



Appeal Decision

Site visit made on 24 April 2024

by J Hobbs MRTPI MCD BSc (hons)

an Inspector appointed by the Secretary of State

Decision date: 22 May 2024

Appeal Ref: APP/A4710/W/23/3330797

Land adjacent to 13 Osborne Street, Hebden Bridge

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr and Mrs Deighton against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 22/01227/FUL.
 - The development proposed is a new dwelling at Osborne Street, Hebden Bridge.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site address is referred to differently on the application form, appeal form and decision notice. However, all three references are to the same site. As there is no evidence of an agreed change in the address, I have replicated the address from the application form in the banner above.
3. The appellant submitted an amended Sun Path Study¹ as part of their final comments. The amendments include a new sun path. The Procedural Guide² is clear that final comments should not introduce new technical evidence. Given the significant change in the amended study, I consider that it represents new technical evidence. Moreover, interested parties raised concerns with the accuracy of the original Sun Path Study and have not been consulted on the amended study. Having regard to both the Procedural Guide and principles established in the Holborn Studios Judgment³, I have not considered the amended Sun Path Study when determining the appeal.
4. The representation⁴ prepared by Veritas Planning was received before the deadline for comments from interested parties. However, neither the appellant nor the Council were consulted on this document in a timely manner. As such, both were given additional time to respond to those comments. The appellant provided a response before the extended deadline. Therefore, those comments, other than the amended Sun Path Study, will be considered as part of the appeal.

¹ GAG 289 House at Osborne Street, Hebden Bridge

² Procedural Guide: Planning appeals - England

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823

⁴ Objection to Proposed New Dwelling at Land South East of 13 Osborne Street, Balmoral Street, Hebden Bridge, March 2024

5. 13 Osborne Street and 16 Balmoral Street (No 13/16) is a through terrace, as such it is a single property, despite it having two addresses. I will refer to it as one property throughout my decision.

Main Issues

6. The main issues are:

- whether the proposal would preserve or enhance the character or appearance of the Hebden Bridge Conservation Area;
- the effect of the proposal on the character and appearance of the area;
- the effect of the proposal on the living conditions of occupants of 4 Marlborough Road (No 4), No 13/16, and Beech Mount, with regard to loss of daylight and sunlight, and privacy; and,
- whether the proposal would provide acceptable living conditions for future occupants, with regard to privacy.

Reasons

Conservation area

7. The appeal site is a cleared piece of land at the end of a block of terraced housing. It previously accommodated over-and-under dwellings which were demolished, approximately 50 years ago. The properties in the area are largely terraced housing of similar design. However, there are some notable outliers in proximity to the appeal site, including, 12-14 Osborne Street (Nos 12-14), Beech Mount and Zion Chapel. Zion Chapel and Nos 12-14 are located at the end of the road. Beech Mount is located at the junction between Osborne Street and Marlborough Road. As such, there is a pleasing consistency to the pattern of development, which changes close to the junction between Osborne Street and Marlborough Road.
8. The appeal site is located within Hebden Bridge Conservation Area (CA). As set out in the CA Appraisal and Management Plan⁵, the key characteristics of the CA includes a highly distinctive architectural response to the Pennine landscape. The appeal site is within a character area identified as Birchcliffe. The Plan indicates that the special characteristics of this area include residential terraces in the form of highly distinctive over-and-under dwellings and properties including larger higher status dwellings and other buildings converted to residential.
9. As the appeal proposal is in the CA, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the area, as set out in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
10. The main section of the proposed dwelling would be similar in height, form and scale to the neighbouring terraced houses. Given the main section would be tall and narrow it would have a strong vertical emphasis, much like neighbouring terraced properties. However, the basement and lower ground floor levels are wide and include external amenity areas either side, constructed on top of a plinth. Although other properties have plinths, they are much smaller than the one proposed. At the lower levels, the proposed dwelling would have a strong horizontal emphasis. Whilst it may be partially screened by landscaping it

⁵ Hebden Bridge Conservation Area, Appraisal and Management Plan, April 2011

would appear obtrusive in the street scene and it would disrupt the pleasing consistency of the pattern of development.

