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## Appeal Decision

Site visit made on 19 September 2017

by **Amanda Blicq BSc (Hons) MA CMLI**

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

Decision date: 12<sup>th</sup> October 2017

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### Appeal Ref: **APP/J1915/W/17/3171050**

**35 Liberty Close, Hertford SG13 8JY**

- 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 and Mrs Harlow against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/1606/FUL, dated 14 July 2016, was refused by notice dated 7 September 2016.
  - The development proposed is three storey side extension, roof accommodation and an attached garage at lower level.
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### Decision

1. The appeal is allowed and planning permission is granted for three storey side extension, roof accommodation and an attached garage at lower level at 35 Liberty Close, Hertford SG13 8JY in accordance with the terms of the application, Ref 3/16/1606/FUL, dated 14 July 2016, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Dwgs. 12213-S001; 12213-P001F; 12213-P002E; Arbtech TPP 01 and Arbtech AIA 01.
  - 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the extension hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
  - 4) Prior to commencement, details of the design of building foundations, and the layout, positions, dimensions and levels of service trenches, ditches, drains and other excavations on site insofar as they may affect trees and hedgerows on or adjoining the site, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
  - 5) Prior to commencement details of existing trees and hedgerows on the land, together with measures for the protection of retained trees and hedgerows during the development shall have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

- 6) Demolition and construction works shall take place only between 0730 – 1800 hrs Monday to Friday, and 0730 – 1300 hrs on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.

### **Procedural Matters**

2. Whilst this appeal is not an application to remove the trees under The Town and Country Planning (Tree Preservation) (England) Regulations 2012, the evidence before me indicates that the trees are protected by East Hertfordshire District Council Tree Preservation Order (TPO) (No 11) 2003, 35 Liberty Close, Hertford (P/TPO 509), dated 2 September 2003 and confirmed on 5 November 2003. The granting of planning permission would therefore override the TPO, and consequently I have considered the appeal on the basis that the development would require the removal of these protected trees.
3. The description of development on the application and decision notice stated that the existing dwelling was to be demolished. However, the evidence indicated that the front, party and rear walls were to be retained and as such I suggested an alternative description.

### **Main Issue**

4. The main issue is the effect of the development on the character and appearance of the area, with particular regard to the loss of protected trees.

### **Reasons**

5. The appeal site is a two-storey end terrace, situated on elevated land within a small estate of modest linked and terraced houses on undulating ground.
6. The development comprises a three-storey side extension, roof accommodation and an attached garage at a lower level.
7. There is a line of pine trees running directly alongside the existing dwelling's gable end and extending along the edge of the estate towards Brickendon Lane to the south-west. These appear to predate the estate and their variation in size and form suggests a history of wind exposure, particularly as some of the pines appear to have lost upper limbs. The three pines immediately adjacent to No 35 are located some 2- 3 metres from the flank wall and appear to have been buried in fill material to a depth of about 3 metres when No 35 was built. They are heavily cloaked in ivy and Tree 1<sup>1</sup> has a dead and hanging branch. Their canopies also oversail No 35's roof.
8. I viewed the appeal site from several vantage points at varying distances from the appeal site and concluded that the visibility of these three pines is limited, as intervening structures and other trees obstruct views. Although they can be seen on the skyline to the north of No 35, their limited height above No 35 reduces their prominence.
9. Furthermore, my observations led me to conclude that localised screening also prevents the group from being seen in its entirety. As such, in the context of the existing streetscape, I conclude that these trees do not make a significant contribution to the character and appearance of the area, and that their removal would not detract from the visual amenity of the remaining pines.

