



Appeal Decision

Site Visit made on 2 March 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2021

Appeal Ref: APP/A1910/W/20/3262312
13 Shrublands Road, Berkhamsted HP4 3HY

- 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 Mrs Prasad against the decision of Dacorum Borough Council.
 - The application Ref 20/01677/FUL, dated 25 June 2020, was refused by notice dated 19 August 2020.
 - The development proposed is conversion of building to six self-contained flats, partial demolition of building at rear and construction of one dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has provided a list of plans and drawings that were sent to the Council prior to the determination of the planning application, but which did not constitute the determined plans. A larger enclosed terrace would be created in place of a balcony for Flat 6, the extent of flat roof on the extension to the upper floors of the appeal property would be reduced but part of the pitched roof would be raised up, adding to the scale of the roof and altering its form. The appeal process should not be used to evolve a scheme and it is important that I determine this appeal on the basis of what was considered by the Council, and on which interested people's views were sought. With cognisance of the Wheatcroft principles, I have therefore disregarded the plans and drawings in my consideration of this appeal, particularly as interested parties raised concerns regarding the effect of the design of the proposal.
3. The 2020 Housing Delivery Test (HDT) results were published on 19 January 2021 and the main parties were invited to comment on its implications for the appeal. I have had regard to any responses received.
4. The appellant has discussed in detail the previous scheme¹ for the same address, which is also at appeal and for which there is a separate decision², including the conduct of the Council in the determination of the planning application the subject of this appeal, and the approach to and consistency of its decision-making, particularly in relation to the previous scheme. Although I am aware of the previous scheme, as I am the assigned Inspector for the corresponding appeal, these are not matters for me to consider as part of this appeal and I have considered the individual merits of this appeal scheme in relation to the relevant policies and evidence before me.

¹ Planning Reference: 4/00134/19/FUL.

² Appeal Ref: APP/A1910/W/20/3256735.

Main Issues

5. The main issues are: -

- the extent to which the proposal would preserve or enhance the character or appearance of the street scene and surrounding area, including the Berkhamsted Conservation Area; and
- whether the proposal would provide suitable living conditions for future occupiers, in respect of private and shared outdoor space.

Reasons

Site and surroundings and the significance of the conservation area

6. The Berkhamsted Conservation Area (CA) covers an extensive area, which encompasses the historic core of the town, including Berkhamsted Castle, the high street and later 19th and 20th Century development to the south and east. The appeal site is occupied by a large three-storey detached Edwardian house³, with cellar, which has recently been in use as a care home. It occupies a prominent position at the corner of Shrublands Road and Shrublands Avenue. This part of the CA is predominantly formed of residential properties dating from early 20th Century, which are in contrast to the commercial focus of the high street.
7. Shrublands Avenue is primarily formed of a series of long terraces of two-storey houses, generally constructed of brick under slate roofs. Each house steps down from the next to address the slope in the street. They are sited close to the street behind shallow front gardens enclosed by walls but incorporate long and narrow gardens at the rear. While there is some variety to the design of later infill housing to the northern end of Shrublands Avenue, they too are of two storeys above ground level and include pitched roofs. These are also spaced from neighbouring houses in either street, but include parking areas to the front and smaller rear gardens which appear to have previously been gardens of properties in Shrublands Road.
8. The houses in Shrublands Road are set further back from the street behind predominantly soft landscaped frontages, with mature hedge and tree planting creating a verdant character. In response to the sloping land, the houses to the northern side of Shrublands Road feature accommodation below street level, with front gardens on the slope. The rear gardens are shallower but of greater width than those in the Avenue and the houses are also more spaciouly arranged from one another with gaps between.
9. Despite the presence of modern infill development, as far as it is relevant to the appeal scheme before me, the significance of the CA is principally derived from the varying periods of the development of the town, which combine to create a rich tapestry of townscape character and form. Moreover, the consistent architectural quality, materials of construction, and spatial cohesion of the buildings allows the individuality of the distinct elements of townscape to be understood, particularly the varying forms of housing to the south which contrast with the commercial focus of high street, all of which contributes to the character and appearance of Berkhamsted.

³ Planning Reference: 4/01392/13/FUL, granted on 23 September 2013.

10. The appeal property is situated close to Shrublands Avenue and a number of flat-roofed extensions have been added at the rear. While these utilise matching materials and fenestration, their roof form is not sympathetic to the architectural composition of the property and they do not make a positive contribution to the character and appearance of the CA. Nevertheless, what remains of its rear garden provides a break between the houses in the Avenue and enables the verdant backdrop of the surrounding houses to be experienced. The brick wall around the garden steps up in height to the south and provides strong enclosure to the Avenue.
11. Despite the presence of later extensions of lesser quality and later infill development to its garden, the Edwardian architecture of the appeal property and what remains of its garden provide evidence of the spatial arrangement of 20th Century housing development within this part of the CA. They therefore continue to make a positive contribution to the character and appearance of the CA and its understanding and significance.

