



Appeal Decision

Site visit made on 20 June 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2023

Appeal Ref: APP/N1920/W/22/3305764

Land rear of 5 - 23 Cobden Hill, Radlett, Hertfordshire WD7 7JL

- 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 Mrs J Bichard against the decision of Hertsmere Borough Council.
- The application Ref 20/0616/FUL, dated 30 April 2020, was refused by notice dated 20 April 2022.
- The development proposed is described as 'Alterations to No 15 Cobden Hill; erection of 8 x 3 bed dwellings with garages and parking spaces; new vehicular and pedestrian access drive; landscaping and all ancillary works.'

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs J Bichard against Hertsmere Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. My attention has been drawn to an emerging plan which I understand has been withdrawn. In any event the plan is at an early stage of preparation. Moreover, I have limited information in relation to any unresolved objections to policies or site allocations contained in this plan. As such I attach limited weight to the emerging plan in this decision.

Main Issues

4. The main issues are:
 - The effect of the proposal on the character or appearance of the Radlett South Conservation Area;
 - The effect of the proposal on the living conditions of the occupants of 3-23 Cobden Hill (odd numbers only), with regards outlook; and
 - Whether the proposal would provide satisfactory living conditions for the future occupants of the dwellings with regards to noise.

Reasons

Character or Appearance

5. Radlett South Conservation Area (CA) comprises four different character zones focused on the original historic settlement, around Watling Street, that developed considerably in the 19th Century as a result of the railway. The

- appeal site is in zone 1, and is on Cobden Hill, which aligns with Watling Street and provides direct access to the settlement's centre.
6. The appeal site is on the eastern side of Cobden Hill where the CA boundary incorporates a cemetery, the terraced dwellings fronting the appeal site and the neighbouring Mews, which is a relatively recent addition. This section of Cobden Hill is generally lined by terraced and semi-detached properties of a traditional architectural style.
 7. These properties generally have linear plot forms and relatively long rear gardens that back onto vegetation and open space; and this linear pattern creates a sense of low intensity development in this area. This largely ribbon style development, spatial layout and surrounding verdant features positively defines the character of the area. In turn this area has a distinctive transitional edge of settlement character which leads to dwellings in large plots that characterises zone 4 of the CA; and these distinct characteristics of the area positively contribute to the significance of this part of the CA.
 8. Nos 5 – 15 and Nos 17 – 23 on Cobden Hill are locally listed buildings. These terraces are understood to be early 20th Century worker cottages¹. The design of the two terraces varies, but they have a similar mass and building line and the front facing gable details provide some rhythm along the terraces. With these features and having a similar traditional cottage aesthetic, they appear a relatively coherent grouping of built forms that are in keeping with the general pattern of development that positively contributes to the character and historic interest in this part of the CA.
 9. The edge of settlement character in the vicinity of the appeal site is reinforced when walking along the footpath on the north boundary of the site. This hedge lined footpath connects Cobden Hill and the open space to the rear of the relatively undeveloped rear gardens of the terraced dwellings. I saw that these green features contribute to the verdant and transitional character of this area.
 10. S72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) requires when determining proposals in conservation areas that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. When determining applications, the National Planning Policy Framework (the Framework), at Paragraph 197, sets out matters which should be taken into account, including sustaining and enhancing the significance of heritage assets and the desirability of new development making a positive contribution to local character and distinctiveness.
 11. The appeal site incorporates the dwelling at No 15 and includes the bottom section of the rear gardens of the locally listed terraces. The proposal would result in two short terraces of dwellings located behind Nos 5 - 23. Consequently, the proposal would create a second tier of development behind the existing terraces, and this would be at odds with the largely, single ribbon of development that is a positive characteristic of this part of the CA.
 12. The proposed dwellings have been designed to reflect surrounding properties. Be this as it may, even when stepped in from the side boundary, the two terraces, which would comprise two and half storey dwellings and flats, would

¹ Radlett (South) Conservation Area Appraisal 2012.

cover a substantial width of the site. Moreover, even with a catslide roof, the profile of the proposed terraces would be significantly wider than the existing terrace dwellings, and the new terraces would substantially increase the concentration of built form at the site. Furthermore, along with the proposed access road, parking and turning area, the new dwellings would considerably intensify development in the site, and in turn this would considerably erode the existing relatively undeveloped and verdant edge of settlement appearance of this site.

