



Appeal Decision

Site visit made on 25 June 2024

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2024

Appeal Ref: APP/J0405/W/23/3329511

Land at 1-3 High Street, Ivinghoe, Buckinghamshire, LU7 9EP

- 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 M Hopcroft against the decision of Buckinghamshire Council.
 - The application Ref is 23/00138/APP.
 - The development proposed is the erection of a 4 bedroomed house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant has submitted revised plans¹ with the appeal. They show an adjusted position of the proposed dwelling within the appeal site so as to increase the dimensions of the car parking spaces. They also show the removal of a sycamore tree and its replacement with a field maple. The amendments do not amount to a fundamental change to the overall nature or design of the proposal. Moreover, the Council has commented on the revised plans, and the appellant has taken steps² to inform neighbours and the planning application consultees of the changes. Therefore, I am satisfied that no one would be treated unfairly by my determining the appeal in relation to the revised plans.
3. The Council have confirmed³ that the revised plans address their concerns in relation to the proposed vehicle parking arrangements. Hence, the third reason for refusal on the Council's decision notice falls away.

Main Issues

4. The main issues are the effect of the proposal on:
 - The character and appearance of the area having particular regard to the special interest and significance of nearby listed buildings and whether the character or appearance of the Ivinghoe Conservation Area (CA) would be preserved or enhanced, including the consideration of trees.
 - The Chilterns Beechwoods Special Area of Conservation (SAC).
 - The living conditions of the occupants of The Old Brewery House and future residents of the proposed dwelling having regard to privacy.

¹ Drawings referenced 2258-4-12E Block/Roof and Location Plans & 2258-4-6C Street Views and Sections

² Appendix 1, Appellant's Appeal Statement

³ Council's Statement of Case dated 7.2.24

Reasons

Listed buildings, CA and trees

5. The appeal site lies close to the conjunction of High Street, Church Road and Station Road where there is a concentration of listed buildings. However, insofar as the appeal site is concerned, it is the configuration of three listed buildings which I observed to have most relevance owing to their proximity. They comprise the Church of St Mary (Grade I) (the church), the Old Brewery House (Grade II) and the Kings Head (Grade II). These three listed buildings coincide with the convergence of the main thoroughfares, thereby forming a focal point to the village.
6. The cruciform parish church is of early medieval origin and comprises the highest status building at the heart of the CA. It possesses considerable aesthetic interest as it reflects the evolution of church architecture over a long period and was much restored in 1871 by G E Street. The historic fabric and presence of the church is a tangible and direct connection with the past, holding longstanding cultural and spiritual importance for the community.
7. A further component of the church's significance derives from the verdant and spacious setting of the building. This encompasses the immediate churchyard, but also includes nearby mature trees, the separation distance from other buildings, the recreation ground to the west and glimpsed views to the wider countryside. These factors enhance the aesthetic value of the church, but also reinforce its higher status and relationship with the rural parish it serves. At my visit I was able to appreciate these factors on approaching the entrance to the church from the west, walking past the appeal site.
8. The Old Brewery House is a substantial, handsome, classically proportioned three storey mansion. It is of probable late 18th century construction⁴ and was built in connection with the former brewery site at Ivinghoe. It commands a prominent position close to the church, with its principal elevation addressing the High Street and recreation ground beyond. It is largely symmetrical and is constructed in red brick with classical detailing. Consequently, it has aesthetic significance as a good example of a higher status dwelling of the period, but also holds social and economic historic interest.
9. Opposite the church and the Old Brewery House is the Kings Head. The two-storey building of medieval origin has elevations directly presenting onto the prominent corner of Church Road and Station Road. Its vernacular architecture is more modest and less regular, showing evidence of historic adaptations over time. Its special interest and significance stems in part from that, as well its historic fabric and traditional construction. It holds further heritage significance owing to its evidential and communal value as a former inn.
10. The appeal site historically accommodated brewery buildings which were demolished around 1927. It subsequently provided parking and a cycle shelter when the Old Brewery House was used as a youth hostel. However, today the land is largely devoid of built form, with some trees and areas of grass and gravel.
11. My observations were that the space and established trees on the appeal site contribute positively towards the sense of spaciousness and greenery within

