



## Appeal Decision

Site visit made on 4 February 2014

by **D R Cullingford BA MPhil MRTPI**

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

Decision date: 19 February 2014

**Appeals Ref: APP/J1915/A/13/2205448 & E/13/2205449**

**Land to the rear of 57 High Street, Ware, Hertfordshire, SG12 9AD**

- These appeals are made under section 78 of the Town and Country Planning Act 1990 against refusals to grant planning permission and conservation area consent.
- The appeals are by Mr Keith Ashman against the decisions of the East Hertfordshire District Council.
- The applications (refs: 3/13/0368/FP and 3/13/0369/LC, respectively, and both dated 4 March 2013) were refused by notices dated 17 July 2013.
- The development is described as:
  - 1 'Demolition of outbuildings and covered yard adjoining the river, erection of single house, alterations and extensions to convert former sorting office to 11 houses, refurbishment of office building and appropriate 'hardscaping';
  - 2 Demolition of outbuildings and covered yard adjoining the river.'

### Application for costs

1. An application for costs was made on behalf of the appellant against the East Hertfordshire District Council. This application is the subject of a separate Decision.

### Decision

2. I dismiss these appeals.

### Main issue

3. From what I have read and seen, I consider that these appeals turn on whether this scheme would spoil, rather than preserve or enhance, the character and appearance of this river bank within the Ware Conservation Area.

### Reasons

4. The appeal site is an ancient burgage plot between the High Street and the north bank of the River Lea, which here forms a picturesque panorama of historic gazebos (almost all Listed Buildings) by the water's edge amidst small gardens; the site lies at the heart of the Ware Conservation Area. The High Street frontage is occupied by building society offices. But, to the rear, a typically long, mid-nineteenth century, brick built maltings structure stretches towards the river bank; vehicular access is available via a narrow arched entrance from the High Street. Tacked on to the northern gable of the maltings is a flat roofed brick extension: tacked on to the (southern) riverside gable is an open framed brick and corrugated shed-like structure beyond which is an office-cum-workshop on the river bank, both erected when the site was used by the Post Office in the early 1950s.

5. There are 3 elements to the scheme; the conversion of the maltings building to provide 11 dwellings, the refurbishment of a flat roofed office extension adjoining the northern gable of the maltings and the erection of a new dwelling on the site of the demolished structures at the southern end of the site. It is also necessary to consider the application for 'conservation area consent' to demolish the outbuildings and covered yard beside the river.

*The Maltings*

6. The main element of the proposal entails the conversion of the maltings building to provide 11 3-bedroom dwellings on 3 floors. Original features would largely be retained and new features would reflect the character of the existing structure, thereby conserving a building type once common in the town and important to the history and evolution of the place. Hence, although the ridge would be slightly raised (by 0.5m) to accommodate a third floor, the mass, scale and appearance of the old maltings building would not materially alter. And, although a few new windows, doors and roof lights would be installed, the overall pattern of the fenestration and the design of the windows would reflect the character of the existing building.
7. Ingenious provision would be made for private amenity space within the existing shell of the maltings: an executed section 106 Undertaking would address the requirements for additional services and facilities likely to arise from this development: appropriate conditions for obscure glazing and excavation methods could protect the privacy of residents in Water Row and the roots of a large ash tree on an adjacent site: and, given the inherent limitations of the existing access and the position of the maltings building at the heart of the town centre, there is no objection to the limited car parking provision. Moreover, the physical constraints of the site, the duration over which the building has been vacant or under-used and the likely viability of any realistic commercial use, would mean that the scheme would meet the requirements of 'saved' policy EDE2 (loss of employment sites) in the East Herts Local Plan Second Review (2007). And, as the sequential test is not applicable to changes of use, the proposed conversion would also meet the requirements of 'saved' policy ENV19.
8. In those circumstances I consider that this element of the scheme would satisfactorily contribute to preserving and enhancing the character and appearance of the Ware Conservation Area.

*The northern extension*

9. The second element of the scheme relates to a vacant flat roofed office structure behind the street frontage which projects from the northern gable of the maltings. The scheme envisages the installation of new windows, roof lights and external cladding to refurbish this modest structure for re-use as B1 office space. The structure would be simple, modest, and set well back from the main façade of the maltings as well as from the narrow entrance between the buildings on the High Street. It would thus be unobtrusive in the street scene and evidently subservient to the converted maltings. It would also sustainably re-use an existing 'office' building thus providing new employment opportunities on a 'town centre' employment site, in accordance with policy EDE2.