13. The proposed access to the dwellings would be formed between the existing terraces. This access road would be of a sufficient width for vehicles and would include a pedestrian walkway. As such, even when constructed in quality materials, it would create a significant gap that would divide and in turn visually disrupt the two existing terraces.
14. The gap between the proposed terraces would allow glimpsed views of vegetation but this would be seen in the background of the substantial urbanisation of the site. While the proposed development would neighbour the relatively modern second tier development at the Mews, that development is small scale and does not visually disrupt the locally listed terraces. This would not be the case with this proposal for the reasons stated.
15. It is asserted that there is nothing outstanding architecturally about the existing terraces, and this was the view of the Inspector in an appeal decision relating to another proposal at the site in 1992. The appellant also contends that removing the extension at No 15 would be a benefit of the proposal.² However, the Inspector in the 1992 decision also highlighted that the locally listed terraces were not unpleasing, and I observed nothing that would lead me to disagree with this. Although the terraces would not be shortened to the extent proposed in the 1992 scheme at the site, the proposal before me would still create a distinct visual division between these terraces. Moreover, the access would draw attention to a development that disrupts the prevailing character of the area. In this regard the development would diminish the terraces existing contribution to the historic interest in this part of the CA.
16. Also, although No 15 appears altered, the extension is a subservient feature and largely blends with the rhythm of the terrace properties. As such it appears a neutral feature that does not disrupt the character of the area. This aside, even if I agreed that the removal of No 15's extension would be an improvement, any visual benefit to that asset, would be nullified by the creation of an access road, that would unsympathetically divide the existing grouping of terraces, and would result in a discordant form of development.
17. A substantial section of the rear gardens of the existing terraces would be covered in built forms and areas of hardstanding. These rear gardens appear overgrown at their rear boundary and therefore not open in this respect. I also note that they were excluded from the Green Belt in 2016. Be this as it may, they have a distinctly undeveloped quality which is perceptible from the adjacent footpath and the open space to the rear. Without significant structures they contribute positively to the transitional character of the area. The proposed development would introduce a distinctly urban quality which would significantly erode this existing positive character.

² Design, Access and Heritage Statements.

18. The landscaping scheme would include replacement trees. However even with this landscaping, which could be secured by condition, there would be views of the development from the main road and from the footpath. Given the scale of the development, the discordant additions would also likely be visible from the open space to the rear of the site, even with additional landscaping. The proposal would significantly erode the historic low intensity, linear pattern of development, would harmfully disrupt the existing visual cohesion of locally listed buildings and would result in a significant erosion of the undeveloped and verdant character of the area. In these regards, the proposal would fail to preserve the character or appearance of the designated heritage asset.
19. The neighbouring Mews is highlighted as an example of relatively recent development that now provides the character in which this proposal should be considered. However, that development is largely the exception in the vicinity of the appeal site. Also, that development used previously developed land. This would not be the case with the proposal before me. Moreover, adding to that existing limited discordancy would considerably alter the character of this location. Therefore, even if I agreed that the Mews improved the road as it appeared prior to that development, this would not provide a justification for an erosion of the distinct features that positively contribute to the CA at the appeal site.
20. My attention has also been drawn to development at No 29. Limited information has been submitted about that development. The Council has stated that No 29 is not in the CA. However, abutting the boundary of the CA, that property forms part of the setting of this heritage asset. This aside, that development is one dwelling set aside the small development at the Mews. In this regard it is not directly comparable to the proposal before me. I attach limited weight to this matter for this reason.
21. I have also had regard to the Bohm Judgment with reference to the balanced judgement required when considering harm to undesignated assets. I also note Planning Practice Guidance (PPG) on locally listed buildings. However, for the reasons stated I have found that this unsympathetic division of the terraces would fail to preserve the character of this part of the CA, which is a designated heritage asset. These matters have not altered my findings for this reason.
22. The appellant contends that if harm occurs to the designated heritage asset that this would be at the lower end of the scale.³ However, the Framework requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm.
23. The harmful effect of the proposal would be localised, and the harm caused to the significance of the CA as a whole would be less than substantial. In accordance with Paragraph 202 of the Framework, this harm needs to be weighed against the public benefits of the proposal.
24. The appellant has drawn my attention to the compelling statistics made in BBC reports and ministerial comments regarding the national housing crisis. The proposal would result in eight additional, energy efficient, residential units. This