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<sup>1</sup> Arbtech TPP 01

10. The evidence before me indicates that a previous Inspector concluded that the trees were healthy and enhanced the appearance of the site and the street scene. However, a period of thirteen years has elapsed since that appeal. The current tree survey states that at best these pines are in only fair condition, with Tree 1 having a poor crown, which accords with my observations. Consequently, I am not satisfied that the trees are in the same condition as when the previous appeal was determined.
11. Furthermore, these three pines are distinctly lower in height than other more sheltered pines further down the slope, which suggests that further growth is being suppressed by their position on the hill, the building up of ground levels around their stems, and the proximity of No 35.
12. I also give some weight to the appellant's argument that the pines are susceptible to branch loss as this also accords with my observations. As the pines are located close to the rear garden of No 21, as well as above the roof, I conclude that there is a likelihood that they could pose a safety hazard for the occupiers of No 35.
13. Turning to the impact of the proposed development on the character and appearance of the area, the Council considers the proposals would have a prominent and intrusive gable end which would be detrimental to the streetscape. However, this is an area with a dense building pattern. Although I appreciate that the extent of development would preclude additional planting to replace the pines, I am not satisfied that the development would cause particular harm to the streetscape as most of the other end terraces have gable ends that have are unscreened by vegetation. Consequently, I consider such harm to the streetscape that would arise if the appeal as allowed would be minor and would be insufficient to warrant dismissal of the appeal.
14. Policies ENV 1 and ENV 2 of the Local Plan<sup>2</sup> (LP) taken together require development to safeguard existing trees amongst other considerations. Whilst the proposal would not comply with these policies, I have set out above the reasons why the development would nevertheless be acceptable in this regard. LP Policy ENV 11 requires replacement planting where tree removal is unavoidable. However, the constraints of the site and the underlying tight development pattern prohibit further tree planting as replacements.
15. LP Policy HSG7 states that development should not result in the loss of important landscape features. However, I am not satisfied that they are important landscape features and my reasoning outlines that I consider these trees to be in an unsuitable location and that their future health and longevity, as well as the safety of occupiers of No 35, is compromised by their proximity to No 35 and the building up of ground levels around their roots. The Council has also referred to the National Planning Policy Framework in its reasoning but no specific paragraphs have been highlighted. The development would be in accordance with the Framework when considered as a whole.
16. I therefore conclude that the proposal would not have a harmful impact on the character and appearance of the area, particularly having regard to the protected trees.

#### *Other matters*

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<sup>2</sup> East Hertfordshire District Council, Local Plan Second Review April 2007

17. There are slight cracks on No 3's internal and external walls. Although the engineer's report attributes these cracks to the proximity of the trees, there is limited supporting evidence. Notwithstanding that I have found in favour of the appellant, the engineers report has not been determinative.

*Conditions*

14. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In respect of the plans, I have imposed a condition specifying the drawings upon which I have based this appeal, as this provides certainty. Although not included in the Council's suggested condition in respect of drawings, I have included for completeness the plan showing the site's location and existing house.
15. In order to safeguard trees to be retained, I have imposed pre-commencement conditions requiring approval of below-ground works and tree protection works. I have however altered the suggested condition in respect of remedial works in relation to existing trees on the site and adjoining land, as this seems unreasonable given the domestic scale of the development and the difficulty of proving that the development was the cause of future tree death.
16. I have also imposed a pre-commencement condition in relation to materials to be used on external surfaces to safeguard the character and appearance of the area. In order to minimise noise and disturbance to occupiers of neighbouring dwellings, I have imposed a condition restricting working hours. However, the suggested conditions allowed working on the site up to 1830 hours on weekdays. I have altered this to 1800 hours which I consider to be more reasonable for this tightly knit residential area.
17. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

**Conclusion**

18. For the reasons given above and taking all matters into account, I conclude that the development would not be contrary to the relevant policies of the Council's Local Plan and that therefore the appeal should be allowed.

*Amanda Blicq*

INSPECTOR

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## Appeal Decisions

Site visit made on 19 June 2017

by **Chris Forrett BSc(Hons) DipTP MRTPI**

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

Decision date: 2<sup>nd</sup> October 2017

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**Appeal A Ref: APP/J1915/W/17/3170274**  
**325 Ware Road, Hertford, Hertfordshire SG13 7EL**

- 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 Terry Clark against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/2749/FUL, dated 30 November 2016, was refused by notice dated 31 January 2017.
  - The development proposed is the demolition of existing dwelling and the erection of 2 No 3 bedroomed dwellings.
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**Appeal B Ref: APP/J1915/W/17/3171489**  
**325 Ware Road, Hertford, Hertfordshire SG13 7EL**

- 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 Terry Clark against the decision of East Hertfordshire District Council.
  - The application Ref 3/16/1715/FUL, dated 25 July 2016, was refused by notice dated 27 September 2016.
  - The development proposed is the demolition of single dwelling and erection of a pair of semi-detached dwellings.
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### Decision

1. Appeal A is dismissed and Appeal B is dismissed.

### Procedural Matters

2. As set out above, there are two appeals both of which relate to the development of residential properties at the appeal site. Although the proposed developments are different there are many similarities between them. On this basis, whilst I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together.
3. The Appellant has drawn my attention to a previous planning permission<sup>1</sup> at the site which was granted by the Council on the 27 February 2013. From the evidence before me this was identical to the proposal in Appeal A. However, this permission was not implemented and has subsequently lapsed. Whilst this permission is a material planning consideration, given its historical status I can only give it limited weight. Moreover, each application must be considered on its individual merits at the time of determination.

