



Appeal Decision

Site visit made on 16 February 2024

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 March 2024

Appeal Ref: APP/A1910/W/23/3328055

43 Highfield Road, Berkhamsted, Hertfordshire HP4 2DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 Edward Blake against Dacorum Borough Council.
 - The application Ref. is 23/00767/FHA.
 - The development proposed is to demolish the existing ground floor rear outrigger to allow the erection of a new rear ground and first floor extension alongside a rear roof dormer window.
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Decision

1. The appeal is allowed and planning permission is granted to demolish the existing ground floor rear outrigger to allow the erection of a new rear ground and first floor extension alongside a rear roof dormer window at 43 Highfield Road, Berkhamsted, Hertfordshire HP4 2DD in accordance with the terms of the application, Ref 23/00767/FHA, subject to the following 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: 01, 201, 202, 203, 204, and 205.
 - 3) No development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The details shall include brickwork, roof tiles, glazing, cladding, rainwater goods, and joinery, including window frames. The development shall thereafter be carried out in accordance with the approved details.

Preliminary Matters

2. The appeal was submitted on the basis of the failure of the Council to determine the planning application within the prescribed period. The Council has stated that, had it determined the application, it would have granted planning permission subject to conditions. The main issues I have identified are based on the evidence before me, including the views of interested parties.
3. My attention has been drawn to some discrepancies in the submitted plans. However, from the information before me, these relate to land outside of the site boundary and details of the existing dwelling that are not affected by the proposal, including the position of the existing chimney. From the evidence, I

have no reason to consider that the plans showing the development proposed are inaccurate. I have therefore determined the appeal on this basis.

4. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issues

5. The main issues are:

- the effect of the development on the character and appearance of the area, with particular regard to the significance of the Berkhamsted Conservation Area;
- whether the setting of the nearby Grade II listed building would be preserved; and
- the effect of the proposal on the living conditions of the occupants of 41 Highfield Road and 45 Highfield Road, with particular regard to sunlight, daylight, privacy and outlook.

Reasons

Character and appearance

6. The appeal site lies within the Berkhamsted Conservation Area (CA), which covers the historic core of Berkhamsted. Its significance lies in the collection of buildings, some of which are listed or locally listed, and street patterns that reflect the historic evolution of the town. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA.
7. The appeal property forms part of a distinctive row of terraced dwellings on Highfield Road. The dwellings in the terraced row make a positive contribution to the significance of the CA due to their architecture and outward appearance which reflect the era in which they were constructed. Moreover, due to the gradient of Highfield Road, elevated views are available across the town and surrounding land, which help to anchor the street within the wider CA. However, many of the properties on Highfield Road have been extended to the rear. The introduction of modern additions means that the rear of the host terraced row offers a limited contribution to the significance of the CA.
8. The appeal property has an existing single-storey rear outrigger. The outrigger is around half the width of the host dwelling and would be replaced with a full-width, two-storey extension as part of the proposed development. At 6 metres deep, the proposed ground floor extension would project beyond the rear elevation of the existing outrigger. However, it would not be significantly taller or deeper than the extended ground floor of the neighbouring property at 41 Highfield Road. Moreover, the first-floor extension would be set-back to around half the depth of the ground-floor extension and would have a similar height to other established two-storey extensions on nearby properties. Consequently, the height, depth and overall scale of the proposed rear extensions would be proportionate to the host dwelling and would not be overly dominant in the context of neighbouring dwellings.