Effect of the proposal on the character and appearance of the street scene and surrounding area, including the Berkhamsted Conservation Area

12. The area created to the rear of the appeal property for the proposed house is small in comparison to the other plots found within either street and the house would occupy the majority of it. Although I appreciate that the house has been designed to reduce its impact within the street, its form and appearance would contrast with the established characteristics of the houses found in the locality, with one level of accommodation and part of its external space situated on sunken ground within the site. The later insensitive single storey flat roof extension to the rear of the appeal property would be removed, but replaced by a taller flat roof construction arranged on a larger floorplan. This would be sited close to the retained extension and project significantly closer to the Avenue. The proportions and form of the proposed house, including the balance between solids and voids and the extent of detailing would also appear cumbersome and jar with the refined architecture of the other houses nearby.
13. While the verdant backdrop of surrounding properties would still be likely to be evident above the proposed house, the gap in built form between the appeal property and the house to the south would be closed. The proposed house, which would be visible over the existing boundary wall and through proposed openings in it, would therefore stand out as an ungainly addendum to the street that would be more apparent than the extension it seeks to replace.
14. In terms of the appeal property, certain elements of its conversion to flats would constitute improvements to the property, including the fenestration to the front and alterations to the detailing of the façades facing Shrublands Avenue. However, the scale of the building would be added to significantly at second floor to increase the floor area available for Flat 6. Although the large section of flat roof above Flat 6 would be set against the backdrop of higher elements of the roof toward Shrubland Road, it would nevertheless be a further prominent and unsuitable flat roof addition to the property that would jar with its architectural form and detailing.
15. I understand that the planning permission for the conversion of the existing building into seven units of accommodation⁴ has lapsed. While this was granted

⁴ Planning Reference: 4/03031/14/FUL, granted 21 April 2015.

under similar policies to the appeal scheme, it was only for development of the appeal property. It is therefore not comparable with the appeal scheme, which involves significant extension and alteration of the appeal property and a detached house to the rear.

16. The proposal would therefore introduce development that would have a significantly detrimental effect on the character and appearance of the street scene and surrounding area and how it contributes to this part of the CA, including its understanding and significance as a heritage asset.

Public benefits and conclusions on the first main issue

17. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) is a matter of considerable importance and weight. Paragraph 192 of the National Planning Policy Framework (the Framework) states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Meanwhile, paragraph 193 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
18. While the harm to the significance of the CA that would result from the proposal would be localised, it would nevertheless contribute to the incremental erosion of the distinctive character and appearance of the CA, which would have a negative effect on its significance as a designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to the significance of the asset. In such circumstances, paragraph 196 of the Framework identifies that this harm should be weighed against the public benefits of proposals, which includes securing an optimum viable use.
19. A period in excess of five years has passed since the adoption of the Council's development plan. In such circumstances, the Framework suggests that the housing requirement used in assessing a Council's five-year supply of deliverable housing land (5YHLS) will be based on the standard method for determining local housing needs for the local planning authority area.
20. The 2020 HDT results indicate that delivery in the Borough over the previous three years is 89% of the housing required. When applying paragraph 73 of the Framework, an action plan is therefore required and a 5% buffer applies. Furthermore, the Council has accepted that it does not currently have 5YHLS.
21. The appeal scheme would help to address the Council's housing supply deficit and being a small scheme, with a net provision of six residential properties of varying sizes, it could be built-out relatively quickly. The contribution to the supply and mix of housing would therefore be modest in its extent. However, given the housing land supply deficit and the decline in the extent of previously developed land available for housing, the proposal would help to reduce the pressure on undeveloped, Green Belt land, that contributes to the landscape character of the Borough. These would amount to social and environmental benefits.
22. The improvements to the external appearance of the appeal property would also constitute environmental benefits as they would represent minor enhancements to the CA.

23. I also recognise that the proposal could be said to make more efficient use of the appeal building and its garden. However, the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
24. There would be short-term benefits to the local and wider economy from the direct and indirect employment associated with construction works; and future occupants would be likely to support local services through spending and participation. These would all constitute benefits in social and economic terms but would be limited in scale and kind due to the magnitude of the proposed development.
25. Taking the above together, the public benefits I have outlined above would not justify allowing development that would fail to preserve or enhance the character and appearance of the Berkhamsted Conservation Area. Therefore, in accordance with paragraphs 193 and 196 of the Framework, considered together, I conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified.
26. I therefore conclude that the proposal would fail to preserve or enhance the character or appearance of the street scene and surrounding area, including the Berkhamsted Conservation Area. Hence, the appeal proposal would fail to satisfy the requirements of the Act, paragraphs 192 and 193 of the Framework and conflicts with the design and heritage aims of Policies CS12 and CS27 of the Council's Core Strategy⁵.