11. The proposed dwelling would be located near to Beech Mount, Zion Chapel and Nos 12-14, which are unique designs and are reflective of larger, higher status dwellings or buildings which have been converted to a residential use. Given the location, a large dwelling with a unique but traditional design may be appropriate. However, the design of the proposed dwelling is caught between trying to assimilate with nearby terraced housing and creating a large, unique dwelling. This would make it appear incongruous within the street scene, even when viewed against the properties close to the junction between Osborne Street and Marlborough Road.
12. Given the surrounding development and changes in height of the land, the appeal site is prominent within mid-distance views but is largely screened in long distance views from the town centre. Nevertheless, the identified harm would be amplified by the prominence of the site.
13. Although the site is identified as an important open space by interested parties, the site is in private ownership and the Council has not sought to designate it as open space. The site is currently unmanaged grassland with some self-seeded trees. There are also safety concerns associated with previously collapsed cellars and a vermin issue. Moreover, it currently appears as an unexpected break within the high-density residential development, characteristic of the CA. As such, the site contributes negatively to the CA. Returning the site to an active residential use would be a benefit of the proposal.
14. The inclusion of a large retaining wall would be characteristic of the CA and would be necessary to allow the dwelling to address the steep topography. Furthermore, the proposed mix of contemporary materials alongside traditional materials would be appropriate and would help assimilate the scheme within the wider CA. Nonetheless, these benefits do not overcome the identified harm.
15. Overall, the proposal would not preserve or enhance the character and appearance of the CA. As such, it would be contrary to Policies HE1 and HS1 of the Calderdale Local Plan, February 2023 (LP). These policies indicate that proposals affecting a conservation area should preserve those elements that contribute to its significance and proposals for residential development will be supported if it conserves heritage assets, amongst other factors. The proposal would also not be in accordance with the National Planning Policy Framework (the Framework) where it advises that local planning authorities should take account of the positive contribution that conservation of heritage assets can make to sustainable communities.

Heritage balance

16. Paragraph 205 of the Framework indicates that great weight should be given to an asset's conservation, irrespective of whether any harm amounts to substantial or less than substantial harm.
17. I have found the appeal proposal would fail to preserve or enhance the character or appearance of the CA. In accordance with paragraph 208 of the Framework, I find that the harm would be less than substantial, due to the

scale of the proposal. This harm is to be weighed against the public benefits arising from the proposal and I will return to this later in my decision.

Character and appearance

18. Given the site is located within the CA, an assessment on its effect on the character and appearance has been undertaken. As above, due to its design the proposal would disrupt the prevailing pattern of development and would appear incongruous within the street scene. Furthermore, it would not reflect the distinctive architectural response to the landscape apparent in Hebden Bridge.
19. Therefore, it would have a harmful effect on the character and appearance of the area. As such, it would be contrary to LP Policies HS1 and BT1 which indicate that the proposed design style should respect the character and appearance of the area, and that residential developments will be supported provided that it complies with other relevant local plan policies.

Neighbouring occupants' living conditions

20. Sections of the original Sun Path Study are inaccurate and, therefore, it holds very limited weight in my determination of the appeal.
21. Annex 2 of the LP provides guidance on the space about dwellings, to ensure amenity, and acknowledges that in some circumstances it may not be appropriate or possible to achieve the recommended distances. Development in the CA is identified as one of the possible exceptions. Moreover, most of the historic development in the area would not conform with the guidance and it is a tight-knit, high-density residential area. As such, occupants in the area should reasonably expect that distances short of those specified in the guidance may be acceptable.
22. Due to the height of the proposed dwelling, it would shadow the lower floors of No 4 during the afternoon and evening in winter months. During my site visit, I observed that the kitchen, dining room and living room of No 4, face toward the appeal site and only had windows in the front elevation. Although the appeal site previously accommodated tall development which would have shadowed No 4, that was demolished almost 50 years ago. Whilst shorter separation distances than those proposed within Annex 2 may be appropriate, the proposal would significantly reduce the amount of sunlight experienced within the main living space of No 4. The proposal would overshadow No 4 and would lead to the main living area feeling dark and gloomy during the afternoon and evening in winter months.
23. The proposal may restrict sunlight to No 13/16's side window, which serves a habitable room, particularly in the morning. Nonetheless, the proposed dwelling would be set away from No 13/16. Also, the window is located at the second-floor level, the upper levels of No 13/16 would not be as overshadowed as the lower sections of the property. As such, the proposal would not lead to a material reduction in sunlight experienced within No 13/16.
24. Given the orientation of the proposed dwelling and Beech Mount, the proposed dwelling may cast a shadow over Beech Mount in the evening in winter months. However, the extent of the shadowing would be limited and would not materially affect occupants of Beech Mount.