⁴ Paragraph 2.2.3, Heritage Statement prepared by DLA Heritage dated November 2022

the setting of the church. Hence, the appeal site reinforces its significance. Moreover, it forms part of the grounds of the Old Brewery House and separates the house and church. Owing to its proximity, the appeal site forms part of the setting at the heart of the settlement in which the Old Brewery House and the Kings Head are experienced. The softening effect of the established trees and quality of spaciousness allows the special interest and significance of the listed buildings to be appreciated.

12. The significance of the CA derives from a combination of factors. This includes the rural setting of the settlement between the Vale of Aylesbury and the Chiltern Hills. Views of the wider countryside are possible from several vantage points within the CA. These add to its scenic qualities and reinforce the close connection with its rural and agricultural surroundings. Verdant and spacious qualities also feature heavily within the CA, as it encompasses sizeable areas of open space including the churchyard, recreation ground and allotment gardens. The Ivinghoe Conservation Area Review 2015⁵ (CA review) confirms that trees, vegetation and open space play a fundamental role in establishing the character of the village.
13. In addition, the medieval origins of the settlement are evident in the road alignments, the broadly linear arrangement of historic building lining them and the quality of vernacular architecture which reflects the evolution of the settlement over time. A concentration of surviving good quality historic buildings is particularly evident in the historic core of the village around the church. In combination, these factors result in an attractive rural character and appearance.
14. The spacious qualities of the appeal site reinforce important characteristics of the village. The appeal site also has a sycamore and a maple tree growing on it which add positively to the rural, leafy qualities of the CA. At approximately 13m in height⁶ and situated at the northern end of the site not far from the church, the sycamore is apparent in the street scene. Furthermore, there is a view across part of the appeal site towards the Chiltern Hills, which is identified as a key glimpsed view⁷ in the CA review. As such, the appeal site contributes positively to the character and appearance of the CA.
15. The Council consider that the appeal site also lies within the setting of other listed buildings, namely 10 Station Road, 12-14 Station Road, Town Hall, 9 High Street, 1 Church Road and 3 Church Road. I was able to observe these listed buildings at my site visit. Although they are within the general vicinity, they are all somewhat removed from the appeal site, often with other buildings in the intervening space. No specific historic connection has been shown to connect the appeal site with those listed buildings. Hence, based on the information provided, I do not consider the appeal site makes a notable contribution to the significance or special interest of those listed buildings.
16. I have statutory duties⁸ to give special attention to the desirability of preserving the special architectural or historic interest of listed buildings, including their setting, and of preserving or enhancing the character or appearance of conservation areas.

⁵ Chapter 3

⁶ Tree Data Table, Paragraph 4.8 Tree Report prepared by John Cromar's Arboricultural Company Ltd

