

**ITEM NUMBER: 5i**

<b>21/01882/FHA</b>	<b>Alteration to boundary wall including removal of a 3m section of 2.4m high garden wall at the rear of 17 Castle St. Replacement wall to be built on new boundary line.</b>	
<b>Site Address:</b>	<b>17 Castle Street Berkhamsted Hertfordshire HP4 2BQ</b>	
<b>Applicant/Agent:</b>	<b>Ms Katherine Hutton</b>	
<b>Case Officer:</b>	<b>Natasha Vernal</b>	
<b>Parish/Ward:</b>	<b>Berkhamsted Town Council</b>	<b>Berkhamsted Castle</b>
<b>Referral to Committee:</b>	<b>Councillor Call-in</b>	

**1. RECOMMENDATION**

That planning permission be GRANTED with conditions.

**2. SUMMARY**

2.1 The principle of residential development in this location is acceptable, in accordance with the exceptions for appropriate development in the Berkhamsted Conservation Area as set out under Sections 66 and 72 of The Planning (Listed Building and Conservation Areas) Act 1990 and Paragraphs 197, 199, 201 and 202 of the NPPF (2021). The proposed development is considered to be acceptable in design terms, given that they would not be considered to detract from the character and appearance of the street scene or the Berkhamsted Conservation Area. Furthermore, it is not considered that the proposal would adversely affect the residential amenity of neighbouring properties by being visually overbearing or resulting in a significant loss of light or privacy. Sufficient private amenity space would be provided for future occupiers of the site in line with the relevant policies.

2.2 Given all of the above, the proposal complies with Paragraphs 197, 199, 201 and 202 of the National Planning Policy Framework (2021), Policies CS4, CS11, CS12 and CS27 of the Dacorum Borough Core Strategy (2013), Sections 66 and 72 of The Planning (Listed Building and Conservation Areas) Act 1990, Saved Policies 119 and 120 and Saved Appendices 3 and 7 of the Local Plan (2004).

**3. SITE DESCRIPTION**

3.1 The site is occupied by a mid-terrace dwelling located on Castle Street in Berkhamsted. The existing dwelling is a locally listed dwelling and the site is situated within the Berkhamsted Conservation Area and an area of archaeological significance. The surrounding properties consist of locally listed buildings and Grade II listed buildings and the area is predominately residential in character.

**4. PROPOSAL**

4.1 This application seeks full householder permission for the alteration to boundary wall including removal of a 3m section of 2.4m high garden wall at the rear of 17 Castle Street. It is proposed that a replacement wall would be built on a new boundary line.

4.2 This application has been called in by the Berkhamsted Ward Councillor, who gave the following representation (in italics):

*"I should like this case to be called in for consideration by the Development Management Committee on the grounds of:*

- (1) *loss of amenity to neighbours overlooked by the new back garden, which may well also create noise;*
- (2) *detrimental effect on the local Conservation Area, due to the partial demolition of a 19th Century wall.*

*I appreciate that officers have already considered these points, but - as I understand it - their conclusions were based on the matter of degree rather than the nature of the grounds themselves."*

## **5. PLANNING HISTORY**

Planning Applications:

21/01839/LDP - Alterations to boundary wall. Removal of 3m section of existing boundary wall (height 2.4m) and erection of new boundary wall using traditional materials of a similar style and nature. New boundary wall will be approximately 5ft high and topped with trellis. The garden will be enlarged and the new boundary wall will route around the enlarged plan. No change of use of land.

*Application Returned*

4/01711/99/FUL - Change of use from commercial to residential

*Granted - 10th November 1999*

## **6. CONSTRAINTS**

Area of Archaeological Significance: 21

CIL Zone: CIL1

Berkhamsted Conservation Area

Listed Building, Grade: II

Listed Building, Grade: Local

Parish: Berkhamsted CP

RAF Halton and Chenies Zone: Yellow (45.7m)

RAF Halton and Chenies Zone: RAF HALTON: DOTTED BLACK ZONE

Residential Area (Town/Village): Residential Area in Town Village (Berkhamsted)

