



Appeal Decision

Site visit made on 2 July 2025

by **H Marriott MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25 July 2025

Appeal Ref: APP/P0240/W/25/3360035

45 Saracens Head, High Street South, Dunstable LU6 3RZ

- 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 Colin Foux - Capital Developments (London) Ltd against the decision of Central Bedfordshire Council.
 - The application Ref is CB/21/05260/FULL.
 - The development proposed is the demolition of existing buildings and construction of 6 new cottage dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal site is located within the Dunstable Conservation Area (CA). In considering whether to grant planning permission, I have been mindful of my statutory duties under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving or enhancing the character or appearance of a conservation area.
3. Planning permission for the demolition of outbuildings and the construction of 6 new cottage dwellings was approved in 2017¹ and subsequently varied in 2020² through an amendment to the approved plans (the previous scheme). The time limit for commencing that development was no later than 8th December 2020. There is no dispute between the main parties that the previous scheme, in either its original or varied form, is no longer extant.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area including whether or not it preserves or enhances the character or appearance of the Dunstable Conservation Area (CA); and
 - whether the proposed development would provide suitable living conditions for future occupiers, with particular regard to light, outlook and private amenity space.

¹ Council ref: CB/16/05847/FULL

² Council ref: CB/19/03325/VOC

Reasons

Character and appearance

5. The CA designation encompasses Dunstable town centre including the landmark Prior Church of St Peter, as well as the roads that radiate out from it. It also includes open spaces such as Prior Gardens and Grove House Gardens. From what I have seen and read in The Dunstable Conservation Area Appraisal (2010) (the Appraisal), the special interest of the CA is derived from its archaeological and architectural heritage and the historic layout of the town. Collectively, these elements reveal the built evolution of Dunstable over many centuries.
6. High Street South is an historic route leading to the crossroads at the heart of the CA. The route widens near the square and market clock. It is partially tree lined and tightly edged by a varied mix of buildings fronting the street, ranging in height which reflect its higher-density town centre location. Historic small-scale industrial buildings survive behind the street frontage. Whilst the Appraisal notes numerous unsympathetic post-war developments have eroded the character of the CA, the established development pattern, the mixture of building forms and rooflines and the use of traditional materials remain key components that contribute to the significance and special interest of the CA as a whole.
7. The Saracen's Head is a distinctive two-storey public house that fronts directly onto High Street South. Although it has been altered over time, its facade retains historic features including arched windows and a covered archway. This archway leads to the appeal site. A close boarded fence divides the appeal site into two distinct parts. One part primarily comprises of an open, hard-surfaced service and parking area to the rear of the Saracen's Head. The second part consists mainly of shrubs and trees located adjacent to Wood Street, a route which leads to commercial premises to the rear of buildings fronting High Street South. Consequently, although the appeal site is located behind the street frontage, its partially open and green character makes a neutral contribution to the overall character and appearance of the CA.
8. The alignment of the two proposed terraces, each with accommodation over two floors, would follow the shared boundary with a five-storey block of modern flats known as Parkside Flats located to the rear of the site. The terrace containing Units 1-3 would feature full-height windows at ground floor level, set within a brick plinth and timber-clad façade. The proliferation of nine dormer windows within its roof would appear visually cluttered. This would result in a building of a substantial scale and domestic appearance, awkwardly positioned close to the rear of the Saracens Head. Furthermore, its roof form would appear overly dominant, differing from the simpler roof forms of the small-scale industrial buildings which are more typically located behind the street frontage, including those on the opposite side of Wood Street to the appeal site.
9. Although other modern buildings exist in the vicinity, including those with dormer windows at 37-43 High Street South, this does not justify the appeal proposal which introduce an additional discordant modern development into the area.
10. The front elevation of Units 4-6 would comprise a simpler design. Even so, it would sit perpendicular to Units 1-3 and the development as a whole, including a prominently positioned communal bin and cycle storage area, would be visible from Wood Street and from various private vantage points within surrounding properties.

The resulting development would leave minimal remaining open space, creating a stark contrast with the spaciousness of the appeal site and the relief it provides to the surrounding built form. Overall, the proposal would appear cramped, visually intrusive, and as a modern addition that is incongruous with traditional built form and cohesion that underpins the area's distinctive character. This would result in a harmful effect on the character and appearance of the CA.

