



Appeal Decision

Site visit made on 10 March 2020

by Thomas Bristow BA MSc MRTPI AssocRICS

an Inspector appointed by the Secretary of State

Decision date: 17 April 2020

Appeal Ref: APP/W3005/W/19/3238140

Sunbeam House, West Street, Hucknall NG15 7BW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant outline planning permission.
- The appeal is made by Mr Graham Field of Need2View against the decision of Ashfield District Council.
- The application Ref V/2018/0734, dated 10 November 2018, was refused by notice dated 29 March 2019.
- The development proposed is described on the application form as the 'demolition of existing buildings and construction of 9 dwellings with associated access, carparking and amenity space'.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and construction of nine dwellings with associated access, parking and amenity space at Sunbeam House, West Street, Hucknall NG15 7BW, in accordance with the terms of the application Ref V/2018/0734, dated 10 November 2018, subject to the conditions below.

Application for costs

2. An application for costs has been made by the appellant against the Council, which is the subject of a separate decision.

Preliminary matters

3. The proposal is in outline with all matters reserved for future consideration.¹ I have therefore treated any references to reserved matters, on plan 'Field 01a' or otherwise, as illustrative. Each proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan here includes policies of the Ashfield Local Plan Review (adopted originally in November 2002, certain policies of which remain saved, the 'LP'). I have had regard to various other material considerations, including the National Planning Policy Framework ('NPPF') and the Planning Practice Guidance ('PPG').

The appeal site

4. Sunbeam House occupies a site of around 1,396sqm next to the junction of West Street and West Terrace, by Hucknall town centre. The property was included in the Council's local list of heritage assets in September 2013 as the 'Co-op Bakery (now Astra Products Ltd.)'. That entry reflects the early

¹ Access, appearance, landscaping, layout and scale, as set out in article 2 to the Town and Country Planning (Development Management Procedure)(England) Order 2015 as amended.

twentieth century origins of the building in association with the Co-op Wholesale Society, later the Co-operative Group, and its subsequent commercial use. Sunbeam House has, however, been vacant since late 2008 (as stated in a report on marketing and viability supporting a planning application of 26 November 2010, refused by the Council via decision notice dated 10 March 2011).

5. Sunbeam House comprises several different elements, its principal contribution to the street scene being along West Street. There a grand two storey symmetrical gabled brick façade of English bond sits behind a modern bus stop installed in 2009. Across the street is a substantial rough stone wall containing a gothic arched entrance leading to the churchyard of Grade II* Listed Church of St. Mary Magdalene. There is a canted element to Sunbeam House of similar design to the gabled elevation which wraps around the junction with West Terrace. Whilst in a poor state of repair, the origins of the property as an early twentieth century industrial building are clear. Windows, in particular, appear to be original wooden 12 or 15 pane units with segmental brick arches and accentuated keystones above. I am told that the present appearance of the building is broadly consistent with its original 1919 plans.²
6. The historic character of the building is less clear along West Terrace. That is as the building was designed to front West Street, on account of the addition of a large and less finely detailed block to the rear of the building at a later date, and as West Street provides access to a working yard containing various utilitarian outbuildings. Visually and in terms of association with the history of the Co-op movement, Sunbeam House is therefore of some historic interest. NPPF paragraph 197 guides that the effect of a proposal on the significance of a non-designated heritage asset should be taken into account, relative to its significance.

Planning history

7. Whilst each proposal must be determined on its merits, there is nevertheless a detailed planning history to the site, some of which has a bearing on present circumstances. The application referred to in paragraph 4 above, Ref 2010/0651, was for the alteration of the building and its conversion into 12 flats. The Council refused permission on the basis that the proposal would result in inadequate levels of residential amenity, and a subsequent appeal against that decision was dismissed.³ A further application made on 16 February 2012 for redevelopment into 11 flats was refused via decision notice dated 23 May 2012 for similar reasons, and an associated appeal also dismissed.⁴
8. However, via decision notice dated 4 October 2013, the Council granted permission for the conversion and extension of the factory to create seven flats.⁵ A similar proposal was also approved via decision notice dated 5 September 2016.⁶ In that context, given the central location of the appeal site and lack of market interest for continued commercial use, the principle of residential development here is acceptable. Latterly, via decision notice dated

² As set out in in observations by the Council's Conservation Officer.

³ Ref APP/W3005/W/19/2150394.

⁴ Ref V/2012/0094 and APP/W3005/A/12/2179269.

⁵ Ref V/2013/0443.

⁶ Ref V/2016/0478.

