



Appeal Decision

Site visit made on 21 January 2020

by Alexander Walker MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th February 2020

Appeal Ref: APP/T3725/W/19/3240904

4 Beauchamp Hill, Leamington Spa, CV32 5NS

- 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 Mr Vik Tara on behalf of Student Homes against the decision of Warwick District Council.
 - The application Ref W/19/0547, dated 1 April 2019, was refused by notice dated 19 June 2019.
 - The development proposed is a dwelling for use as student accommodation.
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Decision

1. The appeal is dismissed

Application for costs

2. An application for costs was made by Mr Vik Tara on behalf of Student Homes against Warwick District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - the effect of the development on the character and appearance of the area, including the Royal Leamington Spa Conservation Area and the settings of the Grade II listed buildings, 4 and 6 Beauchamp Hill;
 - the effect of the development on the living conditions of the occupants of 4 Beauchamp Hill, with regard to light, outlook, privacy and outdoor amenity space;
 - whether the development would provide adequate living conditions for future occupants with regard to outlook and privacy; and,
 - the effect on highway safety.

Reasons

Character and appearance

4. The appeal site is located within the Royal Leamington Spa Conservation Area (the CA). The CA encompasses a large area of the town centre. The area around the appeal site is characterised by distinctive period properties, many dating from the Georgian and Victorian period. Beauchamp Hill comprises a wide, verdant road lined with substantial period villas, many of which are listed

buildings. These properties have fine architectural detailing and make a positive contribution to the significance of the CA. 4 and 6 Beauchamp Hill are Grade II listed buildings with particularly fine architectural detailing and, given their corner plot location and substantial size, are dominant features within the streetscene. 19 and 21 Beauchamp Hill are also Grade II listed buildings. The architectural significance of the properties makes a positive contribution to the overall significance of the CA.

5. The appeal site forms part of the rear garden of No 4 Beauchamp Hill and is currently used for parking. The high brick wall boundary with the pavement hides the parking from view. The site creates a gap within the streetscene between Nos 4 and 6 allowing views of the rear of the modern properties fronting onto Upper Grove Street and Warwick Terrace, a view which makes little positive contribution to the character or appearance of the CA.
6. The appellant suggests that the lack of a painted stucco finish and windows on the west elevation of No 6 suggests that the original intention was for a building to be erected on the site, therefore negating the need to finish this elevation the same as the others as it would not be readily visible. However, there is no evidence to confirm that this is the case. Furthermore, there are other examples of rear gardens side onto a road within the locality. Therefore, the gap between properties that the appeal site creates is not uncharacteristic of the area and not read as an unnatural break in the streetscene. Indeed, the openness of the site contributes to the overall spaciousness of the road and helps to emphasise the dominance of Nos 4 and 6 within the streetscene, which is an important characteristic of these listed buildings and the CA. Therefore, I do not consider that the gap detracts from the settings of the adjacent listed buildings. On the contrary, I consider that it makes a positive contribution towards them.
7. The proposed building would be located adjacent to No 6. Although it would have a narrower depth and width than No 6, it would have similar architectural detailing, including a projecting gable in the roof and fenestration proportions. Moreover, the height of the building would be 2 and 3 storeys, and although it would be below that of No 6 it would nevertheless be similar. As a result of its design and height, the proposed building would compete with, rather than complement, No 6. In an attempt to replicate the architectural detailing of No 6, whilst at the same time create a smaller, subservient building, the proposal would appear as an inconsistent pastiche that would detract from the setting of the listed building and the CA. Moreover, the proximity of the building to No 6 would result in the listed building being largely screened from view on approach from the west, therefore diminishing its dominance within the streetscene.
8. In addition, the introduction of such a large building within this gap would create a much tighter form of development, which would be in marked contrast to the more spacious setting of other properties on this stretch of Beauchamp Hill and therefore would appear cramped and overdeveloped. Whilst it would screen much of the views of the rear properties on Upper Grove Street and Warwick Terrace, I do not consider that this justifies the overall harm to the setting of the listed building and the CA.
9. The Council also raise concern that the lack of amenity space retained for No 4 would lead to waste and recycling storage containers to be stored within the

public highway. The drawings submitted with the appeal indicate bin storage for the proposed building but not for No 4. Given the lack of retained amenity space for No 4, and in the absence of any evidence to the contrary, there is a reasonable prospect that the proposal would lead to bins being stored on the highway, which would have a significantly harmful effect on the streetscene and the CA as a whole.