9. The proposed development would introduce a gable roof at ground floor level and a flat roof on the second floor, with a dormer window above. On my site visit, I observed that the existing rear elevations of nearby properties display a variety of roof forms and architectural features. Therefore, the proposed mix of roof styles would not be incongruent to the local context. Moreover, the dormer would be set-back from the edges of the existing roof slope. Consequently, and given that the proposed development would be constructed with materials to match the existing building, it would have an outward appearance that is sympathetic to local character.
10. The proposed development would be visible from some public vantage points, including from Holly Drive and Curtis Way. The occupants of nearby dwellings would also have views of the proposed development from their gardens and rear windows. However, views of extended properties is a common feature in the local area. Consequently, and given that the development would not be incongruous by way of its overall scale or appearance, it would not cause material harm to those views.
11. No structural changes are proposed to the front elevation of the host property. However, the existing uPVC windows would be replaced with more traditional timber frames. This would be a modest beneficial change on a prominent street frontage. Consequently, there would be an overall enhancement to the character and appearance of the CA.
12. I conclude that the proposed development would not cause harm to the character and appearance of the area and would enhance the appearance of the Berkhamsted Conservation Area. Therefore, there would be no conflict with Policies CS11 and CS12 of the Core Strategy 2006-2031 (adopted 2013) (CS) which, taken together and amongst other things, expect development to respect the density and general character of the area, and to respect neighbouring properties including through layout, scale, height, bulk and materials. There would also be no conflict with Saved Appendix 7 of the Dacorum Borough Local Plan 1991-2011 (adopted 2004) (LP) insofar as it expects extensions to harmonise with the existing house and surrounding area.
13. The proposed development would also accord with Policy CS27 of the CS and Saved Policy 120 of the LP insofar as they expect development to conserve and enhance the appearance and character of Conservation Areas.

Setting of listed building

14. The appeal site lies within the setting of the Grade II listed building at 47 Highfield Road. There is limited information included with the appeal documents about the listed building. However, from the evidence and my own observations, its significance is derived in part from its architectural details which reflect the era in which the building was constructed. The appeal property contributes towards the significance of the listed building due to its position within the same terraced row, and the commonality in its outward appearance, particularly on its front elevation.
15. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving listed buildings or their settings, or any features of special architectural or historic interest which they possess.

16. The proposed development would be visible from the rear windows and garden of No 47. However, as set out above, it would reflect other rear extensions that have established on nearby properties and would be sympathetic to local character. Moreover, there would be no structural changes to the front elevation of the dwelling, and the reinstatement of wooden window frames would have a modest, positive effect on the setting of the listed building.
17. Overall, I conclude that the setting of the nearby Grade II listed building would be preserved. Therefore, there would be no conflict with Policy CS27 of the CS which, amongst other things, expects the integrity, setting and distinctiveness of designated heritage assets to be protected, conserved and if appropriate enhanced. There would also be no conflict with the Framework insofar as it expects planning decisions to take account of the desirability of sustaining and enhancing the significance of heritage assets.

Living conditions

18. The proposed ground floor addition would extend across an existing doorway and small window in the side elevation of No 41. However, the doorway is currently blocked by wooden panelling and, from my observations, could only be accessed from the rear garden of the appeal property. The evidence indicates that an alternative doorway provides the principal rear access to No 41. Consequently, in all reasonable probability, the loss of the doorway would not cause unacceptable adverse implications for the occupants of the neighbouring property.
19. The evidence also shows that the side window to No 41 serves a hallway which leads onto a kitchen, bathroom and toilet. The bathroom and toilet are non-habitable rooms. However, I cannot be certain from the evidence whether or not the kitchen is a habitable room. Even if the kitchen is a habitable room, the appeal documents show that the principal source of light to it is from an elevated window on the rear wall of the dwelling. The elevated window is orientated to receive good levels of daylight and sunlight for most of the day. Therefore the loss of the side window would not cause undue harm to the level of natural light in the kitchen.
20. The appellant has stated that the proposed first-floor extension would align with the upper floor rear elevation of No 41. However, I have also been provided with plans and evidence which show the proposed extension would project beyond the first-floor rear wall of the neighbouring property.
21. In the absence of any definitive technical information to establish the alignment between the proposed development and No 41, I cannot be certain about the precise relationship between the proposal and the neighbouring property. However, from the evidence, and my own observations of No 41 from the appeal site, there is a large window serving the first-floor rear bedroom in the neighbouring property. Therefore, even if the proposed extension were to project beyond the rear wall of No 41, it would not block views across gardens and of the sky that could currently be gained from the rear bedroom. Moreover, given that the rear bedroom window in No 41 is orientated to receive good levels of daylight and direct sunlight, the proposed development would not restrict adequate levels of daylight and sunlight from reaching the internal living space.