⁷ Page 24

⁸ Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

17. The proposal would introduce a substantial detached dwelling onto the land which is presently largely devoid of built form. Accordingly, the volume and presence of the structure would erode spaciousness. Furthermore, it would displace the twin stemmed sycamore tree, thereby removing an attractive natural feature that adds to the verdancy of the area. These factors would dilute positive qualities of the appeal site that contribute towards the settings of the church, the Old Brewery House and the Kings Head.
18. This harm would be particularly apparent in views on the approach to the church via its main entrance, thereby diminishing the surroundings in which the heritage asset is experienced. My findings are illustrated to an extent by a comparison of the bottom photograph on page 6 of the Heritage Statement and the proposed 3D sketch evidence⁹ provided. Additionally, by being present in the foreground, the dwelling would draw the eye and thereby interfere with the key glimpsed view identified in the CA review.
19. In explaining the design approach¹⁰ for the proposed dwelling, the appellant refers to the scale and form taking cues from former brewery buildings, as well as from nearby historic buildings, drawing on a study of external features. However, the Heritage Statement¹¹ contends that the siting of the dwelling would be a natural component of 20th century residential development at Windmill Close. Accordingly, there are competing influences underlying the design concept which ultimately manifest themselves in a somewhat confused approach. I say this for the following reasons.
20. Firstly, there is no dispute that the appeal site has a prominent position within the settlement. Moreover, owing to the configuration and value of the historic environment and surrounding natural features, it is a sensitive one. It follows that physical changes in this context are more likely to have notable consequences.
21. Given that, I am not convinced that either the long-gone former brewery buildings, or the modern detached twentieth century housing in Windmill Close, provide a suitable basis from which to draw influence. In any event, it is not shown that the proposed dwelling has anything in common in terms of form or function with the historic brewery. Neither is it demonstrated that the modern dwellings at Windmill Close are so well grounded in their locality that they positively contribute to the qualities of the CA, or the settings of the listed buildings described. I observed their form and layout to have little in common with the historic linear settlement pattern.
22. It follows that a continuation of that settlement pattern closer to the listed buildings and in a more conspicuous position would detract from their significance and undermine the character and appearance of the CA.
23. In addition, I am not convinced that the proportions of the proposed dwelling would successfully achieve a classical form as is suggested¹². The width of the building relative to its height would be overly elongated, which in combination with the fenestration proportions would result in a strong horizontal emphasis. That would strike a discordant note so close to the pleasing classical architecture of The Old Brewery House. The depth of the footprint would mean

⁹ Drawing 2258/4/A3:16 Proposed Northeast High Street View, Appendix 5, Appellant's Appeal Statement

¹⁰ Paragraphs 6.2.15-6.2.18, Appellant's Appeal Statement

¹¹ Paragraphs 2.2.7 & 6.1.6, Heritage Statement prepared by DLA Heritage dated November 2022

¹² Paragraph 6.2.29, Appellant's Appeal Statement

the pitch of the gable would be closer to that seen in conventional modern houses rather than nearby traditional buildings.

24. Most traditional dwellings nearby directly address the principal street. The proposed dwelling would depart from this approach by presenting its side elevation towards the High Street and its principal elevation to Windmill Close. Even if there were sound reasons for doing so, the composition of the side elevation weakens the hierarchy of the building elevations by adding a single storey adjunct, an entrance door and five windows. The appellant explains that this would add interest and acknowledges that it may be reminiscent with the appearance of a chapel¹³. However, this would further complicate the design concept and it is not convincingly explained how this would respect either the classical or vernacular approaches to architecture in evidence nearby.
25. Overall, the design concept is confused and would lack identity in this sensitive context. It would therefore be an unsympathetic addition that would detract from the settings of the listed buildings, and the CA. I acknowledge that the massing of the dwelling would not equate to that of the church or the Old Brewery House, and it would be set back from the High Street. However, these factors would not fully address my concerns. Neither do I find that the careful use of materials or employment of architectural detailing would overcome the more fundamental harm identified.
26. It is suggested that the protected sycamore tree that would be removed makes only a limited contribution¹⁴ to the street scene. Having observed the tree, I cannot agree, and my finding is reinforced by the categorisation of the tree as a 'B' class tree in the submitted tree report. The report explains that such trees are good trees in terms of visual value to the public. Whilst a replacement field maple is proposed to be planted, this would take some time to make a similar visual contribution.
27. My attention is drawn to the appellant's successful track record in the conservation of the Old Brewery House. Be that as it may, I have determined the proposal before me on its own merits based on the information provided and my own observations.
28. Consequently, I find the proposal would be harmful to the settings of the identified listed buildings, and thereby would fail to preserve their special architectural and historic interest. For similar reasons, the development would neither preserve or enhance the character and appearance of the CA as a whole. Hence, conflict would arise with the statutory duties relating to listed buildings and conservation areas.
29. It follows that the development would cause harm to the significance of three listed buildings as well as the CA, which are all designated heritage assets. In the terms of the National Planning Policy Framework (the Framework), I consider that it would result in less than substantial harm to each asset.
30. Paragraph 206 of the Framework states that any harm to, or loss of, the significance of a designated heritage asset should require clear and convincing justification. Furthermore, paragraph 208 indicates that such less than substantial harm should be weighed against the public benefits of the proposal.

