
Appeal Decision

Site visit made on 12 November 2024

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2024

Appeal Ref: APP/A1910/W/24/3341128

Land to rear of terraces 23-26 Brook Street, Silk Mill Estate, Brook Street, Tring, Hertfordshire HP23 5EF

- 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 Hounsfield Developments Limited against the decision of Dacorum Borough Council.
 - The application Ref is 23/02194/FUL.
 - The development proposed is described as the construction of a pair of semi-detached houses to the rear of the recently completed No.23-26 Brook Street, on land to the rear of the Old Silk Mill. Proposed development includes amenity space, private car parking, cycle and bin storage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has confirmed that Policy CS10 of the Dacorum Core Strategy, adopted September 2013 (the DCS) was incorrectly cited in the reason for refusal. In their Statement of Case, they confirmed that Saved Policy 10 of the Dacorum Borough Council Local Plan 1991-2011, adopted April 2004 (the LP) is the relevant policy. This policy is referred to in the Officer Report and on this basis, I am satisfied that no party has been prejudiced by this error.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the setting of The Silk Mill, a Grade II Listed Building;
 - the effect of the proposed development on highway safety, with particular regard to car parking provision;
 - whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to the provision of private outdoor amenity space;
 - the effect of the proposed development on the living conditions of the neighbouring occupiers, with particular regard to outlook, privacy and light.

- whether the proposed development would make adequate provision for landscaping, tree planting and biodiversity net gain; and
- the effect of the proposed development on the integrity the Chilterns Beechwoods Special Area of Conservation.

Reasons

Character and Appearance

4. The appeal site comprises an area of undeveloped land situated within a gap between the Silk Mill Business Park and some residential properties which are orientated perpendicular to Brook Street. The Silk Mill Business Park contains a mixture of buildings of various designs and heights used for commercial purposes. However, the immediate surrounding area is predominantly residential.
5. Nos.21 and 22 Brook Street (Nos. 21 and 22) are a pair of traditional, semi-detached dwellings, which are sited perpendicular to Brook Street. The appeal site also includes a shared access road, and an area of land which I understand previously formed part of the rear garden to No. 22.
6. The appeal site is also located to the rear of a block of four recently constructed dwellings, now known as Nos. 23 to 26 Brook Street (Nos. 23-26). The approved plans for this development, indicate that part of the appeal site was intended to provide car parking and a communal landscaped area for the development. At the time of my site visit this had not been completed and I observed that the area is currently tarmacked.
7. On the opposite site of Brook Street is a terrace of two-storey dwellings, which face directly towards the appeal site. To the rear of the site is a sharp embankment, with Kingsley Walk, a development of residential properties situated on much higher ground than the appeal site. These properties are predominantly two storey terraced houses of a mostly uniform appearance.
8. The appeal site is located between two defined character areas, TCA11 (Silk Mill) and TCA15 (Brook Street), which are set out in the Dacorum Borough Local Plan Area Based Policies Supplementary Planning Guidance 2004 (the SPG). The TCA15 (Brook Street) character area is described as a linear corridor area of mainly small dwellings and a number of non-residential uses based on or around Brook Street. The area is noted for its variation in age, design, building types, scale and irregularly spaced layouts. However, it is also noted as having a pleasant green appearance, achieved mainly from planting within garden areas. This character description appears to relate accurately to the characteristics of the appeal site and its immediate surroundings.
9. The Development Principles set out in the SPG state that the height of new dwellings should not exceed two storeys unless it can be demonstrated that the character and appearance of the street scene will not be harmed. It also states that small to moderate sized dwellings are appropriate and encouraged.
10. The proposed development would comprise the construction of a pair of three storey dwellings, each with four bedrooms. In terms of appearance, they would be of a similar design and scale to the recently constructed terrace. However, unlike that development which is located in line with No.21 and 22, the proposed development would be highly visible from Brook Street. The

proposed dwellings would also be constructed on a raised platform, which is an integral part of the design, due to flood risk concerns on this part of the site. The proposed design further differs in that it omits the chimney stacks, which are a positive feature of the area. Whilst I appreciate that this was intended to reduce the overall height of the proposed development, it would nevertheless, result in a design which does not relate well to its setting or surroundings.