Parking Standards: New Zone 3

EA Source Protection Zone: 1

EA Source Protection Zone: 2

EA Source Protection Zone: 3

Town: Berkhamsted

## **7. REPRESENTATIONS**

Consultation responses

7.1 These are reproduced in full at Appendix A.

Neighbour notification/site notice responses

7.2 These are reproduced in full at Appendix B.

## **8. PLANNING POLICIES**

Main Documents:

National Planning Policy Framework (July 2021)

Dacorum Borough Core Strategy 2006-2031 (adopted September 2013)  
Dacorum Borough Local Plan 1999-2011 (adopted April 2004)

Relevant Policies:

NP1 - Supporting Development  
CS1 - Distribution of Development  
CS4 - The Towns and Large Villages  
CS10 - Quality of Settlement Design  
CS11 - Quality of Neighbourhood Design  
CS12 - Quality of Site Design  
CS27 – Quality of the Historic Environment  
CS29 - Sustainable Design and Construction

Supplementary Planning Guidance/Documents:

Car Parking Standards (2020)  
Planning Obligations (2011)  
Roads in Hertfordshire, Highway Design Guide 3rd Edition (2011)  
Site Layout and Planning for Daylight and Sunlight: A Guide to Good Practice (2011)

## **9. CONSIDERATIONS**

### Main Issues

9.1 The main issues to consider are:

The policy and principle justification for the proposal;  
The quality of design and impact on visual amenity;  
The impact on residential amenity; and  
The impact on highway safety and car parking.

### Principle of Development

9.2 17 Castle Street is a locally listed building. Policy 119 of the Dacorum Local Plan (2004) states that every effort will be made to ensure that any new development liable to affect the character of a 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. Regard has been given to the statutory tests of preserving or enhancing the setting of Listed Buildings under Sections 72 and 66 of The Planning (Listed Building and Conservation Areas) Act 1990, which it is accepted is a higher duty.

9.3 Paragraph 197 of the NPPF (2021) states that in determining planning applications, Local Planning Authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets. Paragraph 199 of the NPPF outlines that when considering the impact of a proposed development on the significance of a designated heritage asset, 'great weight' should be given to the asset's conservation. Paragraph 201 states that where proposed development will lead to substantial harm or total loss of significance of a designated heritage asset, Local Planning Authorities should refuse consent unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh the harm. Where the harm is considered less than substantial, Paragraph 202 states that this should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

9.4 The site is also located within Berkhamsted Conservation Area, whereby development is expected to preserve and enhance the character and appearance of the surrounding area, in

accordance with Core Strategy Policy CS27, Saved Policy 120 of the Local Plan (2004) and the National Planning Policy Framework (NPPF) (2021).

9.5 The Conservation Officer were consulted and gave their representation (in italics):

*9.6 The existing house is located on Castle Street within the conservation area. It is locally listed and described as "No. 17 Castle Street is a tall late C19th 3 storey house in buff brickwork, with colourwashed red brick dressings and lozenge detailing to the centre of the brick panels with stone plat and eaves band at each storey level. Slate roof with rolled ridges and ogee guttering". The adjacent properties of 15 and 16 are smaller timber framed cottages which are listed and number 14 is locally listed.*

*9.7 The wall to the rear would appear to be slightly earlier and be part of the boundary wall of the garden of Manor Croft. The land appears to have been a garden with fish pond in the late 19th/ early 20th century. It was redeveloped as housing in the 20th century. The wall is therefore slightly larger and more solid construction than would normally be expected as a rear boundary wall to a 19th century dwelling in the conservation area. It has brick piers, an on edge coping detail and render between the piers and below the string course.*

*9.8 The existing wall has lost some of its historic context due to the construction of Manor Close in the mid 20th century. However it still has some interest and helps to understand the evolution of the site and changes that occurred to the conservation area. A section of the wall would remain allowing the boundary line and features to be understood. The proposed new wall matches the design of the wall at number 14 and provided that the brick, bond and mortar were in keeping this would not be harmful to the space. The character would change slightly in that the small courtyard garden of 17 would open up. In addition there would be a level of additional enclosure to number 1 manor close with the new wall. Overall this impact on the character of the conservation area and the setting of the locally listed buildings would be less than substantial and at a low level.*