¹³ Paragraph 6.2.17, Appellant's Appeal Statement

¹⁴ Paragraph 6.4.8, Appellant's Appeal Statement

Heritage balance

31. The principal public benefit would be the provision of an additional dwelling in a reasonably accessible location. Hence, the development would boost supply against the backdrop of unmet need. It would also make more efficient use of the land, which has in the past accommodated built form. There would also be social and economic benefits associated with construction and the occupation of the proposed dwelling. Nevertheless, the extent of such public benefits accruing from one additional house would be minor. As such, they attract a moderate amount of favourable weight.
32. Balanced against this is the harm to the designated heritage assets. Paragraph 205 of the Framework stipulates that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to its conservation. The more important the asset, the greater the weight should be. In this case I judge four designated heritage assets would be harmed, one of which is a Grade I listed church, denoting its exceptional heritage value.
33. Therefore, the public benefits would be insufficient to outweigh the great weight given to the harm identified. Hence, conflict arises with the historic protection policies in the Framework.
34. Accordingly, I find that the development would have an adverse effect on the character and appearance of the area, including trees and it would result in unjustified harm to designated heritage assets. Therefore, it would be contrary to policies BE1, BE2, NE4 and NE8 of the Vale of Aylesbury Local Plan 2013-2033, September 2021 (LP), and policies HSG1 and ENV2 of the Ivinghoe Parish Neighbourhood Plan 2014-2033, made 2018. These policies, when read together, amongst other things, seek to preserve and enhance designated heritage assets broadly in accordance with the Framework, and require developments to respect the natural and built surroundings.
35. The Council also cited conflict with policy S1 of the LP in refusal reason 2 on their decision notice. However, this policy sets out the general approach to sustainable development, broadly similar to that found in the Framework. Given the generic positive wording of the policy, I find no specific conflict with it in this instance.

SAC

36. The appeal site is located within 12.6km of the Ashridge Commons and Woods Site of Special Scientific Interest, which lies within the SAC. The latter is a designation recognised by the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). The SAC includes a range of habitats encompassing beech forest woodland, semi-natural dry grasslands and scrub which support a stag beetle population.
37. Research has shown that new housing development within 12.6km of the SAC is likely to result in an increase in recreational pressure that would be detrimental to the quality of the SAC habitats. This would arise from trampling and vegetation wear, soil compaction and erosion, contamination from dog fouling, litter, invasive species and increased risk of fire.
38. The proposal would result in an additional dwelling within the zone of influence. Accordingly, when considered in combination with other development and in

the absence of mitigation, likely significant adverse effects on the SAC cannot be ruled out. My attention has been drawn to the previous use of the Old Brewery House as a youth hostel. By comparison, it is asserted that there would be fewer visitors to the SAC. However, I understand the youth hostel use ceased over a decade ago, and the research on recreational effects on the SAC has taken place since. Hence, this is not a factor that would lead me to a different finding.

39. Moreover, Natural England¹⁵ considers that the development would have an adverse impact on the integrity of the SAC. Given their expertise, this carries considerable weight.
40. The evidence provided outlines how the Council, Natural England and other partners are working towards a strategic solution to mitigate detrimental recreational effects on the SAC. This is likely to involve both Strategic Access Management and Monitoring (SAMM) and Suitable Alternative Natural Green Space (SANG). For a development of the scale of the appeal proposal, it would probably require financial contributions in both respects. Whilst progress has been made in relation to the measures and corresponding costs for SAMM, the details of off-site SANG provision and costings have not yet been finalised.
41. Although it is probable that a strategic approach will be established in time, with suitable financial contributions being quantified and evidenced, at the time of writing my decision uncertainty remains. There is very little other evidence before me to show what degree of mitigation would be necessary to address the impact arising from the proposed dwelling. The appellant initially intended to provide a unilateral undertaking anticipating that there would be an agreed strategic approach in place that specified financial contributions to SAMM and SANG. However, in the absence of this, no specific mitigation or legal undertaking has been proposed by the appellant.
42. Accordingly, I find that the proposal would result in significant adverse effects on the integrity of the SAC. It is not shown, for the purposes of the Habitat Regulations, that there are no alternative solutions or imperative reasons of overriding public interest that would justify permitting the proposal. In these circumstances, the Habitat Regulations¹⁶ stipulate that permission should not be granted. The Framework confirms at paragraph 186 that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused. Furthermore, the proposal would conflict with policy NE1 of the LP which seeks to avoid significant adverse effects on the SAC unless they can be fully mitigated.