³ Design, Access and Heritage Statements.

would make a modest contribution to the Government's objective to significantly boost the supply of homes and would go some way to addressing Hertsmere's considerable shortfall in housing land supply. The development would include units suitable for persons with mobility issues. Also, small dwellings are supported in the Radlett Neighbourhood Plan. In these regards the proposal would make a significant contribution to the mix and supply of dwellings available in the Borough.

25. Also, the development would be well related to a range of local services and modes of transport other than cars. It is a small windfall site, in single ownership, so could be developed relatively quickly. The Framework provides support for these matters. However, this support is countered by the importance that the Framework places on good design which is stated as a key aspect of sustainable development. The proposal falls down in this respect. Moreover, I find no compelling evidence that this harmful proposal would be the only means of achieving the much-needed housing in this area; the importance attached to these benefits are therefore reduced in this case.
26. During the application stage the appellant proposed a contribution to affordable housing. However, as stated in the Framework and PPG, affordable housing should not be sought for residential development that are not major developments. While noting the benefit of providing smaller units, there is no certainty that the development would assist younger people in accessing the housing market.
27. The appeal site is included in the Housing and Economic Land Availability Assessment - 2019 as potentially capable of accommodating a limited amount of development, subject to providing an acceptable access, design and layout. I have found that the design and layout would not be acceptable for the reasons given above. My attention is also drawn to site allocations of the emerging local plan. However, as already outlined, even if this plan had not been withdrawn, it was at an early stage of preparation, and I have limited details about the unresolved matters related to that plan. I can only attach limited weight to this matter for this reason.
28. There would be economic benefits during the construction phase. Future occupants of the dwellings would also contribute socially and economically to the area. These benefits would be modest given the scale of the development.
29. The appellant contends that the proposal would be an efficient use of land. However, this proposal would fail to maintain the area's prevailing character and setting. Therefore, this matter does not weigh in favour of the proposal.
30. The proposal could result in the improvement of the footpath, and this could benefit the local community. The Arboricultural Impact Assessment identified trees that need to be removed, and it is proposed to remove these and overgrown vegetation at the site. The hedge would also be replaced and maintained, and this could have a visual and ecological benefit. However, these benefits could be achieved without this harmful form of development. Moreover, these benefits would be diminished by the harmful change in character at the site resulting from the development. These benefits would be limited for this reason.
31. Also, the clearance of vegetation and replacement of trees on site and the management of the hedge may result in ecological net gains, and this would be

a benefit. However, the evidence presented indicates that the measures offered in this respect are modest. And I find this to be a modest benefit for this reason.

32. The proposal would provide communal green space for future occupants of the dwellings. However, this is a feature of good design which is an expectation of all development, and the benefit would be limited to a relatively small number of individuals. Accordingly, this would be a limited benefit.
33. The appellant asserts that the removal of the side extension at No 15 would improve the locally listed asset. However, even if I was to accept this as a benefit, as outlined above, this would be as a consequence of discordant development that would fail to preserve the CA. This matter does not weigh in favour of the proposal for this reason.
34. In light of the above, even taking account of the Council's considerable under supply of housing in the Borough, the benefits identified in this case would be modest at best. When considered together, they would not outweigh the identified harm to the CA. Consequently, the harm to the designated heritage asset would not have a clear and convincing justification, as required by Paragraph 200 of the Framework.
35. I therefore conclude on this matter, that the proposal would have a significant harmful effect on the character or appearance of the Radlett South Conservation Area. In this regard the proposal would be contrary to Policies CS14 and CS22 of the Hertsmere Local Plan Development Plan Document Core Strategy (Core Strategy), Policies SADM3, SADM29 and SADM30 of the Hertsmere Local Plan Sites Allocations and Development Management Policies Plan (SADM) and Policies HD3 and HD4 of the Radlett Plan 2020 to 2036 Neighbourhood Development Plan (Neighbourhood Plan). These Policies collectively state that all development proposals must conserve or enhance the historic environment of the Borough. They also require all development to be of high quality design and amongst other matters, must respect Radlett's distinctive green and verdant qualities; and state that, the loss of garden land to development that fails to respect the character and prevailing development pattern of the surrounding area will not be supported.
36. The proposal would also be inconsistent with guidance set out in the Planning and Design Guide Part D: Guidelines for Development (Design Guide) and the Framework in respect of securing well-designed places and conserving heritage assets.

