



Appeal Decision

Hearing held on 22 November 2022

Site visit made on 23 November 2022

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2023

Appeal Ref: APP/A1910/W/22/3300850

Dale End, 1 Box Lane, Feldon, Hemel Hempstead, Hertfordshire, HP3 0DH

- 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 Visao Limited against Dacorum Borough Council.
 - The application Ref 21/04756/FUL, is dated 20 December 2021.
 - The development proposed is described as "Demolition of existing dwelling. Construction of 9 apartments with associated outbuildings, parking, landscaping and access."
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Decision

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

Applications for costs

2. An application for costs was made by Visao Limited against Dacorum Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The appeal was submitted by the appellants as the Council did not determine the application within the prescribed period. The Council have indicated that, had they determined the application, they would have refused permission on the grounds of harm to the significance of heritage assets, harm to the character and appearance of the area, harm to neighbour living conditions, the failure to provide a pedestrian link across the neighbouring Boxmoor Lodge site and the effect on the Chilterns Beechwoods Special Area of Conservation (the SAC).
4. The Council's mitigation strategy for development affecting the SAC was developed with Natural England and approved by its Cabinet in November 2022. The appellant has submitted a unilateral undertaking addressing the SAC. I shall address this further below.
5. An earlier appeal on this site, ref APP/A1910/W/21/3284399, was initially linked with this appeal and due to be heard at the same Hearing. The appellants withdrew that appeal before the Hearing.

Main Issues

6. The main issues are therefore:

- The effect on the significance of the Grade II listed buildings Boxmoor Lodge and the former Swan Inn public house,
- The effect on the character and appearance of the area,
- The effect on the living conditions of neighbouring occupiers, with regard to outlook and privacy; and,
- Whether the development would include suitable provision for sustainable transport measures.

Reasons

Heritage assets

7. There are two Grade II listed buildings to the north of the site, Boxmoor Lodge and the former Swan Inn public house. In determining this appeal I have given special regard to the desirability of preserving these buildings, their setting and any features of special architectural or historic interest which they possess.
8. Boxmoor Lodge dates from the 17th century, although subsequently substantially modified including a side wing added in the 19th century. It is finished in whitewashed brick in a nogging frame. The significance of Boxmoor Lodge derives from its historic character, its association with Boxmoor House and associated land, and its association with London Road, with historic gates onto London Road close to the listed building, although access to the site is now taken from Felden Lane.
9. The former Swan Inn dates from the 18th century and is finished in painted brick and stucco. Its principal elevations face onto and along London Road, towards Hemel Hempstead railway station. Its significance derives principally from its historic character and association with the surrounding roads, mainly London Road.
10. I consider that both listed buildings also derive some significance from their association with the land to their south, which includes the appeal site. Historic records show that part of the appeal site was formerly associated with the Swan Inn, and otherwise formed part of the ground of Boxmoor House. The historic maps provided with the appellants' Heritage Statement indicate an access taken from London Road past the lodge house and onto Boxmoor House that would have crossed through land that is now part of the appeal site.
11. By the middle of the 20th century the land along Box Lane was being developed for housing, including the erection of 1 Box Lane. This change in the use and character of the land diminished the relationship between the land and the listed buildings, but the appeal site still lies within the setting of both properties. The historic maps show that the land was previously largely open with extensive tree planting indicated. That extensive tree planting remains a characteristic of Box Lane, including on and around the appeal site with tall trees present along the boundary between the site and the listed buildings. The introduction of residential development along Box Lane has resulted in a change in its character, not least from the division of the open land into individual plots. However, the relatively low density of development and

retained and renewed tree planting throughout the area means that the setting continues to contribute to the significance of the listed buildings albeit to a lesser degree. The appeal site is the closest land to the listed buildings and contains a single, relatively small house with the remainder of the site predominantly given over to soft landscaping. It makes a positive contribution to their setting.