Living conditions

43. Policy BE3 of the LP states that planning permission will not be granted where the proposed development would unreasonably harm any aspect of the amenity of existing residents and would not achieve a satisfactory level of amenity for future residents. The Council raises concerns regarding the relationship between the ground floor dining room window in the front elevation of the proposed dwelling and the ground floor living room window in the side

¹⁵ Letter dated 9.3.23

¹⁶ Regulation 63

elevation of the Old Brewery House. They contend it would result in unreasonable overlooking to the residents of the respective properties.

44. Drawing 2258/4/A3:14 shows that the orientation of the respective windows is not directly aligned, with the living room window of the Old Brewery House at a slight angle. Moreover, the living room window provides a secondary aspect to the space. These factors, combined with the separation distance would mitigate against an intrusive relationship. In addition, Windmill Close is situated in the intervening space which gives public access. Hence, the degree of privacy of the respective ground floor windows facing onto it is already notably compromised. In this context, I consider the proposed arrangement would not cause unreasonable harm.
45. Furthermore, there is an existing hedgerow along the boundary of the appeal site which it is intended to retain. This would provide screening between the ground floor windows that would prevent intervisibility. I acknowledge that there is no guarantee that the presence or height of the hedgerow would be maintained in perpetuity. Nevertheless, it is reasonable to anticipate that the occupants of the proposed dwelling would probably take measures along the front boundary to ensure the shielding of the dining room window from passers-by on the road who would be comparatively closer. I have given this factor limited favourable weight. In this respect, my approach is broadly similar to that of the Inspector in an appeal decision¹⁷ brought to my attention.
46. Overall, having regard to privacy, a satisfactory level of amenity would be achieved for the occupants of The Old Brewery House and future residents of the proposed dwelling. Hence, I do not find conflict with policy BE3 of the LP in this respect.

Other Matters

47. The Council states that they are unable to demonstrate a five-year supply of deliverable housing land and point to a 4.7 year supply for the period 2023-2028¹⁸. This amounts to a moderate shortfall in delivery relative to the housing need. I shall return to this in the overall planning balance.
48. The proposals would make more efficient use of the land, which has historically accommodated some built form, to provide an additional dwelling. This would assist in boosting the overall supply of housing in a reasonably accessible location. These are factors for which support can be found in the Framework. However, the extent of such benefits accruing from a single dwelling would be relatively small. Nevertheless, given the shortfall in delivery, I cumulatively attribute them moderate positive weight.

Planning balance and conclusion

49. As the Council is unable to demonstrate a five year supply of deliverable housing sites, paragraph 11d) of the Framework is engaged. The presumption in favour of sustainable development means that planning permission should be granted unless (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development, or (ii) that any adverse impacts of doing so would significantly

¹⁷ Appeal reference APP/J0405/D/22/3304361, Appendix J, Council's Statement of Case

¹⁸ Page 3, Council's Statement of Case

and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

50. Having undertaken the heritage balance under paragraph 208 of the Framework, I have found the proposals would result in unjustified harm to several designated heritage assets. Footnote 7 to paragraph 11 of the Framework confirms that this amounts to a clear reason for refusing the development proposed for the purposes of paragraph 11d)(i). Moreover, the appropriate assessment under the Habitat Regulations indicates that permission should be withheld. Paragraph 188 of the Framework confirms that the presumption in favour of sustainable development does not apply in these circumstances.
51. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise¹⁹. There are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

INSPECTOR

¹⁹ Section 38(6) Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.