



Appeal Decision

Site visit made on 30 November 2021

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2022

Appeal Ref: APP/A1910/W/21/3277540

58-60 High Street, Berkhamsted, Hertfordshire HP23 2BP

- 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 Ms Saunders against the decision of Dacorum Borough Council.
 - The application Ref 20/00946/FUL, dated 9 April 2020, was refused by notice dated 22 December 2020.
 - The development proposed is the demolition of existing buildings and the erection of new buildings to accommodate 6 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Three different sets of amended plans have been submitted for consideration and can be individually summarised as showing (i) for the main building, the removal of flank windows facing the garden of 56 High Street and the addition of canted windows to the rear, and for the coach house style building, the addition of canted windows and the slight realignment of windows, (ii) for the main building, the addition of a chimney to Holliday Street and (iii) for both buildings, a combination of the fenestration and chimney changes.
3. These plans do not materially change the nature of the application and seek to address objections and queries raised by the Council. Notwithstanding this, the Council and third parties have had time to assess them during the publicity time frames and thus, their opportunity to make representations has not been prejudiced. They have been accepted for consideration in this appeal assessment.
4. Additionally, a Sustainable Design and Construction Checklist SDCC (with commentary), vehicle tracking plan, Bat Preliminary Report and Dusk Emergence Bat Surveys have been submitted. These documents cover matters within the Council's reasons for refusal and will be commented upon later in the decision.

Main Issues

5. The main issues are the (a) whether the proposal would preserve or enhance the character and appearance of Berkhamsted Conservation Area; (b) the setting of a Grade II listed building; (c) the living conditions of the future occupiers of the proposed flats, having regard to the provision of outdoor space

and the occupiers of 56 High Street, having regard to privacy, (d) highway design and safety, and (e) sustainable design and construction.

Reasons

Character and appearance

6. The appeal site comprises a two storey end of terrace building at 58 High Street and an attached single storey flat roofed shop at 60 High Street which are at the corner of the High Street and Holliday Street. To the rear of them, there is a two storey outshoot (to No 58), single storey flat roofed extensions, yard and an outbuilding. The outbuilding and yard are used for the repair and servicing of motorbikes, with access from Holliday Street. Opposite the site on Holliday Street, there is a Grade II listed Baptist church. Neighbouring streets contain 19th century traditionally designed terraced dwellings, as well as recent housing development, mainly on a former commercial site. Both the appeal buildings and their surroundings lie with the Berkhamsted Conservation Area which covers much of the town.
7. The Berkhamsted Conservation Area Character Appraisal and Management Proposals (CAMP) 2015 details a historic core around St Peters Church on the High Street that dates back to the 13th century. Within the Conservation Area, a significant proportion of the properties date back to between the 16th and 19th century. The High Street has a distinctive linear road form with side residential streets that comprise traditionally designed 19th Century terraces. Other notable features are a river, canal, railway line and the remains of a 12th century castle.
8. Under the CAMP, the appeal site comes within the Zone 1 (High Street - East) Character Area. Here, the High Street has more extensive residential development, including rows of mainly residential housing behind this road. Interspersed within this townscape, there are a small number of low-key, commercial premises, mostly located on the High Street. On Ravens Lane, the old Coopers Factory was built in 1852 and following other commercial use, redeveloped for new housing. Despite this recent development, the original housing is built in red or yellow brick, with slate or tile roofs and prominent chimney stacks. Such dwellings are generally simply constructed, with sash windows, brick lintels, panelled front doors and well-proportioned in their features and form, such as No 58.
9. For all these reasons, the Conservation Area has a distinctive spatial layout and design, building materials, detailing and ages. As well as being of attractive value, the interspersed nature of commercial property, including at the east end of the Conservation Area, reveals earlier development of the town over the 18th and 19th century. These historic and architectural qualities are of importance and value, and contribute to the significance and special interest of the Conservation Area.
10. Under the CAMP, No 58 is locally listed building but not No 60. Nevertheless, there are a number of processes to identify non-designated heritage assets (NDHA) and they can be identified as part of the decision-making process on a planning application which the Council has done.
11. The appellant's Heritage Planning Design and Access Statement (HPDAS) indicates that the two buildings do not merit inclusion upon a local list or

NDHA, taking into account Historic England Guidance¹. The building at No 58 is in a state of considerable disrepair, with a boarded-up shopfront, and has not been occupied since 2007. It has been re-roofed in concrete tiles, original sash windows have been lost, and whilst originally constructed in brick, the building is now painted grey and contrasts strongly with further red bricked buildings in the area. A surveyor's structural report indicates that the building is beyond reasonable economic and economic repair. The rear of the site has a poor visual configuration with its incoherent mix of extensions, outbuilding and yard area, and the building at No 58 is common in terms of age and rarity within the area.

