



Appeal Decision

Site visit made on 2 November 2022

by Nichola Robinson BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2022

Appeal Ref: APP/A1910/W/22/3298236

1 The Orchard, Kings Langley WD4 8JR

- 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 Ben Sterling (Kedgling Developments) against the decision of Dacorum Borough Council.
 - The application Ref 21/04401/FUL, dated 18 November 2021, was refused by notice dated 16 February 2022.
 - The development proposed is extension of existing dwelling to split into 4 dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's Decision Notice refers to Policy DM12 from the emerging Dacorum Local Plan (DLP). Paragraph 48 of the National Planning Policy Framework (the Framework) sets out that weight may be given to policies in emerging plans according to its stage of preparation and subject to the extent of unresolved objections and degree of consistency with the Framework. There is no substantive evidence before me which allows me to make this judgement. Therefore, I give this policy in the emerging development plan limited weight as a material consideration.
3. Whilst the effect on heritage assets did not form a reason for refusal, I note that the Council found that the proposal would result in limited harm to heritage assets. In any event, I have a statutory duty to address the issue. As the appellant has commented on this issue in their statement of case I do not consider that any party would be unfairly prejudiced by the consideration of this matter.

Main Issues

4. In light of the above the main issues are:
 - The effect of the proposal on the character and appearance of the surrounding area including the setting of the Kings Langley Conservation Area and Church House, a Grade II listed building; and
 - Whether the proposal would provide adequate living conditions for future occupiers with particular regard to external amenity space, internal living environment and outlook.

Reasons

Character and appearance

5. The appeal property is a detached bungalow which occupies a prominent corner plot on The Orchard, a cul-de-sac comprising mostly semi-detached and terraced two storey dwellings. To the side elevation the appeal property is enclosed by a 1.8 metre fence. A low wall and screen wraps around the front of the property, which the appellant describes as a temporary enclosure.
6. The appeal site is located in the central part of The Orchard where dwellings are set back from the highway with front gardens which are defined by low level boundary treatment. This, along with planting within front gardens, contributes to a green and spacious character and appearance within this part of The Orchard, to which the appeal property makes a positive contribution. Properties in the west of The Orchard are close-knit in nature, with front gardens bound by high level boundary treatment, many of which contain outbuildings to the front. This, along with the siting of garages and a car parking area to the front of these properties, contributes to a modest and compact character and appearance of the western part of The Orchard.
7. The site adjoins part of the Kings Langley Conservation Area (CA) and Church House, a grade II listed building, and is therefore located within their settings.
8. The proposal would result in the extension of the existing dwelling to form 4 dwellings. Amenity space for 2 of the units (dwellings C and D) would be located to the rear and amenity space for dwellings A and B would be to the front, in line with front gardens in this part of The Orchard. This would result in the subdivision of the original plot, compartmentalising the space into areas notably smaller than those found within the surrounding area, as evidenced on the submitted site location plan. This would be particularly apparent at the front of the property, where proposed levels of boundary treatment and the siting of private amenity space to the front would be at odds with the open character of the surrounding area. Furthermore, whilst boundary treatment could screen domestic paraphernalia, as a consequence of the site's prominent location on a corner plot, it would likely dominate the appeal site and surrounding area and would fail to integrate with the existing green and spacious streetscape character.
9. The entrance to 3 of the dwellings (dwellings B, C and D) would be located to the eastern side elevation of the property fronting the Orchard and the entrance to dwelling A would be located on the western side elevation. Parking for all 4 dwellings would be located to the front of the entrances to dwellings C and D with limited separation between parking spaces and the front doors. I am informed that the positioning of these entrances is a response to the feedback of previous inspectors¹, and that the appellant has considered design guides which encourage active frontages onto the highway. Whilst I have not been provided with copies of these design guides, the limited separation between the parking area and the entrances to dwellings C and D would appear cramped and contrived and would fail to integrate with the spacious character of the surrounding area.

