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## Appeal Decision

Site visit made on 23 March 2021

**by J Bowyer BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 12<sup>th</sup> April 2021**

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**Appeal Ref: APP/A1910/W/20/3264109**

**36 Kitsbury Road, Berkhamsted, Hertfordshire HP4 3EA**

- 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 Dr Evans against the decision of Dacorum Borough Council.
  - The application Ref 20/01639/FUL, dated 22 June 2020, was refused by notice dated 18 August 2020.
  - The development proposed is described as 'new two storey dwelling, with accommodation at basement level, adjacent to 36 Kitsbury Road with associated landscaping (resubmission of 4/02135/19/FUL)'.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. In refusing the planning application, the Council referred to parking standards within Appendix 5 of the Dacorum Borough Local Plan 2004 (DBLP). Within its appeal statement, the Council refers instead to the Parking Standards Supplementary Planning Document November 2020 (Parking Standards SPD) which post-dates its decision on the application. The appellant was invited to comment on the Parking Standards SPD as it relates to the appeal, and I am therefore satisfied that no prejudice would be caused by my having regard to the Parking Standards SPD.

### Main Issues

3. The main issues are:
  - i) the effect of the proposal on the character and appearance of the Berkhamsted Conservation Area (CA) including with regard to the effect on trees;
  - ii) the effect of the proposal on the living conditions of the occupiers of 36 Kitsbury Road with particular regard to outlook and light, and on the occupiers of 5 Kitsbury Terrace with particular regard to privacy; and
  - iii) whether or not the proposed parking arrangements would be acceptable including with regard to the safety and convenience of users of the adjacent highway network.

### Reasons

#### *Character and Appearance*

4. The significance of the Berkhamsted CA derives in part from the historic High Street which broadly follows the line of the River Bulbourne, and the dense

streets surrounding it. Kitsbury Road is one of a number of mostly residential streets laid out around a loose grid which climb the valley sides. To several of the streets, there is a hierarchical pattern of lower stretches of fairly modest terraced dwellings which contrasts against larger buildings set on more sizeable plots to the upper reaches. Along with the characteristic nineteenth and early twentieth century buildings positioned on regular building lines, this provides for an attractive, well-established character and appearance, and an overall sense of coherence to the area

5. The appeal site currently comprises a large part of the garden to 36 Kitsbury Road, as well as an area of gravel with a gated vehicular access. The Council has identified No 36 as a locally listed building. It is a large stuccoed dwelling towards the upper part of Kitsbury Road with striking two-storey bay features to its side which offer outlook over the appeal site and across the valley, and I agree with the main parties that it makes a positive contribution to the street scene. The appeal site affords an impression of openness around No 36 which complements and balances its grander scale relative to many of the buildings within the street. In addition to providing a setting for No 36, the open site reflects similar provision of open space adjacent to The Grey House opposite the site and to the side of its neighbour at 38 Kitsbury Road, as well as separation provided by the junction of Kitsbury Terrace between the side of 35 Kitsbury Road and the site.
6. The layout and relationship between these more imposing detached and semi-detached dwellings and their larger retained plots means that they appear as somewhat of a set-piece around the Kitsbury Terrace junction, and confer a distinctly more spacious character to this upper part of the street scene. Together with the fairly large established trees which are present on the site, I therefore find that the spacious quality of the appeal site contributes positively to the character and appearance of the CA, and thus its significance.
7. Given the variation in the style and designs of buildings that make up the street scene of Kitsbury Road, I do not consider that the appearance of the proposed dwelling would itself be incompatible. Its smaller scale and position at a lower ground level also mean that it would appear subordinate to No 36.
8. However, it would be positioned entirely forward of the strong building line formed by the side of No 36, the front elevations of dwellings on Kitsbury Terrace, and The Grey House. The development would predominantly be seen against and together with these buildings, and while the limited articulation to the main side elevations of the dwelling may be reflective of buildings to the lower parts of Kitsbury Road, it would stand out against the prominent bays and detailing of their north-facing elevations. The proposed planting and retained vegetation around the site would not fully screen the development, and in my view it would form a conspicuous feature in the foreground of No 36, partly obscuring its distinctive side elevation and diminishing its presence in the street scene.
9. Moreover, the development would result in a significant reduction in the existing openness on the appeal site and loss of a large part of the landscaped setting to No 36. While I note some variation in the size of gardens to other buildings nearby, the proposed dwelling and No 36 would both occupy a fairly sizeable proportion of their respective plots, with the retained space around No 36 in particular appearing small relative to its large bulk and mass. This

would disrupt the balance of the more generous settings afforded to buildings within this part of the street scene, and irrespective of whether the gardens would accord with standards for amenity space provision, I find that the buildings would appear uncharacteristically squeezed onto their plots.