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<sup>1</sup> 3/12/1634/FP

## **Main Issues**

4. The main issues are
  - (i) the effect of each development on the living conditions of the occupiers of 325A Ware Road with particular regard to privacy, outlook, and light; and the future occupiers of each development with particular regard to privacy;
  - (ii) whether each development has adequate parking arrangements;
  - (iii) in respect of Appeal B, the effect of the development on the character and appearance of the area; and
  - (iv) in respect of Appeal B, whether the development would have any effect on ecology with particular regard to bats.

## **Reasons**

### *Living conditions*

5. The proposed developments would involve the demolition of the existing single dwelling and each proposal would involve the construction of two new dwellings. Both appeal proposals would result in a taller and wider building than the existing. They would also be closer to 325A Ware Road than the main part of the existing dwelling.
6. From what I observed on-site, and the photos provided with the representations, there are already views possible between the habitable room windows of the existing dwelling at No 325 and that of No 325A. The proposed developments would result in a significant increase in the amount of windows facing No 325A of which the majority of which would be closer in distance than the existing situation.
7. The Appellant has submitted cross sections of the site which show that there would be limited overlooking between the proposed dwellings and No 325A. However, given what I observed on site, I am not convinced that this plan is entirely accurate as the proposed buildings are at variance between the site layout plan and the proposed section.
8. Taking all of the above into account, to my mind, both of the above developments would result in an unacceptable increase in the amount of overlooking to No 325A. In addition to the above, the Appeal B proposal also has habitable room windows on the top floor which would be higher than the existing windows and would allow clearer views into the habitable rooms of No 325A.
9. In coming to that view, I acknowledge that there is an evergreen hedgerow growing on the appeal site side of the fence. Whilst this may provide some screening and reduce the opportunities for overlooking there is no guarantee that this would remain in perpetuity. Furthermore, should part or all of the hedge become diseased or die then the living conditions of the occupants of No 325A would be reliant on a new hedge growing and establishing (which would be outside of their control) to ensure that adequate privacy is maintained.
10. In respect of the privacy of the future occupiers of the developments, the proposals would also result in a sub-standard level of amenity owing to the proximity of the proposals to No 325A for similar reasons as above.

11. Turning to outlook, the occupiers of No 325A look out onto a part brick wall, part timber fence which is close to their habitable room ground floor windows. Given the height of this boundary wall and fence, the outlook from these rooms is already restricted. Both appeal developments would result in a larger building which would add further built form to the views from these windows.
12. In respect of Appeal B, this would include two gable ends which would extend up to the ridge line of the proposed dwellings, and would have a significantly greater massing than the existing dwelling. The scale of the proposed building would have an unacceptable impact on the outlook of the occupiers of No 325A and would appear as an overbearing building despite it being located in the region of 15 metres away.
13. The Appeal A proposal would have less bulk and impact than the Appeal B proposal as a result of its hipped roof, despite the inclusion of two dormer windows in the rear elevation. Whilst this development would have some impact on outlook, given that the roof slopes away from No 325A the impact of the development would not warrant the refusal of planning permission.
14. In respect of each of the developments effect on light to No 325A, I note that the proposals would be located broadly to the south of No 325A and would have a ridge height of 115.51 AOD compared to the finished floor level of No 325A at 102.15 AOD.
15. Notwithstanding the difference in heights, I have not been provided with any substantive evidence to suggest that this would result in an unacceptable impact. On the basis of the evidence before me, and what I observed on site, I consider that the proposed developments would not have a significant impact on either the availability of sunlight or daylight to No 325A. However that does not outweigh the harm I have already found.
16. It has been questioned whether the existence of No 325A is a new material planning consideration since the determination of the historical permission. From the evidence before me, permission had been granted and the bungalow substantially constructed. However, as noted above, this permission was not implemented and the submissions provided by the current occupier of No 325A provides compelling evidence to warrant the dismissal of both appeals.
17. The Council have referred to Policy HSG7 of the East Herts Local Plan Second Review (2007) (LP) in their reason for refusal. However, this policy does not relate to matters relating to the living conditions of neighbouring dwellings or the conditions of future occupiers of development. I have therefore given it very little weight in the consideration of this issue.
18. For the above reasons both appeal proposals would lead to a loss of privacy to the occupiers of No 325A, and would not provide suitable living conditions for the future occupiers of the appeal development through lack of privacy from No 325A. Furthermore, the Appeal B development would result in harm to the outlook from the habitable room windows of No 325A as a result of the bulk and massing of the proposed building. Therefore, both appeal developments would be contrary to Policy ENV1 of the LP which amongst other matters seeks to protect the amenity of the occupiers of residential properties and provide suitable living conditions for the future occupiers of development. The developments would also be at odds with the design aims of the National Planning Policy Framework (the Framework).