11. I do not dispute that the height of the proposed dwellings would be similar to the recently constructed dwellings. However, the site is also adjacent to some single storey buildings. The design of the proposed dwellings is such that they would, by virtue of their height and scale, fail to provide a suitable transition in height to these lower buildings. They would also be a highly prominent and discordant form of development when viewed from Brook Street and the tall, narrow design with its strong vertical emphasis would further highlight the height and scale of the buildings to the detriment of the character and appearance of the area.
12. The proposed development does not include any detailed proposals for landscape improvements and would retain large areas of hardstanding. The existing site is largely open, and the approved landscape scheme for the adjoining development would, if implemented, greatly soften the current appearance of the site and contribute positively the green verdant character found in this part of Brook Street. However, as a result of the limited landscaping proposed, the introduction of the proposed dwellings would further erode some of the pleasant, open character of the locality to the detriment of the character and appearance of the area. Furthermore, it would lead to a reduction in the communal landscaped areas which formed part of the approved scheme for Nos. 23-26.
13. Consequently, I find that the proposed development would cause unacceptable harm to the character and appearance of the area. Thus, it would be contrary to Policies CS11, CS12, CS13, CS26, CS27, CS29 of the DCS and Policies 10 and 100 of the LP which seek, amongst other things the highest standards of sustainable design and construction that enhances spaces between buildings and the general character of the area, integrates with the streetscape character and respecting adjoining properties in terms of the scale, bulk and height of any development. These policies also require development to avoid large areas dominated by car parking and incorporate trees, living walls and soft landscaping.

Setting of a Grade II Listed Building

14. The appeal site is adjacent to The Silk Mill¹ which is a Grade II listed building. The Silk Mill site comprises a complex of buildings, some of which were formerly part of the original silk textile mill, built in approximately 1824. The height of the mill was reduced in height to three storeys in the early 20th century.
15. The significance of the Silk Mill is primarily derived from its historical fabric, which includes a range of industrial, warehouse, and accommodation buildings, its historical employment use, and, its cultural value, having been referenced within a George Elliot novel. Some of the nearby older housing and

¹ List Entry Number: 1338863

the mill pond, form part of the setting of the heritage asset and make a positive contribution to its significance.

16. 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.
17. The proximity of the appeal site means that the proposed development, by virtue of its height and scale, would be visible from the Silk Mill, above the roofline of the single storey commercial buildings which are located along the boundary. Whilst these buildings provide a degree of visual and spatial separation, these buildings are clearly subservient to the main part of the listed building, whereas the proposed development would not be. The height and scale of the proposed development, which is three-storeys on top of a raised platform, would visually compete with the three storey parts The Silk Mill building. For these reasons, by virtue of its height and dominance the proposed development would cause harm to the significance of The Silk Mill and as a result fail to preserve its setting. Given the nature and extent of the proposed development, I find the harm to be less than substantial.
18. Paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 208 of the Framework sets out that in such cases, that harm should be weighed against the public benefits of the proposal.
19. The proposed development would provide two additional dwellings in a sustainable location close to the town centre with access to public transport and services. It would also utilise a brownfield site, formerly identified as an employment area, but currently vacant. There would also be some short-term economic benefits during construction, and through the longer-term use of local services and facilities. However, due to the small-scale nature of the development, these benefits would be modest.
20. It has also been put to me that there would be environmental benefits arising from landscaping and biodiversity enhancements. However, based on the evidence before me, there would be less green space and biodiversity net gain than previously approved, and therefore I am not satisfied that these would deliver environmental benefits over and above what would normally be expected as a result of good planning.
21. Therefore, I find that the benefits of the proposal, identified above, would be relatively modest. Even cumulatively, the wider public and planning benefits associated with the proposed development would be modest and carry moderate weight in favour of the proposal. Therefore, I find that the above public benefits taken together do not outweigh the harm that would be caused to the significance of the listed building.
22. For the above reasons, I find that the proposed development would not preserve the setting of the Grade II listed building. Therefore, the proposal would fail to satisfy the requirements of the Act, the Framework and would conflict with Policy CS27 of the DCS and saved Policy 119 of the LP. These policies require, amongst other things, that the integrity, setting and distinctiveness of designated heritage assets to be protected, conserved and if

appropriate enhanced and that any new development liable to affect the character of an adjacent listed building will be of such a scale and appearance, and will make use of such materials, as will retain the character and setting of the listed building.