18 October 2017, Ref V/2017/0550, the Council approved the proposed demolition of Sunbeam House under the provisions of Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended (the 'GPDO').

9. In brief, and in so far as is relevant to the circumstances here, that element of the GPDO enables the demolition of certain buildings subject to various requirements, limiting the local planning authority's assessment of such a proposal to the method of demolition and site restoration. GPDO Schedule 2, Part 11, Class B paragraph B.2(b)(ix)(aa) of the GPDO sets out that where approval has been given by the local planning authority for such demolition, that must be carried out within a period of five years from that decision. Five years from the date of approval Ref V/2017/0550 is 18 October 2022.

Policy context

10. However the Council explains that 'given the significant concerns had by officers in respect of the proposed development [via application Ref V/2018/0734] and its subsequent impact on designated and non-designated heritage assets, an Article 4 Direction [under the GPDO] was issued by the LPA to try to prevent the demolition of the buildings within the application site'. The Article 4 Direction, dated 13 February 2019, applies only to Sunbeam House and sought to withdraw permitted development rights under Part 11, Class B as referenced above.⁷
11. Further, on 11 March 2019, the Council resolved to designate Hucknall Town Centre as a Conservation Area following consultation on that prospect between November 2018 and January 2019.⁸ That designation took effect on 20 March 2019. Whilst covering much of the same area, the Hucknall District Shopping Centre defined via the LP and the Conservation Area ('CA') differ in extent. The appeal site is included within the latter rather than the former.
12. GPDO Part 11, Class B rights for demolition do not apply to 'relevant demolition' (demolition of an unlisted building in a Conservation Area) as defined in section 196D of the Town and Country Planning Act 1990 as amended (the '1990 Act'). That now describes Sunbeam House. I note that an informative appended to the Council's approval of the demolition of Sunbeam House indicated that the appeal site fell within an area proposed for designation as a Conservation Area.⁹
13. Approval for the demolition of Sunbeam House pre-dates both the effective date of the Article 4 Direction and CA designation (by around 16 and 17 months respectively). There is correspondence before me between the appellant and Council regarding the effect of the Article 4 Direction and CA designation on the ability to undertake the demolition proposed via approval Ref V/2017/0550, given that now, in two respects, GPDO Part 11, Class B rights no longer apply here.

⁷ The Direction is stated to remain in force until 13 August 2019, and therefore within the terms of GPDO Schedule 3, Paragraph 2, requisite notice must also have been served on 13 February 2019.

⁸ Under the provisions of Section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended.

⁹ Paragraph 14 of the Inspector's reasoning in appeal Ref APP/C5690/W/17/3172093 elsewhere is that it is not unreasonable to consider the prospect of a site being included within a Conservation Area. I agree with that position, albeit that is of little relevance here other than a statement of logic.

14. The judgement in *Orange Personal Communications Services Ltd. & Ors, R (on the application of) v London Borough of Islington* has been brought to my attention in this respect (the 'Orange judgement').¹⁰ As set out in paragraph 3 of that judgement, the Council was there of the view 'that prior approvals granted before the designation of the site as a Conservation Area cannot be relied upon to authorise erection following such a designation'. Although the planning circumstances relevant to the Orange judgement case and those here differ, the principles arrived at through that judgement remain good law.
15. Having considered the provisions of section 61D of the Town and Country Planning Act 1990 as amended, which relate to the effect of revision or revocation of a development order, the Judge reasoned that 'in a prior approval case the planning permission accrues or crystallises upon the developers' receipt of a favourable response from the planning authority' (Orange judgement, paragraph 28). Therefore, given the circumstances that applied in October 2017, demolition of Sunbeam House may legitimately be undertaken until 18 October 2022. That is material.
16. That position, although previously disputed, is now accepted by the Council. However paragraph 4.3.15 of the Council's appeal statement sets out that it has not been demonstrated that the conversion of the building, as permitted in 2016 or otherwise, would be unviable. That latter point, however, must fall away: if the building were to be demolished it could not be converted. There is nothing in the evidence before me, particularly given the deteriorated state of the building as referenced in the marketing and viability report referenced in paragraph 4, which I saw has only worsened since, that the appellant would not demolish Sunbeam House irrespective of the outcome of this appeal.

Main issues

17. Against the background above, it is appropriate to assess the proposal from the starting point that Sunbeam House would be demolished in any event. Any loss of historic fabric, interest or significance by consequence cannot be counted against the scheme before me. That approach is in line with the Council's case, summarised in paragraph 4.3.9 of their appeal statement as being 'without full details of the siting, scale or appearance of the proposed dwellings, it is considered that it has not been demonstrated that the development of the site would not be harmful...' (my emphasis). Consequently the main issue is whether or not the construction of nine dwellings at the appeal site could be acceptable with regard to local character and appearance (including historic significance), living conditions, and parking provision.