¹ Appeal Decisions APP/A1910/W/18/3207843 and APP/A1910/W/19/3228640

10. The Council notes that the implementation of extant permissions and permitted development rights would result in a similar physical form. Whilst I have not been provided with the full details of these permissions, there is no dispute between the main parties that these could be implemented and that they would result in a similar, or greater, built form. Whilst I have limited information about whether there would be an intention to carry out the works approved by these permissions if this appeal were dismissed, there would seem a greater than just theoretical possibility that this alternative would take place.
11. Notwithstanding the above, the Council states that the existing permissions would not result in the subdivision of the site into 4 dwellings with associated boundary treatments and the associated effect on the character and appearance of the surrounding area. Based on the information before me, it would be unlikely that a single or 2 dwellings would subdivide the amenity space as is proposed. This proposal, with its separate front doors and amenity spaces demarked by boundary treatment, would be clearly identifiable as 4 dwellings, the layout of which would be at odds with the spacious character of the surrounding area. Therefore, if any of the alternative fallback schemes were implemented, they would be less harmful to the character and appearance of the area. I therefore give limited weight to these decisions
12. The appeal site adjoins the Kings Langley CA and Church House, a grade II listed building. I have therefore had special regard to section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that decision makers pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Further, Section 66(1) of the same act requires that, when considering planning proposals, decision makers should have special regard to the desirability of preserving listed buildings or their settings.
13. Church House is a converted former malt house that once formed part of Kings Langley brewery. It has a distinctive deep footprint that presents hard onto the corner of Church Lane and The Orchard. Its significance derives from its form which reflects its historic function and architectural quality. The appeal site forms part of the setting of Church House where the rear garden of 1 The Orchard contributes to the space around it. The CA comprises three sections, and the appeal site adjoins the part that contains the central High Street. Its significance appears to be in part in the way the mix of buildings and spaces reflect the evolution of the village from its medieval origins.
14. The proposal focusses the built form to the north of the site close to and on the footprint of the existing bungalow and would reduce the amount of boundary treatment to the eastern elevation and introduce an active frontage in place of boundary treatment. Nonetheless it would reduce the gap between the appeal property and Church House and the CA, thereby resulting in harm to the setting of these heritage assets due to the permanent closure of the gap between the appeal property and Church House. Whilst the appellant refers to the benefits of the removal of a garage, this garage is not shown on the submitted plans and was not evident on site at the time of my site visit. I am therefore unable to assess whether its removal affects the setting of the CA and Church House.
18. The Council notes that the implementation of extant permissions and permitted development rights would result in a similar physical form, which in turn would

have a similar impact on the setting of the CA and Church House. As set out earlier there is no dispute between the main parties that these could be implemented resulting in a similar, or greater, built form and that there would seem a greater than theoretical possibility that this alternative would take place. Consequently, I agree with the Council's assessment that the harm to these heritage assets would be less than substantial.

19. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal. There would be economic benefits during construction and the proposal would result in 3 additional dwellings, to which I attach moderate weight. Nevertheless, heritage assets are an irreplaceable resource. Overall, I do not consider that collectively the public benefits are sufficient to outweigh the great weight that I must attach to the less than substantial harm caused to the designated heritage assets. Conflict therefore arises with the historic environment protection policies in the Framework.
20. Consequently, the proposals significantly depart from the otherwise more spacious plots that surround dwellings within this part of The Orchard, resulting in harm to the character and appearance of the surrounding area. Furthermore, the proximity of the proposal to the CA and Church House would result in harm to the setting of these heritage assets. Accordingly, the proposal would be contrary to those aims of Policies CS11 and CS12 of the Dacorum Borough Council Core Strategy 2006-2031 (2013) (CS) which, amongst other matters, seek developments that integrate with the character of the area. Furthermore, it would conflict with Saved Appendix 3 of the Dacorum Borough Local Plan 1991- 2011 (2004) (LP) which gives more detailed guidance in relation to the layout and design of residential areas in order that the character of the surrounding area is respected. I also find conflict with the National Planning Policy Framework (the Framework) which requires that great weight should be given to the conservation of heritage assets and that developments should be sympathetic to the surrounding built environment.

Living conditions

21. Dwellings A and B would be provided with gardens of approximately 9 metres in depth to the front. Saved Appendix 3 of the LP advises that private gardens should normally be positioned to the rear of the dwelling and have an average minimum depth of 11.5 metres. LP Appendix 3 goes on to state that a reduced garden depth may be acceptable in certain circumstances for example for small starter homes. Whilst the proposed dwellings are not described as starter homes, I find that the garden depth would be adequate to serve the needs of the occupiers of these small dwellings in terms of being able to sit out and hang out washing etc. Whilst full details of the proposed boundary treatment have not been provided, the appellant confirms that this would comprise a 2 metre fence and a hedge. Despite the amenity space being located to the front of the properties, the fence would provide appropriate levels of privacy for future occupiers. Nonetheless, as set out in relation to the first main issue, such an enclosure would result in harm to the character and appearance of the surrounding area.
22. The private rear gardens for dwellings C and D would fall significantly below the minimum garden depth set down in LP Appendix 3. Moreover, whilst there would be no overlooking from neighbouring properties, the gardens for these

dwelling would be overshadowed by existing boundary treatment and Church House. Therefore, they would not be a pleasant space for the occupiers to spend time in. It may well be the case that this proposal makes provision for more amenity space than previous permissions, nonetheless it would fail to make provision for appropriate levels of open space for future residents of dwellings C and D as set down in LP Appendix 3.

