

Preliminary matters

2. Via appeal decision dated 18 May 2016, planning permission was granted for the conversion of No 18 to five self-contained units (appeal Ref APP/N5090/W/15/3139686, the 'previous appeal'). I have taken account of the nature of the scheme proposed via the previous appeal relative to that which is now before me.¹ As observed by a neighbour, however, the units now proposed are not like-for-like; all flats are now intended to be three bedroom instead of only two of the five units previously proposed.
3. Nevertheless each proposal must be determined on its merits in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan includes policies of the London Plan, and of the Council's Core Strategy and Development Management Policies Development Plan Document ('LP', 'CS', 'DMP' respectively).² I have also had regard to various other material considerations including the National Planning Policy Framework ('NPPF'), relevant statutory provisions, the Council's Residential Design Guide Supplementary Planning Document (October 2016, the 'Design Guide'), and the Council's Sustainable Design and Construction Supplementary Planning Document (October 2016, the 'SPD').
4. Revised plans have been submitted at appeal.³ As the appellant puts it, 'a pack of detailed further studies and evidence' has also been put forward. An appeal

¹ Although that permission was subject to a condition requiring commencement in line with section 91 of the Town and Country Planning Act 1990 as amended.

² The LP adopted in March 2016, notwithstanding a review recently subject to examination, with the CS and DMP both adopted in September 2012.

³ Notably 1501AL(05)100A,110(A),111(A),122(A), 123(A),124(A),130(A),131(A).

should not be used to evolve a scheme, and the Council are of the view that what I am now asked to consider is fundamentally different to the original proposal. There is some force in the Council's argument, in particular given the extent of and inter-relationship between new plans and evidence. However the proposal remains for the redevelopment of No 18 with a building of similar appearance and scale comprising seven flats. Some plans and evidence seek to resolve some Council concerns regarding the sufficiency or detail of the proposal rather than significantly altering the scheme. I do not consider that any party would be prejudiced by my subsequent consideration of the revised scheme or the evidence in support of it.

Main issues

5. Against the above context, I consider the main issues to be (i) the effect of the development proposed on the character and appearance of the area, particularly that of the Totteridge Conservation Area ('TCA'), (ii) whether or not the lower ground floor units proposed would afford suitable living conditions for future occupants, with specific regard to natural light and outlook, (iii) the effects of the development proposed on the living conditions of the occupants of nearby properties in relation to privacy, and (iv) whether or not it has been demonstrated that the proposal would be acceptable in terms of its potential effect on archaeological remains. If I find that harm would result, I will then gauge whether any material considerations in favour of the proposal would nonetheless justify allowing the appeal.

Character and appearance

6. In summary, and amongst other things, LP policies 3.5, 7.4, 7.6, CS policies CS1, CS5 and DMP policies DM01 and DM06 seek to ensure that all development is of high quality design and integrates suitably with the character of its surroundings, including as regards any heritage meriting protection. Practical guidance regarding that objective is given in the Council's Design Guide. Likewise NPPF paragraphs 127(a) and (c) set out how development should add to the overall quality of an area and be sympathetic to local character and history. The NPPF also set out, related to the duty contained in section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 as amended, that great weight should be given to the conservation of designated heritage assets, and that any harm in that respect should require clear and convincing justification.
7. No 18 is a substantial dwelling. I understand it dates originally from the early-to-mid twentieth century. It falls to the north of the A5109 within a spacious plot opposite Totteridge Green. Access, shared with No 20 to the west, is directly from the A5109, the central route through Totteridge Village, broadly around which the Totteridge Conservation Area is drawn ('TCA'). Notwithstanding the observations of the Inspector who determined the previous appeal regarding connectivity, this location has relatively poor accessibility with a PTAL rating of 1b. With No 18 towards the centre, the TCA encompasses a substantial area extending as far as Links Drive to the east and almost to the B552 some two miles away westwards.
8. The appeal site falls within the Totteridge Lane Character Area ('TLCA') of the TCA, as defined in the Character Appraisal Statement (May 2008, the 'CAS'), facing the Totteridge Green Character Area. No 18 is now a sprawling two

storey property, albeit with accommodation also within the pitch of the roof. I understand from the Design and Access Statement Addendum ('DASA') that, by consequence of various additions over time, the property has a footprint of approximately 403 square metres, representing some 17% of a plot amounting to 0.25 hectares. Extensions to dwellings and the conversion of buildings to flats relate to different elements of Council guidance than is relevant here.⁴

