



Appeal Decision

Site visit made on 17 January 2023

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2023

Appeal Ref: APP/J1915/W/22/3293739

Land between 8 and 10 Fanshaws Lane, Brickendon SG13 8PF

- 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 Mr Martin Jensen (Heydon Properties Ltd) against the decision of East Hertfordshire District Council.
 - The application Ref 3/21/1575/FUL, dated 2 June 2021, was refused by notice dated 29 October 2021.
 - The development proposed is described on the planning application form as 'Provision of new one bedroom "Share to Buy" or rental starter home.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within the Green Belt. The Council has concluded that it would not be inappropriate development within the terms of Framework Paragraph 149. I have no reason to disagree and I have considered this appeal on that basis.
3. Various planning applications have been submitted in relation to proposed development on the appeal site. Those highlighted in the Council's officer report¹ were either previously refused or withdrawn. Of particular relevance is an appeal dismissed under PINS reference APP/J1915/W/17/3177382 (the Previous Appeal) in November 2017. The conclusions reached by the Inspector in dismissing that appeal are a material consideration in considering this current appeal. Notwithstanding this and the other decisions previously made by the Council, I have determined this appeal on its own merits, with regard to the case-specific circumstances.

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the area, including its effect on protected trees and the nearby Brickendon Conservation Area.

Reasons

5. Since the Previous Appeal, the appellant has revised the design of the proposed dwelling. The building would be smaller than previously proposed, with a single storey appearance. There is also less fenestration proposed on the west

¹ Council references: 3/19/1730/FUL, 3/16/2662/FUL, 3/16/0776/FUL, 3/15/2014/FUL

elevation and the entrance would be provided to the south. The depth of the proposed dwelling has also been reduced.

6. Despite these revisions, the primary concerns which the Inspector raised in the Previous Appeal have not been overcome. Whilst I note that there is some variation in the layout, design and orientation of neighbouring dwellings, those in close proximity to the appeal site (particularly to the south) have relatively uniform layouts with wide frontages. Despite revisions to the design (notably the scale) of the proposed dwelling, its width would be particularly narrow in comparison to the neighbouring dwellings to the south. Indeed, it is the relationship with these neighbouring properties which is the most important, given that the proposal would be viewed in conjunction with them within the street scene.
7. As a result, the proposal would appear as an awkward and cramped feature within the street scene which would be discordant with the prevailing character of the immediately surrounding area. This harm would be further exacerbated by the lack of fenestration or detailing on the front facing elevation. The proposed set back and low ridge height would not sufficiently mitigate this harm, as the dwelling would still be clearly visible from Fanshaws Lane.
8. Part of the Brickendon Conservation Area (CA) is located opposite the appeal site. Under section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to pay special attention to the desirability of preserving or enhancing the character and appearance of the CA. Whilst outside of the CA, the appeal site is located within its setting given its close physical relationship with the CA. The CA primarily derives its significance from the proliferation of historic architecture and its verdant rural setting.
9. The appeal site makes a minor contribution to the verdant and rural setting of the CA. Nonetheless, given the visual harm which would occur as a result of the proposal there would be less than substantial harm² to the heritage asset. This is because the cramped and awkward appearance of the dwelling would be experienced in conjunction with views out of, into and towards the CA.
10. There are also several trees on the appeal site which are protected by a tree preservation order. Indeed, the previous appeal decision discussed the impact of the previous proposal on these trees and noted the absence of an arboricultural survey and assessment. The evidence before me indicates that two trees which were located towards the front of the appeal site have since been removed.
11. The appellant submitted a Tree Survey Report and Arboricultural Impact Assessment (AIA) with the planning application. The AIA outlines that the proposed dwelling would be located within the root protection area of a Hornbeam (T2, Category B). This tree and the others on the site all contribute positively to the verdant character of the area. In this sense T2 is valuable and this is accepted by the appellant in their evidence³.
12. The AIA makes clear that in order to prevent risk of impact to T2 from excavation for building foundations, suitable piling foundations should be designed and implemented within the RPA of this tree. The AIA suggests that suitable ground investigations (use of hand digging or airspade) should be

² Within the context of Framework Paragraph 202

³ Para 5.40 Appellant Statement of Case

undertaken to prevent impact and to determine an exact location for the piles that avoids any larger structural roots.

13. The provision of an Arboricultural Method Statement is necessary in advance of any grant of planning permission given the importance of this tree. The details provided within the AIA are not sufficiently precise to afford certainty that adverse effects on T2 could be avoided or mitigated appropriately. Without this information it is not possible to determine whether any additional harm would arise to the character and appearance of the area.
14. Nonetheless, even assuming that there would be no additional harm in this regard (which is a best-case scenario for the appellant), the harm caused by the cramped and awkward layout and design of the development would still result in an adverse impact on the character of the area and would lead to less than substantial harm to the nearby Brickendon Conservation Area.
15. Framework paragraph 202 requires that less than substantial harm to a heritage asset should be weighed against the public benefits of the proposal. There would be some public social and economic benefits resulting from the increase in the housing stock. However, these would be of limited weight given that only one dwelling is proposed. Indeed, they would not outweigh the less than substantial harm to the heritage asset, to which I afford great weight.
16. For these reasons the proposed development would be harmful to the character and appearance of the area and the setting of the CA. As such, it would conflict with District Plan⁴ Policies VIL1 and DES4 which collectively seek to ensure that development respects local character. There would also be a conflict with District Plan Policies HA1 and HA4 which collectively seek to ensure that the heritage assets are preserved, including where development is outside of but within the setting of Conservation Areas.
17. There would also be a conflict with District Plan Policy DES3 which in part requires that development proposals demonstrate how they will retain, protect and enhance existing landscape features which are of amenity value.
18. The proposal also conflicts with Framework Paragraph 130 which requires that developments are sympathetic to local character.

Conclusion

19. The proposed development would conflict with the development plan. None of the material considerations raised would outweigh this conflict. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR

⁴ East Herts District Plan (October 2018)