Living Conditions – Outlook

37. The occupants of Nos 5 – 23 currently enjoy views of long rear gardens and relatively undeveloped land to the rear. The sloping landform at the site would result in the existing terraced dwellings having a slightly elevated position in relation to the new development. As such, even with rear boundary fences and vegetation in these existing rear gardens, the outlook for the occupants of the existing terraces, when looking from the rear of their properties, would be an expanse of driveway, parking areas and the proposed terraced properties.
38. This substantial urbanisation of this plot of land would be a stark contrast from the existing generally verdant outlook that the occupants of the existing terraces currently enjoy. The proposed distance between the rear of the

existing dwellings and the frontage of the new properties would be consistent with that stated in the Council's Design Guide. Be this as it may, the intent of the guidelines is that new development should be designed so that residential outlook is not unduly affected. Even with the degree of separation proposed in this case, the incongruous urban contrast would appear overbearing to the occupants of Nos 5 - 23 when looking from the rear of their properties and when in their rear gardens. The outlook from these existing properties would be considerably less pleasant and this would significantly harm the living conditions of the occupants of these existing dwellings.

39. No 3 has a good-sized rear garden which is well screened by a side boundary fence and mature vegetation along the footpath. The dwelling at that property is also set in from the side boundary, and a garage and the footpath provides a reasonable degree of separation between that dwelling and the appeal site. The new built form would be visible from the rear of No 3 and the loss of trees and vegetation at the appeal site would be noticeable. However, while this would result in a material change, the changes to No 3's outlook would be limited to the side of that property. The position of No 3 and the features separating that dwelling from the appeal site, would ensure, that unlike the occupants of the existing terraces, the outlook from No 3 would, at the rear of that property, remain largely undeveloped. For this reason, the proposed development at the appeal site would not harmfully dominate the outlook of the occupants of No 3 when looking from the rear of their property.
40. Although I find no significant harm would result to the living conditions at 3 Cobden Hill, the proposal would have a significant harmful effect on the living conditions of the occupants of 5-23 Cobden Hill (odd numbers only), with regards outlook. The proposal in this respect would be contrary to Policies CS12 of the Core Strategy, Policies SADM12 and SADM30 of the SADM and Policy HD5 of the Neighbourhood Plan. These policies collectively require development, amongst other matters, have limited impact on the amenity of occupiers of the site, its neighbours, and its surroundings in terms of outlook, privacy, light, nuisance and pollution.
41. The proposal would also be inconsistent with the Framework which requires a high standard of amenity for existing and future users.

Living Conditions - Noise

42. The appeal site is located near to a railway line. Although there is residential development in this location, the proposal would result in built forms significantly closer to the railway line, than is the case with the current terraced dwellings that front the appeal site. Noise can have significant effects on quality of life; exposure to noise can have effects on sleep, which may lead to health consequences. The Framework at Paragraph 185, states that planning decisions should ensure that new development is appropriate for the location taking account of likely effects of pollution on health and living conditions...in doing so they should, amongst other matters, avoid noise giving rise to significant adverse impacts on health and quality of life.
43. The Noise Assessment did not form part of the original application. However, it provides details on matters that arose in the application stage and does not propose material changes to the scheme considered at that stage. Also, the Council has provided comments on the assessment.