Highway Safety

23. Policy CC12(b) of the DCS requires development to provide sufficient parking and sufficient space for servicing. Further guidance is provided in the Parking Standards Supplementary Planning Document, November 2020 (the SPD).
24. The appeal site is located within 'Zone 3', which are locations identified as being the least accessible and where there is deemed to be the greatest need for car parking provision. As such, the SPD sets out that the minimum car parking provision required for a 4-bedroom dwelling is 3 spaces.
25. In terms of off-street parking provision, the submitted plans indicate that only two spaces would be provided for each dwelling, resulting in an overall shortfall of two spaces. There would also be changes to the approved parking arrangements for Nos.23-26, resulting in the provision of just two parking spaces per dwelling and the loss of a visitor space. As such, not only does the proposed development fail to provide the minimum amount of parking required, but it would also lead to a reduction in the provision of parking for the recently constructed development.
26. The submitted plans also indicate provision of a further two car parking spaces which appear to be allocated to a commercial unit, annotated on the submitted plan as Unit 53. However, no further details have been provided in regard to this and there is no reference to car parking provision for a commercial unit within the description of development.
27. During my site visit I observed that Brook Street is a busy main road, where there is existing demand for on-street parking, and I observed that vehicles parked within the highway cause an obstruction to the free-flow of traffic. Therefore, any reduction in off-street parking provision is likely to result in overspill onto the surrounding streets, where on-street parking provision is limited.
28. In their final comments, the appellant indicates that they would be willing to make changes to the submitted parking arrangements. However, I have not been provided with any details of the revised arrangements. Therefore, I cannot be satisfied that even if changes were made that this would provide adequate parking provision for all future users of this, and the adjoining developments that they would serve.
29. I therefore find that it has not been demonstrated that the proposed development would provide adequate parking provision and prevent any adverse effects to highway safety. Thus, it would be contrary to Policy CS12 DCS which requires, amongst other things, development to provide sufficient parking and sufficient space for servicing. There would also be conflict with the guidance contained with the SPD for the reasons set out above.

Living Conditions – Future Occupiers

30. Paragraph A3.6(ii) of Appendix 3 of the LP states that all residential development is required to provide private open space for use by residents

whether the development be houses or flats. It states that private gardens should normally be positioned to the rear of the dwelling and have an average minimum depth of 11.5 metres. It further states that a reduced rear garden depth may be acceptable for small starter homes, homes for the elderly and development backing onto or in close proximity, to open land, public open space or other amenity land, but that larger family or executive style homes will be expected to provide a garden of a greater depth. The guidance also states that all gardens should be of a width, shape and size to ensure the space is functional and compatible with the surrounding area.

31. In this particular case, it is not disputed that the proposed dwellings would be large family sized dwellings, therefore in accordance with the guidance set out in the LP, they are expected to meet if not exceed the minimum standards for private garden provision, which the proposal would not. Furthermore, a large portion of the rear garden area would comprise a steep, landscaped bank, with a raised rear terrace providing the only meaningful space to the rear of the properties. For these reasons, I find that the proposed gardens would fail achieve the minimum required depth, even if the landscaped bank is included within the measurement.
32. The proposed garden areas would also be smaller than the gardens of recently constructed dwellings at Nos. 23-26 and significantly smaller than the original gardens of Nos. 21 and 22. Therefore, in terms of size and layout, the proposed gardens would also not reflect the surrounding pattern on development.
33. Whilst further garden space would be provided to the side of the properties, this would not be sufficient to ensure that the new dwellings are provided with private gardens that are functional and compatible with the surrounding area. Furthermore, the submitted plans indicate the garden area to the side could be used for additional car parking, with two spaces shown per dwelling. If cars were parked in these areas, it would further reduce the amount of private garden space available for use by the future occupiers.
34. Consequently, I find that the proposed development would fail to provide adequate living conditions for future occupiers, with particular regard to the provision of private amenity space. Thus, it would be contrary to Policy CS12 of the DCS which requires all development to respect adjoining properties in terms of landscaping and private amenity space. It would also conflict with the guidance contained within Appendix 3 of the LP, for the reasons set out above.