9. Neighbouring Nos 16 and 20 are set in comparably-sized plots. More broadly the TCA is predominantly characterised by generous properties of varying designs set in spacious plots with well-established gardens. The appellant's Heritage Statement explains how the agrarian origins of Totteridge as one of London's richest hay pastures are now reflected in a mature suburban landscape of 'leafy tranquillity'. In that context I understand that three birch trees close to the front boundary wall of No 18 were formerly protected via Tree Preservation Order ('TPO') prior to their loss.⁵
10. As with No 18, properties nearby tend to be well set into their plots behind boundary walls and planting, although not universally. No 18 is of neoclassical design in terms of proportions and detailing. I acknowledge that it is not of an age or architectural quality of certain other properties within the TCA. As set out in the appellant's Heritage Statement Addendum, Nos 16 and 20 are similarly 'detached mansion style buildings predominantly in the Neo-Georgian/ Neoclassical style...'. There are also dwellings in the area built in an Arts and Crafts aesthetic, a matter to which I will return.
11. The proposal before me is now to demolish No 18 and to create a new building in its place. That building would be similarly set back from the A5109, and of lesser width; the appellant indicating in that latter respect that the building proposed would span around 81% of the plot width compared to 97% presently. The proposed building would include a lower ground floor level, enabling the creation of seven flats. The proposal would result in an increase in depth compared to No 18 as it stands, the Council citing a figure of 18.6 metres in that respect, albeit that would appear to represent only a 15% increase in terms of footprint.⁶ There are now details before me of the car lift proposed, of refuse storage, hardsurfacing, and also in respect of landscaping (including the replanting of trees in place of those formerly protected via TPO).
12. Numerically the development proposed would add relatively little to the existing footprint of No 18, be of lesser width, and result in a building with a comparable overall height. However the scale or apparent bulk of a proposal is not solely a matter of metrics, but also relies on judgement; footprint comparisons tell little about visual effects. Whilst I accept that the proposal would result in a building occupying around 81% of the width of the plot, that is nevertheless substantially in excess of either immediate neighbour. Moreover the western side extension to No 18 has a lower roofline than the original building. That step down in height is readily visible, being obliquely behind access to the property. In that location the proposed building would be noticeably taller.⁷

⁴ Paragraph 15.6 of the Design Guide states that where the subdivision of a property into flats is proposed 'the property should be large enough to be converted without the need for substantial additional extensions'.

⁵ TPO Ref TRE/BA/20/G22, loss, I understand, investigated by the Council (Ref ENF/00081/08/N).

⁶ Revised plans propose a modest increase in scale relative to that originally submitted of some 349 square feet.

⁷ Contrasting plans AL(05)020 REV* and AL(05)120 REV*.

13. I accept that the roof form would not be readily apparent on account of perspective, notwithstanding its scale. Nonetheless the central 'tower' element of the scheme,⁸ and the peaks of two gables, would meet or project slightly higher than the maximum height of the existing ridgeline. In my view gable elements would increase the bulk of the building, compared to the pitch of the roof which currently slopes away from the site access. There would be some reduction in hardsurfacing, and I am told that the car lift could be calibrated so as to appear imperceptible for the majority of the time, dwelling in the down position. However the proposal entails the provision of underground parking ventilation grills, safety railings, and a lower ground floor level. Those features, whilst low lying, are likely to result in some clutter forward of the principal elevation. Moreover in the case of lower ground floor units, light spill is likely to illuminate the façade of the building proposed at certain times. As such, and in combination with the intensity of vehicular movements, and of comings and goings, the proposal is likely to draw attention to a greater extent than would occur at present.
14. As a consequence, and notwithstanding some variety in the scale of properties in the TCA, the proposal would result in a modest perceived increase in bulk as viewed from vantage points along the A5109 and Totteridge Green. I note the appellant argues that extensions and alterations to No 18 over time have 'reduced the contribution to, and integration with, the wider TCA setting', and also that 'substantial changes in terms of appearance, scale and massing, all of which can be considered as diminishing its contribution...' (my emphasis).⁹ Following my reasoning above, that the scheme would appear more imposing than a building which has become discordant by virtue of extensions over time is not a strong endorsement for the proposal. Moreover even if development has occurred here or elsewhere that has detracted from the historic integrity of the LCA, that does not justify allowing incongruous development in the present.
15. I have set out above how No 18 is not exemplary in terms of design. There is also some variety in the scale, plot size, and design of dwellings in the TCA and TLCA, including some properties with an Arts and Crafts aesthetic. As such a modern interpretation of Arts and Crafts themes would not be inherently incongruous. However figure 1.9.2 of the DASA identifies only a handful of other properties of such design within the TLCA; the CAS setting out that a key feature of the area is instead 'houses resembling a regular planned form and neoclassical style'. As noted above Nos 16 and 20 are neoclassical. Taken together that indicates that an Arts and Crafts aesthetic does not predominate in this specific location, and that particular care is necessary to ensure that such a design would integrate appropriately. There is extensive discussion, in the DASA in particular, of the way in which the design of the building proposed has been arrived at. Reference is made to the proportions and stylistic features of the Arts and Crafts movement, notably to the work of prominent Manchester-based Architect Edgar Wood, and to the Deanery in Berkshire designed by Edwin Lutyens.
16. Nonetheless the CAS does not indicate that either architect had a hand in designing properties within the LCA. It is an oversimplification to imply that all