*9.9 The proposals would cause harm to the designated heritage assets of the conservation area and to the locally listed building. In relation to the conservation area this harm would be less than substantial and at a low to nominal level. As such the balancing exercise outlined in the Framework should be undertaken. In relation to the locally listed building of number 17 it would have less than substantial harm at a low level with the officer noting that this is a non-designated heritage asset. This is due to the alteration of the original space and plot pattern of the development. It is also in relation to the loss of the section of the historic wall.*

*9.10 We do not believe that the proposal would harm the setting of the adjacent listed buildings as such the balancing exercise does not need to take this into account.*

*9.11 Recommendation: We would not object to the proposals given the low level of harm caused to the heritage assets. Bricks, brick bond and mortar to match the existing.*

9.12 In light of the comments provided by the Conservation and Design Officer, the proposed works are considered to be sympathetic to the conservation area and the original design and character of the locally listed building, protecting and conserving the integrity, setting and distinctiveness of the heritage assets.

9.13 Furthermore, it is worth noting that permitted development rights have not been removed from the property. Therefore, the application property could benefit from the construction of a 1.8m tall boundary wall without the need for planning permission, under Class A, Part 2, Schedule 2 of the General Permitted Development Order (2015) (as amended). This is a material consideration that should be afforded weight.

Quality of Design / Impact on Visual Amenity

9.14 Core Strategy (2013) Policies CS10, CS11 and CS12 highlight the importance of high quality sustainable design in improving the character and quality of an area, seeking to ensure that developments are in keeping with the surrounding area in terms of scale, mass, height and appearance. This guidance is supported by Saved Appendices 3 and 7 of the Local Plan (2004).

9.15 A section of the rear boundary wall (3 metres wide x 2.4 metres high) would be removed to facilitate additional amenity space. The proposed wall would measure a height of approximately 1.8 metres.

9.16 The proposal would feature reclaimed stock brickwork and timber lattice panels, however, a matching materials condition is required to ensure that the proposal respects the character and appearance of the Conservation Area and the locally listed building.

9.17 Although some elements of the proposed development would be visible from the public realm, the proposal would be set back from the public highway and therefore the proposal would be less prominent when viewed along Castle Street and Manor Close. Furthermore, the proposal allows visual reading of the original elevation of the existing dwelling and therefore it is not considered to result in a massing that would be unduly prominent or out of keeping within the character and appearance of the existing dwelling or the surrounding area.

9.18 It is considered that the design, layout and scale of the proposed development respects that of the existing and surrounding dwellings. The architectural style is sympathetic to the surrounding area and the proposal will not have a detrimental impact upon the character and appearance of the area. The proposal therefore complies with Saved Appendices 3 and 7 of the Dacorum Local Plan (2004), Policies CS10, CS11 and CS12 of the Core Strategy (2013) and the NPPF (2021).

#### Impact on Residential Amenity

9.19 The NPPF outlines the importance of planning in securing good standards of amenity for existing and future occupiers of land and buildings. Saved Appendix 3 of the Local Plan and Policy CS12 of the Core Strategy, seek to ensure that new development does not result in detrimental impact upon the neighbouring properties and their amenity space.

9.20 It is noted that the neighbouring properties at No.14 and 15 objected on the grounds of overlooking and a loss of privacy, noise and disturbance resulting from use, visual intrusion and adverse impact on the setting of 14,15,16,17 Castle Street and 1 Manor Close.

9.21 The proposed wall would not extend / project beyond the neighbouring properties at No.14 and 15's rear boundary wall and would be screened by timber panels reducing impacts on overlooking. The surrounding properties feature rear gardens. Whilst the proposed structures may expand the existing garden use, considering the residential nature of the area and the surrounding garden spaces, it is unlikely that there would be a significant increase in noise disturbance, or one that would warrant a refusal. Regarding the impacts on setting of the locally listed building, these matters have been addressed in the principle development assessment. Due to its positioning and scale, it is not identified that the proposed development would have a detrimental impact on loss of sunlight / day, overlooking or overshadowing towards the surrounding neighbouring properties.

9.22 Taking the above into account, it is considered that the proposal will be acceptable with respect to the impact on the residential amenity of neighbouring properties in accordance with Policy CS12 of the Core Strategy (2013), Saved Appendix 3 of the Local Plan (2004) and the NPPF (2021).

### Impact on Highway Safety and Parking

9.23 There would be no changes to the existing access, nor any changes that would affect the adjoining highway. In terms of parking, the parking standards are comprised within Appendix A of the Parking Standards SPD (2020). The site resides within Accessibility Zone 3.

9.24 The proposed development would not have a significant impact on parking provision as the existing dwelling does not benefit from off-street parking and as such the additional one room would not have a residual impact. In addition, the neighbouring property at No.1 (Manor Close) would have sufficient space retained to accommodate at least one vehicle.

9.25 It is considered that the proposed development will not have a detrimental impact on local parking provision, nor will it have a severe impact to the safety and operation of the adjacent highway. Thus, the proposal meets the requirements of Appendix A of the Parking Standards SPD (2020).

### Other Material Planning Considerations

#### *Berkhamsted Town Council*

9.26 Berkhamsted Town Council were consulted and raised no objections to the proposal, however, requested that the brick and mortar used be in a style to match the neighbouring property.

9.27 A matching materials condition is required to ensure no impacts on the character and appearance of the Conservation Area and the locally listed building.

#### *Archaeology*

9.28 The Archaeology Department at Herts County Council raised no objection to the proposals, stating: *"The development site is in a highly sensitive location, archaeologically, with remains of prehistoric, Roman and medieval date known in the near vicinity. In this instance however I consider that the development, given its small-scale nature, is unlikely to have a significant impact on heritage assets of archaeological interest. I have no comment to make upon the proposal."*

### Response to Neighbour Comments

9.29 The neighbouring properties at No.14 and 15 objected on the grounds of overlooking and a loss of privacy, noise and disturbance resulting from use, visual intrusion and adverse impact on the setting of 14, 15, 16, 17 Castle Street and 1 Manor Close. These matters raised have been addressed in the neighbour impact assessment.

### Community Infrastructure Levy (CIL)

9.30 Policy CS35 requires all developments to make appropriate contributions towards infrastructure required to support the development. These contributions will normally extend only to the payment of CIL where applicable. The Council's Community Infrastructure Levy (CIL) was adopted in February 2015 and came into force on the 1st July 2015. The application is not CIL liable.

## **10. CONCLUSION**

10.1 The proposed development through its design, scale and finish will not adversely impact upon the visual amenity of the immediate street scene, the residential amenity of neighbouring occupants, the Berkhamsted Conservation Area or the Listed Buildings. The proposal is therefore in

accordance with Saved Appendices 3 and 7 of the Dacorum Local Plan (2004), Policies CS4, CS10, CS11, CS12 and CS27 of the Core Strategy (2013) and Paragraphs 197, 199, 201 and 202 of the NPPF (2021).

## 11. RECOMMENDATION

11.1 That planning permission be **GRANTED** with conditions.

### Condition(s) and Reason(s):

1. **The development hereby permitted shall begin before the expiration of three years from the date of this permission.**

Reason: To comply with the requirements of Section 91 (1) of the Town and Country Planning Act 1990, as amended by Section 51 (1) of the Planning and Compulsory Purchase Act 2004.

2. **The development hereby permitted shall be carried out in accordance with the following approved plans/documents:**

- 04
- Existing and Proposed Plans
- Design and Access Statement

Reason: For the avoidance of doubt and in the interests of proper planning.

3. **The materials to be used in the construction of the external surfaces of the development hereby permitted shall match the existing building in terms of size, colour and texture. All new bricks, brick bond and mortar shall match the existing materials.**

Reason: To ensure that the character or appearance of the designated heritage asset is preserved or enhanced as required per Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy CS27 of the Dacorum Borough Core Strategy (2013) and Section 16 of the National Planning Policy Framework (2021).

### Informatives:

1. Planning permission has been granted for this proposal. Discussion with the applicant to seek an acceptable solution was not necessary in this instance. The Council has therefore acted pro-actively in line with the requirements of the Framework (paragraph 38) and in accordance with the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2015.

## APPENDIX A: CONSULTEE RESPONSES

Consultee	Comments
Parish/Town Council	<p>No objection.</p> <p>The Committee requested that the brick and mortar used be in a style to match the neighbouring property.</p>
Conservation & Design (DBC)	<p>The existing house is located on Castle Street within the conservation area. It is locally listed and described as "No. 17 Castle Street is a tall late C19th 3 storey house in buff brickwork, with colourwashed red brick dressings and lozenge detailing to the centre of the brick panels with stone plat and eaves band at each storey level. Slate roof with rolled ridges and ogee guttering". The adjacent properties of 15 and 16 are smaller timber framed cottages which are listed and number 14 is locally listed.</p> <p>The wall to the rear would appear to be slightly earlier and be part of the boundary wall of the garden of Manor Croft. The land appears to have been a garden with fish pond in the late 19th/ early 20th century. It was redeveloped as housing in the 20th century. The wall is therefore slightly larger and more solid construction than would normally be expected as a rear boundary wall to a 19th century dwelling in the conservation area. It has brick piers, an on edge coping detail and render between the piers and below the string course.</p> <p>The existing wall has lost some of its historic context due to the construction of Manor Close in the mid 20th century. However it still has some interest and helps to understand the evolution of the site and changes that occurred to the conservation area. A section of the wall would remain allowing the boundary line and features to be understood. The proposed new wall matches the design of the wall at number 14 and provided that the brick, bond and mortar were in keeping this would not be harmful to the space. The character would change slightly in that the small courtyard garden of 17 would open up. In addition there would be a level of additional enclosure to number 1 manor close with the new wall. Overall this impact on the character of the conservation area and the setting of the locally listed buildings would be less than substantial and at a low level.</p> <p>The proposals would cause harm to the designated heritage assets of the conservation area and to the locally listed building. In relation to the conservation area this harm would be less than substantial and at a low to nominal level. As such the balancing exercise outlined in the Framework should be undertaken. In relation to the locally listed building of number 17 it would have less than substantial harm at a low level with the officer noting that this is a non designated heritage asset.</p>

	<p>This is due to the alteration of the original space and plot pattern of the development. It is also in relation to the loss of the section of the historic wall.</p> <p>We do not believe that the proposal would harm the setting of the adjacent listed buildings as such the balancing exercise does not need to take this into account.</p> <p>Recommendation We would not object to the proposals given the low level of harm caused to the heritage assets. Bricks, brick bond and mortar to match the existing.</p>
Hertfordshire County Council - Archaeology	The development site is in a highly sensitive location, archaeologically, with remains of prehistoric, Roman and medieval date known in the near vicinity. In this instance however I consider that the development, given its small-scale nature, is unlikely to have a significant impact on heritage assets of archaeological interest. I have no comment to make upon the proposal.

## APPENDIX B: NEIGHBOUR RESPONSES

### Number of Neighbour Comments

Neighbour Consultations	Contributors	Neutral	Objections	Support
6	6	1	2	2

### Neighbour Responses

Address	Comments
8 New Street Berkhamsted Hertfordshire HP4 2EP	Being the owner of 16 Castle Street, I have no objection to the proposal so long as the existing levels are maintained, or lowered, adequate drainage is provided as the construction of the walls may cause a dam effect, the ground laid to fall away from the west boundary (away from 15 and 16 Castle Street), no trees are planted, particularly along the west boundary. This is to ensure that no water ingresses 16 Castle Street or its foundations being affected by tree roots and water ingress.
1 Manor Close Berkhamsted Hertfordshire HP4 2BJ	I am very happy with the proposal. The plan of converting a mainly block paved area with a green garden space is pleasing to me. It can only enhance the area. The new wall using reclaimed bricks will be in keeping with an existing wall (not original) to which it will adjoin. The section of wall to be removed is barely visible from any road. It shares a boundary with my 1938 built property. I am pleased that the occupants of no. 17 will be able to enjoy more outdoor green space. There is no loss of amenity.
18 Castle Street Berkhamsted	In Support - the existing garden space for No. 17 is very small and not commensurate with a large family house

Hertfordshire HP4 2BQ	
14 Castle Street Berkhamsted Hertfordshire HP4 2BQ	<p>I live at 14 Castle Street and have done so for the last 14 years.</p> <p>I have studied the submitted plans and reviewed the Design &amp; Access Statement and would like to register my strong objection to this application.</p> <p>The submitted proposals are totally incompatible with the aims and objectives of the Conservation Area within which the application site sits. I believe that both my house and that of the applicants are locally listed and numbers 15 and 16 Castle Street are Grade II listed to further underline the sensitivities of this part of the Conservation Area.</p> <p>The applicants and their family live in a three storey town house with a regular shaped and normal size courtyard garden. This application seeks to upset the balance and rhythm of property boundaries to create a contrived and illogical L shaped garden by the removal of a 19th Century wall that would result in the adverse impacts listed below;</p> <ol style="list-style-type: none"> <li>1. Overlooking and a loss of privacy.</li> <li>2. Noise and disturbance resulting from use.</li> <li>3. Visual intrusion.</li> <li>4. Adverse impact on the setting of 14,15,16,17 Castle Street and 1 Manor Close.</li> </ol> <p><b>Overlooking and a loss of privacy</b> The use of the area as a new rear garden as opposed to a front drive for cars/bins will lead to a new set of outdoor activities taking place where overlooking into our courtyard garden is inevitable. This will clearly result in a loss of privacy for us in what is already a small outdoor courtyard garden area.</p> <p><b>Noise and disturbance resulting from use.</b> This new use of the area will result in a new noise source that will adjoin not only our garden but will also wrap around the rear of numbers 15 and 16 Castle Street. It will also establish a new noise source, uniquely in my view, by placing a rear garden in the front garden/drive of 1 Manor Close which is most odd. Clearly, the potential for disturbances from this new noise source is high.</p> <p><b>Visual intrusion</b> The visual intrusion that would result from the removal of the wall, the subsequent removal of the current bushes/trees and the erection of a new wall to tie in with my own wall are such that an adverse impact would then result on not only my house but also that of my neighbours at 15 and 16 Castle Street and especially 1 Manor Close.</p> <p><b>Adverse impact on setting</b> The cumulative effect of these issues is the setting of 14 - 17 Castle Street and 1 Manor Close will all be negatively impacted by this proposal to an unacceptable degree. As such this application should be refused as it is contrary to Core Strategy Policy CS27 which seeks to protect all designated and non designated heritage assets.</p>

	<p>In addition, I am extremely concerned that this will set an undesirable precedent for householders that it is acceptable to remove historic walls that form long established, logical boundaries to create new amenity space to the detriment of both their neighbours and the visual appearance of the Conservation Area.</p> <p>Once the applicants children are older they will sell up and move on but the legacy of this L shaped garden will be permanent. On a personal level I am very disappointed that no proper dialogue was attempted by the applicants or indeed the owner of 1 Manor Close prior to this application being submitted. I believe they were under the mistaken impression that these works could proceed without a planning application and have already dismantled a garden shed in readiness.</p> <p>Please can you take my comments into consideration and let me know if you need anything further from me on receipt.</p>
<p>Laurel Bank Nettleden Road Little Gaddesden Berkhamsted Hertfordshire HP4 1PN</p>	<p>I am the owner of 15 Castle Street. We strongly object to this application. The development is completely out keeping with the historic nature of the conservation area and adjoining properties of which some, including ours, are Grade 2 Listed. The proposal would also set a dangerous precedent fo other ill conceived plans in the conservation area. I would expect a conservation officer would have objections to this plan and in particular the demolition of a 19th century wall in the conservation area.</p> <p>The new garden area will provide a further source of noise pollution at the rear of our property and risk loss of privacy and visual intrusion to the rear of our property. Any planting of trees could also impact on light to the rear of our property and adversely affect the foundation structure of our historic grade 2 listed properties.</p> <p>We strongly object to this proposal and do not feel that it complies with the Core Strategy Policy nor wold it be acceptable after review by a local Conservation Officer. Please contact me if you require any further information.</p>
<p>Cllr Cloughton</p>	<p>I should like this case to be called in for consideration by the Development Management Committee on the grounds of:</p> <ol style="list-style-type: none"> <li>(1) loss of amenity to neighbours overlooked by the new back garden, which may well also create noise;</li> <li>(2) detrimental effect on the local Conservation Area, due to the partial demolition of a 19th Century wall.</li> </ol> <p>I appreciate that officers have already considered these points, but - as I understand it - their conclusions were based on the matter of degree rather than the nature of the grounds themselves.</p>