10. The loss of spaciousness would be all the more noticeable given that the current separation between No 36 and No 35 broadly corresponds to that between The Grey House and No 38 opposite. The dwelling would result in an unwelcome and incongruous intrusion into this space. It would disrupt the existing composition of buildings around Kitsbury Terrace, and harmfully erode the open setting of No 36 and the spacious character and appearance of this part of the street scene which adds to the presence and importance of No 36 and The Grey House as key buildings within the street.
11. In reaching this view, I have noted that the balance of space around No 36 and The Grey House has been previously altered by infill developments including 36A Kitsbury Road and Clarendon House. I do not know the full circumstances which led to these proposals being accepted, but their set back in comparison to No 36 and The Grey House means that they are in any case far less prominent in the street scene of Kitsbury Road than the development before me. Moreover, their presence is not a compelling justification to allow development which would further erode the spaciousness that remains.
12. The proposal would also entail the removal of a number of trees from the site. I saw that these trees are visible with others nearby rising above the lower level dwellings on Kitsbury Road for some distance on the approach to the site, as well as from the opposite valley side. While they may not be of high arboricultural value, together they add a verdant aspect which complements the more spacious character and appearance of this part of the CA. I note that the Council's Trees and Woodlands Officer did not object to their removal, but the suggested replacement planting would not offer the same level of overall cover. Notwithstanding the quality of replacement planting, I therefore find that the removal of trees would diminish the verdant character of this area, albeit that the overall reduction and visual impact would be limited.
13. In accordance with s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the Berkhamsted CA. For the reasons above, I find that the proposed dwelling would be intrusive, and that the development would cause significant harm to the setting of No 36, a locally listed building, and to the character and the appearance of the CA and thus its significance. Given the scale of the development and the magnitude of impact on the wider area, I find that harm to the CA would be less than substantial in the terms of the National Planning Policy Framework (the Framework) which goes on to advise that this harm should be weighed against the public benefits of development.
14. The proposal includes reinstatement of a boundary wall facing the street. Boundary walls are a characteristic feature within the area, and I agree that this would be a public benefit of the development. However, the existing boundary fencing on the site is not overly obtrusive or prominent within the street scene. Views of the wall would also be localised, and I find as a result that the overall enhancement to the character and appearance of the street scene and wider CA would be fairly limited.

15. The Council is unable to demonstrate a 5-year supply of deliverable housing, and the results of the 2020 Housing Delivery Test also show that housing delivery over the previous 3 years has been below the requirement. The proposal would make effective use of the site and deliver an additional dwelling within an existing built up area with access to services and public transport. The dwelling would be suitable for a family, and I note that the internal space would exceed the Nationally Described Space Standards. In these regards, it would align with objectives within the Framework seeking to significantly boost the supply of housing and to provide a choice of homes. The Framework also emphasises the role of small sites such as this in the delivery of housing. The benefit would be limited by the small scale of the development, but given the past and ongoing housing undersupply position, I afford it great weight.
16. There would be further social and economic benefits associated with the construction and occupation of the dwelling, including through support for the local community and for services and facilities. However, the modest scale of the development means that the extent of these benefits would be limited. That harm to ecology or the wider landscape has not been identified and that the proposal would not result in a loss of agricultural land are neutral factors and weigh neither for nor against the proposal.
17. Conversely, I give considerable importance and weight to the less than substantial harm that would be caused to the significance of the CA in accordance with the Framework. Even taken together, I do not find that the public benefits of the proposal would be sufficient to outweigh this harm.
18. For these reasons, I conclude on this main issue that the proposal would cause unacceptable harm to the character and the appearance of the Berkhamsted CA and it would conflict with Policies CS12 and CS27 of the Core Strategy 2013 (CS). Amongst other things, these policies require the retention of important trees and development which conserves and enhances the appearance and character of conservation areas and the integrity, setting and distinctiveness of heritage assets.

### *Living Conditions*

19. The proposed dwelling would be positioned broadly to the north of No 36, minimising potential for overshadowing to this neighbour. It would also be at a much lower land level, and while the separation would not be substantial, the closest part of the development would be of relatively limited depth with greater spacing to the main part of the dwelling. In addition, the building would not extend the full length of the width of No 36, and open views would be retained from this neighbour beyond the rear of the dwelling and to its front. Taking these factors together, I am satisfied that the proposal would not result in a harmful loss of light or outlook so as to detract significantly from the living conditions of the occupiers of No 36.
20. The relatively shallow depth of the rear garden to the proposed dwelling means that separation between windows to its rear and the boundary with 5 Kitsbury Terrace would be fairly limited. Views from the ground-floor windows would be restricted by boundary treatment to the site, and views from upper floor windows serving an en-suite and stairs could be restricted by the use of obscure glazing. However, a number of first-floor windows serving a bedroom would face towards the garden to the front of No 5.