⁸ Referred to in section 3.9 of the Design and Access Statement as the 'central focal point'.

⁹ Statement of case, paragraphs 3.14 and 3.28.

architects of a particular movement or era are comparable. Whilst I accept there is some reference to the form and geometry of Arts and Crafts properties in the proposed building, in my view the design has various shortcomings. As noted above, the building would have a metal-clad tower element. Such a feature is not commonplace nearby. The shape proposed is simplified and geometric, and the materials proposed would result in a quasi-industrial, almost corporate, appearance. That is in contrast to a typically more intricate turn of the century design.

17. Moreover, as shown by the Deanery, and as is also evident at a number of properties within the TCA, Arts and Crafts properties often feature façades with different plains and varied detailing. Those features serve to break up the massing of and to enliven elevations. Such features are notably absent in respect of the development proposed. Although different facing materials are intended, the building would in my view have a relatively plain, unrelieved and dominant principal elevation. The proposed windows would be regular in height and regimented, further contributing towards an unduly stark and imposing façade. In my view the quality of the design falls short of that which would be necessary to ensure that development respects local distinctiveness.
18. The proposed building would be visible from few public vantage points, and then partially obscured by planting; the landscaping addendum now proposing more greenery.¹⁰ However such planting would take some time to mature. At best it would only partially screen the development proposed. I acknowledge the circumstances here, notably the existence of a TPO, differ from those at nearby Orchard House. Nevertheless as observed by the Inspector at appeals related to that property in 2018,¹¹ excessive screening to obscure incongruous development would itself be inconsistent with local character.
19. I have explained how certain aspects of the proposal would be positive, neutral, or that adverse effects would be mitigated to some extent. Nevertheless the combination of the bulk of the proposal along with shortcomings in its design would result in a proposal discordant with local character and appearance. I therefore conclude that the proposal conflicts with the relevant elements of the development plan policies and paragraphs of the NPPF set out in paragraph six above. However inherent that reasoning, on account of the various factors that would limit the effect of the development proposed, and also its localised impact, is that it is fair to define the harm that would result as 'less than substantial' and relatively limited within that categorisation.¹²

Living conditions of future occupants

20. In support of CS policy CS1, policy CS5 sets out how development should be of high quality design. That is reinforced by DMP policy DM01, which makes specific reference to ensuring adequate daylight and outlook. Similarly NPPF paragraph 127(f) sets out that planning should seek to ensure a high standard of amenity for all. Section H1 of the National Design Guide ('NDG') reiterates, including in respect of daylight, that 'the quality of internal space needs careful consideration in higher-density development...'; seven flats would represent higher density than that which prevails here.

¹⁰ The scheme as submitted entailed the loss of seven trees in the front garden (G2, T3, T4, T5 and T8).

¹¹ Ref APP/N5090/C/18/3203345 & 6.

¹² Having noted the Heritage Addendum, appendix 16 to the appellant's statement of case.

