



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/20/3256735
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 4/00134/19/FUL, dated 21 December 2018, was refused by notice dated 4 February 2020.
 - The development proposed is conversion of building to 6 flats, demolition of buildings to the rear and erection of 3 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The Council's Statement of Case refers to saved Policy 58 of their Local Plan¹. While this is not referred to on the Council's Decision Notice (DN), it is directly relevant to the consideration of the content of Appendix 5. The DN also refers to Policies CS10, CS17 and CS25 of the Council's Core Strategy². The Council has confirmed that Policy CS10 should have been listed as Policy CS11; and that Policies CS17 and CS25 are not relevant to the matters raised in the reasons for refusal. The appellant has suggested that Policy CS11 should not be referred to in the appeal, but both it and CS10 are only listed as relevant policies in the officer's report and not referred to in any further detail. In any event, the appellant had the opportunity to consider the relevance of all policies to the appeal. I have therefore determined the appeal based on Policies 58 and CS11 and the remaining policies listed on the DN, except where the other policies still remain relevant to the matters raised in the appeal.
3. The appeal site is situated within the Berkhamsted Conservation Area, so I have had regard to the statutory duty contained within Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). Given that the appellant's supporting document for the application referred to the effect of the proposal on the conservation area, I have not sought further comments in respect of this matter.
4. 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.

¹ Dacorum Borough Local Plan 1991-2011 (Adopted 21 April 2004).

² Dacorum's Local Planning Framework Core Strategy 2006-2031 (Adopted 25 September 2013).

5. The appeal is related to another at the same address³ for which there is a separate decision.

Main Issues

6. 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;
- whether the proposal would provide suitable living conditions for future occupiers, in respect of private and shared outdoor space; and
- whether suitable cycle storage and vehicle parking would be provided for the proposed development.

Reasons

Site and surroundings and the significance of the conservation area

7. 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 house⁴, 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, within the Charles Street Character Area of the CA. This part of the CA is predominantly formed of residential properties dating from early 20th Century when commuter housing was erected as part of the expansion of railway services in the town. This is in contrast to the commercial focus of the high street.
8. 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 are also of two storeys above ground level and include pitched roofs. These too are 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.
9. 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. 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.
10. 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

³ Appeal Ref: APP/A1910/W/20/3262312.

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

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.

11. 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.
12. 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

13. The proposed houses would be designed to reflect those within the vicinity of the site, with a carefully considered palette of materials, and the insensitive extensions to the rear of the appeal property would be removed. They would also be lower in the street than the house to south and step down from the appeal property. Furthermore, certain elements of the conversion of the appeal property to flats would constitute improvements to the property, including the fenestration to the front and alterations to the detailing of the Shrublands Avenue façade. Nevertheless, the extent of built development proposed would appear cramped in comparison to the more spacious arrangement of houses set within gardens found in the immediate context. Later infill properties opposite the site and immediately to the south have shallower gardens to the rear but these are still significantly in excess of that proposed for the houses.
14. The continuous built form around the corner from Shrublands Road into the Avenue would also be atypical of the layout of neighbouring properties, as it would fragment the spatial arrangement of separate houses addressing each street. Most of the plot would be filled with development, with very little space remaining between it and the houses to the south and east. The overall scale of the proposed houses would therefore appear oppressive and out of step with the predominantly smaller, narrower fronted properties in the Avenue, and close the gap offering views of the verdant backdrop of surrounding properties.
15. The side boundary wall would be demolished and partly replaced by railings alongside the existing building. The extent of open, hard frontages proposed for the houses would jar with the walled frontages of the other houses in the Avenue. I accept that there is a requirement for parking in this location (see the third main issue), but there would be no relief from the stark and intrusive presence of parked vehicles and bin storage within the street scene.

16. I understand that the planning permission for the conversion of the existing building into seven units of accommodation⁵ has lapsed. While this was granted under similar policies to the appeal scheme, it was only for development of the appeal property, so is not comparable with the appeal scheme, which involves significant extension and alteration to the rear.
17. 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

18. The statutory duty in Section 72(1) of 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.
19. 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.
20. 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.
21. 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. I note that the Council has continually exceeded its housing targets expressed in Policy CS17 of the Core Strategy and delivery has only recently declined from the 2019 HDT results (138%). Nevertheless, the Council has accepted that it does not currently have 5YHLS.
22. The appeal scheme would help to address the Council's housing supply deficit and being a small scheme, with a net provision of eight dwellings 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

⁵ Planning Reference: 4/03031/14/FUL, granted 21 April 2015.

character of the Borough. These would amount to social and environmental benefits.

