



Appeal Decision

Site visit made on 24 September 2024

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2024

Appeal Ref: APP/A1910/W/23/3333363

Land adjacent to 26 Station Road, Berkhamsted HP4 2EY

- 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 N Herbert of Queenswood Homes against the decision of Dacorum Borough Council.
 - The application Ref is 23/00974/FUL.
 - The development proposed is a detached dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for a detached dwelling house at land adjacent to No. 26 Station Road, Berkhamsted HP4 2EY in accordance with the terms of the application, Ref 23/00974/FUL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The Government published a revised National Planning Policy Framework (the Framework) following the determination of the planning application. For the avoidance of doubt, where reference is made in this decision to paragraph numbers they are taken from the latest version.
3. The appeal site is located within the Zone of Influence (ZoI) for the Chilterns Beechwoods Special Area of Conservation (SAC). Such designations are afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended. Although not forming part of the Council's reason for refusal, it is incumbent upon me as a competent authority to consider whether the proposal would be likely to have a significant effect on the integrity of the SAC. It is therefore necessary to address this matter as a main issue.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the area with particular regard to its location in the Berkhamsted Conservation Area;
 - The effect of the proposed development on highway safety, with particular regard to the loss of informal parking; and
 - The integrity of the Chilterns Beechwoods SAC.

Reasons

Character and appearance

5. The site is an undeveloped area of land on Station Road within the Berkhamsted Conservation Area (CA). I have therefore had regard to the statutory duty to pay special attention to the desirability of preserving or enhancing the character or appearance of that area as set out at Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
6. The CA covers an extensive area centring on the historic core of the town. From my observations, and the evidence before me, I consider that its significance is derived, in part, from its historic townscape, including the traditional high-density housing it contains.
7. The part of the CA where the appeal site is located includes high density late 19th and early 20th century housing development of varied design. On Station Road such houses are predominantly on the south-west side facing towards the railway and backing onto the Grand Union Canal.
8. The north-west side of Station Road, on which the appeal site is located, is a triangle of land between the highway and railway tracks. Its character differs from that of the south-west side as it has few buildings and contains dense and mature groups of trees that extend partially alongside the carriageway and on higher ground adjoining the tracks. Whilst the appeal site contains vegetation, its overgrown nature ensures that, at best, it is a neutral feature within the CA.
9. The proposal would result in the loss of some vegetation and would introduce a further building onto the north-west, low density, side of Station Road. Nevertheless, there would be space between the buildings ensuring that the contrast with the high-density form of development on the south-west side would remain. The trees adjoining the railway line would continue to be visible in the gaps between, and above, the appeal proposal and the adjoining recently constructed dwellings following approval on appeal. Furthermore, the depth of the proposed rear garden would be comparable to the older cottages as well as the new dwellings. As such, it would not be seen as over development either on its own or in combination with the two, new dwellings.
10. Additionally, the scale, form, window proportions, eaves height, roof pitch and chimney detail of the appeal proposal reflect some of the 19th century dwellings on Station Road. Consequently, the appeal proposal would not look out of character with the wider area or incongruous in this context.
11. For the above reasons, the proposal would not harm the character and appearance of the area, including the Berkhamsted Conservation Area. It would not, therefore, be contrary to Policy CS11 of the Core Strategy, and Appendix 3 and Policy 120 of the Dacorum Local Plan (LP). Such policies seek to ensure that development retains the quality of neighbourhoods and preserves or enhances the character or appearance of conservation areas.

Highway safety

12. At the time of my visit there were high levels of on-street parking in the vicinity of the site. This included use of an informal parking area, comprising a gravel surfaced verge, that adjoins the carriageway in front of the site and the adjoining recently constructed dwellings, as well as a virtually continuous row

of parked cars along one side of Station Road. It is likely that some of the parking that I observed was in connection with nearby businesses and the train station. Nonetheless, as the occupants of the dwellings in the vicinity of the site rely on on-street parking, it is reasonable to consider that such a high level of parking is typical.

13. As I observed on my visit, the proposed access, which has been constructed, would result in the loss of one parking space that is currently available for general use. Nonetheless, whilst there are existing parking pressures, such a loss of on-street provision, even in combination with that arising from the adjoining development, is relatively small in the context of the overall supply and availability in the area. I therefore find that the residual cumulative impacts of the proposal on the road network would not be severe.
14. I acknowledge that when allowing the appeal relating to the adjoining development, the Inspector considered the formalisation of the parking area along the frontage of that site to be a highway betterment. There is, however, nothing in the wording of that decision to support the Council's claim that, if the Highway Authority (HA) had stated that it was not amenable to the formalisation of the parking within the verge, the Inspector may have found that proposal to be harmful to highway safety.
15. The Council has not raised concerns regarding the adequacy of the proposed parking provision. There is nothing before me that would lead me to disagree with the Council in this regard and conclude that two parking spaces for a dwelling with up to four bedrooms, as proposed, would be unacceptable. Furthermore, whilst I acknowledge that the parking which takes place on Station Road restricts it to a single carriageway width, there is no compelling evidence before me to suggest that the proposed parking and access could not be used in a safe manner. In reaching this conclusion I have had regard to the absence of objection from the HA.
16. Accordingly, I find that the proposal would not have a harmful effect on highway safety and would not result in an unacceptable loss of informal parking. It would, therefore, accord with LP Policy 51 which states that development proposals should not have significant implications for on-street parking, and the provisions of paragraph 115 of the Framework.