Living Conditions – Neighbouring Occupiers

35. Policy CS12(c) of the DCS states that all development should avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties and CS12(g) states that all development should respect adjoining properties in terms of layout, scale, height and bulk.
36. In respect of Nos. 23-26, the rear elevations of these newly constructed dwellings would be located approximately 19 metres away from the side elevation of Plot 27. There are side-facing windows within the proposed dwelling which would face directly towards the rear elevations of these properties. However, the submitted plans indicate that these windows would serve bathrooms, and as such I am satisfied that it would be possible to impose a suitably worded planning condition to ensure these windows are

obscure glazed and non-opening, below a certain height. Thereby maintaining existing levels of privacy for these properties.

37. There would also be a raised terrace located to the rear of No.27, which would be within 23 metres of the rear elevations of Nos.23-26 and their garden areas. By virtue of its position and being raised approximately 1.2 metres above the ground level, I find that this could lead to a loss of privacy. However, there is already a degree of intervisibility between the properties which surround the appeal site and as such, subject to the imposition of a planning condition requiring suitable screening to be installed, I am satisfied that this would not cause an unacceptable loss of privacy. On this basis, I find that the proposed development would not lead to an unacceptable loss of privacy for the occupiers of Nos. 23-26.
38. In terms of outlook, due to the height, scale and proximity of the proposed development, there would be some loss of outlook, albeit limited, experienced by these properties, and there is also likely to be some reduction in light entering the rear elevations, due to the proximity, siting and height of the proposed buildings. Whilst the harm arising from both a reduction in outlook and light would be limited, I have not been presented with any compelling evidence that this would not be harmful to the living conditions of these occupiers.
39. In respect of Nos. 21 and 22, the primary outlook from Plot 27, the closest of the two proposed dwellings would be primarily forwards onto the proposed parking area and Brook Street, and to the rear towards the landscape embankment and Kingsley Walk, although situated on much higher ground. Any potential views towards Nos.21 and 22 would therefore be at an angle and therefore unlikely to result in any adverse harm as a result of window-to-window overlooking. There would be views possible into garden areas as a result of the height of the proposed development. However, due to the distance, orientation and surrounding pattern of development, this would not be likely to result in any unacceptable loss of privacy.
40. In terms of the outlook from Nos.21 and 22, this is primarily in a forward direction towards a large area of open space, and to the rear towards gardens, the proposed parking area and the commercial buildings which front onto Brook Street. Whilst No.22 has experienced a reduction in their garden area, the proposed development would not lead to an unacceptable reduction in outlook.
41. In respect of Kingsley Walk, the proposed dwellings would be situated on lower ground and the window-to-window distance would be approximately 23 metres. Therefore, I am satisfied that there would not be a harmful reduction of privacy or outlook for the occupiers of these properties.
42. In respect of the properties on the opposite side of Brook Street, whilst these properties currently have views across the appeal site, they are situated approximately 38 metres from the proposed dwellings. Therefore, I find that there would be no loss of privacy nor would the proposed development lead to any adverse harm to the outlook of these properties.
43. For the above reasons, whilst I find that the proposed development would not cause an unacceptable loss of privacy, on balance, it has not been demonstrated that it would not cause unacceptable harm to the living

conditions of the occupiers of Nos. 23-26, with particular regard to outlook and light. Thus, the proposed development would be contrary to Policy CS12 of the DCS which requires, amongst other things, development to avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance to the surrounding properties.