### *Parking provision*

19. The existing property has a driveway which could accommodate two vehicles. Both appeal proposals would provide on-site parking spaces for the proposed dwellings with the Appeal A development providing three spaces and Appeal B development providing four spaces. Appeal A would allow for vehicles to enter and exit in a forward gear via a traditional form of access driveway whilst appeal B has the parking spaces on vehicle turntables.
20. From my site visit I noted that there were several parked cars on the highway and the pavement. This has also been noted in the Highway Authority's consultation responses and through the neighbour representations. Notwithstanding the above, the Highway Authority does not wish to restrict the granting of planning permission for either development.
21. Appeal A proposes 2 No three bedroomed dwellings which the Council indicate should be provided with a maximum of 2.25 parking spaces per dwelling to accord with the Council's parking standard. The development would therefore have a maximum shortfall of 1.5 spaces. Appeal B proposes 2 No four bedroom dwelling which should have a maximum of 3 spaces per dwelling. Therefore, the development would have a maximum shortfall of 2 spaces.
22. Taking into account that the Council's parking standards are maximum standards, and that there is little evidence to suggest that any additional on street parking as a result of either development would give rise to a severe impact on highway safety, I consider that the level of parking provision for each development would be adequate. In coming to that view I acknowledge that some further on street parking may occur, but this would not be so significant as to cause a detrimental impact to highway or pedestrian safety.
23. For the above reasons, the proposed developments would provide adequate off street parking and would accord with Policy TR7 of the LP which amongst other matters sets out that new development will be assessed in accordance with the Council's parking standards but actual provision will be determined on a site specific basis. The proposals would also accord with the transportation objectives of the Framework.

### *Character and appearance (Appeal B)*

24. The Council's principal concern over Appeal B's effect on the character and appearance of the area relates to the massing of the proposed roof with its two gable ends facing Ware Road and dormer windows facing both side elevations.
25. From my site visit I saw that there was a wide variety of differing property styles along this section of Ware Road. This included properties with gable and hipped roofs. There are also a number of properties with dormer windows.
26. The appeal proposal would invariably result in a development which would have a greater impact on the character and appearance of the area than the existing dwelling owing to its increase in size and height. However, given that there is no discernible character to this section of Ware Road the addition of a twin gabled building with a ridge height similar to other properties along this side of the road would not appear out of place. Similarly it would not appear to be excessive in scale, particularly owing to the land sloping down significantly from the road and the proposed ridge height of the dwellings. Furthermore, the two side dormer windows are modest in scale and are of similar proportions



to those located on the properties on the opposite side of Ware Road. They would also be in scale with the host dwellings.

27. For the above reasons the appeal B development would not harm the character and appearance of the area contrary to Policies HSG7 and ENV1 of the LP which amongst other matters seek to protect the character and appearance of the area. The development would also be consistent with the Framework which seeks to secure good design.

*Bats (Appeal B)*

28. The decision made by the Council on the Appeal B application included a reason for refusal relating to the absence of a bat survey as it was possible that bats could roost in the building to be demolished.
29. Following that decision, the Appellant undertook a bat survey, which was also considered by the Council when they determined the Appeal A application. In that application, the Council did not raise any issues relating to bats, nor did it form the basis of any reason for refusal.
30. Given that the same information has now been submitted in respect of Appeal B, and that the bat survey did not find any evidence of bats in the property, I consider that the proposal would not give rise to any harm to bats.
31. Consequently, the development accords with Policy ENV16 of the LP which amongst other matters seek to ensure that proposals do not have any adverse effects on protected species such as bats. The development would also accord with the biodiversity objectives of the Framework.