10. Paragraph 196 of the National Planning Policy Framework (the Framework) confirms that where a development proposal would 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 including, where appropriate, securing its optimal viable use.
11. The proposed dwelling would have less than substantial harm to the significance of the CA and the setting of the listed buildings. It would have good access to a variety of services, facilities and employment opportunities. It would also contribute to the supply of student accommodation within the area. These public benefits weigh in its favour. However, individually or cumulatively, they do not outweigh the harm to the CA or the setting of the listed buildings.
12. I find therefore that the proposal would significantly reduce the spaciousness of the area and fail to respect the dominance of the adjacent listed buildings. As such, it would fail to preserve or enhance the character or appearance of the CA and would significantly harm the setting of the adjacent listed buildings. Therefore, it would be contrary to Policies HE1 and HE2 of the Warwick District Local Plan (LP) 2017, which seek to protect heritage assets. It would also fail to accord with the historic environment objectives of the Framework.

Living Conditions of the occupants of 4 Beauchamp Hill

13. The Warwick District Council Residential Design Guide (SPD) 2018 provides guidance on separation distances between dwellings. The appellant argues that as the proposal is not for a dwelling and that 4 Beauchamp Hill is a House in Multiple Occupancy (HMO) this guidance is not applicable. I acknowledge that the occupancy of a HMO is generally transient and that its occupants, in particular students, may vacate the premises outside term time. However, the proposal would nevertheless serve as a form of residential accommodation which its occupants would use as their primary residence. Therefore, they should be afforded the same standard of living accommodation as occupants of a single home dwelling. Therefore, although the SPD does not refer to HMO's or student accommodation, it is reasonable to use it as a benchmark for providing adequate living conditions for such properties.
14. The SPD does not provide guidance on the distance between side to side elevations. The appellant suggests using the guidance of 16m separation distance. However, this is with regard to a windowed elevation facing a blank elevation. The west elevation of the proposed building and the east elevation of No 4 both have habitable room windows. As such, I consider that it would be reasonable to apply the guidance in respect of back to back properties with habitable windows, which between two and three storey properties should be 27m.
15. There would be two windows in the west elevation of the proposal that would serve habitable rooms; one at ground floor level and the other on the first

floor. The drawings submitted with the appeal indicate just three windows in the east elevation of 4 Beauchamp Hill. They do not include the windows on the northern section of this elevation, which would appear to serve habitable rooms. These windows, in particular those omitted from the drawings, would be almost in direct line with the windows in the west elevation of the proposal. The distance between these windows would be approximately 15.5m, far below the guidance distance of 27m. Due to the proximity of these windows, there would be a high degree of inter-visibility between the rooms they serve, to such an extent that it would have a significantly detrimental effect on the living conditions of the occupants of No 4.

16. I acknowledge that the SPD is guidance only. However, it does provide a reasonable approach to ensuring adequate residential amenity is maintained for existing occupants. The proposal would fall far short of the standards set out in the SPD.
17. The appellant suggests that slatted blinds would be fitted to the offending windows. However, it would not be reasonably possible to ensure that residents do not open the blinds, enabling direct views through the opposing windows in No 4. Furthermore, the installation of obscure glazing in the proposed bedroom would unduly diminish the outlook from the room and therefore would be detrimental to the living conditions of its occupant; similarly so for the communal study.
18. The proposal would occupy much of the outdoor private amenity space associated with No 4, leaving very limited space for its residents. This remaining space would be largely occupied by car parking provision. Therefore, there would be no usable outdoor amenity space for the occupants of No 4 to utilise for activities such as sitting outside or drying clothes.
19. I note that there is a public park opposite No 4, which its occupants could use. However, it would not be suitable for activities that are typically carried out in more private settings, such as drying clothes or sunbathing. Furthermore, I acknowledge that the current outdoor amenity space is not readily utilised by the occupants of No 4. However, that is not to say that there should not be any available to them should they choose to use it. Overall, the lack of usable outdoor amenity space that would be retained for No 4 would have an unacceptably detrimental effect on the living conditions of its occupants.
20. With regard to outlook, the proposed building would be on a slightly higher ground level than No 4 and would be three storeys high. As a result of its proximity to the windows in the east elevation of No 4 the proposed building would clearly be visible from these neighbouring windows. However, the windows omitted from the drawings appear to serve rooms that are also served by a larger, primary window. Therefore, the outlook from these rooms would not be unduly harmed. In respect of the windows that are indicated on the drawings, these are offset from the rear elevation of the proposed building and whilst it would clearly be visible from them, sufficient outlook would be retained. Furthermore, I am satisfied that there would be adequate separation distances between the buildings to ensure that there would not be any unacceptable loss of light entering these windows.
21. I have also had regard to the windows in the basement of No 4. However, given the significant lack of outlook currently enjoyed via these windows, it is unlikely that the proposal would materially make it worse.

22. I find therefore that whilst the proposal would not have any significantly harmful effect on the outlook or light enjoyed by the occupants of 4 Beauchamp Hill, it would be significantly detrimental to their privacy and provide inadequate outdoor amenity space. As such, it would be contrary to Policy BE3 of the LP, which seeks to protect the amenities of nearby residents. It would also fail to accord with the SPD.

