



Appeal Decision

Site visit made on 24 October 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 November 2023

Appeal Ref: APP/A1910/W/23/3316262

**Former Convent of St Francis De Sales, Land off Aylesbury Road, Tring
HP23 4DL**

- 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 Thomas Doughty on behalf of Acre Tring Limited against the decision of Dacorum Borough Council.
 - The application Ref 22/00456/FUL, dated 10 February 2022, was refused by notice dated 7 September 2022.
 - The development proposed is demolition of the existing buildings. Construction of 7 new houses with associated parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of the existing buildings. Construction of 7 new houses with associated parking and landscaping at Former Convent of St Francis De Sales, Land off Aylesbury Road, Tring HP23 4DL in accordance with the terms of the application, Ref 22/00456/FUL, dated 10 February 2022, subject to the conditions contained within the attached Schedule.

Preliminary Matters

2. During the course of the appeal, the appellant submitted plan CLPD 109 P01 providing details of new planting. I note from the delegated report that further details of proposed planting were requested by the Council. In addition, plan 21-3507-17 *A Street Scenes / Site Sections* was revised to show the relationship to adjacent development. I do not consider any party would be prejudiced by my acceptance of those plans.

Main Issues

3. The main issues in this appeal are the effects of the proposal on:
 - the character and appearance of the area, with particular regard to the setting of the Tring Conservation Area and non-designated heritage asset; and
 - the integrity of the Chilterns Beechwoods Special Area of Conservation.

Reasons

Character and appearance

4. The appeal site comprises a detached property and surrounding grounds which was formerly a convent building associated with a school. The site is accessed from a private road serving an adjacent modern housing estate development.

5. The existing building was last used as a boarding house and is no longer required for this purpose. The building is understood to have been constructed in the early 20th century and is Edwardian in character. The building is not subject to any statutory designation and is not included on the Council's local list.
6. The building is substantial, two-storey, with large hipped tiled roofs with overhangs and detailing. The brickwork is of fine bonded red orange brick with detailing to the window headers. Windows are white-painted sashes and there are two main tile-hung bays. The main entrance comprises a substantial doorcase with art deco fittings to the door. The building derives some heritage value from the extent of intactness of the original house and from its architectural merits, in particular where viewed from areas within the large enclosed garden.
7. The building is set back in the site. The large L-shaped two-storey service wing, hipped roofed single-storey projection and flat-roofed side projection, set within areas of hard standing detract from the appearance of the building and are visually prominent from the access road and adjacent modern estate development. From this angle, the building is of lesser visual interest than from those elevations facing garden areas.
8. There appears to be consensus between the Council and appellant that the significance of the building is low. However, the building is of some architectural interest on its own merits, and overall makes a modest positive contribution to the character of the area. Consequently, through the demolition of the existing building, the proposed development would harm the character and appearance of the area.
9. The appeal site is located a short distance to the west of the Tring Conservation Area (CA). Whilst outside the CA boundary, paragraph 200 of the National Planning Policy Framework (the Framework) recognises that the significance of heritage assets may be affected by development within their setting.
10. The Tring Conservation Area Character Appraisal and Management Proposals 2019 (CA Appraisal) describes the special architectural or historic interest of the CA as being derived from its character as a small market town, which grew in the post-reformation period and visibly flourished in the early-nineteenth century. The town has a diverse architectural and historic character and indicates a further important aspect of the town's character comes from buildings associated with the patronage of Lord Rothschild and the architecture of William Huckvale. Their architecture is distinctive and eye-catching, in vernacular revival style.
11. The CA comprises two character areas, with the western section forming Character Area 2 - a triangular-shaped area which the CA Appraisal indicates is a well-defined and distinct part of the town with its own character. Within this area buildings and streets of this area are small in scale. The layout of streets reflects historic field and hedgerow lines, and the individual plots are nearly all shaped as long, narrow strips leading off the streets at ninety degrees. The CA Appraisal notes the plan of the streets contributes greatly to the overall attractiveness. Development in this area took place in the middle decades of the nineteenth century and, in general, the whole area still retains this Victorian heritage.

