
Appeal Decision

Site visit made on 27 October 2020

by J P Longmuir BA (Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 March 2021

Appeal Ref: APP/N1920/W/19/3242422

The Royal Oak, 42 Sparrows Herne, Bushey WD23 1FU

- 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 Setha Sparrow Lane Ltd against the decision of Hertsmere Borough Council.
 - The application Ref 19/0357/FUL, dated 6 March 2019, was refused by notice dated 16 October 2019.
 - The development proposed was originally described as construction of two-storey side and three storey rear extensions and conversion of loft space to facilitate conversion of existing public house (A4 use) to 7 x 2 bed flats (C3 use) to include balconies at rear elevation, access, parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for construction of two-storey side and three storey rear extensions and conversion of loft space to facilitate conversion of existing public house to 7 x 2 bed flats (C3 use) to include balconies at rear elevation, access, parking and landscaping at The Royal Oak, 42 Sparrows Herne, Bushey WD23 1FU in accordance with the terms of the application, Ref 19/0357/FUL, dated 6 March 2019, subject to the conditions in the annexe at the end of this decision.

Procedural matter

2. I have amended the description of development in the decision above to remove reference to Use Class A4. This is because the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 which came into force on 1 September 2020, have revoked Use Class A4 'Drinking establishments'.

Main Issue

3. The main issue is the effects of the proposed development on the character and appearance of the area with particular regard to The Royal Oak, a non-designated heritage asset and the settings of nearby listed buildings.

Reasons

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that special regard shall be had to the desirability of preserving listed buildings or their setting. Paragraph 132 of the National Planning Policy Framework (the Framework) sets out that when considering the impact of

development on the significance of a designated asset, great weight should be given to the asset's conservation. Any harm to, or loss of significance of a designated heritage asset including from development within its setting, should require clear and convincing justification. The Framework in paragraph 196 requires that where a development proposal would lead to less than substantial harm to the significance of a heritage asset, this harm should be weighed against the public benefits.

5. In respect of non-designated heritage assets, the Framework states in paragraph 197 that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining that application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
6. The appeal site includes the now vacant Royal Oak Public House (pub), which has blue/grey painted walls and slate hipped roof. The appeal site also includes the former pub garden and parking spaces. The pub closely fronts the main through road, Sparrows Herne, which being on a pronounced hill allows distant outward views.
7. On the opposite side of Sparrows Herne, overlooking the appeal site, is a former police station, which appears distinctly tall for its footprint, emphasised by overly long sash windows and chimneys. The building is grade II listed and was built for its purpose. It appears an appropriate design for its intended use and has a strong relationship with the pub.
8. Although the pub's use would be lost, the police station has also been converted to flats so the proposed residential use would not be harmful. Indeed, the pub building was originally in residential use. Moreover, even with the new buildings, the pub would continue to appear subservient to the police station. The upper floor of the police station would be in sight of the new building and its flat roof. However, this new building would appear very simple and therefore would not detract from its outlook.
9. No. 38 Sparrows Herne is also grade II listed, which is a house dating back to 1840. It has classical influences and elegantly proportions. This fronts the main road and is seen in that context and I have not been made of aware of any historic relationship with the appeal site. No. 38 would only be seen in conjunction with the front of the pub and would not be harmed by the development to the rear.
10. Adjacent to the appeal site is a long building which accommodates a tyre and exhaust business. The building is two storeys but with unusually high eaves and a steeply pitched roof. This building would be seen in conjunction with the proposal and indeed is shown on the submitted drawings indicating it would be appreciably higher than the proposal. To the other side of the appeal site, the proposed new buildings would not be readily apparent from Sparrows Herne and would be comparable in height to the opposite side of the road. To the rear the appeal site would be spacious enough to accommodate the scale of the development. I therefore conclude that in terms of its height the proposal would not be harmful.

11. The proposed building to the rear and side of the pub would have a flat roof but this would be largely obscured behind a hipped slate roof. In any event such a flat roof would not be harmful as the building would have a simple and neutral appearance and there are other flat roofs in the area.
12. The proposed building to the rear and side would be partially obscured by the pub for much of the aspect from Sparrows Herne; consequently, its mass would only be readily discernible from a narrow viewpoint. Moreover, on the front elevation the upper floor windows appear distinct from the arch entrance on the ground floor which would also break up its mass. The rear elevations show contemporary detailing which would empathise with the flat roof and would also break up the overall mass. This rear elevation would be substantially distanced from the other nearest buildings to avoid any perception of being cramped.
13. The proposed building to the rear and side of the pub would be set back from the road so that it would not be prominent; the eye would be drawn along the road rather than into the site. The front of the pub would be enhanced by new sash windows and would remain as the focal point of the site.
14. The proposal would remove the existing double row of car parking which is not attractive. The proposed parking would be less obtrusive from the frontage being largely obscured by the new buildings.
15. The proposal would not spoil the character of the asset as the new building would be sensitively sited and the massing, form and height would be appropriate, thereby respecting the pub. The proposal would also provide a use for the vacant building which would help its future maintenance.
16. I therefore conclude that the proposal would not harm the existing building or the character and appearance of the area.
17. Policies CS14 and SP1 of the Core Strategy and policies SADM29 and SADM30 of the Site Allocations and Development Management Policies Plan seek high quality design, protect the built and historic environment, protect listed buildings and their setting, respect locally important buildings, require a heritage assessment, consider the scale design, use, height, mass, bulk and character of the proposal, consideration of the streetscene, and create a sense of place. The Hertsmere Planning and Design Guide SPD-Part D also promotes high quality sustainable development, highlighting the importance of context and character and providing detailed objectives. The National Planning Policy Framework (the Framework), in particular paragraphs 127 and 130, also provide criteria for quality design and the National Design Guide provides more details. The proposal would accord with these policies and guidance.