**Conclusion**

32. Taking all matters into consideration, I conclude that both appeals should be dismissed.

*Chris Forrett*

INSPECTOR



**The Planning  
Inspectorate**

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Development Control  
East Hertfordshire District Council  
Development Control  
Wallfields  
Pegs Lane  
Hertford  
SG13 8EQ

Your Ref: 3/16/2849/FUL  
Our Ref: APP/J1915/W/17/3178194

17 October 2017

Dear Development Control,

**Town and Country Planning Act 1990**  
**Appeal by Mr Damian Clarkson**  
**Site Address: The London Kitchen, 69 High Street, BUNTINGFORD, SG9 9AE**

I enclose for your information a copy of a letter received withdrawing the above appeal(s).

I confirm no further action will be taken.

Yours sincerely,

***Bridie Campbell-Birch***  
Bridie Campbell-Birch

*Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through the Planning Portal. The address of our search page is - [www.planningportal.gov.uk/planning/appeals/online/search](http://www.planningportal.gov.uk/planning/appeals/online/search)*

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## Appeal Decision

Site visit made on 15 August 2017

by **K H Child BSc (Hons) MA MRTPI**

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

Decision date: 6 October 2017

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**Appeal Ref: APP/J1915/W/17/3176952**  
**12A Market Square, Bishops Stortford CM23 3UU**

- 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 Ahmet Kabayel against the decision of East Hertfordshire District Council
  - The application Ref 3/17/0418/FUL, dated 19 February 2017, was refused by notice dated 19 April 2017.
  - The development proposed is described as 'retrospective application for the extended seating area, ramp, lighting and water feature at the front of the premises and archway at the entrance.'
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The plan of the seating area (022017) shows an externally illuminated sign, an archway, and a paved outside seating area which are not referred to in the Council's decision notice. Further, these features are not specifically promoted in the appellant's appeal statement, and the detailed plans for the sign and the archway which were submitted with the appeal (042017 and 032017) are not listed in the Council's decision notice. The Council and appellant have confirmed that the application was determined excluding these features, with the sign and archway being the subject of separate applications. Accordingly, I have dealt with this appeal on the same basis.
3. On my site visit I observed that the development, consisting of decking, ramps, lighting and a water feature/landscaped area (as shown on plan 022017), had already been erected.

### Main Issue

4. The main issue is the effect on the character and appearance of the Drill Hall and the local area, having particular regard to the Drill Hall as a non-designated heritage and the Bishops Stortford Conservation Area.

### Reasons

5. The appeal site is located in the centre of Bishops Stortford, off the Market Square. The site contains a substantial building which was built as a Drill Hall in the early 1900s, and is currently being used as a restaurant. The building is

set back from the site frontage, and is accessed via a driveway between nearby properties. The site is surrounded by a mix of uses, including retail units and residential properties. The site is located within the Bishops Stortford Conservation Area.

6. The Conservation Area includes the historic core of the town, and contains a range of historically and architecturally distinctive buildings. The dense urban form in this part of the Conservation Area is interspersed with small squares and open spaces, which provide visual breaks and contribute to the attractiveness of the area.
7. The Drill Hall is a notable local building, and is identified in the Bishop Stortford Conservation Area Appraisal (2014) as a non-designated heritage asset. The front of the building features stonework and an architecturally detailed elevation. Overall, it is an attractive building which makes a positive contribution to the Conservation Area.
8. The Council's East Herts Local Plan Second Review (2007) (the Local Plan) does not have a specific policy on non-designated heritage assets. However, paragraph 135 in the National Planning Policy Framework (the Framework) clarifies how the effect of a scheme on the significance of a non-designated heritage asset should be taken into account in determining an application, whilst section 12 highlights the need to sustain and enhance heritage assets.
9. The constructed decking area is situated to the front of the building, and consists of elevated outside seating areas and ramps. The structure is built of wood with metal railings, and is substantial in scale, extending between the front of the building and the northern site boundary and across a considerable portion of the building's width. The eastern end also incorporates a raised water feature and landscaping beds which are elevated above the height of the forecourt. The eastern part of the decking area and associated railings are notably higher than the ground level due to the slope of the forecourt.
10. Part of the structure can be clearly seen from the public highway at the rear of the Corn Exchange building. In the views up the passageway towards the entrance of the Drill Hall, the water feature and landscaping structures are apparent in front of the building with the raised decking areas behind.
11. Although the Drill Hall frontage is substantial in height, the size, position and elevation of the decking, railings, ramps, water feature and landscaping mean that the front of the building is partially obscured, particularly when seen from the south and the Market Square. As such it is difficult to wholly see and appreciate the original building with the structures in situ. The structures dominate the forecourt, and significantly reduce the openness of the setting.
12. On my site visit I observed other examples of wood and metal materials on buildings in the local area, including wooden fenestration on the Drill Hall. Nevertheless, the decking is substantial in size, and the materials are a notable contrast with the traditional brick and stone materials and form of the adjoining Drill Hall. The grey stone and slate walls of the water feature and landscaping beds also contrast with the red brick and light stonework on the building.
13. I note that the scheme incorporates landscaping/amenity features and sustainable construction materials. However, overall, by virtue of its size, position, form and materials, I consider that the decking and associated