Landscaping, Trees and Biodiversity

44. Policy CS29 of the DCS states that all development will be expected to incorporate at least one new tree per dwelling on-site. In respect of tree planting, the current proposals indicate only lawn and shrub planting is proposed within the proposed development site. Whilst the appellant has indicated that they would be willing to plant additional trees to meet this requirement and to offset the loss of trees previously removed from the rear garden of No.22, I have not been presented with any proposals to demonstrate how this might be achieved.
45. Policy CS29 of the DCS also requires that new development will minimise impacts on biodiversity and incorporate positive measures to support wildlife. The appeal site would in part involve the loss of an area of communal landscaped green space and I understand from the evidence before me that this area would have made a contribution to increasing biodiversity within the site.
46. There are no proposals for additional communal green space to be provided within the appeal site and no proposals to offset the loss of the communal landscaped green space, which was shown on the approved plans for the recently constructed dwellings. The loss of this area would reduce the overall amount of greenspace within the wider site and as a result fail to increase in soft landscaped areas or biodiversity within the site.
47. There would be some small, landscaped areas associated with each of the proposed dwellings. However, as outlined above, the proposed gardens would be smaller in size than is typically required for dwelling of this size. Therefore, I find that there would be limited scope within the proposed garden areas to enhance landscaping and tree planting within these parts of the site.
48. There would also be large areas of hardstanding to provide and access road and car parking for six dwellings, plus additional spaces associated with the commercial unit. These areas of hardstanding do not include any proposals for soft landscaping. Whilst the appellant has indicated a willingness to incorporate further landscaping proposals into the scheme, I have not been provided with any details to demonstrate that these would be incorporated into the proposed development.
49. Consequently, I find that the proposed development has not demonstrated that it would make adequate provision for landscaping, tree planting and biodiversity net gain. Thus, it would be contrary to Policy CS29 of the DCS, which requires amongst other things, new development to be of the highest standard of sustainable design and construction, to incorporate at least one new tree per dwelling and to minimise impacts on biodiversity and incorporate positive measures to support wildlife.

Chiltern Beechwoods Special Area of Conservation

50. The appeal site lies within the 12.6km zone of influence of the Chilterns Beechwoods Special Area of Conservation (the SAC). The SAC represents the most extensive area of native beech woodland in England and extends for approximately 1,276ha and is made up of nine separate sites across the Chilterns, each of which is a separate Site of Special Scientific Interest (SSSI).
51. The qualifying features for which the SAC is designated are its beech forests on neutral to rich soils, dry grasslands and scrublands on chalk or limestone (albeit this has a restricted distribution through the SAC) and populations of stag beetle.
52. The proposed development would, in combination with other residential development, have a likely significant effect on the integrity of the SAC as a result of the increased population and associated activity. In these circumstances, the Conservation of Habitats and Species Regulations 2017 (as amended) require me to undertake an Appropriate Assessment (AA) of the implications of the proposed development for the SAC in view of its conservation objectives before deciding to grant permission.
53. In this particular case, strategic mitigation measures to address these effects are set out in the Chilterns Beechwoods Special Area of Conservation Mitigation Strategy for Ashridge Commons and Woods Site of Special Scientific Interest and comprise two separate elements. The first, Strategic Access Management and Monitoring which involves access management and engagement work wholly within the boundary of the SAC and is achieved via a per dwelling tariff-based contribution. The second, Suitable Alternative Natural Greenspace which involves the provision of alternative recreation opportunities away from the SAC.
54. Although the Appellant has indicated an agreement to provide the required mitigation, no planning obligation or other appropriate mechanism has been provided. Therefore, I cannot be satisfied that the proposed development would not have an adverse effect on the integrity of the SAC.
55. Nevertheless, as I intend to dismiss the appeal for other reasons, there is no reason for me to conclude on whether or not an obligation is necessary since, even if I was satisfied that an obligation was necessary to make the development acceptable and a suitable obligation had been provided, the obligation would weigh neutrally in the balance.

Planning Balance

56. The Council has confirmed that it is unable to demonstrate a five-year supply of deliverable housing land. Paragraph 11(d) of the Framework sets out the presumption in favour of sustainable development should apply unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed.
57. As I have found that the harm to the setting of a listed building would not be outweighed by the public benefits and that it has not been demonstrated that there would be no adverse effects to the integrity of a SAC, these provide a clear reason for refusing the proposal. Consequently, the presumption in favour of sustainable development as set out in Paragraph 11d) of the Framework does not apply.

Conclusion

58. For the reasons given above the appeal proposed development would conflict with the development plan when read as a whole. There are no material considerations, including the Framework, which indicate a decision should be made other than in accordance with it. Therefore, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal is dismissed.

K Lancaster

INSPECTOR