10. Hence, and given the relevant provisions indicated above, I think that this element of the scheme would represent a satisfactory form of development that would not harm the character and appearance of the Ware Conservation.

*The new dwelling*

11. The third element of the scheme entails the demolition of the 'sheds', workshop and office building at the southern end of the site and, in their place, the construction of a new 4-bedroom dwelling set about 6m back from the river bank behind a patio and 'garden' area containing a small gazebo. The new dwelling would exhibit a contemporary design with large areas of glazing, white render and timber cladding. It would reach about 8m at the ridge of its riverside gable-like façade and extend almost 10m across the width of the site incorporating a horizontal glazed box-like projection picked out in white render at ground floor level.
12. I accept that the proposed new dwelling would replace mediocre and poorly maintained structures that fail to reflect either the character or the appearance of their surroundings. But, it seems to me that the size and scale of the structure would itself be obtrusive and, in spite of the other contemporary buildings in the vicinity, that the extent of the glazing and render would accentuate its incongruous and discordant impact along this section of the river bank. The riverside façade would extend across some  $\frac{2}{3}$  of the site and, together with the small gazebo, present a largely built-up frontage when seen from the towpath on the opposite bank. That would contrast with, and interrupt the rhythmic series of, small Listed gazebos amongst verdant gardens that characterises this section of the river bank and it would obscure appreciation of the elongated space beyond those structures typical of these ancient burgage plots. Due to the scale of the façade, its proximity to the proposed gazebo would appear dominating and, as a result, alter the perception of the adjacent Listed gazebo and its setting. Moreover, the horizontal glazed box-like projection would appear particularly incongruous amongst the gables and modest structures nearby. And, in my view, the white render and expanse of glazing would accentuate that harmful effect. For those reasons, I consider that the proposed new dwelling would fail to preserve or enhance the character and appearance of the Conservation Area or the setting of nearby Listed Buildings.
13. I agree that the replacement of mediocre and poorly maintained structures would effect some modest improvement. But, the statutory duty to consider the desirability of preserving or enhancing Conservation Areas, imposed by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, together with Government advice in the Framework (NPPF), requires something more. The determination of planning applications should take account of not just the desirability of sustaining and enhancing the significance of heritage assets, but also the positive contribution such assets can make to creating sustainable communities and to the desirability of making a positive contribution to local character and distinctiveness. Indeed, 'good design' is charged with establishing a strong sense of place and responding to local character and history. For the reasons given, I think that the new dwelling would fail to reflect that advice and, partly as a result, contravene the requirements of 'saved' policies ENV1 and BH6.

14. I saw that there are some modern buildings in the vicinity that are often only a little further from the river bank than the proposed new dwelling. But, although the 3-storey barrel-vaulted terrace at Swan Mews stands out, it does not mask appreciation of the burgage plots that contribute crucially to the ancient pattern of development here. As for community building in the grounds of the Town Council's Listed offices at Fletcher's Barn, the gable end is appreciably smaller than the façade of the proposed house and it is not adorned with a discordant horizontal box-like projection. Of course, there are other structures that do not enhance the riverside character of Ware. But they provide precedents to avoid, in my view, especially in this central and relatively unspoilt section of the river bank.
15. Although I can appreciate that the new dwelling may well be a key element in the development of the site, no evidence is adduced to show that the structure as proposed, or indeed any additional dwelling, would be essential to the viability of the scheme as a whole. The various economic appraisals submitted really do no more than indicate that a residential conversion would offer substantially more than a commercial one. That is hardly surprising as the site exhibits inherent disadvantages for any conceivable commercial operator likely to make good use of the space potentially available. But, there is nothing to suggest that conversion of the maltings building would not be viable by itself. Hence, on the evidence available, I do not consider that the new dwelling could be regarded as essential enabling development for an otherwise acceptable scheme.
16. In relation to the application of the sequential test, the Environment Agency now appear to agree that flood water would be unlikely to reach the proposed building during 'a 1 in 100 year plus climate change flood event'. It follows that the new dwelling should not be assessed as being in Flood Zone 3. And, as 'more vulnerable development' (such as a new dwelling) is deemed to be 'appropriate' in Flood Zone 2, the new dwelling need not necessarily be subject to the 'sequential test'. That is born out by the detailed FRA submitted, for although the 'flood maps' show part of the site to be in Flood Zone 3, all parts of the existing site are demonstrated to be at least 0.5m above the 1 in 100 year (plus climate change) flood level (given as 33.35 AOD). The 'flood maps' are only the starting point for a site specific FRA and the Environment Agency indicate that they are currently in the process of updating their modelling for this part of the River Lea. As the proposal relates to the redevelopment of previously developed land in a town centre and the FRA demonstrates that the scheme would not itself be at serious risk of flooding nor exacerbate flood risks elsewhere, I agree with the planning officers that an objection on flood risk grounds would not be warranted.
17. I note that the currently identified supply of available housing land would be sufficient to meet housing requirements for only 3.8 years and, consequently, that policies for the supply of housing must be considered 'out-of-date'. In those circumstances, housing applications are to be considered in the context of the presumption in favour of sustainable development and decisions made in accordance with paragraph 14 of the Framework (NPPF). Hence, permission should be granted unless tests derived from specific policies in the Framework (or material considerations) indicate otherwise or any adverse impact of granting permission would significantly and demonstrably outweigh the benefits of the scheme when assessed against the Framework taken as a