21. DMP policy DM01 refers to the SPD as a useful reference. Table 2.4 of the SPD guides that glazing to all habitable rooms should not normally be less than 20% of the internal floor area of the room in order to provide sufficient natural light, and that bedrooms, living rooms and kitchens should have a reasonable outlook. The appellant's Daylight Report subsequent to the Council's decision in respect of application Ref 18/3402/FUL,¹³ makes reference to widely used industry guidance in relation to natural light, notably British Standard 8206-2:2008 Lighting for buildings- Code of practice for daylighting ('BS 8206-2', notwithstanding BS EN 17037:2018).¹⁴
22. However a judgement as to whether living conditions would be appropriate is inevitably context specific. It may be, given the prevailing nature of an area, that departing from standard guidelines is justified. I have described above, uncontroversially, that the area is characterised generous properties set within spacious plots at a relatively low density. I saw how that results in very good levels of outlook and the ability for properties to benefit from natural light. To my mind that sets a broad benchmark for the living conditions that would typically be experienced here, and which it is reasonable to ensure are reflected in new development (within reason).
23. The Council sets out in their statement of case that the 20% ratio of glazing to internal floor area would not have been met in respect of 'bedroom 1' and the lounge/kitchen/dining areas of the two lower ground floor units proposed. Those spaces are served by north-facing windows, an orientation in respect of which natural light is inevitably limited. The appellant's Daylight Report similarly, relative to the scheme as submitted, explains how the industry standard daylight levels referenced above would not have been met. It also sets out how the Building Research Establishment guides that dwellings should have at least one main living room window facing south or west, which would not have originally been achieved.
24. It does not therefore appear to be in dispute that the original scheme had certain shortcomings. The Daylight Report consequently proposes alterations to ostensibly achieve compliance with industry guidelines: extending lower ground floor units further into the plot, amending rear columns, removing walk-on rooflights set into ground floor units' balconies, and alterations to room layouts. Those changes are not insignificant. However subject to them, the Daylight Report states that all rooms would exceed the minimum Average Daylight Factor ('ADF') with reference to BS 8206-2, section 5.6. That is subject to a certain proportion of light filtering through the tree canopy in respect of the lower ground floor room therein identified as 'R7', if ADF assessment is based on the presence of nearby trees as shown on drawing 74655_CTXT_06.
25. However drawing 74655_CTXT_06 does not appear to show any of the trees or plants which are present forward of the principal elevation of No 16 close to the common boundary with No 18. Given the sun's path through the sky, those features are highly likely to affect light to south-facing lower ground floor windows (R3 and R4 in particular). Paragraph 1.3.1 of the Daylight Report furthermore states that 'the calculation does not need to be modified' in

¹³ Prepared by Malcolm Hollis, reference 74655/IM/BSC.

¹⁴ And also, Building Research Establishment 'Site Layout and Planning for Daylight and Sunlight – A Guide to Good Practice' (2011).

respect of lower ground floor rooms. The meaning of that phrase is unclear, particularly as BS 8206-2 recommends the use of variants or sensitives where there is a limited plane of light and in respect of room depth. On the evidence before me it does not appear that the sunken nature of the windows serving R1-R4 and the reduction in vertical sky component, or availability of natural light by consequence, has been assessed, nor the relationship of windows to the depth of rooms (noting that the changes proposed would increase building depth).¹⁵ I am not therefore satisfied that an industry guidance compliant scheme has been put forward.

26. There is some dispute between the main parties as to the degree to which the fence and planting proposed around the lightwells to lower ground floor units would impede light and views; if included it appears that the 'winter gardens' would be set down some 3.9 metres (if excluded the figure would be around three metres, given the relatively generous internal room height of 2.75m). Nevertheless it does not appear to be disputed that the separation between the windows of lower ground floor bedrooms R1 to R4 and the facing wall would be around 1.8 metres. I accept that some outlook would be achievable through those windows, as shown in figure 2.3.3 of the DASA.
27. However that outlook would not be meaningful, whether railings and planting is included or not. In order not to face a wall square-on a short distance away, an individual would need to look unnaturally upwards when standing close to the window. It appears a view of the sky may only be possible if an individual were almost to press themselves up against the glass. Moreover those rooms are single aspect. In combination that would result in an adverse sense of enclosure. There are examples of winter gardens or enclosed terraces given in section 2.3 of the DASA. However they do not show the orientation, size, relationship of solid wall to glazing or layout of the spaces in those instances. They are also not calibrated in any way such that the level of natural light can be established methodologically or distinguished from other light sources. It is not clear as to whether they are of buildings in England on a typical day.
28. For the above reasons, as a matter of fact and degree, neither the original proposal nor revised scheme would demonstrably provide for appropriate levels of natural light or outlook. Both daylight within and outlook from front-facing lower ground floor units would likely be significantly qualified. In my view that would result in an unacceptable sense of enclosure and gloomy feel, entirely out of keeping with the prevailing nature of the area described above, thereby failing to represent high quality design. I therefore conclude that the proposal is not compliant with the relevant provisions of CS policy CS5, DMP policy DM01 or NPPF paragraph 127(f).

