



Appeal Decision

Site visit made on 7 August 2019

by **Rebecca Thomas MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 November 2019

Appeal Ref: APP/A1910/W/19/3227871

320a High Street, Berkhamsted, HP4 1HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Steven Williams against the decision of Dacorum Borough Council.
- The application Ref 4/02993/18/FUL, dated 27 November 2018, was refused by notice dated 26 February 2019.
- The development proposed is Change of Use and conversion of existing ground floor from veterinary practice into a two-bedroom flat; Roof extension at first floor to increase size of existing first floor flat to a larger two-bedroom flat; Erection of two new-build two-bedroom apartments to the rear facing St. John's Well Lane; Provision of car parking for five vehicles, five-bay cycle store and waste refuse store.

Decision

1. The appeal is allowed and planning permission is granted for Change of Use and conversion of existing ground floor from veterinary practice into a two-bedroom flat; Roof extension at first floor to increase size of existing first floor flat to a larger two-bedroom flat; Erection of two new-build two-bedroom apartments to the rear facing St. John's Well Lane; Provision of car parking for five vehicles, five-bay cycle store and waste refuse store at 320A High Street, Berkhamsted, HP4 1HT in accordance with the terms of the application, Ref 4/02993/18/FUL, dated 27 November 2018, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Philip Dean Ltd. on behalf of Mr S Williams against Dacorum Borough Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - The effect of the development on the character and appearance of the area and the Berkhamsted Conservation Area (CA);
 - The effect of the development on the living conditions in particular outdoor amenity space for future occupiers and to neighbouring properties with regard to outlook; and

- The effect of the proposal on local community facilities.

Reasons

Character and appearance

4. The appeal site is an extension to an existing Victorian property, constructed of matching red brick with slate roof extension located on a corner plot on the junction of St. John's Well Lane and the High Street. The site extends along St. John's Well Lane, and includes the existing car park and site access from this road. The proposed development would include the conversion of the existing brick building and its extension to the roof and rear, making use of part of the car park area. The proposed extension would be modern in design, making use of brick and aluminium detailing.
5. The site is at the edge of the High Street area, where the intensity of high street uses is clearly changing, with residential properties dominating and various types of business scattered throughout. On the opposite side of the road is a small telephone exchange and the access to the Waitrose supermarket. At the time of my site visit, there was a vacant premises which appeared to previously have been used for a restaurant.
6. The site falls within the Berkhamsted CA. The CA, in its entirety, is a designated heritage asset. The statutory duty within Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, which requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of conservation areas, applies.
7. This part of the CA is characterised by red brick buildings with modern additions interspersed. The appeal site would result in the addition of a modern extension to the existing building (which has previously been extended). Whilst the extension would be modern, it would provide a contrast between the existing and the new, enabling the original building to be easily identified. In addition to this, the changing levels of the road would result in an extension which remains at lower levels to the existing. The careful use of design and materials, combined with the lower level of the extension would result in an addition to the CA which contributes to its character and appearance.
8. The proposed development would extend the rear of the building alongside St Johns Well Lane, and would look out onto this road. I have had regard to the mixed architecture on St Johns Well Lane which varies and is of modern design. Given that the predominant Victorian character of the appeal site is facing the High Street, and that the appeal proposals would not affect this elevation, the development would therefore offer a modern addition to St Johns Well Lane which has a more varied architecture type and quality.
9. Policy CS27 of the Dacorum Core Strategy (2013) 'the Core Strategy' and Saved Policy 120 of the Dacorum Borough Local Plan (2004) 'the Local Plan' both seek the preservation of the setting and distinctiveness of heritage assets.
10. The National Planning Policy Framework ('the Framework') states that when considering the impact of a development on the significance of a designated heritage asset great weight should be given to the conservation of the heritage asset. New development should respond to local character and history, add to

the overall quality of the area and be visually attractive as a result of good architecture and landscaping.