44. The Noise Assessment concludes that the design of the development is acceptable with regards to noise. Also, the preliminary assessment indicates no specific acoustic upgrades are required to glazing or ventilators to achieve suitable internal noise environments. The noise at the site is judged to be 'Low' risk in relation to both daytime and night-time noise levels.
45. However, the Noise Assessment acknowledges that the average and maximum noise levels at the site were generally dictated by train movements. The assessment highlights that the development would be subject to the recently published Part O of the Building Regulations relating to overheating mitigation strategies. While this is a separate regime to the Planning system, this document states that windows are likely to be closed during sleeping hours if noise within bedrooms exceeds 55dB LAFmax, more than 10 times a night, and this is a living condition matter relevant to planning. The Noise Assessment states that the results of the noise survey and modelling indicate that facades of the development facing the railway line may exceed these limits when windows are opened, and that the overheating assessment for the dwellings should consider that these windows are likely to be closed during the night.
46. This suggests that rear bedroom windows may have to be closed for future occupants of the dwellings to enjoy a reasonable nights' sleep. If this was to be the case, the rear bedrooms of the proposed dwellings may not offer the quality of accommodation that future occupants should reasonably expect in their homes. Indeed PPG⁴ identifies that if proposed noise mitigation relies on windows being kept closed this may have an effect on living conditions.
47. The appellant suggests that the measures identified in the Noise Assessment should be the basis of a condition. However, the assessment does not appear to provide measures which would address the potential exceedance of noise levels during the night-time other than closing windows and the installation of trickle ventilators.
48. It is a reasonable expectation for future occupants of the dwellings to be able to open windows for fresh air or in fine weather and have a reasonable nights' sleep. If an acceptable internal noise climate and suitable living conditions for future occupiers could only be achieved by keeping rear bedroom windows closed at night, this mitigation would be reliant on the actions of a third party. Third parties are beyond the control of either the appellant or the Council. As such this alone is unlikely to be suitable mitigation to avoid noise giving rise to significant adverse impacts on health and the quality of life for future occupants. Moreover, on this basis a condition may not satisfy the test for planning conditions set out in the Framework and PPG.
49. The Council's condition requires that the scheme shall ensure ambient noise levels in living rooms and bedrooms which meet the standard set out in BS 8233:2014. The appellant also suggests that the model noise condition set out in Circular 11/95 could be imposed. However, based on the information before me, I find no certainty that these would ensure that an acceptable level of noise, particularly during the night, would be achieved, and that the development would be made acceptable by imposing these conditions.
50. The appellant states that the noise exposure categories cited in Appendix A of the SADM are based on government guidance which has now been

⁴ Paragraph: 006 Reference ID: 30-006-20190722

superseded. This may be so, but Policy SADM20 of the SADM states that new residential development should not be exposed to existing significant sources of noise pollution, unless it can be shown that mitigation measures would be successful in reducing noise impacts to an acceptable level. This is generally consistent with the aims set out in the Framework regarding this matter.

51. The appellant also states that the Council did not appear concerned about this issue during the application stage. However, the Council has cited noise as a reason for refusing planning permission, with reference to relevant policies. This matter has not altered my findings on this issue for this reason.
52. In light of the above, I find that based on the information before me I am unable to establish whether the proposal would provide satisfactory living conditions for the future occupants of the dwellings with regards to noise. Consequently, I find that the proposal in this regard would not accord with Policy CS16 of the Core Strategy and Policy SADM20 of the SADM. These policies collectively require, that new residential development should not be exposed to existing significant sources of noise pollution, unless it can be shown that mitigation measures would be successful in reducing noise impacts to an acceptable level. The proposal would also be inconsistent with the Framework in respect of this issue.

Other Matters

53. The Council has not raised concerns relating to trees, highways, parking or drainage, subject to conditions. However, development should not give rise to harm in respect of these matters, and these are neutral factors in this case.
54. The Council can only demonstrate 2.3 years housing land supply which is a considerable shortfall. Therefore, the provisions set out in Paragraph 11 of the Framework are relevant in this case. However, I have found that, for the reasons already outlined, the policies in the Framework that protect assets of particular importance, in this case designated heritage assets, provide clear reason for refusing the development proposed. As such the presumption in favour of development does not apply in this case.
55. Although officers may have accepted the principle of the development at this location, the Council is not bound by comments made at the pre-application stage. My attention has been drawn to guidance and policies of the development plan that are not in dispute. However, I have found conflict in respect of heritage assets, character of the area and living conditions, and the proposal conflicts with the development plan when read as a whole. This matter has not altered my findings for this reason.

Conclusion

56. Having regard to the development plan and other material considerations, including the Framework, the appeal should be dismissed.

A J Sutton

INSPECTOR