12. The existing building's hung tile details reflect the general character of the CA. However, the building is somewhat unusual in that it is a large villa in a large plot and differs from the appearance of other development of its time in the area.
13. The form and appearance of the existing building is not therefore typical of development in the CA, and the building is not contemporary with the mid-nineteenth century development which the CA Appraisal identifies as being formative of Character Area 2. In addition, the site adjoins development that is modern in character and which does not follow historic street patterns.
14. Therefore, modern development, including a care home and housing estate, along with existing vegetation along the highway edge, provides both physical and visual separation from the CA. For these reasons, the loss of the existing building would have a neutral effect upon the setting of the CA and would not harm the CA's historic significance.
15. The design of dwellings would be similar to adjacent development and therefore would be in keeping with the surrounding area. Through its layout, scale and form, the proposed development would appear as an additional cul-de-sac arm of the modern St Francis Close estate development. The proposed dwellings would be oriented to face into the St Francis Close development and therefore the scheme would not address Aylesbury Road.
16. The site is elevated above Aylesbury Road and is screened from view by trees and vegetation along the steep bank which rises from the road level to the southern boundary of the appeal site. A group of those trees is protected by a Tree Preservation Order and therefore would be expected to be retained.
17. Were non-protected trees and vegetation removed in the future, the visual prominence of the proposed development from Aylesbury Road would increase. However, this vegetation is outside the site boundary, and I have no evidence before me to suggest the removal of vegetation is likely to occur. Moreover, the proposal includes soft landscaping and planting around its southern boundary which would create a natural edge and minimise the visual prominence of the development were existing vegetation adjacent to the highway to be cleared.
18. Due to the elevated topography of the site, its set back from the highway, the presence of existing vegetation including protected trees, together with the proposed landscaping scheme, the proposed development would be of very limited visibility from Aylesbury Road. Consequently, the proposed development would not be detrimental to the character of this section of Aylesbury Road which forms an important approach to the CA and would not harm views from the open space adjacent to the cemetery or the junction of Park Road and Western Road.
19. From the extensive screening and presence of other modern development in the area, the proposed development would not be visible from the CA and would not appear prominent within its setting. The proposed development would therefore have a neutral effect upon the significance of the CA.
20. However, through the loss of the existing building on site which comprises a non-designated heritage asset, the proposal would fail to conserve the historic environment and would thus harm the character and appearance of the area.

21. In this regard, the proposal would conflict with Core Strategy (CS) Policies CS11 and CS12 which together requires proposals preserve attractive streetscapes and integrate with streetscape character. In addition, the proposal would conflict with CS Policy CS27 which requires all development to favour the conservation of heritage assets.

Integrity of Chilterns Beechwoods Special Area of Conservation

22. The appeal site is within the zone of influence of the Chilterns Beechwoods Special Area of Conservation (SAC), a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations).
23. The conservation objectives of the SAC are to maintain and restore the integrity of the site and to ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, which include semi-natural dry grasslands and scrubland facies on calcareous substrates; dry grasslands and scrublands on chalk or limestone; beech forests on neutral to rich soils; and stag beetle populations.
24. The proposal would lead to an uplift in local population associated with the development of 7 dwellings and would thus increase recreational disturbance on the SAC. The proposal would therefore have significant effects on the integrity of the SAC in isolation or in association with other similar development.
25. The Council has agreed a Strategic Access Management and Monitoring Strategy (SAMMS) with Natural England and its partner authorities. The SAMMS requires new development to provide financial contributions, secured through a S106 agreement or unilateral undertaking, toward projects identified by the SAMMS ("SAMMS contribution") and toward the delivery of Suitable Alternative Natural Greenspace (SANG). The SAMMS includes a range of habitat-based projects and is endorsed by Natural England. I am therefore satisfied that the measures identified by the SAMMS would adequately overcome any adverse effects of the proposal on relevant designated habitats.
26. The appellant has provided a Unilateral Undertaking to secure an index linked SAMMS contribution of £6,397.16, and an indexed link contribution of £29,761.97 toward the provision of SANG within the borough, in accordance with the SAMMS.
27. This approach can be problematic as there is no obligation on the Council to spend the money as envisaged and in a particular timescale. However, the evidence before me indicates that as a responsible public body it will transfer the funds to the organisation responsible for administering the mitigation strategy. Therefore, I am satisfied that mitigation measures have been secured and would be used for their intended purpose, and the financial contribution is necessary to make the development acceptable in planning terms.
28. The proposal demonstrates that the effects of the development on the SAC would be adequately mitigated. Therefore, the proposal would not harm the integrity of the SAC.
29. For these reasons, the proposal would comply with CS Policy CS26 which requires development contribute toward the conservation of habitats and species and creation of better public access to green space.