Chilterns Beechwoods SAC

17. The Chilterns Beechwoods SAC is an extensive area on the Chilterns escarpment with ancient woodland, acid commons with relict heath, ancient Beech pollards, chalk grassland and scrub. The SAC has a very rich breeding bird community and supports several uncommon plants. Its key qualifying features are beech forests on neutral to rich soils, semi-natural dry grasslands and scrub on chalk, and its stag beetle population.
18. The SAC has been identified by Natural England (NE) as being vulnerable to harm as a result of recreational disturbance which would be exacerbated by an increase in the local population resulting from new residential development. The appeal proposal would result in a net gain of one dwelling, and it is therefore likely that the proposal, alone and in combination with other development, would adversely affect the integrity of the SAC. As such, it is necessary for me, as the competent authority, to conduct an appropriate assessment in relation to the effect of granting permission on its integrity.

19. The Chilterns Beechwoods SAC Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest (the Strategy) requires contributions towards the Strategic Access Management and Monitoring Strategy (SAMMS) and Suitable Alternative Natural Greenspace (SANG). The SAMMS seeks to manage and avoid impacts at its source and better educate those visiting the SAC. The SANG are greenspaces that are created or enhanced with the specific purpose of absorbing recreation pressure that would otherwise occur within the SAC.
20. The appeal is supported by a planning obligation in the form of a signed and certified unilateral undertaking, dated 9 May 2024, made pursuant to section 106 of the Town and Country Planning Act 1990 (the UU), which undertakes to make the required SAMMS and SANG contributions. NE has been consulted as part of this appropriate assessment and has confirmed that such undertakings as set out in the UU would be sufficient to avoid an adverse effect on the integrity of the SAC and their relevant features.
21. Having regard to the views of NE and taking into account the planning obligations set out in the UU, on which I place weight, I am satisfied that the development would not cause harm to the ecological value of the SAC.
22. In conclusion, the proposal would not harm the integrity of the SAC and would, therefore, accord with paragraph 186 of the Framework which states that planning permission should be refused where significant harm to biodiversity resulting from a development cannot be avoided or adequately mitigated.

Other Matters

23. I have had regard to the other matters raised by interested parties, including noise, pollution, loss of green space, and loss of privacy, and risk of flooding. However, I have been presented with no substantive evidence that would lead me to disagree with the Council's conclusions on these matters and determine that the proposal would result in material harm sufficient to justify dismissing this appeal.

Conditions

24. The Council has suggested several conditions which I have considered against the Framework and Planning Practice Guidance. As a result, I have made some amendments to the wording for clarity and consistency.
25. I have imposed the standard time limit condition, and, in the interests of certainty, a condition that specifies that the development is carried out in accordance with approved plans.
26. To minimise risks for future occupiers, neighbouring occupiers and the environment, conditions are required to ensure that contamination is appropriately addressed. One such condition, requiring a preliminary risk assessment, must be satisfied before the commencement of development to ensure that appropriate investigation is carried out at a very early stage.
27. I include conditions to ensure that the construction process is suitably controlled and its effects on the surroundings are minimised in the interests of highway safety and to protect the living conditions of nearby residents. In the interests of safety, operational needs and integrity of the railway, conditions

are also necessary to ensure that the site is developed without affecting the adjoining railway line. The condition requiring a method statement and risk assessment in relation to the railway is a pre-commencement condition to ensure that appropriate measures are identified and put in place before development commences.

28. Given the proximity of the railway line, conditions are also necessary to protect the dwelling from railway noise and vibration in the interests of the living conditions of the future occupants.
29. The removal of permitted development rights should only be used in exceptional circumstances. In this instance, removal of such rights regarding external alterations is justified in the interests of highway safety. This would reduce the likelihood of the dwelling becoming a five-bedroom property thereby increasing the parking requirement over and above that which could be accommodated on site. For the same reason, conditions relating to the provision of the access and parking area are also necessary.
30. To protect the living conditions of the occupants of the permitted dwelling and adjoining properties, I have included a condition which requires the provision of the amenity area.
31. In addition, to ensure the satisfactory appearance of the proposed development, I have considered it necessary to attach conditions relating to hard and soft landscaping. Whilst not referred to in the list of conditions provided by the Council, I have also included a condition requiring tree protection measures which I consider be pre-commencement condition to provide protection over the full course of construction.

Conclusion

32. For the reasons given above, having regard to the development plan as a whole and all relevant material considerations, I conclude that the appeal should be allowed.

Elaine Moulton

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: Proposed Site Plan drawing number TL-4870-23-100D and Dwelling Details drawing number TL-4870-23-101B.
- 3) All the trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be previously approved in writing by the local planning authority. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the

ground levels within those areas shall not be altered, nor shall any excavation be made.