11. The buildings at numbers 320 and 322 High Street are identified as Locally Listed Buildings, or Non Designated Heritage Assets (NDHA). The Framework is clear that the effect of an application on the significance of a NDHA must be taken into account and that a balanced judgement will be required with regard to the scale of any harm or loss and the significance of the heritage asset.¹
12. The frontages of these buildings display Victorian features with few modern interruptions to the traditional form and materials. The appeal proposals would be located to the rear of the modern extension to the existing building, and the new buildings would display a contrast to the original building. These changes in designs combined with the development taking the opportunity of the changes in land levels would ensure that there is a contrast between the original and the new. The proposed development would be seen in the context of the original building, without disrupting its traditional frontage which is a key characteristic of this part of the CA and the NDHAs. As such the development would not harm the character and appearance of the CA.
13. Whilst the development proposed would result in additional built form over the site, the development would make use of the existing hardstanding area of the car park and does not breach the plot size or boundary. The site is located close to the nearby telephone exchange and modern apartment building and the development would offer the opportunity to provide frontage interest to St Johns Well Lane.
14. The retention of the site access and the heights of the buildings reflecting the changes in land levels here would enable the site to retain some sense of openness. The plans indicate that the boundary hedge and trees would not be lost as a result, and as such the green nature of the site which contributes to the sense of spaciousness would not be altogether lost.
15. The Council's committee report finds that the density of dwellings is in accordance with the Berkhamsted Urban Design Assessment (2010), confirming that side streets within the town centre should have high densities, with the potential for very high densities in block sites. Thus, the increase in density accords with the Urban Design Assessment and is appropriate in this location, given the proximity to the town centre.
16. Policy CS10 of the Core Strategy expects new developments to promote higher densities in and around town centres and to demonstrate successful design. Therefore the proposed development accords with this policy. Policy CS12 expects high quality site design, including integration with the streetscape character and soft screening of settlement edges. As discussed above, these criteria of this policy are met. Other criteria are more relevant to neighbouring properties and so this is discussed below.
17. With the above in mind, the characteristics and the appearance of the CA would be preserved as would those of the NDHA. Therefore I find that the proposal would be in accordance with policies CS10, CS12 and CS27 of the Core Strategy and Policy 120 of the Local Plan which seek to conserve the historic environment, including NDHAs and their settings.

¹ Paragraph 197

18. Taking into account the above considerations, I find no conflict with the policies found in the Framework, which seek to secure developments which are sympathetic to local character and history, including the surrounding built environment and landscape setting, whilst not preventing or discouraging appropriate innovation or change.

Living Conditions – Neighbouring properties

19. The outlook from the ground floor windows to No. 320 are described as serving a basement and are set at a level lower than the neighbouring buildings. I was able to see at my site visit that there is access to the first floor via the raised deck and stairs to the side. The side windows to the first floor currently have an outlook towards the appeal site, comprising the side wall and roof of the appeal site. There are further windows to the rear of No. 320.
20. The proposed development would extend the existing rear section of the appeal building to meet the height of the building, which is the current outlook for No.320. The pitch would match the existing dual pitch, facing away from the neighbour's building and as such the outlook is not altered significantly. I have also had regard to the additional windows to the rear of the building at first floor of No.320, which would remain unaffected and would continue to provide the additional outlook and source of light.
21. The application documents included a Daylight and Sunlight Assessment which has concluded that a sufficient level of daylight and sunlight would be secured to 19 of 21 windows at No.320. I acknowledge that the side kitchen door and adjacent window would fall short of the daylight and sunlight standards as set out in the BRE standards, however the Council confirms that these are secondary windows and the room is served by two unaffected rear windows and as such the affected room would have sufficient daylight and sunlight. The appeal site is located to the east of the garden to No.320 and as such the additional built form would not create significant loss of sunlight due to this orientation. There would be very limited additional loss of sunlight or outlook to the raised deck area due to its existing location between the buildings.
22. The proposed development would result in two side-facing windows serving a kitchen and en-suite bathroom. Taking into account the changes in levels, the extent of overlooking between the properties would be increased slightly however would not be direct. The function of these rooms also means that the amount of overlooking would be limited.
23. Whilst the development would create additional built form, the distance to the boundary with No.320 combined with the lower height of the proposed development would ensure that there is no unacceptable overbearing to the garden area of that neighbour. The sense of openness would be reduced, however the distance between the development and the boundary would not be altered. The development would include a green roof and horizontal planting to the elevation, combined with rooflights. This would contribute to breaking up the additional built form, adding interest and softening the effect of the proposed development.