12. The proposed development would be a substantially larger building than the existing single dwellinghouse as it would be taller, wider, and deeper with an attendant greater presence. As such, it would be prominent within the settings of these listed buildings, especially Boxmoor Lodge as it would be close to the shared boundary between the two sites. The appeal proposal, comprising the larger building and introduction of substantial hard landscaping to the site frontage, would result in a significantly more developed site that would further erode the contribution that the appeal site makes to the setting of the listed buildings. This would result in harm to their significance.
13. The appeal site, and the land along Box Lane generally, makes a limited contribution to the significance of the listed buildings. The extent of setback from Box Lane would result in limited intervisibility between the former Swan Inn and the appeal proposal. The extent of intervening development on the Boxmoor Lodge site, whether existing or approved, is significant, and Boxmoor Lodge itself is located at the far end of the site from the shared boundary. The existing landscaping on the appeal site together with the mature trees on the Swan Inn site in particular would provide some screening between the appeal site and listed buildings. As noted above, the appeal site only comprises a part of the former Boxmoor House land, and there is no longer any functional link with either listed building.
14. Having regard to all these factors, the harm arising to the significance of the listed buildings would be less than substantial.
15. The National Planning Policy Framework (the Framework) requires that less than substantial harm is weighed against the public benefits of a proposal. The proposed development would deliver 8 new dwellings, helping to address the Council's shortfall and supporting the Government's objective of boosting the supply of homes. This factor attracts additional weight given the considerable shortfall of just 2.8 years housing land supply. The appeal site is in a sustainable location in an existing settlement within walking distance of services and facilities and with access to public transport, so residents would not be reliant on private cars. The site is quite small and comprises previously developed land, with the appeal proposal capable of being built out relatively quickly. There would be economic benefits from ongoing support for local shops and services from the occupiers of the new dwellings. The development would provide an improved boundary treatment at the junction with the wall for the former Swan Inn. The cumulative weight that these benefits attract is substantial.
16. However, the Framework states that great weight should be given to the conservation of designated heritage assets, even where potential harm amounts to less than substantial harm to their significance. The heritage harm arising would, in this instance, outweigh the public benefits of the proposed development.

17. The appeal proposal would therefore conflict with Policy CS27 of the Dacorum Core Strategy (the CS) and Policy 119 of the Dacorum Local Plan (the LP). These policies, when taken together, set out a general presumption in favour of the preservation of listed buildings, including their setting.

Character and appearance

18. Box Lane comprises primarily detached houses on generous plots amidst extensive mature trees both in the street and within individual sites. These trees contribute significantly to the character of the area due to their prominence in the street scene. Buildings within Box Lane are of varying size and styles, although generally they are set back from the street frontage, contributing to the spaciousness of the area. Individual dwellings sit comfortably within their plot and, while more recent developments are typically denser, they have generally maintained a reasonable degree of separation relative to their scale.
19. During the Hearing and in written submissions both parties referred at length to the Council's Landscape Character Appraisal for Felden West (the Appraisal). This dates from May 2004. The Appraisal identifies a typical density of fewer than 10 dwellings per hectare within Felden West and seeks a minimum spacing of 5 metres between dwellings in new development and that the height of such should not normally exceed two storeys. However, since 2004 substantial development has been carried out in the Felden West area, including the construction of houses on Laurel Bank to the rear of the appeal site, and the development of The Conifers on the opposite side of Box Lane. These developments were carried out with spacing between the dwellings significantly below the 5 metres recommended in the Appraisal. In addition, the recent approval of 2.5 storey developments on the neighbouring Boxmoor Lodge site and the nearby site at 7 Box Lane exceed what is sought in the Appraisal. These developments, together with other sites on Box Lane and the surrounding area, lead me to give limited weight to the Appraisal's assessment of the character of the area in determining this appeal.
20. I am nevertheless mindful that the recently approved developments on the Boxmoor Lodge and 7 Box Lane sites involved substantially different starting situations to the present appeal site. The Boxmoor Lodge development would involve the removal of several chalet bungalows and an unsympathetic extension to the listed building, together with the introduction of soft landscaping to the site. If built out, it would therefore deliver heritage benefits. The site at 7 Box Lane is wider, if shallower, than the appeal site. The bungalow that previously occupied this site stood directly on the front boundary, with its roof overhanging the boundary. It was therefore substantially more prominent in the street scene than the existing house at No 1. These factors influenced the layout and size of the approved development on that site. While these permissions are material considerations in the determination of this appeal given their proximity and recency, the differences are significant and limit the weight I can attribute to them.
21. In any case, I must determine this appeal principally on its own merits. The proposed building would be substantially larger than the existing house on the appeal site. From Box Lane, the proposed building would be set back within the plot. The front elevation of the building would be staggered, and there would be some variance to the ridgeline, but it would still be a taller and much wider

building, occupying almost the full width of the plot. With the site entrance centred on the Box Lane frontage the building would be significantly more prominent in the street scene, even allowing for the setback, as the existing site entrance and building are offset from one another. The established planting to the front of Nos 1 and 5 would provide some screening, but the size of the building would be such that it would be a dominant feature along this part of Box Lane.