Living Conditions of Future Occupants

23. As I have identified above, the proposal would result in a significant degree of inter-visibility between the windows in its west elevation and those opposing them in the east elevation of 4 Beauchamp Hill. Consequently, the level of privacy afforded to the proposed habitable rooms served by them would not provide adequate living conditions for future occupants.
24. With regard to outlook, as the proposed building would sit forward of No 4, the windows in its east elevation would not be unduly dominated by No 4. The outlook would include the space to the front of No 4 and beyond. Therefore, it would provide adequate outlook for future residents.
25. Whilst the proposal would provide adequate living conditions for future occupants with regard to outlook, it would not with regard to privacy. As such, it would be contrary to Policy BE3 of the LP, which seeks to ensure that new development provides adequate standards of amenity for future occupants. It would also fail to accord with the SPD.

Highway Safety

26. The Warwick District Council Parking Standards (CPS) state that for HMOs there should be 1 car parking space for every 2 bedrooms, to be rounded up to the nearest whole number where there is an odd number of rooms. The proposal would provide 2 parking spaces, which would sufficiently serve the proposed 4 bedroom accommodation. The Council's concern lies with the proposed parking provision for 4 Beauchamp Hill.
27. The appellant contends that there are only 5 bedrooms in No 4, whereas the Council state that they have evidence of there being 8 one bedroom flats. The appellant has not addressed this contention. Nevertheless, the Council has not provided the evidence of there being 8 flats. The observations I made on site were not conclusive either way.
28. Notwithstanding the above, taking the appellant's figure of 5 bedrooms, in accordance with the CPS there should be 3 parking spaces provided for No 4. The appellant contends that there are only 2 existing spaces serving No 4, which are not easily accessible. However, the Council contend that the site can currently accommodate 3 or 4 cars. Based on the observations I made during my site visit, I consider that the Council's assertion that 3 or 4 cars could reasonably be parked on the site is accurate.
29. The proposed parking provision for No 4 would be 2 car parking spaces. Although the appellant indicates that an additional space could be provided subject to 'minor groundworks', which would achieve 3 spaces in accordance with the CPS, based on there being 5 bedrooms in No 4. However, it is not clear what these 'minor groundworks' would involve. The space would be very close to the lightwell serving basement windows and therefore there is the potential for this lightwell to be reduced, thus further limiting the light and

outlook enjoyed by these windows. Furthermore, the Council raises concerns regarding the size of the proposed parking spaces and proximity to the site boundary, which would require the spaces to be wider. In the absence of any drawings specifically indicating the size of the spaces proposed, I share the Council's concerns. Accordingly, I am not satisfied that sufficient car parking provision would be provided for No 4 in accordance with the SPD.

30. As a result of the insufficient on-site parking provision, there is a realistic possibility that the proposal would place increased pressure on on-street parking provision within the locality, which, at the time of my site visit already appeared to be in high demand. Whilst this was only a snapshot in time, there is no evidence to indicate that it is not representative of the existing circumstances. Therefore, an increase in demand for on-street parking could lead to inconsiderate parking, such as close to a road junction or parking on the footway, which would represent an unacceptable risk to highway safety.
31. I have had regard to the appellant's argument that a condition could be imposed that would restrict the occupants of No 4 from owning a car. However, based on the suggested wording of the condition, I am not satisfied that it would meet the six tests set out in the Framework, with particular regard to reasonableness.
32. I find therefore that the proposal would have an unacceptable risk on highway safety, contrary to Policy TR3 of the LP, which seeks to ensure that new development does not result in on-street parking detrimental to highway safety. It would also fail to accord with the CPS.

Other Matters

33. I acknowledge that the proposal has evolved from a previous scheme that was refused planning permission and amendments were made during the course of the Council's consideration of the planning application. However, my consideration of the appeal has been based on the proposal before me, which is unacceptable due to the harm I have identified.
34. The appellant has suggested a number of conditions to be imposed, in the event that I allow the appeal, including the removal of windows; a reduction in the width of the elevations of the building and the widening of others. Despite my reservations that such conditions would sufficiently mitigate the harm that they seek to, such changes would materially alter the design of the building and in the absence of any drawings before me indicating such changes I cannot be certain of the effect they would have on the character or appearance of the CA or the setting of the listed buildings. Having regard to the principles established in the 'Wheatcroft' judgement¹ I find that interested parties would be prejudiced by the imposition of such conditions without having full cognisance of their implications. Furthermore, I am not satisfied that such amendments could be secured by way of condition as they would materially change the proposal and therefore would not be reasonable.

Conclusion

35. I acknowledge that the accessibility of the site to a range of services and facilities and the contribution the proposal would make to the provision of

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982]

student accommodation within the area. Whilst these matters weigh in favour of the proposal, they do not outweigh the overall harm I have identified above.

36. For the reasons given above, the appeal is dismissed.

Alexander Walker

INSPECTOR