Private and shared outdoor space

27. The proposal is for a 1-bed flat and five 2-bed flats within the appeal property and a separate detached 3-bed house to the rear. The application drawings indicate that dedicated outdoor space would be provided for each of the ground floor flats and the proposed house.
28. Flat 1 would be provided with a space as long as the retained rear extension, which would be separated from the communal garden by a low boundary wall. It would therefore be subject to noise associated with the use of that space and would not be private. The space for Flat 2 to the front and side of the building would primarily be utilised for access and would be open to the parking area adjacent. The space for Flat 3 would be a long narrow area situated between the flank elevation of the building and the existing low boundary wall to the Avenue. The spaces for Flats 2 and 3 would also not be private and would be likely to be difficult to use by future occupants, given their shape and the noise and fumes that would be likely from the street and parking area.
29. There would be no dedicated space for Flats 4 and 5, but Flat 6 would be provided with a relatively small terrace area built into the roof of the building.
30. The appellant has suggested that the proposed communal space would be for Flats 4 and 5. However, given my findings in relation to the dedicated spaces proposed for the other flats, the extent and quality of communal space provision would be important to all flats. The space proposed would be significantly smaller than what is required by Saved Appendix 3 of the Council's

⁵ Dacorum's Local Planning Framework Core Strategy 2006-2031 (Adopted 25 September 2013).

Local Plan⁶ for a three-storey building such as the appeal property and, due to the height of its boundary enclosures, it would be unlikely to be private.

31. While there is some variance to the size of gardens in Shrublands Avenue, these are still significantly in excess of that shown within the sunken garden of the proposed house. The extent of private external space proposed would therefore be significantly out of step with that afforded to other properties found in the locality. Furthermore, given its dimensions, sunken nature and relationship with existing boundary enclosures and the house to the south, this space would be of such poor quality that it would create a substandard living environment for the occupants of the proposed house. The garden space to the front of the house would also be open to the street through the proposed accesses and, given its size, it would not be a suitable alternative.
32. Saved Appendix 3 of the Council's Local Plan allows a reduction on the prescribed standards for private gardens in circumstances where they are for Starter Homes, homes for the elderly and within close proximity of open land, public open space or other amenity land. There is no indication that the proposal would be for any of these forms of housing and, despite the presence of several formal and informal recreational areas within the locality, the proposed external spaces for the proposed flats and house would be satisfactory alternatives to be used in combination with public land. Moreover, although the private and shared outdoor space would incorporate moveable planters, due to the characteristics of these spaces, it is likely that their primary function would be ornamental rather than functional space. The extent and quality of private and shared outdoor space that would be available to the future occupants of the proposed development would therefore be so deficient that it would be harmful to the living conditions of future occupiers.
33. The appellant has referred to how the Council's officers approached the requirement for outdoor space associated with the previous scheme at this site, but the Members of the Council's Development Management Committee reached a different conclusion. That decision is the subject of the other appeal at this site and I have considered the individual circumstances of this appeal scheme before me in relation to the relevant planning policies and other considerations.
34. I therefore conclude that the proposal would not provide suitable living conditions for future occupiers, in respect of private and shared outdoor space. Hence, the proposed development would not accord with the aims in respect of the provision of outdoor space and living conditions expressed in Policy CS12 of the Council's Core Strategy, Saved Appendix 3 of the Council's Local Plan, and paragraph 117 of the Framework.
35. I note that the Framework does not include a requirement for the provision of external space for development, but it also does not exclude such an approach. Therefore, the Council's policies, particularly Appendix 3 of their Local Plan are not inconsistent with the Framework, which seeks to achieve well-designed places, including with high standards in respect of living conditions of existing and future occupiers.

⁶ Dacorum Borough Local Plan 1991-2011 (Adopted 21 April 2004).

Planning Balance

36. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.
37. Clearly, given that the Council cannot demonstrate 5YHLS, paragraph 11 of the Framework would be engaged. However, I am mindful that in light of my findings in relation to heritage matters, paragraph 11d) i) of the Framework would apply. Accordingly, as the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, the presumption in favour of sustainable development does not apply.
38. I have already identified the benefits of the appeal scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage asset. Furthermore, the absence of harm in respect of the principle of the location of the development and the provision of cycle storage would neither weigh for nor against the appeal scheme.
39. In terms of harm, the proposed development would not comply with development plan policy in respect of harm to character and appearance, including to the Berkhamsted Conservation Area and the provision of private and shared outdoor space.
40. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission. The proposal would also not amount to sustainable development under the terms of the Framework. Consequently, the proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

41. For the reasons given, I conclude that the appeal should not succeed.

Paul Thompson

INSPECTOR