25. The proposed windows on Balmoral Street would be a short distance from those in the front elevation of No 4. However, as per LP Annex 2, there is generally lower expectations of privacy from street side windows. Furthermore, the proposed windows would serve the entrance and circulation space. The use of the space would be infrequent compared to habitable rooms. As such, the proposal would not materially alter the level of privacy enjoyed by occupants of No 4.
26. The proposed dwelling includes a door and a window facing toward No 13/16 at the lower ground floor level. However, the side elevation of No 13/16 is largely blank, other than a second-floor window. As this window is in an elevated position, the appeal proposal would not have a harmful effect on the level of privacy enjoyed by occupants of No 13/16. Furthermore, the proposed external terrace to one side of the proposed dwelling would be adjacent to No 13/16s external terrace. However, appropriate boundary treatments would ensure that the proposal would not materially affect the sense of privacy enjoyed by occupants of No 13/16.
27. An external terrace area would be constructed near to Beech Mount. This would be at a similar height to the windows of Beech Mount. Nevertheless, the boundary wall would largely screen views between the two properties. Therefore, the proposal would not have a material effect on the level of privacy enjoyed by occupants of Beech Mount.
28. Overall, the proposal would have a harmful effect on the living conditions of occupants of No 4, with regard to loss of light. However, the proposal would not have a harmful effect on the living conditions of occupants of No 13/16 and Beech Mount, with regard to loss of light and privacy, and No 4, with regard to privacy. The proposal would be contrary to LP Policy BT2 which indicates that proposals should not result in a significant adverse impact on the daylighting of adjacent residents. Nonetheless, it would be in general accordance with LP Annex 2 where it advises that development in the CA is one of the exceptions where separation distances less than those specified may be acceptable.

Future occupants' living conditions

29. As above, No 4's windows would look toward the proposed Balmoral Street elevation at a short distance. However, the proposed windows in the Balmoral Street elevation would only serve non-habitable rooms and there would be lower expectation of privacy from street side windows. Whilst the distance between the proposed dwelling and the windows within No 4 would reduce the sense of privacy, this would not be to a harmful extent.
30. The side window of No 13/16 would directly overlook the proposed external terrace area to one side of the building and No 13/16's external terrace would be adjacent to this space. Nevertheless, there would be further external terraces to the front and other side of the proposed dwelling. Moreover, given the dense pattern of development occupants expectations of privacy in external areas is lower than would be expected in more spacious areas and an appropriate boundary treatment could be secured. As such, No 13/16's side window and external terrace would not have a harmful effect on the sense of privacy enjoyed by future occupants of the proposed dwelling.
31. As above, with regard to Beech Mount, the proposed terrace area to the side of the building would be at the same level as the windows of Beech Mount.

However, the proposed boundary wall would provide necessary screening to ensure suitable privacy for future occupiers.

32. The proposal would provide acceptable living conditions for future occupants, with regard to privacy. Therefore, it would be in accordance with LP Policy BT2 and Annex 2 which indicates that proposals should not result in a significant adverse impact on the privacy of prospective residents, amongst other factors.

Planning Balance

33. As there are no cited policies which would support development which is contrary to the policies listed above, the proposal would be contrary to the development plan when considered as a whole.
34. The Council cannot demonstrate five years' worth of deliverable housing land supply. The proposal would lead to the construction of a dwelling on previously developed land and would represent windfall development. Moreover, the area is in an area at low risk of flooding, particularly compared to other areas within Hebden Bridge. The proposal would include several sustainability measures with the aim of reducing energy use and using less carbon, this includes an air source heat pump, mechanical ventilation with heat recovery and photovoltaic panels. There would also be social benefits associated with the provision of communal bin storage. As above, introducing residential development would help resolve the existing safety and vermin issues present on the site. Given the shortfall in housing land supply and the scale of the proposed development, combined, the benefits attract considerable weight.
35. In accordance with paragraph 208 of the Framework, I conclude even when considered in combination, that the benefits do not outweigh the great weight given to the 'less than substantial harm' to the CA.
36. As the Council cannot demonstrate five years supply of deliverable housing land, footnote 8 of the Framework establishes that the policies which are most important for determining the application are out-of-date. In this instance, paragraph 11 d) i) is engaged and it advises granting permission unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development. Footnote 7 of the Framework details that these policies include designated heritage assets. As above, the proposal would cause harm to the CA. Therefore, the provision of paragraph 11 d) ii) of the Framework is not engaged.

Conclusion

37. The material considerations do not indicate that a decision should be made other than in accordance with the development plan. Therefore, the appeal should be dismissed.

J Hobbs

INSPECTOR