30. In addition, the proposal would satisfy the provisions of the Framework which at paragraph 175 promotes a strategic approach to maintaining and enhancing networks of habitats and green infrastructure. Furthermore, the proposal would comply with the Habitats Regulations which requires that permission be granted only after having ascertained that it will not affect the integrity of a European site.

Other Matters

31. The proposed development would adjoin the private road which is in the ownership of occupants of the St Francis Close development. Residents have raised concerns regarding pedestrian safety arising from additional traffic movements associated with the proposed dwellings. It is my understanding that the construction of a pedestrian footway was secured through a planning condition attached to the planning permission for the St Francis Close development and that the footway's absence is being investigated by the Council. Whilst the present lack of pedestrian footway is unsatisfactory, there are existing mechanisms within the planning system to ensure its provision. I also note the highways authority did not object to the proposal and I have no evidence to suggest the proposal would adversely affect highway safety.
32. The proposal would satisfy the Council's parking standards, based on the development comprising 4-bedroom houses as proposed. The Council notes that if habitable rooms were re-purposed as bedrooms, the occupancy of the dwellings and demand for parking could increase. However, the Council's assessment suggests that were additional parking provided, this would harm character and appearance. Existing visitor spaces serving the St Francis Close development would be re-sited but would not result in a loss of parking. For these reasons, I consider the proposal would provide adequate parking provision to meet the needs of the development.
33. Concerns were raised by local residents regarding the construction phase of the development, including risks associated with construction vehicle movements and the effects on the storage of materials on trees. Such matters can be addressed through a construction management plan.
34. The appeal site relates to the existing building and its curtilage and therefore is not expected to result in a loss of communal space associated with the St Francis Close development. Generally, there would be sufficient separation distances from surrounding dwellings. However, to address privacy concerns of occupants of neighbouring development, a condition is necessary requiring windows on the flank wall of plot no 7 be non-opening obscure-glazed windows.
35. The proposed development would have a relatively low density of approximately 19.9 dwellings per hectares, and therefore I consider the scheme would not represent overdevelopment of the site.
36. The appellant has supplied a Preliminary Roost Assessment and Hertfordshire Ecology were consulted on the scheme. Due to the mitigation measures proposed, the scheme is not expected to harm protected species.
37. Concerns were raised by local residents regarding the effects of the development on existing trees. The Council's tree officer noted that pruning of protected trees would require the Council's consent and suggested the

imposition of a planning condition relating to new planting. In addition, concerns regarding the location of a soakaway can be resolved through the building regulations process.