12. However, there remains historic interest given that No 58 existed in 1839 and that the adjoining shop was built at a date between 1897 and 1923. No 58 was occupied by a wheelwright, and subsequently converted to retail use, with possible retention of residential use above, during the 20th century. A 1910 photograph showing the shop specialising in bikes and named Holliday Bros. Comparing this photograph with the present day, the shop's timber frame, glazed form and fascia is largely unaltered. There is a dispute as to whether Holliday Street was given its name by the shop or the family who also owned land along the street. However, as the family owned the bike shop, there is a connection and association.
13. The buildings also have a group link with the neighbouring terraced dwelling at No 56 and beyond, due to the close-knit pattern of historic development here. No 58 has retained a modest cottage terraced appearance that is a feature of much of the terraced housing in the area. The existence of a shop at Nos 58 and 60 conforms to the historic pattern of developments along this part of the High Street where commercial uses are interspersed with residential development. Taking all these considerations into account, the buildings merit NDHA status, albeit with a small level of significance (and certainly not at a level meriting a designated heritage asset). For all of these reasons, the site contributes positively in a small way to the character and appearance of the Conservation Area.
14. The height of the new main building would not be significantly higher than the existing building at No 58 and its building footprint would not be significantly greater than that existing on the site's frontage. However, the development would extend across the full frontage of the site at two storey scale and stretch down the side of Holliday Street at three storey scale, due to the slope of the site to the rear. From the back, the main building would have a prominent three storey projection and due to the incorporation of a lower ground storey, the ground floor and first floor flank windows would appear at an unconventionally high level. As such, the development would appear significant in scale, mass and bulk, and overbearing.
15. Furthermore, the remaining brick infilled window panels would give rise to a rather bland and oppressive design features which add to the visual impression of an overlarge building in a location where there are simpler and smaller terraced cottage building forms. The chimney addition would be an aesthetic improvement but the addition of the canted windows to the main building's rear projection would result in an incoherent designed fenestration pattern.

¹ Conservation Principles & Guidance (2008) and Local Heritage Listing, Historic England Advice Note 7(2016).

16. The main building's frontage would not be much higher than the neighbouring terraced dwelling at No 56 and would have two front entrance doors giving the impression of two dwellings. Within the area, there are terraced dwellings with no roof divisions/stepbacks but the front façade would be directly aligned with the neighbouring dwelling, instead of forward, and there would also be steps leading up to the front entrances, with associated railings and lightwells. The use of railings and lightwells are not a predominant feature of this side of the High Street here. The use of stone window headers would also be inconsistent with the older traditional housing in the surrounding streets, which are simpler and less ornate, incorporating brick window headers. Consequently, the main building would have a grand frontage appearance out of keeping with the defining housing designs within the area.
17. The coach house would also appear cramped by reason of its two storey scale and proximity to the site's boundaries. Extensive areas of hard surfacing for vehicles between the main building and coach house, with little available areas for soft landscaping, would further result in a great sense of an overdeveloped site.
18. Appropriate gated entrance arrangements could limit views into the site, especially of the bin storage area within the main building's lower ground storey. The existing site is significantly developed and has a lawful motor bike sale, display and servicing use. However, the proposal would involve a far greater scale and extent of development for residential purposes and under paragraph 130, the National Planning Policy Framework (the Framework), developments should be visually attractive as a result of good architecture, layout, and appropriate and effective landscaping.
19. Within the Conservation Area, newer developments have exposed flank elevations of significant size, but the defining historic and architectural qualities of the Conservation Area relate to simpler, smaller-scale and better proportioned buildings. They demonstrate to me that the building form and design of the appeal development would negatively affect the significance of the designated heritage asset and would fail to preserve the character and appearance of the Conservation Area for all these reasons.
20. In accordance with the Framework, the type of harm identified above to the Conservation Area from the proposal would be less than substantial. It is necessary that this identified harm is weighed against the public benefits of the scheme.
21. There would be a boost to housing supply through the net addition of 6 residential units, which could be starter homes, commuter flats or downsize units. The Council does not have a 5 year housing land supply and although small in number, such dwellings would be beneficial to housing supply. Dacorum Core Strategy (DCS) 2013 Policy CS4 encourages residential uses within the town centre whilst DCS Policy CS18 identifies housing need. There would be employment and business benefits during the construction of the development and financial spend from new residents on services and facilities within the town. The development would make full use of the site and residents would have good access to sustainable transportation to access those services and facilities. There would also be the removal of a commercial use which has the potential to be unneighbourly. Such benefits would weigh in favour of the proposal.

