



Appeal Decision

Site visit made on 11 January 2022

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2022

Appeal Ref: APP/A1910/W/21/3279289

93-95 High Street, Markyate AL3 8JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 as amended against a refusal to grant planning permission.
 - The appeal is made by Mr Mark Bristow, Burgundy Developments Ltd against the decision of Dacorum Borough Council.
 - The application Ref: 20/01843/FUL, dated 7 July 2020, was refused by notice dated 4 February 2021.
 - The development proposed is demolition of garage/outbuildings and the erection of one new detached house and carport.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of garage/outbuildings and the erection of one new detached house and carport at 93-95 High Street, Markyate AL3 8JG in accordance with the terms of the application, Ref: 20/01843/FUL, dated 7 July 2020, and the plans submitted with it, subject to the conditions set out in the attached Schedule A.

Preliminary Matters

2. As the proposal is in a conservation area and relates to the setting of listed buildings, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). While not cited in the reasons for refusal, the proposal's effect on the character and appearance of the Markyate Conservation Area, including the setting of listed buildings, has been raised by some local residents. In the light of this, heritage matters are included as a main issue.
3. I have also had due regard to the Human Rights Act 1998 (HRA) in relation to neighbours' concerns about peaceful enjoyment of their property. Various living condition concerns, including some which go beyond those in the reasons for refusal, have been raised by some residents, and these matters are addressed under the second main issue.
4. Since the Council's decision, a new version of the National Planning Policy Framework (the Framework) was published in July 2021. The parties have had opportunity to comment on the engagement of this new policy document in relation to the appeal, and so will not be disadvantaged by my consideration of it.

Main Issues

5. The main issues in this case are:

- Whether the proposal would a) preserve or enhance the character or appearance of the Markyate Conservation Area (CA), and b) preserve the setting of the Grade II listed buildings 'Numbers 87 The Cottage, 87A and 89' High Street, '93 High Street' and '97 and 99 High Street'; and
- The effect of the proposed development on the living conditions of neighbouring residents, with particular regard to privacy, visual intrusion, sense of enclosure, light, noise and disturbance, and parking pressure.

Reasons

Heritage assets

6. The appeal site comprises part of a backland area within the CA, to the rear of a terraced row of mainly two-storey residential properties that front onto the north-eastern side of High Street. The terraced row includes the listed buildings, which comprise timber-framed, brick-cased houses with tile roofs, with a shop at No 99. The listed buildings date back to the seventeenth century or earlier.
7. The CA is focused around the historic spine of High Street, in the centre of Markyate village. Red brick buildings with tile pitched roofs, dating from around the seventeenth century, line much of High Street. Terraced rows of these mainly residential buildings are punctuated by rear yards with archway accesses, shops and pubs. Property and street names incorporating trades such as wheelwrights and bakers point to the High Street's vocational past.
8. Several mews buildings in the locality stretch in a north-easterly direction into the backland behind High Street, approximately as far back as the proposed house. The backland's character is also shaped by the diversity of rear outbuildings and extensions in the vicinity of the appeal site, with a variety of profiles, footprints and orientations, ranging from sheds and smaller lean-tos, to garages and some residential conversions. The varying roof lines and shapes of these draw the eye, as do garden elements including boundary fencing and walls. More recent infill housing in and adjoining the CA further contributes to the CA's evolved character.
9. Together, these elements contribute to the evolved, and in parts compact 'jigsaw' townscape that characterises the centre of this historic Hertfordshire village.
10. Given the above, I consider the special interest of the listed buildings, insofar as it relates to this appeal, to be primarily associated with the historic legibility of their traditional Hertfordshire village centre architecture. This contributes to the CA's significance, which lies in the historic townscape that reflects Markyate village's evolution from the seventeenth to the nineteenth century.
11. The proposal would entail a relatively substantial separation gap of around 23m of garden and yard space, from the front elevation of the proposed house to the facing main rear elevation of the High Street row of dwellings. Furthermore, the height of the proposed house would be contained to one and a half storeys, within the context of the 'jigsaw' pattern of historic village centre development that includes typically two-storey terraced and backland mews houses. In its backland position, offset from the High Street archway entrance, the proposed carport would be relatively secluded from wider view

within the CA, and its open sides would limit its bulk. Furthermore, the house's Flemish bond brickwork would reflect the local vernacular, and appropriate brick, roofing and cladding materials would be secured by planning condition. Together these factors would help the proposed development assimilate within its setting.

12. In recommending granting of planning permission, the Planning Officer's Report set out that the proposed dwelling would appear sufficiently modest and subservient in relation to the historic houses on High Street, and its design, detailing and form would conserve the area's historic character. Given the combination of assimilating factors identified above, I agree on these points.
13. I therefore conclude that the proposed development would have a neutral effect on the setting of the listed buildings, and would preserve their significance. It would also preserve the character and appearance of the CA. As such, the proposed development would accord with Policies CS11, CS12 and CS27 of the Dacorum Core Strategy 2006-2031 (CS), which together seek to ensure that, among other things, development complements local character and conserves the historic environment. Furthermore, the proposal would accord with the approach of the Framework, taking account of the desirability of sustaining and enhancing the significance of heritage assets, with great weight given to the asset's conservation.