structures appear incongruous in this setting, and fail to respect the traditional design and brick/stone form of the Drill Hall. The structures dominate the forecourt and detract from the open setting and appearance of the Drill Hall and the locality. In conclusion, I consider the scheme significantly harms the character and appearance of the Drill Hall and the local area, and detracts from the character and appearance of the Conservation Area.

14. In line with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have attached considerable importance to the need to avoid harm to a designated heritage asset. The development is relatively small-scale compared to the total size of the Conservation Area, and as such I consider the harm to the significance of the Conservation Area would be less than substantial. In such circumstances paragraph 134 in the Framework advises that harm caused should be weighed against public benefits arising from the scheme.
15. I recognise that the scheme could result in economic benefits linked to additional business income, which in turn could benefit the local economy and aid the vitality and viability of the town centre. However, although these benefits are noted, I consider they would be modest having regard to the scale of the restaurant business.
16. A profitable business could also help to ensure the viable use of the Drill Hall and support its long-term conservation as a non-designated heritage asset. However, there is no substantive evidence before me to indicate that the additional decked seating area is critical to the viability of the restaurant business, or that the business has viability problems. In this case I have therefore attached limited weight to this matter.
17. The appellant has indicated that the decking and ramps enable people with disabilities or pushchairs to easily access the building and outside seating area in line with Policy ENV4 in the Local Plan (2007). However, notwithstanding such benefit, there is no evidence before me to suggest that the decking and ramps as constructed are the only option to facilitate access.
18. The submitted plans and photographic evidence indicate that part of the decking area has replaced an asphalt raised seating area. However, this area appears to have been considerably smaller in extent. Accordingly, I consider that any visual benefits arising from its loss would not be sufficient to mitigate the identified harm arising from the decking and associated structures.
19. The appellant has indicated that the additional seating provides people with an opportunity to dine outside and appreciate the Drill Hall and the Conservation Area setting. However, the previous paved/asphalt seating area appears to have facilitated this opportunity, and as such I consider the associated benefits arising from the decking scheme are small.
20. Overall, I conclude that the benefits arising from the scheme are modest and would be insufficient to outweigh the identified significant harm to the Conservation Area. The scheme causes material harm to the character and appearance of the area, and fails to preserve or enhance the character and appearance of the Bishops Stortford Conservation Area. As such the scheme is contrary to the Framework, and to Policy BH6 in the Local Plan (2007) insofar as it seeks to secure development that protects or enhances the character and appearance of Conservation Areas. It is also contrary to Policy ENV1 in the

Local Plan (2007) insofar as it seeks to secure development which is high quality and respects local distinctiveness.

21. I also consider that these benefits would be insufficient to mitigate the identified harm arising to the Drill Hall building, as a non-designated heritage asset. The scheme significantly harms the setting and appearance of the Drill Hall, and detracts from the character of this locally important building. Accordingly, the scheme is contrary to the provisions in the Framework which seek to sustain and enhance the significance of heritage assets.
22. The Council has highlighted a previous appeal decision on the site, relating to an application for advertisements. Details of this appeal are not before me. Nonetheless each scheme needs to be assessed on its merits and it is on this basis that I have determined this appeal.

#### **Other Matters**

23. Although no Noise Assessment was submitted with the application, in my view the decking structure would, by virtue of the intensification of seating and its proximity to other residential properties, be likely to lead to an increase in noise and disturbance from people talking and moving across the decking. These effects would add to the objections to the scheme.

#### **Conclusion**

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

*K.H. Child*

INSPECTOR