11. For the reasons given, the proposed development would have a harmful effect on the character and appearance of the area and would fail to preserve or enhance the character or appearance of the CA when considered as a whole. It follows that the proposal would not accord with the statutory duty under Section 72(1) of the Act and there would be harm to the significance of the CA.
12. Given the scale and nature of the proposal, the degree of harm to the significance of the CA would be at a low level of less than substantial harm. This aligns with the comments received from Historic England (HE) which advises the level of change to the CA would be such that any harm to its significance arising from the proposed development would be at the bottom end of less than substantial harm.
13. Whilst HE and the Council's Conservation Officer have not objected to the appeal proposal, it remains the responsibility of the decision-maker to apply Paragraph 215 of the National Planning Policy Framework (the Framework) which advises that harm should be weighed against the public benefits of the proposal.
14. Public benefits would be derived from the delivery of six dwellings within the town centre of Dunstable, which would support a range of local services and facilities located a short walk or cycle away, including access to public transport links. There would be economic benefits associated with the construction phase and through future residents contributing to the local daytime and nighttime economies. The proposal would make a meaningful contribution of six dwellings to the local housing supply, which could be built out relatively quickly. The dwellings would incorporate high levels of insulation and energy saving techniques. The appellant has sought to make full use of previously developed land, and the poorly designed outbuildings and boundary treatments would be removed from site.
15. The wider public benefits associated with six dwellings would be modest and carry moderate weight in favour of the proposal. The Framework states that great weight should be given to the conservation of a designated heritage asset, irrespective of whether there would be less than substantial harm to significance. Even cumulatively, the weight of public benefits in favour of the proposed development would not be sufficient to outweigh the low level of less than substantial harm to the significance of the designated heritage asset identified.
16. The proposal therefore fails to accord with the historic environment protection policies of the Framework. Conflict also arises with Policies HQ1 and HE3 of the Central Bedfordshire Local Plan 2015 - 2035 (2021) (LP) which requires development to respond positively to its context, and to preserve, sustain and enhance the special character, significance, appearance and/or special architectural or historic interest of the affected designated heritage asset in terms of scale, form, proportion, design and materials. For the same reasons, the proposal would conflict with the guidance contained in the Central Bedfordshire Design Guide (2023) (DG), which requires the consideration of conservation areas and states that backland

development must demonstrate that it accords with the surrounding character, pattern and grain of development.

Living conditions

17. The Council's delegated report clearly states that its concerns in relation to light and outlook relate to whether the proposed development would provide suitable living conditions for future occupiers for the occupiers of Units 1-3 only. With the exception of the kitchen/diner in Unit 1, Units 1-3 would be single aspect. The third bedroom located within each unit in the rear part of the terrace, would be served only by a high-level rooflight window. These windows would not provide an adequate level of outlook for future occupiers of these bedrooms.
18. Furthermore, the appellant's tree survey indicates that the tall mature trees located within the grounds of Parkside Flats (T1, T2 and T3) are of lower quality. However, these trees are located off-site and the appellant has no control over their future growth or removal. Whilst it might be possible to prune overhanging branches subject to any necessary consents, their continued presence would likely further restrict outlook and light to the rooflight windows in Units 1-3.
19. Levels of outlook to the front of Units 1 and 2 in particular, would also be compromised by the limited separation distance to the shared boundary which contains a wall with fence above and/or the rear of the Saracens Head building. Whilst some of the ground floor openings would be full-height, there is no substantive evidence before me to demonstrate that levels of light would not be restricted in some rooms within the proposed dwellings, particularly those at ground floor level.
20. The DG seeks to avoid single aspect houses unless there is no design alternative. Whilst the proposed plans indicate that a suitable ventilation system would be installed, this would not address the harm I have identified in relation to outlook and light. Moreover, I am not satisfied that there is no feasible design alternative to the appeal proposal, particularly given the harm identified in relation to the first main issue.
21. In relation to the provision of private amenity space, all of the proposed units would have three bedrooms and could therefore be occupied by families with children. The provision of a private garden area would therefore be particularly important in offering space for play, in addition to space for relaxation. A small area of soft landscaping would be provided to the front of Plot 1. However, this would be located in an enclosed space and would not be sufficient in size to accommodate the needs of all the proposed occupiers. The remainder of the appeal site would be laid out primarily for vehicle parking and circulation and would not therefore be suitable alternative provision.
22. The appellant indicates that a larger area of communal open space would be provided to the side of Plot 6 and has expressed a willingness to agree a long-term management strategy for this part of the site. However, this area lies outside the red line boundary and therefore does not form part of the appeal site. As such, it is unclear how this provision could be secured. Furthermore, the mitigation proposals for protected species require this area to be fenced off to retain tall vegetation for foraging purposes, which would not appear compatible with its use as amenity space. Accordingly, it has not been demonstrated that there would be adequate provision of either individual or communal private amenity space for the occupiers of

the appeal proposal. Whilst Priory Park is located nearby, it would not be private in accordance with the DG.