22. I saw during the site visit that there are other developments of flats and large buildings present within Box Lane, including the imposing Roman Fields school building which is built up to the site frontage. These contribute to the overall mixed character of the street and area. The spaciousness identified in the Appraisal is no longer the predominant characteristic of the area around the appeal site, but it remains an element of the overall mixed character.
23. However, each of the larger developments that I saw included substantial space around the buildings. 7 Box Lane is the closest such development and retains a substantial gap to the shared boundary with No 5, as well as to the other side boundary. The main Roman Fields building has accesses to either side of the main building, although there are subordinate buildings to either side of those accesses as well. However, that is an older building rather than a recent development and as a non-residential use it is not representative of the predominantly residential area.
24. The front of the site between the building and front boundary wall would feature new planting, which would somewhat soften the appearance of the building over time as it matures. However, it would also include parking for 16 cars, including 2 car ports, where much of the existing frontage is laid to soft landscaping. While the footprint of the building would only be around 20% of its area, the appeal proposal overall would therefore result in a substantially more developed site.
25. My attention was drawn by the appellants to the extent of hardstanding to the front of the former Swan Inn. However, that is a commercial property and the hardstanding faces onto London Road, rather than Box Lane. The street scenes are significantly different in character, and the proposed expanse of hard landscaping to the front of the proposed building would not be in keeping with the character of Box Lane. This hardstanding therefore carries little weight in my determination of this appeal.
26. I am also mindful of the largely uninterrupted wall that runs along the pavement edge from 6 Box Lane to beyond the junction with Beechwood Park, with a close-boarded fence along much of this length. This forms a continuous frontage to the pavement edge. However, a boundary wall is different in nature to a residential building of the scale proposed. Although built off the pavement edge, it is a lower structure and in my experience boundary treatments are not seen as prominent features within the street scene, especially given the presence of trees and houses visible over the top of the wall. In any case, this wall is some distance from the appeal site and on the opposite side of Box Lane.
27. While the extent of spaciousness in the area has been reduced by developments in recent years, the proposed development would be a wide building relative to its plot, built to within 1 metre of either boundary at ground floor level, albeit further set in at the upper floors. As seen from Box Lane, the

building would overlap with the house on plot 4 of the Boxmoor Lodge site if that development is built out, due to the tapering of the site. This would further reduce any sense of space between the two developments. Consequently, the proposed building would not sit comfortably within its plot because of its height, width and depth.

28. I recognise that individual houses have been built in the area with similar spacing to their side boundaries, for example on Laurel Bank. However, each is a significantly smaller building individually than the appeal proposal and sit more comfortably in their plots than the proposed development would. The combination of its height and width, the lack of separation from the boundaries and the expanse of parking to the front of the building would result in a development that would be a dominant presence on the site and in the immediate Box Lane street scene, even allowing for the staggered frontage and varied roofline.
29. The increased depth of the building would be particularly apparent when seen from the sides due to the greatly increased depth of the building. The lack of tall planting to the Boxmoor Lodge boundary would mean that much of the building would be in plain view from that site, and in longer views from London Road. It would form a backdrop to the approved development of houses on that site. From this viewpoint the closest part of the proposed building would be centred at the end of the turning area between plots 4 and 5 on the Boxmoor Lodge site. The articulation, stepped footprint and varied roofline designed to reduce the overall mass of the building would be less apparent in this aspect, so the internal road for the Boxmoor Lodge development would be terminated by a substantial brick wall of 2.5 storeys height. This would be harmful to the character of the area due to its height and proximity to the boundary, which would prevent any landscaping from providing significant screening to this aspect.
30. From the south the proposed building would be relatively well screened by the mature trees within the grounds of No 5 Box Lane. The projection forward of No 5 would be set well off the boundary and staggered so that it would not dominate this aspect from the neighbouring properties to this side.
31. From the east the building would be seen as taller and wider than that which it would replace. However, these views would principally be from the back gardens of houses on Laurel Bank and seen through the landscaping to the rear of the site and on the neighbouring sites at Boxmoor Lodge and 5 Box Lane, which would soften the visual impact of the development. Given this, and the separation distance between the rear of the building and the rear site boundary, the building would not be seen as overly dominant or harmful from this aspect.
32. The proposed development would involve replacing the existing front boundary wall, which is set against the highway edge. The new wall would be set back from the front of the plot to accommodate visibility splays for vehicles exiting the site onto Box Lane. This would disrupt what is at present a consistent boundary formed by the walls to The Swan and Nos 1 and 5 Box Lane. However, the setback is relatively modest, and the wall would be built to 2 metres in height. Subject to an appropriate design, which could be secured by an appropriately worded condition if I were otherwise minded to allow the

