



Appeal Decision

Site visit made on 24 June 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2025

Appeal Ref: APP/A1910/W/25/3363536

7 and 7A Marlowes, Hemel Hempstead HP1 1LA

- 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 R Nistorel of Build Trust Ltd against the decision of Dacorum Borough Council.
 - The application Ref is 24/01123/FUL.
 - The development proposed is ground, first and second floor rear extensions and development to provide an office on the ground floor and two flats on the first and second floors.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As part of the appeal, in response to the Council's concern, the appellant has submitted amended plans which relate to a newly proposed refuse and recycling area at ground floor. The Procedural Guide for Planning Appeals is clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. I note that the Council has commented on this arrangement in terms of its response to the appeal. However, I cannot be certain that this document has been subject to wider publicity. Under the principles established by the Courts in *Holborn Studios Ltd*¹ to consider such a modification would be a substantive difference and procedurally could prejudice interested parties by depriving those who should have been consulted on the change. For this reason, I have determined the appeal on the basis of the plans that were before the Council when it made its decision.
3. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

¹ *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWCH 2823 (Admin)

Main Issues

4. The main issues are:
- i) the effect of the proposal on the character and appearance of the appeal property and locality;
 - ii) whether the proposal would make appropriate provision for refuse; and
 - iii) the effects of the proposal on the integrity of the Chilterns Beechwoods Special Area for Conservation.

Reasons

Character and appearance

5. The appeal site comprises a terrace property that forms part of a wider parade of retail and commercial uses, with residential and commercial uses at upper floors. The appeal site is located at the back edge of the pavement of a main route within the designated town centre of Hemel Hempstead. The appeal site includes a yard to the rear of the property, accessed via a car park serving residential flats located off Alexandra Road.
6. The frontage of the appeal property includes a first-floor gable projection and front dormer window reflective of the wider terrace in which it forms. In contrast, to the rear of the property, the ground floor and first floor rear elevations of the properties within the terrace have a varied appearance, as a result of ground and/or first floor extensions and the installation of various commercial equipment including flues. Notwithstanding these variations, the rear roof slope of properties within this row of properties are similar in design, predominantly featuring a rooflight and/or one flat roof dormer similar in scale, projection and design to one another.
7. The proposal seeks the construction of ground, first and second floor rear extensions to facilitate an office at ground floor level, a two-bedroom residential flat at first floor level and a one-bedroom residential flat at second floor level.
8. Although substantial in its depth and width, owing to the existing land levels and high boundary treatment, the proposed ground floor extension would not be highly prominent in views to the rear of the property. The proposed first floor extension would have a similar width to the proposed ground floor extension. However, it would not project as far in depth. Again, given the topography of the appeal site this projection would not be unduly prominent.
9. The proposed second floor element to the scheme would significantly protrude from the rear roof slope. Its substantial scale, bulk and mass would be an incongruous addition to the otherwise relatively uniform roof slope. Whilst recognising the benefits of renewable technologies I concur with the Council that the addition of solar panels and a rooflight within the rear roof slope would further emphasise the disproportionate appearance of the development within the roof slope and its discordance with the terrace of properties it is located within.
10. Whilst my attention has been drawn to two-storey extensions, dormer windows and flat roof extensions in the locality² large dormers, similar to that proposed, are not common to the rear roof slope of the row of properties upon which it forms part of.

² Including Nos 21, 23, 27, 29, 31 and 33 Marlowes

None of the additions I observed at my site visit, are comparable in scale and mass to the appeal scheme before me. I do not know the circumstances in which they were constructed, and I am not bound by any previous decisions of the Council. In any event, I have determined the appeal on its own merits.

11. The proposal would be constructed in a contemporary palette of high-quality materials. Nevertheless, this would not overcome the harms identified and the additions would still appear as a disproportionate addition to the appeal property. The appeal scheme would be an incongruous addition to the detriment of the character and appearance of the appeal property.
12. Public views of the rear of the property may be limited from surrounding roads due to the presence of existing built form. However, there would be clear views of the development from the rear of residential properties, which front the southern side of Alexandra Road, and the car park which directly abuts the rear boundary of the appeal site.
13. For the reasons stated, the proposal would have an unacceptable harmful effect upon character and appearance of the appeal property and locality. Conflict therefore arises with Policy CS12 (g) (i)(iv) and (vi) of the Dacorum Borough Council Core Strategy 2006-2031 (CS). Amongst other things, this seeks new development to be visually attractive as a result of good architecture, sympathetic to local character and respect adjoining properties in terms of scale, height and bulk.