21. At my visit, I saw that this garden included features more commonly found within rear gardens including an outbuilding and swing seat. Given also the small size of the garden to the rear of No 5, I do not doubt that the front garden plays an important role in the provision of outdoor space for occupiers, and note comments made by a number of interested parties to this effect.
22. Be that as it may, views from the dwelling would be towards the section of the garden closest to the street frontage. Despite screening by vegetation, I saw that this part of the site is readily visible from Kitsbury Terrace, and while this street serves relatively few buildings and I accept that views by passers-by would be short-lived, it is not therefore wholly private space. In addition, the boundary treatment to the adjacent garden of 4 Kitsbury Terrace which appears similarly used is low, and the relationship means that this neighbouring dwelling has views across the garden of No 5 and particularly towards the front part of the site. The proposal would not therefore introduce new overlooking to currently private space, and I do not find that it would cause a significant loss of privacy experienced by occupiers of No 5 in comparison to the existing situation so as to harmfully diminish their quality of life.
23. I therefore conclude on this main issue that the proposal would not result in unacceptable harm to the living conditions of the occupiers of 36 Kitsbury Road or 5 Kitsbury Terrace. In this regard, I find no conflict with Policy CS12 of the CS which includes a requirement that development avoids visual intrusion, loss of light or loss of privacy to surrounding properties.

#### *Parking*

24. The requirements for parking within the Parking SPD are expressed as standards to be met, in contrast to the maximum parking standards approach under Appendix 5 of the DBLP. Nevertheless, the SPD recognises that there may be a need for flexibility where changes to standards are exceptionally substantiated by robust evidence. The Parking SPD indicates a requirement for 3 parking spaces to serve No 36, and for 2.25 spaces to serve the proposed 3-bedroom dwelling. Although the Council suggests that the basement of the development could be used as an additional bedroom increasing the requirement for this property to 3 spaces, I consider this eventuality somewhat unlikely given the very limited fenestration to this level.
25. Each of the dwellings would be provided with 2 parking spaces, resulting in a total shortfall of 1.25 spaces against the suggested parking standards within the SPD. However, there are only 2 spaces to serve No 36 as existing, and there would therefore be no change to the existing shortfall of 1 space for this dwelling. The proposal would result in an increase in the overall shortfall on the site of 0.25 spaces, but as the appellant highlights, part provision of spaces is not practical.
26. I note representations by a number of interested parties regarding parking locally, and I do not doubt that the surrounding area is subject to existing parking pressure generally. However, I saw at my visit that there were a number of available on-street parking spaces, mostly at the upper section of Kitsbury Road. I acknowledge that my visit represents a snapshot, and was carried out during the day when even in light of the COVID-19 pandemic, it would be reasonable to expect comparatively lower levels of parking assuming some residents may be out at work or engaged in other daytime activities away

from home. Be that as it may, my observations are consistent with the appellant's parking survey which while undertaken prior to the Parking SPD and not following the methodology outlined within it, provides photographs taken at various times over a number of days illustrating multiple available on-street spaces near to the site.

27. From the evidence before me, it therefore seems that parking pressure is much less acute to the upper part of Kitsbury Road closest to the appeal site where I saw that a number of properties benefit from off-street parking. I also note that the site is close to the town centre, with access to a range of services as well as to bus routes offering connections to larger towns. As a result, there would be opportunities for future occupiers to travel by walking, cycling and public transport to access services.
28. Even if I were to accept the Council's suggestion that the dwelling could be occupied as a 4-bedroom property increasing the overall shortfall on the site from 1.25 to 2 spaces, I consider that there would be likely to be sufficient on-street capacity to absorb additional unmet demand for vehicle parking arising from the development over and above the existing shortfall of 1 space. In this context, I am satisfied that flexible application of the standards within the Parking SPD would in this particular case be justified, and I see no reason that the proposal would cause unacceptable harm to the safety or convenience of users of the adjacent highway network.
29. Accordingly, I conclude on this main issue that there would be acceptable provision for parking, and I find no conflict with Policy CS12 of the CS which includes a requirement for provision of sufficient parking to serve development.

### **Conclusion**

30. While I have found that the proposal would be acceptable with regard to living conditions for neighbouring occupiers and provision for parking, this does not outweigh the unacceptable harm that it would cause to the character and the appearance of the Berkhamsted CA. I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

*J Bowyer*

**INSPECTOR**