Living conditions of neighbouring residents

14. The Council's appeal statement reflects residents' concerns that visual intrusion by, and overlooking from the proposed house would harmfully affect the rear elevations and gardens of some neighbouring properties.
15. However, the proposed house would be contained to one and a half storeys, within the context of the village centre's 'jigsaw' development pattern, which includes compact terraced and backland mews housing. Also, varying profiles of other buildings, extensions, outbuildings and boundary treatments in the locality would partly screen and draw the eye away from the proposed dwelling. This would help diffuse its visual impact in the locality.
16. Furthermore, there would be a separation gap of just over 23m between the main front wall of the proposed house and main rear wall of the facing High Street row. This would meet the dwellings spacing requirement of Appendix 3 of the Dacorum Borough Local Plan 1991-2011. Upper fenestration to the sides of the proposed house would be limited to a bathroom window and rooflight. Also, various views between windows in the front of the proposed house, and dwellings on plots to the sides of the appeal site would be relatively oblique.
17. Together, these factors would acceptably moderate the proposed dwelling's visual impact, and overlooking between the proposed and neighbouring properties. This would apply even with the accommodation with a large glazed opening at the rear of No 89 High Street¹ in place.
18. The Planning Officer's Report² states that 'the separation distance would ensure an acceptable level of privacy is maintained and that the new dwelling would not result in visual intrusion'. Given the above combination of moderating factors, I agree on these points and find that the proposal would not overly

¹ As cited in paragraph 7.6 of the Council's Written Statement.

² Paragraph 9.15.

dominate or enclose neighbouring properties in the locality, including other dwellings on High Street.

19. Given the garden and yard space around the proposed dwelling, its orientation and separation from other buildings, the proposal is not likely to harmfully reduce light to neighbouring properties.
20. The site is located off Markyate High Street, which I observed during my site visit, albeit a snapshot in time, generates an amount of village centre bustle. This includes residents' activity, suppliers and customers pulling up to and away from shops and other local businesses, and passing pedestrian and vehicular traffic. The proposal would add to this in the vicinity of other dwellings. Nevertheless, within the context of this village centre bustle, I anticipate that the proposed single three-bedroom dwelling, would not be of a scale to generate a harmful increase in vehicular and other comings and goings, on and around the appeal site.
21. Furthermore, walkable access from the site to village shops and facilities, including regular bus services would offer future occupants realistic alternatives to private car use in some circumstances. Together with the proposed dwelling's off-road parking provision, this makes it unlikely that the proposal would harmfully increase parking pressure in the neighbourhood.
22. In conclusion, the proposed additional dwelling would reduce the openness of the backland area on the north-east side of Markyate High Street, including within various views from neighbouring dwellings. It would also add to residential presence and comings and goings in the neighbourhood, including vehicular use by occupants and those servicing the property. However, these changes arising from the three-bedroom dwelling within the village centre would be limited in scale, and unlikely to be of a volume and intensity to harm the living conditions of neighbouring residents, in terms of privacy, visual intrusion, sense of enclosure, light, noise and disturbance, and parking pressure. As such, the proposal would not conflict with Policy CS12 of the CS, which seeks to ensure that development safeguards residents' living conditions.
23. Representations have been made to the effect that under the HRA Article 1 of the First Protocol, the rights of some neighbouring occupiers on High Street to peaceful enjoyment of their possessions would be violated if this appeal were allowed. Because I have found that the proposed development would not cause unacceptable harm to the living conditions of neighbours, including those on High Street, the degree of interference that would be caused would be insufficient to give rise to a violation of rights under Article 1 of the First Protocol.

Conditions

24. The conditions suggested by the Council have been considered against the tests of the Framework and advice provided by Planning Practice Guidance. I have found them to be broadly reasonable and necessary in the circumstances of this case. I have made some minor drafting changes to suggested conditions in the interests of precision.
25. Conditions relating to the duration of permission and approved plans are necessary to provide certainty. I attach conditions relating to flood risk mitigation, contaminated land and construction management to safeguard

residents' living conditions and properties. Conditions regarding archaeology are necessary to safeguard heritage assets. Conditions relating to tree protection, permitted development, a landscape scheme and materials are attached to safeguard the character and appearance of the area. A condition regarding ecological matters is necessary in the interests of biodiversity. A condition regarding electrical vehicle charging is attached in the interests of environmental sustainability.

Conclusion

26. The proposed development would adhere to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal succeeds.

William Cooper

INSPECTOR

Schedule A) Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in strict accordance with the following approved drawings: BURG/22004/4BEDID Proposed Site Layout Plan; BURG/22007/TOP03 Existing Site Layout; BURG/22012/HEIGHTS1 Proposed Site Section.
- 3) (a) Prior to commencement of development there shall have been submitted to and approved in writing by the local planning authority a preliminary environmental risk assessment (Phase I) report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of this site (and adjacent sites) with view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.