Living Conditions – Future occupiers

24. The appeal proposal would provide a communal garden area for Flats A and B to the front of the property. Flats D and E would be provided with small patio areas to the ground floor.
25. Policy CS12 of the Core Strategy expects developments to provide (amongst other things) sufficient space for servicing, maintenance and parking. Whilst the policy requires developments to respect neighbouring properties in terms of their landscaping and amenity space, the policy does not insist on providing private amenity space for all dwellings. Appendix 3 of the Local Plan expects a good standard of privacy for new occupants and sets out suggested space requirements for gardens. However, there are no set garden areas space standards for various types of developments. Appendix 3 accepts that reduced rear garden depths 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.
26. I have considered the requirements for amenity and garden space as set out in policy CS12 and consider that there are various factors which demonstrate that the proposed development would adhere to the policy. Whilst the outdoor space is limited, the dwellings would be centrally located in Berkhamsted and within easy walking distance of the canal and easy reach to other local leisure facilities. Given the town centre location of the site, the location is also close to public transport routes providing access to wider leisure and community facilities. I am not persuaded that the reduced garden space would be so significant as to demonstrate harm to the living conditions of future occupiers.
27. Thus, despite the additional built form, the proposal would still accord with the overall amenity protection and design aims of policy CS12 from the Core Strategy and Appendix 3 of the Local Plan.
28. The proposal would also accord with The Framework at paragraph 127 which requires all development to create places which promote well-being and a high standard of amenity for all.

Community facilities

29. The Council's objection is that the loss of the veterinary surgery would result in the loss of an important piece of social infrastructure which provides a valuable service to the local community and contributes to the vitality and vibrancy of Berkhamsted Town Centre. It is submitted that the level of local objection to the loss of the veterinary practice was overwhelming, and is indicative of the high value of the surgery to the local community.
30. The appeal site, whilst located in the residential area of the town is also immediately adjacent to the town centre area as identified by the Proposals Map from the Local Plan as shown in the Council and appellant statements. I accept the Council's assertion that the site is located on the fringes of the town centre and residential areas, and as such whilst there are clearly identified areas in the Proposals Map, it is reasonable to conclude that these boundaries are somewhat fluid.
31. Policy CS 23 of the Core Strategy seeks to protect Social Infrastructure, including the protection of existing facilities. The policy in part is to protect and provide community services, with an emphasis on young people and the

elderly. The policy explains that specific facilities had been identified including new large community centres/halls and space for local faith groups, as well as cultural centres and more open space.

32. Whilst there would be a loss of the veterinary services and facilities, the Council confirms in its officer's committee report that the site is not protected for employment purposes and is not listed for protection as a community asset. I have also taken into account that there are other veterinary practices nearby, including the town centre, and nearby settlements. The veterinary practice does not directly meet the aims of Policy CS 23 either by providing services for young people or the elderly, and would not provide any of the types of space as identified.
33. Nonetheless, there is some merit in considering the indirect benefits of being able to maintain pet health, as a part of the general wellbeing achieved by pet owners. However, this is a service that is uniquely available only to pet owners who choose to use this particular practice and does not provide a wider community benefit as appears to be the tone of Policy CS 23.
34. At the time of my site visit, the building was actively in use as a veterinary practice. I noted another veterinary practice within the town centre, reasonably close by on foot. Although the loss of the veterinary practice may result in existing users having the inconvenience of having to walk a slightly greater distance to other facilities, I do not regard such inconvenience as a clear threat to the viability and vitality of the town centre, nor to the general social infrastructure of the community.
35. I acknowledge the benefit of the site providing employment and the well-established nature of the veterinary practice. However I am not provided with evidence which suggests that the existing practice could not re-locate within Berkhamsted or its immediate surroundings. In these circumstances the loss of the surgery in this location would not have a harmful impact. It would, however, result in more people living locally and this would be more likely to contribute to the local area being sustained. I therefore find no conflict with Policy CS23 of the Core Strategy.

Planning Balance

36. Bringing together my conclusions on the main issues I have found that the site lies in a sustainable location where new development involving means of travel other than by car should be encouraged. I have also found that the proposal would not clearly harm accessibility of the town centre of Berkhamsted or the vitality or viability of the centre but would be more likely to contribute to these latter factors.
37. Overall I find that the proposal would accord with the relevant provisions of the core strategy and local plan. Further, I have found that the proposal accords with the Framework in terms of the location of new development and this national guidance also indicates that the planning system should deliver a wide choice in the type of homes available locally to meet the different needs of different groups. I am therefore satisfied that the proposal constitutes sustainable development.
38. The accord of the proposal with the development plan and the Framework when read as a whole is not outweighed by any other consideration and the

Framework indicates in paragraph 11 that such development should be approved without delay.

Other Matters

39. I have had regard to the objections raised in relation to the proposal. Reference has been made to legal rights of access across the appeal site to the occupiers of number 320 High Street. However, these are private matters to be resolved by the parties and are therefore not relevant to my decision.
40. The plans before me show provision for parking and turning on site for the proposed dwellings. Given the central location of the site, close to bus stops and the railway station, I find no harm in terms of increased parking pressure in the area. I also find no reason to conclude that the changes to the site access would be harmful to highway safety or the safety of pedestrians nor would the increase in vehicle movements from one additional dwelling be harmful. I note the Council similarly raised no concerns in respect of these matters.
41. I note the objections raised to the proposal by other interested parties and the comments made have already been addressed in my reasoning above.