whole. However, the policies relevant to this appeal do not primarily address the provision of housing, but relate to the quality and design of new development in general and, in particular, within Conservation Areas. Such policies are identified as being of 'great importance' in the Framework and a 'key aspect of sustainable development'. For the reasons set out above, I consider that the new dwelling proposed would fail to reflect the relevant advice in the Framework, including some of the 'core principles', and contravene the requirements of 'saved' policies ENV1 and BH6. It follows that specific policies in the Framework indicate that permission should be withheld here and that the adverse impact of granting permission would significantly and demonstrably outweigh the benefits of the scheme when assessed against the Framework taken as a whole.

18. I have carefully considered whether the proposal for the new dwelling could be separated from the other acceptable elements of the scheme, thereby allowing some development to progress while the design and configuration of the new dwelling might be reconsidered. However, the claim is that all the development proposed to regenerate this site is indivisible, so that the refurbishment of the offices, the conversion of the maltings and the replacement of the covered yard and outbuildings with the proposed dwelling form essential and integral elements of the scheme. Whether or not that is physically or financially the case, I accept that an appropriate proposal for the redevelopment of the southern part of the site would be essential to the enhancement of the Conservation Area here and that, in its absence, the unsightly sheds and workshops would detract from the residential conversion of the maltings and, perhaps, undermine the success of that scheme. I shall thus treat the elements of this proposal as being part of a coherent and indivisible development.
19. Taking all those matters into account, I consider that the proposed new dwelling would fail to preserve or enhance the character and appearance of the Conservation Area, thereby contravening the requirements of 'saved' policies ENV1 and BH6 as well as advice, including some of the 'core principles', set out in the Framework. Moreover, and in spite of considering all the other matters raised, I find nothing sufficiently compelling to alter that conclusion.

*Demolition*

20. The Framework advises that Councils should '*not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred*'. Of course, the open framed brick and corrugated shed-like structure and office-cum-workshop building are hardly 'heritage assets'. But the white rendered dormer-festooned façade of the latter does screen the mediocre muddle behind and, although much larger than the Listed gazebos, it mimics them in position and colour on the river bank. Hence, in the absence of an acceptable replacement scheme, the demolition of those structures would create a gap on the river bank altering the special character of this riverside scene and impinging on the views and vistas in this part of the Conservation Area.

*Overall conclusion*

21. I have found that the residential conversion of the maltings building would satisfactorily contribute to preserving and enhancing the character and

appearance of the Ware Conservation Area and that the refurbishment of the flat roofed office building would not harm it. Yet, the design and scale of the new dwelling would spoil, rather than preserve or enhance the character and appearance of the Conservation Area and impinge on the setting of nearby Listed Buildings, so contravening the requirements of 'saved' policies ENV1 and BH6 as well as advice, including some of the 'core principles', set out in the Framework. Since I also find that this latter element of the proposal would be indivisible from the scheme as a whole, the project must fail. And, since demolition would create an unsightly gap on the river bank in the absence of an acceptable replacement scheme, it should be prevented. Accordingly, and in spite of considering all the other matters raised, I find nothing sufficiently compelling to alter my conclusion that these appeals should be dismissed.

*David Cullingford*  
INSPECTOR