Living conditions of neighbouring occupants

29. As set out in paragraph 20 above, CS policy CS5 and DMP policy DM01 seek to ensure that all development is of high quality design, and that it entails only appropriate effects to the living conditions of those nearby. That approach is, again, reflected in NPPF paragraph 127(f), and in NDG section H2. By any measure the proposal would result in an increased intensity of use in this location which would inevitably result in an increase in comings and goings to

¹⁵ Whilst section 1.6 of the DASA states that all the rooms are within the 'widely accepted 7m depth required'.

the site, vehicular movements using an access shared with No 20, and potential for noise associated with everyday residential use.

30. Each unit would benefit from some private outside space including balconies at ground, first, and second floor level.¹⁶ The use of balconies has the potential to reduce the privacy from which the occupants of nearby properties benefit, including within their gardens. I have noted above how the building proposed would extend further into the plot compared to No 18 as it stands. I also note that Nos 16 and 20 have windows in side elevations facing the appeal site, some of which I understand relate to habitable rooms. I have taken careful account of all representations before me, and acknowledge that even relatively minor changes to the built environment may have a significant perceptive effect (albeit I do not suggest that the proposal may be defined as such).
31. However the uplift in likely vehicular movements relative to the scheme approved via the previous appeal would likely be modest, and there is no indication that access is anything other than safe and suitable. There is also some space available for manoeuvring within the appeal site for vehicles, so as to limit the potential for conflict between those seeking to make use of the access at the same time. I have described above how the area is characterised primarily by generous properties set in spacious plots, and note also the previous inspector's comments that there are relatively few examples of the conversion of large dwellings to flats nearby such that he considered that the proposal would not have had a cumulatively adverse effect with regard to the approach in the DMP.¹⁷
32. Inherent in the spacious character of the area, and also the presence of mature trees and established hedges between properties, is that the potential for adverse overlooking is qualified. That is, of course, contingent on those features being suitably preserved. Figure 6.4.1 of the DASA, which shows sight lines relative to No 20 and its plot, appears to accurately represent the situation on the ground (provided the proposal is amended as in the revised plans). That figure shows that there would be little appreciable intervisibility between the building proposed and the plot of No 20 by consequence of the trees and hedge between the two, albeit I note that trees do not provide complete screening by virtue of their organic form (see paragraph 24 of this decision).
33. The proposal is supported by a Landscape Scheme, Arboricultural Report, and subsequent Addenda to both documents.¹⁸ There are certain oddities in respect of the arboricultural evidence before me. The Landscape Scheme Addendum proposes the retention of two large willow trees identified as T12 and T14 in the Arboricultural Report, despite the description of those specimens in that former document as being recommended for removal on grounds of 'potential risk of failure' and 'extensive basal and stem decay' respectively. I am also told, in paragraph 3.2 of the appellant's final comments that the birch trees instead forward of No 18, formerly protected via TPO, died of Dutch Elm Disease. That would represent a unique, and potentially worrying, occurrence.

¹⁶ As shown in particular on plans AL(05)122 REV* and AL(05)130 REV*, as again amended relative to the proposal as submitted (shown in figure 1.6.2 of the DASA).

¹⁷ Paragraphs 8 and 9 of his decision.

¹⁸ Appendices 12, 13, 18 and 19 of the appellant's appeal statement.