(b) If the local planning authority is of the opinion that the report which discharges Condition 3(a) above indicates a reasonable likelihood of harmful contamination, then no development approved by this permission shall be commenced until there shall have been submitted to and approved in writing by the local planning authority a Site Investigation (Phase II environmental risk assessment) report, that includes: (i) a full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors, and; the results from the application of an appropriate risk assessment methodology.

(c) No development approved by this permission (other than that necessary for the discharge of this Condition) shall be commenced until a Remediation Method Statement (RMS) report, if required as a result of (b), above, has been submitted to and approved by the local planning authority.

- (d) The site shall not be occupied, or brought into use, until: (i) all works which form part of the RMS report pursuant to the discharge of Condition 3(c) above have been fully completed and, if required, a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme; (ii) a Remediation Verification Report confirming that the site is suitable for use has been submitted to and agreed in writing by the local planning authority.
- 4) (a) All remediation and/or protection measures, identified in the RMS referred to in Condition 3 above, shall be fully implemented within the timescales and by the deadlines set out in the RMS.
- (b) Prior to the first occupation of any part of the development hereby permitted, there shall have been submitted to and approved in writing by the local planning authority a Site Completion Report (SCR). The SCR shall include: (i) a record of all the investigation and remedial or protection actions carried out; (ii) detailed conclusions and actions taken at each stage of the works including validation work; and (iii) quality assurance and validation results to provide evidence that the site has been remediated to a standard suitable for the approved use.
- 5) Prior to commencement of development there shall have been submitted to and approved in writing by the local planning authority an archaeological Written Scheme of Investigation (WSI). The scheme shall include: (i) assessment of significance and research questions; (ii) the programme and methodology of site investigation and recording; (iii) the programme for post-investigation assessment; (iv) provision to be made for analysis of the site investigation and recording; (v) provision to be made for publication and dissemination of the analysis and records of the site investigation; (vi) provision to be made for archive deposition of the analysis and records of the site investigation; (vii) nomination of a competent person or persons/organisation to undertake the works set out within the WSI.
- 6) (a) Demolition/development shall take place fully in accordance with the WSI approved under Condition 5.
- (b) The development shall not be occupied until the site investigation and post-investigation assessment has been completed in accordance with the programme set out in the WSI approved under condition (5) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.
- 7) The development hereby permitted shall be carried out fully in accordance with the submitted Flood Risk Assessment reference RMA-C1995b dated 30th June 2020 and prepared by RMA Environmental and the following mitigation measures that it details: finished floor levels shall be set no lower than 123.72 metres above Ordnance Datum (AOD). These mitigation measures shall be fully implemented prior to occupation of the development and retained and maintained thereafter throughout the lifetime of the development.
- 8) No development shall take place, including any works of demolition, until there shall have been submitted to and approved in writing by the local planning authority a Construction Method Statement. The Statement shall provide for: a) parking of vehicles of site operatives and visitors; b) loading

and unloading of plant and materials; c) storage of plant and materials used in constructing the development; d) the erection and maintenance of security hoarding, where appropriate; e) measures to control the emission of dust, dirt and mud during construction; f) a scheme for recycling/disposing of waste resulting from demolition and construction works; g) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 9) The development hereby permitted shall be constructed fully in accordance with the submitted Tree Report, Arboricultural Impact Assessment and Methodology Notes prepared by C.A.T Landscape Consultancy (dated 21.1.2020) and Tree Protection Plan NO. TPP 93 HSH 01.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or re-enacting that Order with or without modification), no development falling within the following classes of the Order shall be carried out without the prior written approval of the Local Planning Authority: Schedule 2, Part 1, Class A, B, C, and E.
- 11) No construction of the superstructure shall take place until there shall have been submitted to and approved in writing by the local planning authority full details of both hard and soft landscape works. These details shall include: all external hard surfaces within the site; any other surfacing materials; means of enclosure; soft landscape works including a planting scheme with the number, size, species and position of trees, plants and shrubs. The planting must be carried out within one planting season of completing the development. Any tree or shrub which forms part of the approved landscaping scheme which within a period of 5 years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replaced in the next planting season by a tree or shrub of a similar species, size and maturity.
- 12) No development, excluding demolition and ground investigations, shall take place until there shall have been submitted to and approved in writing by the local planning authority details of the materials to be used in the construction of the external surfaces of the development. Development shall be carried out in accordance with the approved details. Please do not send materials to the Council offices. Materials should be kept on site and arrangements made with the Planning Officer for inspection.
- 13) The development hereby permitted shall be constructed fully in accordance with the recommendations and mitigation measures set out in the submitted Preliminary Ecological Appraisal by Samsara Ecology (report date January 2021).
- 14) Prior to occupation of the development hereby permitted, there shall have been submitted to and approved in writing by the local planning authority full details of the layout and siting of Electric Vehicle Charging Points, and any associated infrastructure. The development shall not be occupied until these measures have been provided, and these measures shall thereafter be retained fully in accordance with the approved details.