Conditions

42. The Council suggests 11 conditions. The three year period in which the planning permission may be implemented is a statutory requirement (1). I consider that it is necessary in the interests of clarity to specify the plans that are approved and that the development shall be undertaken in accordance with these unless further modified by any condition set out below (2).
43. I consider that it is necessary to confirm the details of the materials to be used and the external metal work, finishes and detailing in order to protect the character and appearance of the local area, the CA and the NDHA (3 and 4). A condition to ensure the green roof maintenance is also appropriate in the interests of the protection of the CA and the character and appearance of the local area (8).
44. In the interests of any archaeological finds during construction, I have imposed conditions to secure a written scheme of investigation and its implementation to ensure recording of archaeological evidence (5 and 6).
45. It is reasonable and necessary to impose a condition to ensure the retention of obscure glazing to the windows in the western elevation in the interests of the privacy of occupiers of neighbouring properties (7).
46. I have imposed a condition to ensure that soft and hard landscaping is detailed and approved in order to protect the character and appearance of the local area and the CA and this includes ensuring the maintenance of any planting (9 and 10).
47. It is also necessary to impose a condition to ensure that the parking spaces are laid out and retained as proposed in the interests of highway safety (11).

Conclusion

48. For the reasons given above and taking all other matters into account I conclude that the appeal should be allowed.

Rebecca Thomas

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved documents all from the STJOHNS/PA series: 013/Rev.04; 015/Rev.04; 016/Rev.04; 018/Rev.03; 019/REV.03; 020/Rev.03;021/Rev.03; 022/Rev.03.
- 3) Prior to commencement of development, full details of the materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The materials submitted should include details of: bricks; brick bond and mortar; rooflights; roof tiles; joinery and rainwater goods. The development shall be carried out and retained in accordance with the approved details.
- 4) Prior to commencement of the development hereby permitted, full details of all external metalwork, finishes and detailing including feature bronze panels, the windows and trellis features hereby approved, shown at a scale of 1:20, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and retained in accordance with the approved details.
- 5) Prior to commencement of the development hereby permitted, a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of significance and research questions and:
 - i. The programme and methodology of site investigation and recording;
 - ii. The programme and methodology of site investigation and recording as suggested by the evaluation;
 - iii. The programme for post investigation assessment;
 - iv. Provision to be made for analysis of the site investigation and recording;
 - v. Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - vi. Provision to be made for archive deposition of the analysis and records of the site investigation;
 - vii. Nomination of a competent person or persons/organisation to undertake the works set out in the Written Scheme of Investigation.
- 6) Demolition and development shall take place in accordance with the Written Scheme of Investigation referred to and approved under condition 5. Prior to occupation the site investigation and post investigation assessments shall have been completed in accordance with the programme set out in the Written Scheme of Investigation as set out in condition 5 and the provision

made for analysis, publication and dissemination fo results and archive deposition has been secured.

- 7) The development hereby permitted shall not be occupied until the windows at the western elevation have been fitted with obscured glazing and once installed the obscured glazing shall be retained thereafter.
- 8) Prior to the occupation of the development hereby permitted, a Green Roof Maintenance Plan shall be submitted to and approved in writing by the local planning authority. This shall detail the ongoing maintenance and specification of the green roof hereby permitted as part of the development. Details shall include cleaning and general maintenance works/checks and procedures and timescales which shall commence following completion of the development hereby permitted and shall be carried out in accordance with the approved details.
- 9) Prior to the occupation of the development hereby permitted full details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include:
 - Hard surfacing materials;
 - Positions, design, materials and type of boundary treatments to be erected;
 - Soft landscape works which shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate;
 - Trees to be retained and measures for their protection during construction works;
 - Storage of refuse provision for the dwellinghouses;
 - Proposed finished levels or contours; and
 - Scaled drawings and details of the barrier to the parking area.

The approved landscape works shall be carried out prior to the first occupation of the development hereby permitted.

- 10) All planting, seeding or turfing and soil preparation comprised in the approved details condition 7 shall be carried out in the first planting and seeding seasons following one year post implementation of the development hereby approved. Any trees or plants which, which, within a period of five years from this date die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless agreed otherwise in writing by the local planning authority. All landscape works shall be carried out in accordance with the guidance contained in British Standards unless otherwise agreed in writing by the local planning authority.
- 11) The car parking spaces to be provided shall have measurements of 2.4m x 4.8m respectively and shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and for no other purpose.