23. Green Park may serve to meet some recreational needs of future occupants of the proposed dwellings. However, I observed at my site visit that this is some distance from the appeal site and consequentially it would not compensate for a lack of private amenity space.
24. The window in the side elevation of dwelling A would have restricted outlook due to the limited separation with the site boundary and neighbouring dwelling. However, as the affected window serves a snug, through which the dwelling would also be accessed, future occupiers would be unlikely to spend much time in this room and the restricted outlook would not compromise the living conditions of future occupants. The ground floor window in the western side elevation of dwelling C would have restricted outlook given the proximity to the site boundary. However, this open plan room would also be served by a window within the eastern side elevation providing an additional light source. The bedroom window to dwelling C would face the garden to 3 The Orchard. Consequently, this window would experience an acceptable outlook.
25. The appellant states that the double bedrooms would be usable and would meet the aspirations of those buying properties. However, the bedrooms to dwellings C and D would be approximately 1.5m² and 1.8m² below the minimum floor space for a double bedroom set down in the Government's *Technical housing standards – nationally described space standard* (National Standards). Additionally, rooms labelled 'Office/Bed 2' on the proposed floor plans for all dwellings would fall well below the minimum floor space standards for a single bedroom.
26. Footnote 49 of the Framework advises that policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified. It is up to each local authority to make the case for applying the standard through their local plan. The Council set out that the proposal would not meet the requirements of Policy DM12 of the emerging DLP. However, this policy refers to minimum gross internal areas for dwellings and does not specify minimum internal areas for individual rooms. Furthermore, in view of my comments above regarding the weight to be afforded to this policy, I can only give this policy consideration limited weight. The Council has not referred to any other specific requirements or standards for internal floor space requirements set down in existing policies.
27. Nonetheless, the National Standards are useful as a guide to consider whether the proposed bedrooms would provide sufficient internal space together with my own judgement based on the evidence before me. On the basis of the proposed plans, in my view, the proposed bedrooms would be extremely cramped and would fail to provide adequate space for a bed, wardrobe and circulation space. Consequently, the internal living space provided is not sufficient to meet the needs of its occupants and would be significantly harmful to their living conditions. Therefore, the proposal would fail provide acceptable room sizes in this particular case.

28. Whilst I have found that the proposal would provide adequate amenity space for the occupiers of dwellings A and B, for the foregoing reasons the proposal would fail to provide satisfactory amenity space provision for the occupiers of dwellings C and D and a satisfactory internal living environment for the occupiers of all dwellings, contrary to those aims of Saved Appendix 3 of the LP that seek, amongst other matters, to ensure that development provides appropriate open space. I also find conflict with paragraph 130 of the Framework which requires that places are designed with a high standard of amenity for future users. Whilst referred to by the Council I do not find conflict with CS Policies CS11 and CS12 in relation to this main issue. These policies focus on quality of neighbourhood and site design and do not make specific reference to standards of amenity for future occupiers. Therefore, the content of these policies is largely irrelevant to the specific harm I have identified.

Other Matters

29. My attention has been drawn to other planning permissions within the district for new dwellings. On the basis of the limited information before me and my observations on site I find that these proposals do not appear directly comparable in terms of the site characteristics and development type, and they do not provide a justification for the proposal, which in any case must be considered on its individual merits. Furthermore, even if developments elsewhere did not provide adequate external amenity or internal living spaces, this does not provide a justification for further development that would provide inadequate amenity space provision for future occupiers.
30. I note that this proposal follows previous proposals which have been dismissed at appeal². I am informed that the proposal has been reduced in scale and the separation with Church House has been increased. However, ultimately the Council did not refuse the application on the effect the living conditions of neighbouring residents.
31. The proposal is likely to be able to meet with the relevant local and national policies in terms of parking, access and highway safety. However, the absence of harm in this regard does not weigh in favour of the proposal, as it would be required in any event.
32. The appellant's aspiration to employ local builders is noted. However, there is neither a mechanism before me in that respect, nor ability for me to impose a condition to that effect.
33. I note that the appellant is unsatisfied with the Council's handling of the application and consistency with other decisions. However, this is not a matter for consideration in this appeal which focusses on the planning merits of the proposal.

Planning Balance

34. The Council has confirmed that it is not able to demonstrate a five-year supply of deliverable housing sites. As the proposal involves the provision of housing, Footnote 8 of the Framework indicates the most important policies for determining the appeal are deemed to be out of date and paragraph 11. d) ii. of the Framework is engaged.

² Appeal Decisions APP/A1910/W/18/3207843 and APP/A1910/W/19/3228640

35. I have found that the proposal would result in harm to the character of the area, the setting of heritage assets and would fail to provide adequate living conditions for future occupiers. Therefore, the proposal conflicts with those aims of CS Policies CS11 and CS12 and Saved Appendix 3 of the LP.
36. When judged against some of the core planning principles the proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest and would meet a need for smaller dwellings. However, good design, including consideration of the effects on the character and appearance of the area and living conditions of future occupiers, is also a key aspect of sustainable development. Consequently, the proposal would conflict with the development plan when taken as a whole. Given the consistency between the policies with which a conflict has been identified and the Framework I give substantial weight to this conflict.
37. I acknowledge that the net additional 3 dwellings would make a small contribution towards the borough's housing supply. The Framework's objective is to significantly boost the supply of homes and to make an effective use of land. This factor weighs in favour of the scheme. Given the shortfall in the Council's five-year housing land supply, I attach moderate weight to the development's positive contribution to the social and economic objectives of the Framework. There would also be short-term economic benefits associated with construction and council tax revenues in the longer term.
38. The proposal would result in significant harm to the character and appearance of the area and would fail to provide adequate living conditions for future occupiers. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework. Consequently, the decision should be taken in accordance with the development plan with which I have identified conflict.

Conclusion

39. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations, the appeal is dismissed.

Nichola Robinson

INSPECTOR