22. However, the development would fail to preserve the character and appearance of the Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Considerable importance and weight are attached to the harm to the significance of the heritage asset. Accordingly, this harm would outweigh the scheme's benefits.
23. For all these reasons, the development would fail to preserve the character and appearance of the Conservation Area. By reason of its poor design, the benefits of the development would also fail to compensate for the loss of NDHAs' significance, even after considering the structural report for the building at No 58. Accordingly, the proposal would conflict with Policies CS12 and CS27 of the DCS.

Setting of the listed building

24. The Grade II listed Baptist church dates from 1864 and is constructed of yellow-grey stock brick with red brick banding and limestone ashlar for dressings and the spire. It stands as a well-composed and little altered example of the mid-19th century non-conformist architecture in the Gothic Revival style and occupies a plot on the High Street, between Ravens Lane and Holliday Street.
25. Visually, its scale and architecture, draws attention in its immediate vicinity along the High Street and wider context. As a place of worship, there are routes along surrounding roads, especially the High Street, that users walk along to get to the church. People would congregate outside the church, especially the main entrance on the High Street. As a result, there would be an extensive setting to the church due to its visual and functional qualities, which contributes to its significance.
26. The appellant's setting assessment² concludes the development's effect on setting of the listed building to be minimal. Streetscapes evolve and the hierarchical status of the church would remain given its height. However, the proposed frontage building would dominate the High Street and Holliday Street by reason of scale, size, siting and poor design. The overly dominate nature of the proposed main building would compete for attention with the church at two to three storey level and this would stand out markedly in views towards the church. As a result, the setting of the listed building and its special interest would be adversely affected.
27. In accordance with the Framework, the type of harm identified above to the Conservation Area from the proposal would be less than substantial. It is necessary that this identified harm is weighed against the public benefits of the scheme.
28. The development would result in economic, social and environmental benefits, as described, which would weigh in favour of the proposal. However, the proposal would adversely impact the setting of a listed building and its significance. Considerable importance and weight are attached to the

² Based on guidance, The Setting of Heritage Assets, Historic Environment Good Practice Advice in Planning: 3 (Second Edition), Historic England (2017).

desirability of preserving setting. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Accordingly, heritage asset harm would outweigh the scheme's benefits.

29. For all these reasons, the development would harm the setting of the listed building and the proposal would conflict with Policies CS12 and CS27 of the DCS and Policies 111 and 120 of the Dacorum Borough Local Plan 1991-2011 (LP) 2004.

Living conditions

30. Appendix 3 of the LP indicates that all residential development should provide private open space for use by occupiers. This is not a policy and both DCS Policies CS12 and CS29 do not detail the provision of outside space to serve new residents of housing. However, the Framework requires places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
31. With the appeal development, there would be no private outdoor space to serve the residents of the flats of the upper floor of the main building and coach house. However, such space should be provided to serve the personal recreational and domestic needs of the occupiers of the flats, such as a sitting out area or clothes drying area, in the interests of health and well-being. Residents would be able to access a canal and other nearby public open space but this is not the same as accessible and convenient private outdoor space at the place where they live. Accordingly, the failure to accommodate private outside space would result in harm to the living conditions of future residents of the flats.
32. Many housing schemes have been brought to my attention where limited or no private open space for residents have been provided. The exact nature of these schemes are not before me but every proposal has to be considered on its particular planning merits and inevitably, proposals for this type of development will differ from one another because of site context and scheme details. Many of these schemes will also no doubt involve differing and conflicting requirements, especially given heritage constraints, which give rise to particular planning balances and decisions. Consequently, they would not provide justification for the poor provision of private outdoor space here.
33. Amended plans show the deletion of windows in the side of the main proposed building. Consequently, there would be no loss of privacy to the residents of the neighbouring dwelling at 56 High Street. Nevertheless, the lack of outdoor space for the future occupants of the flats would be harmful in conflict with the national policy of the Framework and the guidance of the explanatory text of the DCS.