23. The improvements to the external appearance of the appeal property would also constitute environmental benefits as they would represent minor enhancements to the CA.
24. 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.
25. 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.
26. 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.
27. 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 CS11, CS12 and CS27 of the Council's Core Strategy. Given my findings outlined above, the proposal would also not raise the standard of design more generally in an area, particularly as it would not fit in with the overall form and layout of its surroundings; and fail to enhance or better reveal the significance of the CA, as required by paragraphs 131 and 200 of the Framework respectively.
28. The appellant has suggested that CS10 of the Core Strategy is still relevant to the consideration of the proposal given that it promotes higher densities in and around town and local centres. Despite the Council's officers referring to the policy in the Committee Report, there is no substantive evidence before me to suggest that the site would be in or around such centres. In any event, the policy also requires proposals to have regard to their location and physical context, so this would not alter my conclusions in relation to this main issue.

Private and shared outdoor space

29. A total of seventeen bedrooms are proposed within the six flats and three houses. 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 and the

recreation and social opportunities available in High Street, the proposal would not include any private or shared external space for the houses and flats that could be used in combination with these areas of land. Moreover, the space around the buildings would be hard surfaced for parking and bin storage or serve as lightwells to lower ground floor accommodation. The majority of the proposed areas would be open to the street, lack privacy and, due to their other functions, would not be useable as outdoor 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.

30. 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 paragraphs 117 and 127 of the National Planning Policy Framework.
31. 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.

Vehicle parking and cycle storage

32. The appeal site is situated within Zone 2 for parking in Berkhamsted, as defined by the Council's supplementary planning guidance (SPG)⁶, and the amount of parking required for new residential development in that zone is defined by Appendix 5 of the Council's Local Plan. Reductions in parking provision are already accounted for in the zones, with fewer spaces required for more accessible locations. The parking for properties in Shrublands Road is generally within curtilage, to the front or side, but properties in Shrublands Avenue are sited close to the street and largely utilise on-street parking, apart from several properties to its northern end.
33. The proposal is for the existing carpark at the frontage of Shrublands Road to be reorganised to accommodate six spaces for the proposed flats and each house would be provided with a dedicated space to its frontage. The existing plan shows the car park accommodates space for seven cars but the appellant's Planning Statement suggests this is closer to four or five spaces.
34. I have had regard to the proposed parking for the flats, which would be in excess of that previously proposed for a scheme of seven flats within the existing building; the provision of electric vehicle recharging points; and the previous use of the appeal site as a care home. In particular, in terms of the latter, it is likely that this would have placed some demand on parking in the locality, including from staff, visitors, deliveries and medical services. However, there is no firm evidence of the extent of these activities.
35. Nevertheless, using the SPG and Appendix 5, the amount of parking proposed would fall below what is required by these policies and there is nothing within

⁶ Area Based Policies Supplementary Planning Guidance, May 2004 - Accessibility Zones for the Application of Car Parking Standards.

them to set out that further reductions in parking would be applicable to new residential development, including the availability of on-street parking. Furthermore, there is no substantive evidence before me to suggest that the demand for vehicle parking associated with the development would be lower and the proposal would not include any cycle parking or secure long term cycle storage, when one space would be required for each unit of accommodation to encourage cycling as an alternative mode of transport.

36. Despite the absence of parking restrictions in Shrublands Road and Shrublands Avenue, the shortfall in vehicle and cycle parking provision is likely to encourage additional on-street parking in surrounding residential streets; and the capacity for on-street parking in Shrublands Avenue would be reduced by the vehicle crossovers for curtilage parking for the proposed houses.
37. I therefore conclude that suitable cycle and vehicle parking would not be provided for the proposed development. Hence, the proposal would not accord with the aims for vehicle and cycle parking expressed in Policy CS12 of the Council's Core Strategy and Saved Policy 58 and Appendix 5 of their Local Plan.

Other Matters

38. The appellant submitted the proposal following pre-application advice. The Framework stresses the benefits of early engagement and of good quality pre-application discussion. Furthermore, the Officer Report (OR) contains positive recommendations to the Council's Development Management Committee. I have considered the individual merits of the appeal scheme afresh in relation to the relevant policies and evidence before me and any positive feedback given either in pre-application discussions or in the OR in respect of any matters does not warrant allowing this appeal.
39. The Council has also raised concerns with respect to the adequacy of the bin storage for the proposed houses. While I note the size of the storage areas shown on the application drawings, given my findings in relation to the main issues outlined above, it is not necessary for me to reach a conclusion on this matter. In any event, I have not been provided with any substantive evidence of what would be required in respect of such storage for the proposed houses.

Planning Balance

40. 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.
41. 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.
42. 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, the living conditions of

neighbouring occupiers, land contamination and access and highway safety considerations would neither weigh for nor against the appeal scheme.

43. 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; the provision of private and shared outdoor space; and the provision of cycle storage and vehicle parking.
44. 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

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

Paul Thompson

INSPECTOR