appeal, this element of the development would not result in harm to the character and appearance of the area.

33. Nevertheless, overall the appeal proposal would result in harm to the character and appearance of the area due to its size, cramped appearance and the extent of hardstanding to the front of the site. It would therefore conflict with Policies CS11 and CS12 of the CS. These policies require, amongst other criteria, that development should respect the typical density intended in an area, preserve attractive streetscapes and integrate with the streetscape character.
34. The Council's reasons for refusal in relation to this issue referred to Policies CS27 of the CS and 119 of the LP. These relate to the historic environment and listed buildings, and I have addressed them in relation to the first main issue.

Living conditions

35. The house approved on Plot 4 of the Boxmoor Lodge development would face along the shared boundary with the appeal site and would be the closest of the houses on that site to the proposed building. The proposed building would be visible in outlook from Plot 4, in particular from the bedroom closest to the boundary. However, it would be a peripheral presence and angled away from Plot 4. Notwithstanding its height and depth, it would not be unduly overbearing to occupiers of that property.
36. The first and second floor apartments at the front of the building would each have a balcony on the front elevation of the building. The balconies to apartments 7 and 9 would wrap around to the side elevation. These would provide areas for residents to spend extended periods of time, and would provide outlook towards the neighbouring properties, in particular No 5 Box Lane, and the approved houses to Plots 4 and 5 of the Boxmoor Lodge development. While development on the Boxmoor Lodge site had not begun at the time of the hearing, I was not advised of any reason to doubt that the permission will be implemented as approved.
37. The outlook towards Plot 5 would be constrained by the double garage set to the rear of the house, and the mature trees along the common boundary between the sites. Similarly, the mature trees to the front of No 5 Box Lane would prevent harmful overlooking of the front garden to that property which, in any case, is directly overlooked by windows in the facing elevation of the new development at 7 Box Lane. While I recognise that there is no guarantee of these trees remaining in place indefinitely, there is no indication that they are likely to be removed. I consider that their value both to the character of the area and in preserving privacy between properties makes their retention likely. Even allowing for the greater height at second floor level, I am therefore satisfied that the balconies would not cause an unacceptable loss of privacy to the occupiers of these properties.
38. Apartment 5 to the rear of the property would also have a first-floor balcony. This would provide overlooking to the rear of the house on Plot 4, and there are no substantial trees in this area to provide screening. The appellants have suggested that the use of a screen to the balcony would protect the privacy of the neighbouring occupiers. If I were otherwise minded to allow this appeal, I am satisfied that an appropriately-worded condition could have secured an acceptable screen to prevent overlooking to the immediate rear of that house,

where occupiers could reasonably expect to enjoy the greatest privacy in their back garden.