34. Nevertheless the Tree Protection Plan within the Arboricultural Report illustrates that the footprint of the proposed building would be outside, or would at worst glance, the theoretical Root Protection Area ('RPA') of trees within the gardens of Nos 16, 20 and properties along Harmsworth Way close to the plot of No 18. Whilst different species have different tolerances to root reduction, in broad terms avoiding the RPA is typically sufficient to safeguard wellbeing. The Arboricultural Report explains how RPAs have been calculated based on British Standard 5837: 2012 'Trees in relation to design demolition and construction, recommendations', adjusted for on-site circumstances.
35. Given the form of No 18 as extended, hardsurfacing close to the common boundary with No 20 and a close-boarded fence between the two, it is not unreasonable to assume that root growth of nearby trees within the garden of No 20 towards No 18 has been checked over time. However, even in the eventuality that no adjustment to the RPA were made on account of the above factors, the RPA of specimens T11 and group G4, the nearest trees in this location, would be transgressed by the footprint of the development proposed by no more than five percent. Subject to requiring a sensitive approach to digging out and foundation construction, which could be secured via appropriately-worded condition along the lines of section 4.6 of the Arboricultural Report Addendum were the development otherwise acceptable, that would in my view suitably safeguard the wellbeing of those trees.¹⁹
36. The proposal would inevitably result in some change. I acknowledge that change would be unwelcome by many nearby, and that would likely result in a perceived loss of amenity. However given the nature of the development now proposed, its surrounding context, and the safeguards that could be emplaced in respect of trees and boundary features, for the above reasons I am not of the view that the privacy of those nearby would be unduly affected. I therefore conclude that no conflict arises in respect of this main issue with regard to the relevant provisions of development plan policies CS5 and DM01 or with regard to NPPF paragraph 127(f).

Archaeology

37. In brief DMP policy DM06 and supporting text explain how all relevant proposals should be informed by an appropriate understanding of potential effects to archaeological significance. That is in order to ensure appropriate protection, including via mitigation, and applies 'in particular' in the 19 identified Archaeological Priority Areas in the Borough ('APA'). That is similarly the approach in NPPF paragraph 189, which also sets out that evidence in this respect should be proportionate relative to an asset's importance.
38. The appeal site falls within the Totteridge and Whetstone APA, an area where there is significant known, or potential for, archaeological interest based on the Greater London Historic Environment Record ('GLHER'). As set out in the appellant's Historic Environment Assessment ('HEA') and Heritage Statement, both prepared by Museum of London Archaeology ('MOLA') No 18 is set on the site of a seventeenth century aristocratic residence, Pointers Grove or later Poynters Hall. At some point Poynters Hall was demolished, albeit a listed wall of its former grounds remains present fifty metres or so to the east by the plot of neighbouring No 16.

¹⁹ With regard to section 197 of the Town and Country Planning Act 1990 as amended.

39. The Greater London Archaeological Advisory Service ('GLAAS') Charter provides a rubric for comparing the significance of areas in respect of archaeology relative to the nature of development proposed. The significance of areas is given in tiers one to four, with tier one being of greatest significance. I understand the APA in this instance is presently tier two given indications in the GLHER. With a site area of around 0.25ha and involving the creation of a new basement, the development falls within category two, i.e. 'minor'. Correlating the two based on the GLAAS Charter, there is therefore a 'medium' or moderate risk, i.e. that development is 'fairly likely to cause harm to heritage assets of archaeological interest and sometimes causing significant harm.'
40. The HEA sets out how the APA in this instance is 'presumed' to be the extent of the later medieval settlement of Totteridge, and I accept that defining such limits is inherently reliant on some margin of error. Nevertheless, as set out above, the appeal site falls foursquare over the origins of a former historic residence. The HEA also indicates that there is some associative value to Poynters Hall and its surroundings on account of a number of notable occupants, and its grounds being at one point laid out by Capability Brown. The HEA also explains how the area around the appeal site was little altered until 1936, and also untouched directly by WWII ordnance.
41. Given that context, HEA paragraph 5.2.3. sets out that 'archaeological survival within the open parts of the site is generally anticipated to be high'. However given the potential for such remains, in archaeological terms, to be relatively recent and near the surface a watching brief is recommended, i.e. the requirement to suitably record archaeology, if encountered, during construction. In theory that approach could be secured via condition were the development otherwise acceptable, as the appellant notes has occurred elsewhere.
42. Nevertheless, whilst there has been some on-site investigation in the surrounding area, HER paragraph 4.1.7 explains that there is very limited direct evidence related to the history of this specific site. Indeed the supporting Design and Access Statement ('DAS'), whilst showing how the proposal would result in a building of substantially greater footprint, also notes that 'any major changes to the general footprint could generate planning/ heritage issues and negatively affect the site and immediate surroundings'.
43. I understand that GLAAS is currently re-assessing APAs, albeit that a review of the Borough of Barnet is due only to occur in 2023 and there is no evidence as to any stages that work has yet reached. It is the appellant's position, however, that 'MOLA have established that under the new system the site could at most be considered tier two (provided the APA is maintained at all upon review) with negligible risk to harm proposed to heritage assets of archaeological interest [resulting from the development proposed]'. That is a reference to the HEA findings.
44. I accept that they may be some change to the boundaries of the APA at some future point in time, that proposal would affect a small part thereof, and that recording any discoveries via watching brief may preserve knowledge of them by proxy. However the onus falls on the appellant to provide sufficient