Reasons

18. As noted by the Council, being in outline, the information supporting the application is limited. There is little indication as to the design of the proposed dwellings relative to the character and appearance of the Conservation Area, to which I must pay special attention to preserving or enhancing.¹¹ Many nearby properties are Victorian or Edwardian terraces. Dwellings commonly feature ornate detailing consistent with that era, including string and dentil courses,

¹⁰ [2006] EWCA Civ 157.

¹¹ Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended. That is notwithstanding certain indications in the appellant's heritage statement.

terracotta tiling, and accentuated lintels. In my view it is of critical importance that development here takes appropriate account of that architectural context, as is readily apparent at Nos 7-13 West Street immediately adjacent. Sunbeam House is also visible from the Church of St. Mary Magdalene, within its churchyard, and in conjunction with the boundary wall referenced above along West Street.¹²

19. The Council's Residential Design Supplementary Planning Document (adopted November 2014, the 'Design SPD') provides practical guidance as to how development may be brought forward with appropriate regard to its surroundings. Paragraph 3.49, and the supporting diagram to it, recommends that a minimum separation distance of 21 metres should be achieved between habitable rooms to ensure an appropriate degree of privacy (albeit the associated table explains how that may be adjusted depending on the angle between properties). In that context, based on illustrative plan 'Field 01a', the Council explain how only an 11 metre space would be achieved in relation to a facing window at Springside. Again there is limited information before me that Design SPD-compliant separation distances are achievable in other regards, or in relation to the achievement of minimum outdoor amenity space requirements recommended under paragraph 3.50 of that document.
20. Being a proposal for nine dwellings, as opposed to seven flats previously, the Council's Residential Car Parking Standards Supplementary Planning Document (adopted November 2014, the 'Parking SPD') recommends provision of two parking spaces per unit. Again, based on the illustrative supporting plan, several units would fall short of that recommendation. The Council have also set out that the proposal would entail the loss of six on-street spaces along West Terrace, and there are representations before me attesting to the limited availability of provision in that regard. Furthermore two of the spaces on plan Field 01a are located directly behind the bus stop on West Street, which the County Council have indicated would be unfeasible to relocate.¹³
21. Drawing together the above, the Council's position is understandable. It has not been robustly demonstrated that redevelopment of the site for nine dwellings would be acceptable. However the question to ask, on the balance of evidence and as a matter of judgement, is whether or not an appropriate scheme could come forward subject to agreement of appropriate reserved matters details. In my view, there is a fair prospect that it could.
22. The surrounding area and CA, albeit mixed, is in large part characterised by terraces of modest properties. The residential use of the appeal site is acceptable, and nine dwellings could be brought forward here of a size and form consistent with their surroundings. Whilst new dwellings would inevitably no longer reflect the history intrinsic to Sunbeam House, suitable integration with the character and appearance of the CA could be secured via a sensitive approach to design as a reserved matter; allowing the appeal would not allow any form of development to come forward.
23. The contribution of Sunbeam House to the setting of the Church of St. Mary Magdalene is, in my view, essentially confined to its physical proximity. The

¹² To which section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended applies.

¹³ Whilst access in this location was also approved via application Ref V/2016/0478, that permission has now lapsed.

two are of different eras, and arose in different historical contexts to serve different needs. There is no apparent associational connection between the two, other than their both occupying a relatively central location in Hucknall and thereby reflect stages of the town's development over time. Whilst I accept that the history of the site is intertwined with that of the Co-op movement, there is no indication before me that the building represents a particularly early, rare, or valuable element thereof. Its significance in that regard could, in my view, be suitably recorded via the imposition of associated conditions.