22. The proposed development would be visible from the rear windows of 45 Highfield Road. However, due to its single storey height, the ground floor extension would not be overbearing in those views. Moreover, there would be sufficient distance between the proposed development and the first-floor windows of No 45 to ensure the proposal would not be unduly dominant when observed from the neighbouring property. Given the orientation of the dwellings, the development would not reduce the level of daylight and sunlight within the internal rooms of No 45.
23. Mutual overlooking is a common feature in the locality. Therefore, although the proposed development would incorporate an additional window in the rear roof slope, it would not lead to a materially harmful loss of privacy for the occupants of neighbouring properties.
24. I conclude that the proposal would not cause undue harm the living conditions of the occupants of 41 Highfield Road and 45 Highfield Road, with particular regard to sunlight, daylight, privacy and outlook. There would be no conflict with Policy CS12 of the CS and Saved Appendix 3 of the LP insofar as they expect development to avoid visual intrusion, loss of sunlight and daylight and loss of privacy to surrounding properties.

Other Matters

25. The site lies within the zone of influence of the Chilterns Beechwoods Special Area of Conservation (SAC), which is designated for its beech forests, semi-natural dry grasslands and scrub, and its population of Stag Beetles. The evidence indicates that the principal pathway of impact on the SAC is the effects of urbanisation with a particular focus on disturbance from recreational activities arising from new residents. The conservation objectives are to ensure the integrity of the site is maintained and restored.
26. The proposal would enlarge an existing dwelling and, therefore, it would not result in an increase in the number of households in the area. Consequently, it is unlikely that the development would result in an increase in recreational pressure on the SAC either alone or in-combination with other plans or projects. Therefore, it would not undermine the conservation objectives of the SAC. I note that the Council does not consider an Appropriate Assessment is required in this instance and, based on the evidence, I have no reason to take a different view.
27. The proposed development would be built on the existing outdoor amenity space at the host property. However, sufficient outdoor amenity space would be retained to meet the needs of the occupants of the dwelling. Moreover, there is no substantive evidence before me to suggest that trees or wildlife would be affected by the development.
28. I acknowledge the concerns of interested parties about the effects of the development on party walls, the right to light, and the potential for damage to existing buildings during the construction process. However, the Planning Practice Guidance makes it clear that planning is concerned with land use in the public interest, so that the protection of purely private interests, could not be material considerations. Therefore, these matters have not been determinative to my consideration of the appeal proposal.

29. Interested parties have also raised concerns over the effect of the development on the sewer network and access to a manhole on the appeal site. However, these matters would be dealt with separately to the planning process.
30. The evidence indicates that other planning applications for extensions at the appeal site have previously been refused planning permission. I have limited information before me about any former proposals. However, I have determined the appeal on its own merits and, consequently, the planning application history of the site is not a determinative matter to my decision.
31. Concerns have been raised that the proposal would set a precedent for other dormer windows to be permitted in the local area. However, my decision has taken account of the specific details of the appeal scheme and the characteristics of the appeal property and surrounding area. These factors are unlikely to be directly replicated elsewhere and, consequently, other potential proposals for dormers would be considered on their own merits.
32. I have been informed that the appellant does not occupy the appeal property. However, planning permission usually runs with the land. Therefore, the identity of the occupants of the appeal property has not influenced my decision.

Conditions

33. In addition to the standard time limit condition, I have attached a condition to define the approved drawings to provide certainty over the development that has been permitted.
34. I have also included a condition requiring details of the external materials to be submitted to the Council for approval. This condition is necessary to protect the character and appearance of the Conservation Area. The Council suggested this condition should be a pre-commencement condition. I have adjusted the trigger for the condition as it is not necessary to restrict commencement of the development whilst the details of the materials are approved.

Conclusion

35. The proposal is in accordance with the development plan when read as a whole. The material considerations do not indicate that a decision should be made otherwise than in accordance with the development plan. Therefore, for the reasons given above, I conclude that the appeal is allowed.

E Catchside

INSPECTOR