Refuse

14. The Council's Refuse Storage Guidance Note 2015 (Guidance Note) states that refuse and recycling collection points should be located so that operatives should have to walk no further than 25m from the truck to the collection point. In addition, the refuse and recycling storage area should be located no more than 25m from the collection point. Residents should not have to wheel bins further than 25m to the boundary for collection. Appendix 3 seeks to ensure that development sites can be adequately serviced and Policy CS12 of the CS states development should integrate with the streetscape character.
15. I recognise that the existing use of the premises generates waste. However, as the proposed development would introduce additional accommodation there would be an increased generation of waste at the site.
16. The Council's evidence indicates that there are existing issues regarding the waste management for the appeal site. The appellant refers to discussions with the Council regarding an alternative provision of waste sacks that could be placed to the front of the property on bin collection. However, I have not been provided with any substantive evidence that this would be acceptable.
17. The proposal includes for covered refuse and cycle storage towards the rear of the ground floor accommodation. This would result in responsible parties to bring waste in excess of 25m to the nearest bin collection point. It is not clear from the evidence whether or not the storage area would be accessible from the shared access. In any event, it is highly likely that refuse and bicycles would be carried through the office. This distance, along with the having to traverse the office, in practical terms would not be an easy manoeuvre, and in my view would not accord with the provisions of the Guidance Note.

18. Whilst the Council raises concerns that bins would likely remain within the streetscene for significant periods of time, interrupting the streetscape character by introducing harmful visual clutter which would fail to integrate with the streetscape character, I have no substantive evidence that this would occur and, in my view, would largely be dependent upon the behaviour of the individual occupants.
19. For the reasons stated, I am not satisfied that sufficient refuse storage could be provided for the proposed development. Consequently, the proposal fails to accord with Policy CS12 of the CS and the Guidance Note. Collectively, these require appropriately sized and located waste and recycling facilities.

Chilterns Beechwoods Special Area for Conservation

20. The evidence indicates that the appeal site lies within the Zone of Influence of the Chilterns Beechwoods Special Area for Conservation (SAC). The area is recognised as an important habitat of Beech forests on neutral to rich soils, semi-natural dry grasslands and scrubland on calcareous substrates and dry grasslands and scrublands on chalk or lime. A significant individual or in-combination effect on this European habitats site would be likely to occur due to disturbance from increased population arising from any residential development in an area where these inhabitants would be in such proximity to the SAC that they would be likely to visit it for recreational purposes.
21. The Council has adopted a mitigation strategy and imposes a tariff on developments in the form of financial contributions towards Strategic Asset Management and Maintenance or Suitable Alternative Natural Greenspace.
22. During the processing of the appeal the appellant has submitted a signed Unilateral Undertaking to secure a contribution in line with the Council's mitigation. However, as I am dismissing the appeal for other substantive reasons there has been no need to pursue this matter and undertake an Appropriate Assessment.

Planning Balance

23. The Council cannot demonstrate a deliverable housing land supply, with the evidence indicating an acute shortfall. This is not contested by the Council. The shortfall in supply means that the Framework's presumption in favour of sustainable development applies. Paragraph 11d) of the Framework states that where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, permission should be granted 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; or that any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
24. The re-development of this previously developed site would make efficient use of the site, making a positive contribution towards the supply of housing. I also acknowledge that the Framework is supportive of small and medium sized sites, such as this site, which can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. Furthermore, it is recognised that the appeal site is located within a sustainable location and would provide additional office space for businesses. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services through additional consumer spending. Whilst these

elements weigh in favour of the proposal, given the scale of the development proposed, these benefits are modest.

25. Further to the above, having undertaken a balancing exercise in accordance with paragraph 11 d ii) of the Framework, I find that the harm to the character and appearance of the surrounding area and the lack of provision of suitable refuse facilities to serve the development would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.

Conclusion

26. I have found conflict with the development plan taken as a whole. There are no other considerations, including the Framework, that outweigh this conflict. For the reasons given above, I conclude that the appeal should be dismissed.

R Gee

INSPECTOR