information in support of a proposal.²⁰ There is no evidence of on-site investigation here, despite its situation over the historic location of a seventeenth century property. Moreover, as it stands, and in the context of the development plan, the appeal site falls within a tier two APA. Based on the GLAAS rubric, the proposal is likely to entail a 'moderate' effect, which in combination with other development has the clear potential to erode historic integrity.

45. Consequently I am not satisfied that it has been demonstrated that the proposal would suitably preserve archaeology within the terms of DMP policy DM06 or NPPF paragraph 189. That is notwithstanding the need for proportionality.²¹ Whilst perhaps inherent in considering archaeology, in the absence of on-site studies, it is difficult to establish with precision the likely effect of any harm.

Other matters

46. Policies in the development plan, and also those in the NPPF, pull in different directions. In general terms both encourage the provision of housing relative to needs. Paragraph 68 of the NPPF in particular is strongly supportive of re-use of brownfield land, and also sets out the benefits of provision from smaller sites. In that context I acknowledge that there would be certain benefits from the proposal in terms of resulting in an addition to housing stock, and as future occupants would bring trade to nearby services and facilities. I also accept that, in this specific location, larger houses predominate, and as such the provision of seven flats would diversify provision to some degree.
47. However neither the development plan nor NPPF offer unqualified support to housing provision, and both must be considered in their entirety; such support is not at the expense of ensuring that all development integrates appropriately with its surroundings. Moreover the benefits of a net addition of six dwellings to housing stock would inevitably be modest, including set against the need figure of 643 dwellings per annum in the Borough cited in CS paragraph 9.6.4. There is also no substantive evidence before me as to whether the units proposed would be more closely aligned with demographic needs at a wider geography compared against the scheme in the previous appeal or relative to a single dwelling.
48. Paragraph 1.2 of the appellant's statement of case sets out that 'it is considered that an apartment scheme would be best served by a new structure, rather than conversion of the existing building'. However there is no substantive evidence before me in support of that position, for example related to practical, structural or financial issues, or so as to provide properties aligned with demographics. That is referenced only in so far as robust evidence in that respect may have carried weight in favour of allowing the appeal, and I have noted above how the conversion of properties to flats is covered by different elements of Council guidance.
49. There is little evidence before me in respect of whether or not the Council are presently able to demonstrate a five year housing land supply relative to needs in line with NPPF paragraphs 67 and 73, or the extent of any variance from that

²⁰ Section 62 of the Town and Country Planning Act 1990 as amended.

²¹ Noting PPG Reference ID: 18a-041-20190723.

level. Nevertheless paragraph 11.12 of their appeal statement indicates that, in the Council's view, the adverse impacts would 'significantly and demonstrably outweigh the benefits of the scheme'. That replicates the approach to balancing benefits against harm set out in NPPF paragraph 11)d)ii), an approach applicable where policies which are most important for determining the application are out of date.²²

50. I have reasoned above that the proposal would result in relatively limited less than substantial harm to the TCA, provide inadequate living conditions for certain future occupants, and potentially lead to adverse effects to archaeological remains (to a presently unquantified extent). Taken together the adverse effects of the proposal would be significant, notwithstanding my reasoning in respect of the third main issue. Set against that are the highly qualified benefits discussed in paragraphs 46 to 48. Therefore inherent in my reasoning is that the public benefits of the scheme do not provide clear and convincing justification for adversely affecting the TCA, and in more general terms that the adverse impacts of allowing the development proposed would significantly and demonstrably outweigh its benefits. No other material considerations, including any mitigation afforded by way of conditions, are sufficient to outweigh the harm that would result.

Conclusion

51. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF, and all other relevant material considerations, I conclude that the appeal should be dismissed.

Thomas Bristow
INSPECTOR

²² Notwithstanding NPPF paragraph 11)d)i) and associated footnote six, whereby harm to designated heritage assets including Conservation Areas may also provide a clear reason for refusing permission.