24. I am not of the same view as the Council that Sunbeam House is 'highly visible from the churchyard... establishing a prominent and interesting vista...'. At their nearest there is around 95 metres between the Church and the appeal site. I saw that Sunbeam House is only partially visible from within the churchyard on account of intervening trees and the substantial boundary wall between the two. As reasoned above it is not of the same era, an ecclesiastic building, or one with any particular aesthetic or historical resonance with the Church. Moreover the churchyard wall between the two, West Street itself, and the bus stop referred to above, clearly physically separate the two. Provided a sensitive approach to design were to be taken, the redevelopment of the appeal site would have a neutral effect on the setting of the Church.
25. Dwellings need not be arranged as illustrated on plan 'Field O1a', and at present the size, number and orientation of windows is not set. On account of the relatively tight-knit historic character of the area, it is likely that individuals here would accept a qualified baseline of privacy compared to other locations. I saw, on account of the pattern of nearby development, that the separation distance between properties in the area likely falls below the Design SPD recommendation in a number of instances.¹⁴ In that context Springside, a bungalow, is something of an exception. It is a detached property set within a generous plot, at a higher level than the yard of Sunbeam House, with a number of mature trees along the boundary between the two. There is therefore every likelihood that undue effects to the occupants of Springside, and to other nearby properties, could be avoided.
26. I accept, given its proximity to Hucknall town centre, that there is some pressure for on-street parking provision in the area. However it is unclear how the Council have estimated that the proposal would result in the loss of six parking bays. The illustrative plan appears to instead show the loss of only three between the existing access off West Terrace and the junction of West Street. Theoretically, were the existing access to be used in conjunction with communal parking, there could be limited, or potentially no, loss of existing on-street parking.¹⁵
27. The Council's highways appeal statement explains that 'the existing historic access [leading to Yorke Street] is not suitable to serve the proposed development due to its location on the junction radius'. That may be a reference to the junction of Yorke Street and Piggins Croft Car Park, given that

¹⁴ For example between properties along West Terrace and Turner Street or those between Ogle Street and Annesley Road the other side of the Church.

¹⁵ Appeal Ref APP/W3005/W/18/3193071 has been brought to my attention by the Council in this context. However the Inspector's reasoning in that instance does little more than reflect that it is legitimate to consider the potential effects of development on parking pressure; the nature of the development proposed, its surrounding context, and effects on parking provision differing there to here.

access there falls some distance away from West Street. However that secondary access emerges at a stretch of Yorke Street marked by double yellow lines between parking bays; in that context it has not been clearly shown that renewed vehicular use would be unacceptable. Given the central location of the appeal site, the Council accept some reduction below recommended Parking SPD levels may be reasonable; that is an observation with which I agree, given that very few properties in the immediate vicinity appear to have off-street provision for two vehicles.

28. Moreover Sunbeam House has been vacant for over a decade. Any active use would inevitably result in additional vehicular movements and demand for parking. Whilst there is some provision at the commercial yard, in all likelihood in the hypothetical scenario that a new commercial use were to arise, that would result in pressure for on-street parking from time to time associated with visiting customers or deliveries. On account of that reasoning, notwithstanding that access directly via West Street may not be achievable, the scheme would not inherently necessitate inadequate levels of on-site parking or entail undue effects in terms of provision elsewhere.
29. The Design SPD recommends a minimum outside space of 50sqm, the Parking SPD two spaces per dwelling, with standard bay dimensions being 4.8m depth by 2.4m width. Purely by way of illustration the Government's nationally described space standards of March 2015 set out that the minimum internal area for a two storey three bedroom dwelling should be 84sqm, which divided in two gives a rough footprint. Adding all those components and multiplying the result by nine gives a footprint of approximately 1,035sqm.¹⁶ That leaves around 361sqm 'spare', or 181sqm if 70sqm is used for outside space. Both figures leave some leeway for provision of access and manoeuvring space, or for other adjustments related to the particular confines of the site.
30. My view in that regard is reinforced by nine dwellings within a site of 1,369sqm representing a residential density of around 65dwellings per hectare.¹⁷ In my experience that is a density consistent with many traditional terraces. It also appears to be a residential density broadly in line with dwellings on the same side of West Terrace as the appeal site (exempting Springside), and lower than prevailing density along the opposite site of West Terrace where gardens are more limited.
31. For the above reasons, I conclude that a scheme for nine dwellings could come forward here which integrates appropriately with local character and appearance (including historic significance), is acceptable as regards living conditions of future occupants and those nearby, and deals adequately with parking pressures. Consequently no conflict arises with the relevant provisions of LP policies EV10, HG5, or of NPPF paragraphs 193, 197 and 127, having had regard to the approach in the Design SPD and Parking SPD. In brief those policies seek to ensure that all development integrates suitably with its surroundings, that appropriate weight is given to the preservation of heritage assets and the surroundings in which they are experienced, and that a high standard of amenity is achieved for all.

¹⁶ As follows: $(50 + ((4.8 * 2.4) * 2) + (84 / 2)) * 9$.

¹⁷ As follows: $(10,000 / 1,396) * 9$.

