
Appeal Decision

Site visit made on 20 May 2021

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th June 2021

Appeal Ref: APP/J0405/W/20/3257990
19 and 20 Fort End, Haddenham HP17 8EJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Richmond Assets Ltd against Buckinghamshire Council.
 - The application Ref 20/01129/APP, is dated 30 March 2020.
 - The development proposed is mixed use development including the demolition, extension, alteration and conversion of 19/20 Fort End, Haddenham and comprising an A3 unit with five dwellings together with parking and amenity space.
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Decision

1. The appeal is dismissed, and planning permission is refused.

Application for costs

2. An application for costs was made by Richmond Assets against Buckinghamshire Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Following the submission of the appeal against a failure to give notice within the prescribed period, the Council have clarified the position they would have taken had they determined the application. I have had regard to these submissions, in so far as they provide clarity in terms of the reasons why the Council would have refused planning permission had it done so. The main issues below are therefore informed by the Council's submissions.
4. In September 2020, the Use Classes Order was amended, which removed Class A3, and replaced it with new Class E(b) which covers the sale of food and drink for consumption (mostly) on the premises.

Main issues

5. The main issues in this appeal are;
 - The effect of the proposed development upon the vibrancy of the community of Haddenham;
 - Whether the proposed development would harm the character or appearance of the Haddenham Conservation Area and the appeal building as, a non-designated heritage asset;
 - The effect of the proposal upon the living conditions of future residents;
 - Whether the proposal provides an acceptable means of surface water drainage; and

- Whether the proposal makes adequate provision for infrastructure, in the form of off-site leisure and recreation facilities.

Reasons

Vibrancy of the local community

6. The appeal site comprises a prominent building located within the centre of Haddenham. The Haddenham Neighbourhood Plan 2015 (HNP) identifies that the community is poorly served by services in a settlement 'centre'. As a result, HNP Policy HWS2 supports the retention and enhancement of local services and community facilities. Policy D7 of the Vale of Aylesbury Local Plan (VALP) identifies that village centres will be encouraged to grow, with the loss of essential facilities and businesses, such as local shops, pubs and post offices, not being supported.
7. Based on the substantial level of representations received from local residents both on the planning application and the appeal, the existing commercial use is regarded by many as an important local facility. In this case however, the proposed development would not result in the loss of the existing use, with it being retained, albeit occupying a smaller footprint than the existing use.
8. In their evidence, the Council consider that there is a requirement to assess the long-term viability of the retained unit, to protect against possible future loss as a result of the smaller offer been found unviable. I however disagree with this position and, moreover, find no support for this requirement within the development plan. Should it be proposed in the future that the remaining element of the commercial use is to be lost, there is no evidence before me to show that this would not require planning permission. Therefore, at that point, any new proposal would be required to fully address the relevant development plan policies.
9. I have also been referred to the previous appeal on the site, however in this respect, I note that the proposal involved the total loss of the restaurant use. In this respect the current appeal proposal is not comparable. In any event, I am required to determine the appeal on its own merits.
10. For the above reasons, I therefore conclude that the proposed development would not harm the vibrancy of the community of Haddenham and, in this respect, accords with Policy D7 of the VALP, Policy HWS2 of the HNP and the National Planning Policy Framework (the Framework).

Heritage

11. The appeal site lies within the Haddenham Conservation Area (HCA). Within the supporting HCA Appraisal document, the appeal building is identified as being of 'Local Note'. On this basis, I consider the building to be a non-designated heritage asset (NDHA).
12. The HCA contains a number of spaces and key buildings, including the appeal site, some of which are listed, which serve to identify and define the historic development pattern and historic land use of the village. The form, scale, materials and detailing of these buildings are defining features of its character and appearance. The significance of the HCA therefore lies in the way it includes a range of buildings and spaces that reflect the historic growth of the settlement.

13. The appeal site is positioned in a prominent location within the HCA and provides a strong building line, which reinforces its corner location at an important junction within the village. In terms of its significance, this is derived principally from its age and architectural detailing, along with its historic interest as an older building within the village. As a consequence, the building makes a positive contribution to the HCA.
14. In their response to the appeal application, I note that the Heritage Officer had no objection to the removal of the modern porch, the removal of the existing side extension or the replacement of one of the existing front windows with a new doorway. The provision of new and replacement timber windows was also considered to be appropriate. Having reviewed the proposal, I would concur with this view and consider that these elements of the proposal would not harm the designated heritage assets.
15. With regards to the proposed alterations to the rear of the appeal building, including the proposed dormer windows and rooflights, due to their location, these additions and alterations are unlikely to be clearly visible from public viewpoints. Furthermore, I consider that their design and scale would be sympathetic to and in keeping with the existing building and would therefore preserve the character of the HCA and would not harm the appearance of the existing building.
16. In contrast, given the prominence of the building, the proposed front rooflights, would be clearly visible within the HCA. Whilst they would be designed to sit flush with the existing roof slope, their presence would disrupt the nature and character of the existing roof, which is traditional and simple in form, thereby harming the overall appearance of the building.
17. As a consequence, I therefore conclude that, through the insertion of roof lights in the front elevation of the appeal building, the proposal would fail to preserve or enhance the character and appearance of the HCA and the existing building as a non-designated heritage asset. This would cause less than substantial harm to their significance as designated heritage assets.
18. It was put to me by the appellant that it would be possible to attach a planning condition to prevent the insertion of these rooflights, although the wording of such a condition is not before me. However, I note that the rooflights would provide the only source of light to the proposed rooms on the second floor. In this instance, requiring the removal of these rooflights would have other consequences for the proposal and would therefore not be appropriate.
19. I have had regards to my duty under S72(1) of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990 as to the desirability of preserving or enhancing the character and appearance of the Conservation Area. Accordingly, I conclude that the proposal would cause less than substantial harm to the significance of the HCA as a designated asset. Paragraph 196 of the National Planning Policy Framework (The Framework) requires such harm to be weighed against the public benefits of the proposal.
20. I have considered the provision of five dwellings in terms of their contribution to the supply of housing in the area, as well as in respect to helping to support local services and facilities and provide investment during the construction. However, given the modest scale of the development, the associated benefits