Other matters

18. Concern was raised about the traffic generation of the proposal and the access, including the implications for refuse lorries. However, the traffic would be comparable to the pub use and in any event visibility from the access is reasonable. There is also concern about the loss of the pub and its designation as an asset of community value. However, I have not been presented with any compelling evidence on the need to retain the pub.

19. I have been made aware of a recent planning permission¹ on the site for residential development, but I have considered the appeal proposal on its own particular merits. Similarly, I am aware of an appeal² dismissed in 2018 for residential redevelopment here but this current proposal is significantly different particularly in terms of height, extent and detailing.

Conditions

20. I have reviewed the conditions suggested by the Council against the Framework and Planning Practice Guidance having regard to the comments by the appellant. I have revised and combined some of those suggested in the interests of clarity and to accord with national policy and guidance. I have attached a condition specifying the plans as that provides certainty. I have also applied a condition in respect of the site access in the interest of highway safety. I impose a condition regarding surface water drainage to prevent flooding and a condition in respect of contaminated land in the interests of preventing pollution. I also attach conditions requiring floor levels and detailing of windows, doors eaves/parapet and the colour for the repainting of the existing building in the interests of the character and appearance of the area. I also impose a condition to require that the first floor window on the south east elevation is obscured glazed to safeguard privacy.

Conclusion

21. I therefore conclude that the appeal should be allowed, subject to the conditions below.

John Longmuir

INSPECTOR

-----Conditions annexe-----

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - 4746_PA - 001
 - 4746_PA - 002A revision A
 - 4746_PA - 010
 - 4746_PA - 011
 - 4746_PA - 012
 - 4746_PA - 160
 - 4746_PA - 161A revision A
 - 4746_PA - 162
 - 4746_PA - 163
 - 4746_PA - 164A revision A

¹ 20/0115/FUL

² APP/N1920/W/19/3223015

4746_PA - 170A revision A
4746_PA - 175A revision A
4746_PA - 180
4746/PA - 175A revision A
Heritage Statement (Project Reference: 4092B)
Planning Statement (DLA Reference: 19/096)

- 3) Prior to the first occupation of the development hereby permitted, the vehicular access (indicated for improvement on drawing number (4746/PA -160) shall be upgraded/widened in accordance with the Hertfordshire County Council residential/industrial access construction specification. The vehicular access improvements shall include arrangements for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway. The surface water drainage arrangements shall be maintained thereafter.
- 4) No groundworks shall take place until a scheme for the on-site storage and regulated discharge of surface water run-off has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved scheme prior to the first occupation of the development hereby approved and be maintained thereafter.
- 5) Prior to any groundworks a contaminated land assessment and, if necessary, associated site investigation, and remedial strategy, together with a timetable of works, shall be submitted to the Local Planning Authority for approval. The details shall be submitted (two copies of each report) and approved in separate phases, as required, taking full account of the following: a) The Contaminated Land Assessment shall include a desk-top study and site reconnaissance exercise (Phase 1) to establish whether the site is potentially contaminated and to produce a conceptual model of the site indicating sources of potential contamination and possible pathways to receptors of concern. If findings demonstrate it is necessary, a site investigation strategy shall be produced, which should be discussed with the Council's Environmental Health Department. b) The site investigation (Phase 2) shall consider relevant soil, soil gas, surface and groundwater sampling, in accordance with the quality assured sampling and analysis methodology of the Contaminated Land Reports as well as other appropriate guidance where necessary. This shall include risk assessment based on the Contaminated Land Exposure Assessment Model or where appropriate other guidance providing adequate justification can be provided for

such use. The site investigation report shall detail all investigative works and sampling on site, together with the results of analysis, risk assessment to any receptors and a proposed remediation strategy. The contaminated land remedial actions as approved within the remediation strategy must be implemented and prior to first occupation of the residential units hereby permitted a validation report must be submitted to and agreed in writing with the local planning authority to demonstrate compliance with the approved remediation strategy.

- 6) Prior to the construction of any external surfaces details of the proposed finished floor levels; ridge and eaves heights of the new buildings hereby approved have been submitted to and approved in writing by the Local Planning Authority. The submitted levels details shall be measured against a fixed datum and shall show the existing and finished ground levels, eaves and ridge heights of surrounding property. The development shall be carried out as approved.
- 7) Large scale drawings of the proposed windows, doors, eaves/parapet and the colour for the repainting of the existing building, shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of works on these parts of the Development. Development shall be carried out in compliance with the approved details.
- 8) Prior to first occupation of the development hereby approved the first floor window in the south-eastern elevation, as identified on drawing no. 4746/PA-161A revision A, shall be constructed with fully obscured glazing (to Pilkington Level 3 or equivalent) and non-opening below a height of 1.7 metres measured from the internal finished floor level. The windows shall not thereafter be altered.