23. I conclude that the proposed development would not provide suitable living conditions for future occupiers, with particular regard to light, outlook and private amenity space. In this regard, it would conflict with policy HQ1 of the LP which requires healthy lifestyles to be promoted through the design and layout of development and for there to be no unacceptable adverse impact upon permitted uses, including impacts on amenity.
24. The appeal proposal also would fail to accord with Paragraph 135 of the Framework which requires development to have a high standard of amenity for existing and future users.

Other Considerations

25. It is acknowledged that the previous scheme, referred to in the preliminary matters, would have had a similar effect on the character or appearance of the CA and the living conditions of future occupiers - with the exception of matters relating to the provision of private amenity space, as set out above. The previous scheme was assessed against the policies of a different development plan. However, the LP was emerging at that time, and the Council do not suggest a clear shift in the development plan policy since this time. While consistency in decision making is important, I am obliged to make my decision on the evidence before me, which includes a combination of policy, evidence and my own professional judgement. The DG has also been published since this time and is a material consideration. Furthermore, the previous scheme is no longer extant and therefore does not represent a fallback position. I therefore attach limited weight to the previous scheme.
26. The appeal site is located within the zone of influence for the Chilterns Beechwoods Special Area of Conservation (SAC). A signed unilateral undertaking (UU) has been completed and the Council is satisfied that this secures appropriate mitigation to ensure the proposal would not affect the integrity of the SAC. Natural England (NE) raise no objection on this basis. Had I been minded to allow the appeal, it would have been necessary for me to undertake an appropriate assessment, to determine whether the appeal proposal would result in a significant effect, either alone or in combination with other development, on the integrity of the SAC. However, since I am dismissing the appeal other reasons, it is not necessary to complete that assessment. In any case, the contribution secured by the UU only has the potential to mitigate any adverse effect of the proposal on the SAC and would not count as a benefit of the proposed development.
27. Whilst the Council's decision notice refers only to the CA, the appeal site is also located in close proximity to Grade II listed buildings known as 47 and 47A High Street South³ and 49 and 49A High Street South⁴. In considering whether to grant planning permission, I have also been mindful of my statutory duties under Section 66(1) of the Act to have special regard to the desirability of preserving the listed buildings or their setting or any features of special architectural or historic interest which they possess. The potential for the proposed development to impact on the setting of these listed buildings has not been raised by the main parties. Having

³ List entry: 1311903

⁴ List entry: 1321395

considered the relationship between the appeal site and these assets which front High Street South, I am satisfied that no harm to significance would arise.

28. A Scheduled Ancient Monument known as Dunstable Priory⁵ (SAM) is also located in the vicinity of the appeal site. However, the appeal site is located outside of the SAM boundary. Construction works would not have any physical impact on the SAM and the land is proposed to be fenced off. As a consequence, there would also be no harm to the significance of the SAM. Even so, this does not alter the harm I have identified to the character and appearance of the CA.
29. The Council indicate that they are able to demonstrate a five-year supply of deliverable housing sites (HLS). However, in light of a number of recent appeal decisions, the appellant disputes this. When a 5-year HLS cannot be demonstrated, the Framework advises that planning permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the proposal. Designated heritage assets are such areas/assets, and I have found harm to the character and appearance of the CA provides a strong reason for dismissing the appeal proposal. Therefore, the presumption in favour of sustainable development should not apply in this case and the scheme should be determined under a normal planning balance.
30. The effect of the proposal on the living conditions of neighbouring occupiers, trees including those protected by tree preservation order, security, noise, archaeology, contaminated land, compliance with internal space standards, highway safety and the quantum of parking provision are not matters in dispute between the main parties. However, these considerations indicate the absence of harm in those respects rather than any benefit.

Conclusion

31. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The harm to the character and appearance of the CA would not be outweighed by the public benefits in this case. There is also harm relating to the living conditions of future occupiers and the related policy conflict. Taken together they weigh substantially against the appeal proposal and the proposed development would conflict with the development plan when considered as a whole. The moderate weight to the cumulative benefits combined with the limited weight afforded to the previous scheme would not outweigh the harm and policy conflict identified.
32. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR

⁵ List entry: 1004676