Highway design and safety

34. The provision of 6 car parking spaces would be acceptable given residents' accessibility to services and facilities, and the one-bedroom nature of the proposed accommodation. The car parking would consist of 3 spaces within

the undercroft of the coach house, 1 space under the podium deck of the main building and 2 spaces within an open courtyard. In between the undercroft parking and the open courtyard parking, there would be a turning area.

35. The Highway Authority has not raised any objections to the proposal. With the appeal, a vehicle tracking plan shows manoeuvring and turning areas. However, the tracking plan does not show reversing and turning for all of the spaces. For undercroft space 1, a building pillar obstructs the tracking whilst the end space 3, there is no tracking details shown. This later space would be approximately 4.7m away from the nearest of the two open courtyard spaces. Within the undercroft, the narrowness of spaces and pillars would constrain manoeuvring and turning. Vehicles in the two courtyard spaces would have to turn 180 degrees in order to exit the site in forward gear in a restricted depth of approximately 5 m.
36. As a result, the tightness of the parking layout would discourage drivers from turning within the site and would encourage them to reverse out onto Holliday Street. The consequential reversing out of vehicles across the pavement and carriageway into the road, would result in an unacceptable risk to the safety of highway users, especially pedestrians and cyclists. Accordingly, the proposal would conflict with Policy CS12 of the DCS.

Sustainable design and construction

37. Under DCS Policy CS29, new development must comply with the highest standards of sustainable design and construction, including certain related principles. DCS Policy CS30 seeks sustainability offsetting in accordance with prevailing regulation and planning policy to help reduce carbon emissions, which could include offsite planting and/or contributions to a Sustainability Offset Fund. DCS Policy CS31 seeks amongst other things, to minimise water runoff, use of green infrastructure, and the conservation and enhancement of biodiversity.
38. For DCS Policy CS29, those principles covering energy and water consumption are no longer applicable with the demise of the Code for Sustainable Homes and the new Building Regulations covering such issues. The SDCC addresses relevant principles covering sustainable construction and recycling, climate change, biodiversity measures and minimisation of impermeable surfaces, and the requirements of DCS Policies CS30 and CS31. Having assessed the SDCC, the Council has also now withdrawn its objection. Accordingly, acceptable sustainable design and construction would be achievable, and the proposal would comply with DCS Policies CS29, CS30 and CS31.

Planning Balance and Conclusion

39. The flats would result in economic, social and environmental benefits. A structural survey indicates that future development of the site necessitates demolition of this building at 58 High Street. However, the proposal would fail to preserve the character and appearance of the Conservation Area and would adversely affect the setting of a listed building. Although the policies of DCS have been argued to be inconsistent with the Framework, no detailed evidence has been submitted to demonstrate this. Additionally, there would be unacceptable impact on highway safety. Accordingly, there would be conflict with heritage, design and highway policies of the CS, and conflict with the development plan taken as a whole.

40. The conflict with the Framework policies for conserving and enhancing the historic environment provide a clear reason for refusing the development proposed. The development would not result in a good design as the living conditions of residents of upper floor flats would be poor due to the lack of private outdoor space. There are no material considerations of sufficient weight or importance that determine that the decision should be taken other than in accordance with the development plan and therefore, planning permission should be refused.
41. A Bat Preliminary Report June 2021 recommended two further bat dusk emergence surveys which were carried out and detailed in the Dusk Emergence Bat Surveys report September 2021. These further surveys indicated no evidence of bats using the buildings, but the Council has not commented upon these. Has there not been substantive reasons for dismissing the appeal, the Council would have been asked for comments on the further survey report findings.
42. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR