
Appeal Decision

Site visit made on 3 April 2017

by **Jonathan Hockley BA(Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 May 2017

Appeal Ref: APP/X1925/W/16/3164043

Land south of High Street, Whitwell SG4 8AJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr George Walsh-Waring against the decision of North Hertfordshire District Council.
 - The application Ref 15/02020/1, dated 24 July 2015, was refused by notice dated 27 May 2016.
 - The development proposed is the erection of up to 45 residential units (Use Class C3) with details of access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved apart from access. I have dealt with the appeal in the same manner, and have thus treated all plans, apart from those relating to access, as indicative only.
3. A revised plan has been submitted concerning the access road for the proposed development. This has been consulted upon as part of a subsequent application for up to 25 homes. The plan does not alter the proposed point of access but changes the internal layout of the road to access the site, which could in any event be altered by any subsequent reserved matters application. When considering that the access point to the site remains the same I do not consider that any party would be prejudiced by my considering this plan as an alternate.

Main Issue

4. The main issue in this case is whether the site is a suitable site for housing, having regard to if the proposal would preserve or enhance the character or appearance of the Whitwell Conservation Area and its effect on the setting of the Grade II listed buildings of Nos 22, 24, and 33 High Street.

Reasons

5. Whitwell is a linear village, primarily based around High Street/Lilley Bottom Road and Horn Hill. The historic core of the village is centred on the High Street, which runs roughly parallel to the Mimram River just to the north. The Whitwell Conservation Area (WCA) is centred on this area of the settlement. The WCA is a linear one and primarily covers the High Street and the buildings
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fronting the street, with land to the rear to the north between the street and the river included. The WCA has a dense character along the High Street, with many buildings, including various listed buildings directly fronting the highway, with numerous parked cars along the street adding to this character. Due to this dense character, the WCA is enhanced by the limited landscaping sited along the road. To the north along and around the river the character alters to a more peaceful, pastoral landscape, away from the hustle and bustle of the High Street.

6. The appeal site lies to the south of the High Street, and mainly consists of No 33a High Street, some of the garden land of no 33 High Street, including a tennis court, and a large field to the rear of No 33. The land rises steeply from the road edge, and continues to rise towards the rear of the field. This field is tracked on its eastern and southern sides by public footpaths. The WCA boundary follows the rear boundary of No 33a and cuts across the garden land of No 33, excluding the tennis court area and the field. The proposal seeks to construct an access in front of No 33a, demolishing this property and building up to 45 houses on the land to the rear.
7. Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Section 66 (1) of the same act states that, when considering whether to grant planning permission for development which affects the setting of a listed building, special regard should be had to the desirability of preserving this setting.
8. Paragraph 132 of the National Planning Policy Framework (the Framework) says when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting. The Framework defines setting as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral.
9. No 33 is a Grade II listed building constructed in the early 18th century according to the listing, heightened to 3 storeys in the early 19th century, and is constructed of painted brick with a tiled roof. The house has two parallel blocks lying roughly north to south, with the northern gables facing towards the road. The property is distinctively set back from the High Street, and is sited higher than the street due to the topography of the area. A 'U' shaped drive serves the property, with accesses at both ends. The western end of the access also serves No 33a, which has a steeply rising drive and parking area. No 33a is a fairly modern red brick 2 storey property which has a neutral effect on the character and appearance of the WCA. A dense range of trees and vegetation largely hides No 33 from the High Street. The special interest of No 33 derives chiefly from its varied architectural form and its setting above and set back from the High Street.
10. The Grade II listed buildings of the Old Brewery and the Brew House (Nos 22 & 24 High Street) lie virtually opposite the access to No 33a. Stated in the listing to have previously been one house, the 3 storey property dates from the early 17th century, with substantial alterations dating from the early 18th century and

from around 1800. The slate hipped roof is partially hidden behind a noticeable red brick façade and parapet wall, which also has a moulded cornice sited just below. The 3 storey building has a pleasing symmetrical façade, with the two pedimented entrance doors located between the 3 bayed frontage. An eastern extension is noted as previously being used as a straw plait school. The special interest of the properties arises from their architectural quality, historical features and history and their setting directly on the High Street in the dense centre of the village.

11. At present the access to Nos 33a and 33 is reasonably characteristic of a private drive, being fairly low key and informal within the street scape; this impression is considerably aided by the surrounding landscaping, including various trees on both the east and west sides of the access. The access is bordered by brick piers. These piers, and the attached brick wall to the west also contribute to the character of the WCA. The proposed access, in serving some 45 dwellings would necessarily widen this access fairly considerably, removing some 5 tall cypress trees on the west side of the boundary.
12. The widened access and its bellmouth would be directly opposite No 22. This would introduce a fairly heavily engineered modern road into the direct setting of Nos 22 and 24, adversely affecting the setting and therefore the significance of these listed buildings. In creating such an access, and by the removal of the treed western verge to the existing informal track, the proposal would also cause harm to the character and appearance of the WCA. The introduction of an access road in such a way at perpendicular to the High Street would also be a new feature in the dense character of the WCA; whilst other roads also join the High Street in the WCA such as Horn Hill and the Valley to the south, these roads are fronted and cornered by houses maintaining the dense pattern of development in the WCA.
13. The current informal access slopes up to Nos 33a and 33, with the track having a focal stop in the form of No 33a. The proposed access road would be wider than this track, removing No 33a and a brick outbuilding located in front of this property, extending roughly in a straight line to approximately the back of where No 33a currently stands. The road would be a prominent feature, and whilst I note that some of the trees adjacent to the access may need to be removed in any case and landscaping proposals would seek to plant and soften the new verges, such landscaping would take time to establish and would need to allow for visibility splays. The plans also show significant areas of cutting slope that would be required to construct the new road. Such artificial slopes would appear out of place and alien within the historic character of the WCA.
14. The setting of No 33 itself would be less affected than that of Nos 22/24, with the new access set off to the side and well hidden behind landscaping. Nevertheless, the widening of the existing informal western access to the property and introduction of the access road would still cause harm to the setting and therefore the significance of No 33. To the rear, the proposed alignment of the access road would retain a significant area of back garden to the heritage asset. The revised plan would increase this area of back garden, and subject to landscaping would cause little harm to the setting of No 33.
15. Having regard to the advice in planning practice guidance I consider that the scheme would not reach the high hurdle of substantial harm (as defined in the Framework) to the significance of the heritage assets. However, though less

than substantial, there would, nevertheless, be real and serious harm which requires clear and convincing justification. Paragraph 134 of the Framework indicates that such harm is to be weighed against the public benefits of the proposal, including securing its optimum viable use.

16. The proposal would deliver some 45 dwellings, of which 40% would be affordable housing. There is no dispute between the parties that the Council are unable to demonstrate a 5 year supply of deliverable housing sites, with the deficit being noteworthy at only some 2.2-3.5 years supply. 45 dwellings is not an immaterial number, and would produce fairly significant economic and social benefits in the Council area with an acknowledged substantial lack of housing supply, both in terms of construction of the dwellings, and also in terms of the socio-economic benefits of the new residents of the houses to the village. The 18 proposed affordable housing units would also be a considerable benefit of the scheme. I place significant weight on these benefits. The provision of a village green at the centre of the indicative design is submitted as a public benefit, as well as access routes through the trees to the rear of the sites. However, whilst I acknowledge such benefits, I also consider that they would primarily serve the future residents of the site.
17. Such justification is clear; however, I do not consider it is convincing. Whilst noting the need for market and affordable housing in the District area, the proposal would cause serious harm to the WCA and to Nos 22 & 24 High Street, with lesser harm caused to No 33. Less than substantial harm does not equate to a less than substantial objection, and as heritage assets are irreplaceable any harm or loss requires clear and convincing justification. When considering the totality of the harm caused, I consider that the public benefits of the scheme, although significant, do not outweigh the harm caused and as such the proposal would be contrary to paragraphs 132 and 134 of the Framework.
18. Paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up to date if the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites. Furthermore, no development plan policies are listed in the decision notice, and accordingly the development plan in this case is silent. Paragraph 14 of the Framework states that where the development plan is silent or relevant policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or specific policies in the Framework indicate development should be restricted. Footnote 9 specifically refers to policies relating to designated heritage assets in this context.
19. The Council raise concerns over the effect of the development on the character of the countryside when viewed from the Hertfordshire Way. This footpath ascends the Mimram valley on the land to the north of the appeal site, such that from the higher parts of this path the appeal site is reasonably visible. I walked this path as part of my site visit.
20. Despite the elevated position of the appeal site, not all the site is visible from this footpath due to the levels of screening, even at my visit which took place in early Spring. However, a large area of green field of the site could be seen from this footpath. The development would inevitably fill a large area of this land with built form, filling more of the horizon visible from the footpath with housing.

21. However the site is clearly, even from this distance, bordered by trees on its southern and eastern boundaries such that it is separated and detached physically from the wider areas of more open countryside to the east. Furthermore, the built development would follow a similar building line of that surrounding the 'Bradway' estate to the west. I therefore consider that although the proposal would have a harmful effect on the intrinsic character and beauty of the countryside, such an effect would be minor.
22. I have concluded that the proposal would be contrary to the policies in paragraphs 132 and 134 of the Framework, and paragraph 14 therefore indicates that development should be restricted. Consequently it follows that the proposal does not constitute sustainable development for which there is a presumption in favour of within the Framework. The minor harm to the character of the countryside adds weight to my decision.
23. I therefore conclude that the site is not suitable for housing, as the proposal would neither preserve nor enhance the character and appearance of the Whitwell Conservation Area and would cause harm to the settings, and therefore the significance of Nos 22 & 24 High Street and No 33 High Street. Such harm would not be outweighed by the public benefits of the scheme. In addition, the proposal would also cause minor harm to the intrinsic character and beauty of the countryside.

Other Matters

24. A unilateral undertaking has been submitted concerning the delivery of affordable housing, as well as contributions and details relating to various other subjects, including open space, education and sustainable transport. I have considered the benefits of the proposed affordable housing above, and as I am dismissing the appeal on other grounds I have not considered this matter further.
25. I note that the site has previously been proposed in various consultation and option documents as being suitable for housing. However, I also note that the emerging Local Plan, which has been or is, imminently being submitted for examination, proposes to include the site in the Green Belt. I note in this context that the plan has not yet been examined and there remain outstanding objections to the proposed inclusion of the appeal site within the Green Belt, limiting the weight to which I can apply to this matter in line with paragraph 216 of the Framework.

Conclusion

26. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jon Hockley

INSPECTOR