
Appeal Decision

Site visit made on 7 February 2023

by Stephen Wilkinson BA BPI DIP LA MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th February 2023

Appeal Ref: APP/A1910/W/22/3300029
55 High Street, Markyate, AL3 8PJ

- 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 Mr A Salamone against Dacorum Borough Council.
 - The application Ref:20/00233/FUL, is dated 25 January 2022.
 - The development proposed is proposed erection of a detached dwelling following demolition of a garage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal was lodged on 29 May 2022 against the non determination of the application. Although the Council's statement refers to its decision being made on the 8 June 2022 this post dated the decision to lodge the appeal. I have therefore determined the appeal in respect of its non determination.
3. The Council's putative reasons for refusal relate to the effect of the proposed scheme on the character and appearance of the area with particular regard to the Markyate Conservation Area, the amount of parking and the requirement for a contribution towards the Chiltern Beechwoods Special Area of Conservation.

Main Issues

4. The main issues are:
 - The effect of the proposed scheme on the character and appearance of the area with particular regard to designated heritage assets including the Markyate Conservation Area and No 49 High Street
 - Whether or not there is sufficient parking to serve the development, and
 - the recreational and air quality impacts of the proposed scheme on the Chiltern Beechwoods Special Area of Conservation (SAC) with particular reference to Ashridge Commons and Woods SSSI.

Reasons

Character and appearance

5. The site lies in the Markyate Conservation Area (the CA) which is centred on the High Street which was once the route of the Holyhead turnpike. Several of the village's listed buildings within the CA were originally coaching inns and are integral to the long terraces of 2 storey buildings along the narrow High Street.
6. One of these listed buildings, No.49 High Street lies across Roman Way from the appeal site. It would appear that the original building dates from the seventeenth century and has been subsequently altered and extended.
7. The appeal scheme comprising a 2 storey detached dwelling and garden would involve the redevelopment of a garage located to the rear of No.55 High Street. The appeal scheme would have a larger footprint than the existing garage.
8. The scheme would be completed in red brick, common to the modern estate which lies outside the CA, along Roman Way. The building would sit tightly within its boundaries.
9. Policies CS12 and CS27 of the Core Strategy and Saved Policy 120 of the Local Plan require that development should integrate and respect its surroundings, and protect the integrity and distinctiveness of heritage assets. These policies are consistent with the National Planning Policy Framework (the Framework).
10. The scheme has been amended from that which was previously refused. However, its location partially on the same footprint of the garage building does not preserve this existing relationship with 60 Roman Way, as the appellant suggests. Rather the inclusion of a first floor results in a discordant feature in its relationship to this existing property resulting in adverse impacts on the appearance of the streetscene. It would not result in a 'terracing effect' as stated by the appellant because of the uncomfortable juxtaposition between the two properties.
11. Despite its location close to the listed building at No.49 High Street, the site's level below that of the High Street means that the proposed scheme would not adversely impact on its setting.
12. However, the design of the appeal scheme reflects more closely the architectural features of the housing along Roman Way and not those of the CA. I acknowledge that the Framework supports the efficient use of land but this requires balance against its policies which support good design and the protection of heritage assets.
13. Whilst the existing state of the site detracts from the CA the appeal scheme would not preserve or enhance its character and appearance. Although this would be less than substantial harm I do not regard the addition of a single dwelling to the housing stock as a public benefit which could outweigh the harm which would result on the character and appearance of the area with specific regard to the Markyate CA.
14. For these reasons, I conclude that the appeal scheme conflicts with Policies CS12 and CS27 of the Core Strategy and Saved Policy 120 of the Dacorum Local Plan.

Parking provision

15. Policy CS8 requires the provision of safe and accessible parking spaces in accordance with adopted standards; these require the provision of a single off street parking space for this scheme.
16. The appellant identifies that the scheme would be for car free housing. However, Markyate is not one of the Borough's 'Accessability Zones' defined by the parking SPD¹ where this form of housing could be allowed.
17. The roads around the appeal site are narrow, heavily parked and during my site visit I saw examples of vehicles using pedestrian footways to gain access along the High Street. The area is under acute parking stress. For this reason, I regard the inclusion within the scheme of off street parking as necessary to avoid on street parking which could further compromise highway safety.
18. For these reasons I find conclude that the appeal scheme conflicts with Policy CS8 and the adopted parking standards.

Chiltern Beechwoods SAC

19. In 2018, the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site, must consider mitigation within the framework of an Appropriate Assessment (AA) rather than at the screening stage² where the potential for likely significant effects is considered.
20. As a project progresses from inception through to implementation, a series of decisions are required to be considered against the Habitats Regulations, (the Regulations) and where necessary an AA has to be taken for each decision. The responsibility of completing a further AA now falls to me as part of this appeal.
21. The Habitats Regulations (the Regulations) require that if likely significant effects on a European site cannot be excluded, permission may only be granted after having ascertained that it will not affect the integrity of the site either alone or in combination with other plans or projects. In completing an AA there should be no gaps in the considerations which inform the decision. If adverse effects on the integrity of the protected site cannot be excluded on the basis of objective scientific evidence then it must be assumed that they will occur.
22. The site lies within the 12.6km buffer of the Ashridge Common and Woods SSSI which lies within the Chiltern Beechwoods SAC. The is an extensive tract of Asperulo-Fagetum beech forest but includes large areas of semi natural grasslands and includes a significant stag beetle population. The SSSI supports a significant and varied bird population including raptors, woodpeckers, warblers, tits and finches. Several areas of secondary woodland support Firecrests and Hawfinches. These species would be particularly vulnerable to disturbance from recreational users of the area.
23. Local Authorities in the area surrounding the SAC have agreed that a SAMMS³ financial contribution is required as a form of mitigation to address the additional recreational pressures which would arise from the appeal scheme.

¹ Supplementary Planning Guidance

² People Over Wind and Peter Sweetman v Collite Teoranta ECJ (2018) C-323/17

³ Strategic Access Management and Monitoring Strategy

24. The appeal does not include a legal agreement which includes a commitment to financial contributions towards the SAMMS and the appellant has instead suggested that this matter could be secured by a 'Grampian' style condition.
25. However, Planning Practice Guidance makes it clear that a negatively worded condition to require a planning obligation or agreement to be entered into will only be accepted in exceptional circumstances or where the nature of development is complex or strategically important. In this case no exceptional circumstances have been suggested by either party.
26. In the absence of an appropriate mechanism to secure a financial contribution I conclude that the appeal scheme conflicts with Policy CS26 of the Core Strategy.
27. For the above reasons, the appeal is dismissed.

Stephen Wilkinson

INSPECTOR