39. The windows to bedroom 1 of apartments 4 and 8 would face onto Plot 4, and into its rear garden. However, there would be significant separation and any overlooking would be towards the far end of the garden, which would in any case be overlooked by other surrounding properties. This relationship would not therefore result in unacceptable harm to the living conditions of the occupiers of Plot 4.
40. The window to bedroom 3 of apartment 6 would face onto the flank wall of No 5 Box Lane at around 6 metres' separation. This would limit outlook from that window, but as the window would be to the first floor and allow outlook to the front and rear of No 5, this would not result in unacceptable harm to the living conditions of future occupiers. As the overlooking of the rear garden of No 5 from this window would be oblique, it would not cause unacceptable harm to the living conditions of the occupiers of that property.
41. Overall, therefore, the appeal proposal would not result in unacceptable harm to the living conditions of neighbouring occupiers. It would accord with the relevant criterion of Policy CS12 of the CS, which states that development should avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties.

Sustainable transport

42. The Council sought the creation of a pedestrian link across the neighbouring Boxmoor Lodge site. This link would provide a more direct route to Hemel Hempstead railway station, encouraging walking in line with the transport hierarchy set out in Policy CS8 of the CS.
43. However, formation of the route would involve land outside of the appellants' ownership. The appellant and neighbouring land owner appear to have agreed in principle to the creation of the necessary access on the shared boundary. However, this was not secured as part of the approved development on the neighbouring site.
44. As the access is not necessary to make the development viable, it would not be reasonable to seek to secure it via a suitably worded condition.
45. While the proposed pedestrian access would improve the development in terms of sustainable transport, its absence does not make it unsustainable. It is common ground between the main parties that the appeal site is in a sustainable location. It is close to the railway station, as well as within walking distance of the town centre. There are bus stops on London Road. Accordingly, there is no conflict with Policy CS8 of the CS, nor with Policy 10 of the LP which seeks to secure the optimal use of urban land, including through co-ordination of development opportunities in the same immediate area.

Other Matters

46. A unilateral undertaking was submitted by the appellant addressing the SAC, following adoption of the Council's mitigation strategy. Had I otherwise been minded to allow the appeal, it would have been necessary to determine whether the agreement would secure the necessary contributions to mitigate

the impact. However, as I am dismissing on other substantive grounds I do not need to consider this matter further.

47. Residents have objected to the proposed development on grounds of insufficient parking. However, the Council accept that the level of parking to be provided would accord with their parking standards, and I see no reason to disagree.
48. Concerns have also been raised about the volume of additional traffic that would result from the appeal proposal. However, the site is in a sustainable location within walking distance of the town centre and Hemel Hempstead railway station. While there would inevitably be an increase in traffic given the additional dwellings, the scale of development is such that it would not cause an unacceptable impact on highway safety, nor would the impact on the road network be severe even allowing for the cumulative impact of the additional traffic from the nearby development at 7 Box Lane.
49. The proposed development would feature three floors of accommodation and project closer to the rear site boundary than the existing house. It would nevertheless be a significant distance from the shared boundary with properties on Laurel Bank. Given this distance, there would be no unacceptable harm to the living conditions of occupiers of properties on that road.
50. If I had been minded to allow the appeal, an appropriately worded condition could have ensured that the development would not cause harm to biodiversity at the appeal site.

Planning Balance

51. There is no dispute that the Council has a shortfall in its supply of deliverable housing land. Accordingly, paragraph 11d) of the Framework states that permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed.
52. I have found that the appeal proposal would result in less than substantial harm to the significance of listed buildings. This harm would not be outweighed by the public benefits of the development. The application of policies in the Framework that seek to conserve and enhance the historic environment therefore provide a clear reason for refusal.
53. In addition, the appeal proposal would cause harm to the character and appearance of the area. This adds further weight against granting planning permission in this case.

Conclusion

54. The proposed development would conflict with the development plan. There are no material considerations in this case, including the Framework, to lead me to determine this appeal otherwise than in accordance with the development plan. Therefore, for the reasons set out above, the appeal fails.

M Chalk

INSPECTOR

Appearances

For the appellant

James Corbet Burcher	Counsel
Innes Grey	Visao Limited
Laurie Handcock	Iceni Projects
Ben Howard	I-Transport

For the Council

Andy Parrish	Planning Officer
Neil Robertson	Conservation Officer
Ronan Leydon	Team Leader – Strategic Planning Team

Interested Parties

Peter Willson	Resident
Max Bemrose	Resident
Councillor Stewart Riddick	Ward Councillor
Andrew Rickett	Owner, Boxmoor Lodge Hotel