- 4) (a) No development hereby approved shall be commenced prior to the submission to, and agreement of the local planning authority of a written Preliminary Environmental Risk Assessment Report containing a Conceptual Site Model that indicates sources, pathways and receptors. It should identify the current and past land uses of the site (and adjacent sites) with a view to determining the presence of contamination likely to be harmful to human health and the built and natural environment.
- (b) If the local planning authority is of the opinion that the report which discharges condition 4(a) indicates a reasonable likelihood of harmful contamination then no development approved by this permission shall be commenced until an Intrusive Site Investigation Risk Assessment Report has been submitted to and approved by the local planning authority which includes:
- i. A full identification of the location and concentration of all pollutants on this site and the presence of relevant receptors; and
 - ii. The results from the application of an appropriate risk assessment methodology.
- (c) No development approved by this permission (other than that necessary for the discharge of this condition) shall be commenced until a Remediation Method Statement Report (including an options appraisal and verification plan), if required as a result of condition 4(b), has been submitted to and approved by the local planning authority.
- (d) This site shall not be occupied, or brought into use, until:
- i. All works which form part of the Remediation Method Statement Report, pursuant to the discharge of condition 4(c), have been fully completed and, if required, a formal agreement is submitted that commits to ongoing monitoring and/or maintenance of the remediation scheme.
 - ii. A Remediation Verification Report confirming that the site is suitable for use has been submitted to, and agreed by, the local planning authority.
- 5) Any contamination, other than that reported by virtue of Condition 4, encountered during the development of this site shall be brought to the attention of the local planning authority as soon as practically possible. A scheme to render this contamination harmless shall be submitted to and agreed by the local planning authority and subsequently fully implemented prior to the occupation of this site. Works shall be temporarily suspended during this process, unless otherwise agreed in writing by the local planning authority, because the safe development and secure occupancy of the site lies with the developer.

Should no ground contamination be encountered or suspected upon completion of the groundworks, a statement to that effect shall be submitted in writing to the local planning authority prior to the first occupation of the development hereby approved.

- 6) The construction of the development shall only be carried out in accordance with the Construction Management Plan May 2023 and the Construction Management Plan drawing number TL-4870-23-102A.

- 7) No development shall take place until a method statement and risk assessment in relation to the railway has been submitted to and approved in writing by the local planning authority. Development shall be carried out strictly in accordance with the approved particulars.
- 8) No scaffolding shall be erected within 10 metres of the railway boundary until full details of the scaffolding works have been submitted to and approved in writing by the local planning authority. All scaffolding works shall be carried out strictly in accordance with the approved particulars.
- 9) No vibro-impact works (including piling) shall take place until a risk assessment and method statement in relation to the railway has been submitted to and approved in writing by the local planning authority. All vibro-impact works shall be carried out strictly in accordance with the approved particulars.
- 10) No soakaway shall be constructed/installed within 30 metres of the railway boundary.
- 11) No development above slab level shall take place until a noise mitigation and alternative ventilation scheme to protect each habitable room from railway noise has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented prior to the first occupation of the dwelling hereby approved and maintained in the approved state at all times for the lifetime of the development.
- 12) No development above slab level shall take place until a scheme to protect the residential unit from railway vibration has been submitted to and approved in writing by the local planning authority. The scheme shall be fully implemented prior to the first occupation of the dwelling hereby approved and maintained in the approved state for the lifetime of the development. No alterations shall be made to the approved structure of the unit including roof, doors, windows and external facades, layout of the unit or noise barriers.
- 13) Prior to the first occupation of the development hereby approved, the vehicular access shall be completed and thereafter retained as shown on drawing number TL-4870-23-100D. Prior to first use appropriate arrangements shall be made for surface water to be intercepted and disposed of separately so that it does not discharge from or onto the highway carriageway.
- 14) The parking area shown on drawing number TL-4870-23-100D shall be kept permanently available for parking associated with the development hereby approved and shall be used for no other purpose.
- 15) Prior to first occupation of the development hereby approved, the hard landscaping works shown on drawing numbers TL-4870-23-100D and TL-4870-23-101B have been fully completed.
- 16) Prior to first occupation of the development hereby approved, the amenity area shall be provided and laid out in accordance with drawing number TL-4870-23-100D and thereafter retained for the lifetime of the development.
- 17) The landscaping works shown on drawing number TL-4870-23-100D shall be carried out within one planting season of completing the development or the first occupation of the dwelling, whichever is sooner.

Any tree or shrub which forms part of the approved landscaping scheme which within a period of 3 years from planting fails to become established, becomes seriously damaged or diseased, dies or for any reason is removed shall be replace in the next planting season by a tree or shrub of the same species, size and maturity.

- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any equivalent Order following the amendment, re-enactment or revocation thereof) no windows, dormer windows, doors or other openings other than those expressly authorised by this permission shall be constructed in the front and rear roof slope or the south-eastern gable end.