carry only limited weight relative to the harm and the associated development plan policy conflict identified above.

21. For the reasons outlined above, I therefore conclude that through the insertion of rooflights in the front elevation, the proposal would fail to preserve or enhance the character and appearance of the HCA and it would cause less than substantial harm to its significance as a designated heritage asset. In the absence of any significant public benefits to outweigh this harm, it would be in conflict with Policies GP35 and GP53 of the Aylesbury Vale District Local Plan (AVDLP) and Policies BE1 and BE2 of VALP and Section 16 of the Framework.

Living conditions

22. Policy GP95 of the AVDLP states that development that exacerbates any adverse effects of existing uses will not be permitted. Policies GP8 of AVDLP and BE3 of the VALP provide that conversions should seek to minimise noise and general disturbance.
23. Whilst the proposal would involve the conversion of part of the ground floor and the remainder of the building to residential, no information with regards to how the retained commercial unit would operate to ensure that noise, disturbance and the potential for odours would be minimised so as to ensure that the living conditions of future residents are protected. The Council also raise concerns with regards to the provision of adequate bins stores and a clear identification of public and private space within the external area of the building.
24. My attention has been drawn by the appellant to the existing residential properties which form part of the building. There is no evidence before me to show that the current operations have any material effect upon these residents. Furthermore, there would appear to be adequate space around the building to provide the necessary bin stores and to demark particular areas. Therefore, whilst I acknowledge that particular information was not included with the appeal application, I consider that the provision of these additional details could be adequately covered via a suitably worded planning condition.
25. For the above reasons, I therefore conclude that the proposed development would not have a significant effect upon the living conditions of future residents and, in this respect, accords with Policies GP8 and GP95 of the AVDLP, Policy BE3 of the VALP and the Framework.

Surface water and flood risk

26. From the evidence, it appears that the scheme proposes to manage surface water runoff via a soakaway. However, the Lead Local Flood Authority (the 'LLFA') has objected on the basis that insufficient information has been submitted in relation to the surface water drainage strategy for the proposed development.
27. In this respect, I agree with the Council that, given the lack of detail, it is not possible to determine exactly how surface water flows would be dealt with. However, given the modest scale of the development, I am satisfied that an acceptable solution can be designed to ensure compliance with the drainage hierarchy.

28. Furthermore, I note that the proposal is for the conversion of an existing building, which presently, is almost entirely surrounded by hardstanding. From the evidence before me, it would appear that some of these areas would be replaced with soft landscaping. In this sense, I agree with the submissions of the appellant that the proposal offers the opportunity to provide a net-betterment across the site. As a consequence, I am content that the matter could be dealt with through an appropriately worded planning condition and on this basis, it would be unjustified to withhold planning permission on these grounds.
29. For the above reasons, I conclude that the proposal would provide an acceptable means of surface water drainage and, in this respect, accords with Policy I4 of the VALP and the Framework.

Planning obligation

30. Policies GP86, GP88 and GP94 of the AVDLP identify that, to ensure the provision of the required infrastructure that would arise from a development, a financial contribution would be required.
31. In this respect however, I note that these policies pre-date the Written Ministerial Statement of November 2014 (WMS), which identified that tariff style contributions should not be sought for schemes of 10 units or less or which have a maximum combined floor space of 1000 m². As a result, it is appropriate to attach limited weight to these Policies. Furthermore, I note that the Council are preparing a new Local Plan, however whilst this plan is reasonably well progressed, the relevant policies can only be afforded moderate weight.
32. From the evidence before me, the appeal application would fall below the thresholds set out in the WMS, therefore, as a consequence, the contribution towards sports and leisure facilities is not required under the terms of the WMS. As such, the need for a planning obligation is unnecessary.

Other Matters

33. I note the Council raised no issues in relation to access, parking or impact on neighbouring occupiers, amongst other things. However, as these are requirements of policy and legislation, the absence of harm in respect of these matters are neutral factors that weigh neither for nor against the development.

Conclusion

34. I have found that the proposed development would not harm the vibrancy of the community of Haddenham or the living conditions of future residents. I have also found that the proposal makes adequate provision for the disposal of surface water. However, these are outweighed by the less than substantial harm to the identified designated heritage assets, for which the harm is not outweighed by the limited public benefits of the proposal.
35. For the reasons given above, I conclude that the appeal should be dismissed, and planning permission is refused.

Adrian Hunter

INSPECTOR