Heritage Balance

38. As set out above, I have found the proposal would not harm the setting of the CA. However, the proposed development would result in the loss of a building which makes a positive contribution to the architectural history and character of the area. Paragraph 203 of the Framework requires a balanced judgement be taken in assessing the effects of a proposal on the significance of non-designated heritage assets, having regard to the scale of any harm or loss.
39. Following the Council's decision, prior approval has been granted to demolish the building on the site under Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 15 (as amended). Demolition of the building within a five-year period from the prior approval application date has therefore already been permitted and may lawfully proceed without the risk of enforcement action.
40. The building has not been used for school boarding purposes for several years, and it is currently used for storage. Therefore, there are no existing occupants residing in the building that require notice to vacate the building. Whilst I note some local residents expressed a preference that the building be converted, it has been asserted that conversion would not be viable.
41. It has been questioned whether demolition would be likely without the certainty of planning permission for development of the site. However, I am mindful that were the building demolished, the site would comprise vacant previously developed land. Paragraph 120 of the Framework gives substantial weight to the use of brownfield land to meet development needs, and Framework paragraph 69 supports housing development at small and medium sized sites within existing settlements. Consequently, there is a realistic prospect of the prior approval consent being implemented and the building demolished regardless of the outcome of my decision on the appeal proposal.
42. The scale of harm associated with the proposal would be the total loss of a non-designated heritage asset as a result of the demolition of the existing building on site, and thus attracts considerable weight against the scheme. However, in reaching a balanced judgement, I attach significant weight to the fallback position afforded by the existing prior approval consent. On this basis, the fallback position outweighs the harm arising from the loss of the non-designated heritage asset, including those effects on the character and appearance of the area.

Conditions

43. In addition to the standard time limit for implementation, in the interests of certainty I have attached a condition specifying the approved plans. Consultation responses from stakeholders suggest the imposition of a number of planning conditions are necessary.
44. To ensure the construction phase of the development does not affect living conditions of neighbours, conditions requiring submission and approval of a construction management plan and to specify periods when demolition and construction may take place are necessary.

- 45. To avoid harm to the environment, I have attached a condition specifying procedures in the event contaminated land is discovered during construction.
- 46. I have attached conditions requiring the submission and approval of a scheme of landscaping, and the future maintenance of the approved landscaping, in the interests of conserving the character and appearance of the area. Whilst I have identified the detailed planting plan as an approved plan, the condition requires additional information relating to the retention and protection of existing trees and hedgerows.
- 47. To protect the privacy of occupants of No 9 Gordon Villas, I have attached a condition requiring the first-floor window on the flank wall of the dwelling at plot no 7 be non-opening below 1.7m and fitted with obscured glazing.
- 48. I have not attached the suggested conditions relating to noise or air quality. The Council's justification erroneously indicates the site is within proximity of industrial units and the A414 road. Since the proposed development would not be exposed to noise or poor air quality from either source, the conditions are not necessary.

Conclusion

- 49. Whilst I have identified harm arising from the proposal as a result of the loss of a non-designated heritage asset, this harm is outweighed by the fallback position provided by the prior approval for demolition of the building.
- 50. This material consideration therefore outweighs the conflict with the development plan taken as a whole, and I conclude the appeal should be allowed.

E Dade

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: OS Site Plan; 21-3507-10 Proposed Site Plan; 21-3507-11 Floor Plans & Elevations Plot 1; 21-3507-12 Floor Plans & Elevations Plot 2; 21-3507-13 Floor Plans & Elevations Plots 3 & 5; 21-3507-14 Floor Plans & Elevations Plot 4; 21-3507-15 Floor Plans & Elevations Plot 6; 21-3507-16 Floor Plans & Elevations Plot 7; 21-3507-17 A Street Scenes / Site Sections; 21-3507-18 Site Sections; 21-3507-30 Existing Site Plan; 21-3507-31 Existing Plans & Elevations; CLPD 109 P01 Detailed Planting Plan.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - delivery, demolition and construction working hours. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) Demolition or construction works shall take place only between 08:00 and 18:00 on Mondays to Fridays, and 08.30 to 13.30 on a Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 6) No development above ground level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

- 7) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 8) The building hereby permitted at plot no 7 shall not be occupied until the first-floor window at the west elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

END OF SCHEDULE