Other matters

32. The Council are presently unable to demonstrate a five year housing land supply of specific deliverable sites in line with paragraphs 67 and 73 of the NPPF. I am told that monitoring data from 2017-2018 puts supply at around 3.92 years' worth. Whilst the proposal would be beneficial in contributing towards housing provision in an area with an acknowledged shortfall, that is not significant in this instance given that I have reasoned above that no conflict would arise with the relevant provisions of the development plan or NPPF.

Conclusion

33. For the above reasons, having taken account of the development plan as a whole, the approach in the NPPF and all relevant other material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Conditions

34. It is necessary to impose conditions limiting the life of the planning permission, setting out requirements for the reserved matters, and requiring adherence to the supporting plan in the interests of certainty and so that the scheme is implemented as assessed above. Section 92(2)(a) of the Town and Country Planning Act 1990 as amended specifies that reserved matters applications must be made no later than the expiration of three years beginning with the date of the grant of outline planning permission.
35. However in this instance extant approval for the demolition of Sunbeam House expires on 18 October 2022, and, in line with the Council and appellants' position, I have assessed this proposal on the basis that approval Ref V/2017/0550 would be effected. *Pro-tem*, therefore the Article 4 Direction and CA designation do not affect the ability to implement that approval, as reasoned above. However that situation changes after 18 October 2022, and in my view it is therefore both reasonable and necessary to specify that demolition occurs by that date.
36. I have set out above that the site has now been derelict for some time, that the Council cannot demonstrate an adequate forward supply of land for housing in the short term, and there are representations before me attesting to vandalism and anti-social behaviour on site. With regard to that context, the PPG supports conditions specifying a shorter time period than prescribed in statute where that would encourage the commencement of development that has previously had negative impacts.¹⁸ Those circumstances apply here, and further justify condition 2.
37. I have reasoned above that Sunbeam House is of some historic interest. NPPF paragraph 184 explains how heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance. In that context a condition specifying that the historic integrity of Sunbeam House is recorded and publicised in a proportionate manner is also necessary. Furthermore, given the close proximity of residential development, and having noted the concerns of those nearby regarding the potential for adverse noise and disturbance during construction, with regard to NPPF paragraph 127. f), I have also imposed a condition specifying appropriate working hours.

¹⁸ Reference ID: 21a-027-20140306.

38. The Council's Environmental Health team have proposed a condition requiring an acoustic survey to ensure that the design of the scheme takes appropriate account of any noise generated from a nearby car repair unit (No 7a West Street). However the appeal site is in a central location where a certain baseline of intensity exists, there are other residential properties around No 7a, and no previous complaints related to that use have been brought to my attention. Consequently, and given other provisions in that regard, a condition in that respect is unnecessary.¹⁹
39. Under section 100ZA of the 1990 Act, the appellant has agreed to the terms of pre-commencement conditions. Additionally, in imposing conditions I have had regard to the tests within the NPPF, the PPG and relevant statute, and have amended the wording of certain conditions proposed by the Council accordingly.

Thomas Bristow
INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the access, appearance, landscaping, layout and scale (the 'reserved matters') shall be submitted to, and approved in writing by, the local planning authority before any development other than demolition takes place, and the development shall be carried out as approved.
- 2) Demolition of Sunbeam House shall be carried out no later than 18 October 2022 in line with approval Ref V/2017/0550.
- 3) Application(s) for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this decision, and, exempting demolition undertaken in accordance with condition 2, the development hereby permitted shall begin not later than two years from the date of the approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with approved plan 'Field 018.11.02'.
- 5) No development hereby permitted shall commence until a scheme for recording the historic interest of Sunbeam House as it stands, in accordance with 'Level 1' as described in Historic England Guidance 'Understanding Historic Building: A Guide to Good Recording Practice' published in 2016 or successor document, has been submitted to and agreed in writing by the local planning authority.

That scheme shall include details of how, if any features of historic significance are encountered during construction, such as a date-stone or otherwise, they are to be recorded (or retained if practicable). The scheme shall also include details as to how the historic interest of Sunbeam House

¹⁹ Separate powers exist under the Environmental Protection Act 1990 as amended to address noise amounting to a statutory nuisance.

will be recorded and made available, including by way of the presentation of information at the appeal site within a specified period following the first occupation of any dwelling hereby permitted. The agreed scheme shall be adhered to.

- 6) No demolition or construction work, or ancillary activities such as deliveries, related to the development hereby permitted shall take place outside of the following hours: 0800 to 1800 Mondays to Fridays inclusive, 0800 to 1300 on Saturdays. No demolition or construction work, or ancillary activities such as deliveries, related to the development hereby permitted shall take place at any time on Sundays or on Bank or Public Holidays.