
Appeal Decision

Site visit made on 27 September 2016

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

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

Decision date: 4 October 2016

Appeal Ref: APP/X1545/W/16/3152107

The Limes, 21 Market Hill, Maldon, Essex CM9 4PZ

- 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 James Mann against the decision of Maldon District Council.
 - The application Ref FUL/MAL/15/01173, dated 2 November 2015, was refused by notice dated 22 December 2015.
 - The development proposed is described as *'To construct a new annexe to match the existing to serve The Limes Guest House as overspill bedrooms to the main dwelling and existing annexe. The annexe is a two storey property which is set back from The Limes Guest House and existing annexe and is to be subsidiary to it. The annexe has 2 bedrooms at ground floor level and two bedrooms at first floor level.'*
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effects of the proposal on:
 - the character and appearance of the Maldon Conservation Area and the setting of Grade II listed The Limes;
 - the living conditions of the occupiers of Hill House Mews (formerly Market Hill Court) with particular regard to light, outlook and privacy;
 - the character and appearance of the area with regard to the mulberry tree located to the rear of the appeal site.

Reasons

Character and Appearance – Conservation Area and Listed Building

3. The Conservation Area covers much of the historic core of Maldon and its special interest derives from the informal and intricate pattern of buildings and spaces. The steeply sloping and winding Market Hill is a particularly striking example of this townscape. The appeal site is located towards the top of the hill. The Limes sits on the back edge of the footpath and is, therefore, typical of most of the buildings in the area. The existing annexe to the north of The Limes is set back from the road and the area where the new annexe is proposed accommodates two outbuildings which are also located towards the rear of the site. Therefore, although the site frontage is bounded by a fence and a row of lime trees, this part of the site is comparatively open.
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4. Hill House Mews is a formally proportioned three storey building. It is set back from the road slightly and is at a lower level than the appeal site. Nevertheless, it has a considerable presence in the street scene which is enhanced by the openness of the adjoining appeal site. As group therefore, the appeal site buildings and spaces, and Hill House Mews, make a positive contribution to the character and appearance of the Conservation Area.
5. The proposed building would be located close to the northern boundary of the site. Whilst it would be set back from the road, the ground level in this area is considerably higher than the road and Hill House Mews. The northern end of the new building would be some 6.6m above this ground level. The removal of the existing sycamore tree would open up views of this part of the site. As such the proposed annexe, as an essentially ancillary building, would be unduly prominent in the street scene, especially in views on the approach from the north. The Council and the appellant differ over the size of the gap between the proposed building and Hill House Mews. However, even taking the appellant's figure of 7-7.5m, the new building would substantially close down the space around Hill House Mews.
6. The southern end of the proposed annexe would be sited close to the existing annexe building. Whilst the buildings would not overlap, they would be sited at an angle to one another and the new building would be set back from the exiting annexe. Together with the narrow gap between them, this would create a cramped and awkward relationship which would reflect neither the terracing effect of the closely spaced buildings lining Market Hill nor the more formal layout of Hill House Court.
7. The existing outbuildings where the annexe is proposed (and those approved under application ref FUL/MAL/13/01153) are significantly smaller than would be new building and they retain more comfortable spacing between the adjoining buildings. The appellant argues that the new building would visually reinforce the western site boundary. However, that boundary is currently defined by fencing, beyond which are the mulberry tree and other planting. I am not persuaded, therefore, that the boundary requires further reinforcement.
8. Consequently, I consider that, by virtue of its siting, height and length, the proposed building would undermine the distinctive grouping of the adjoining buildings and spaces. As such, it would not preserve the character and appearance of the Conservation Area. It would not accord with Maldon District Replacement Local Plan (LP) Policy BE13 which requires development in Conservation Areas to respect the characteristics of existing buildings and to protect spaces and views important to the historic value of the area. Nor would it meet the requirements of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) or paragraph 131 of the National Planning Policy Framework (the Framework) which require the special interest of Conservation Areas to be preserved or enhanced.
9. The new building would be separated from The Limes by the existing annexe and would be set back from that building. The form, detailing and materials of the new building would be in keeping with the existing annexe and would have appearance, if not the scale, of an ancillary building. Therefore, although there would be some inter-visibility between the two, I consider that the new building would not have a harmful effect on the setting the listed The Limes. Consequently it would meet the requirements of section 66(1) of the Act and

LP Policy BE16, as well as Framework paragraph 131 to the extent that it requires special regard to be had to preserving the setting of listed buildings.

Living Conditions

10. Adjoining the appeal site, the southern elevation of Hill House Mews includes a number of windows serving the living areas and bedrooms of Nos 2, 3 and 4. The narrow area between the Hill House Mews and the boundary with the appeal site also provides the only private external space for two of these dwellings. Due to the higher ground level of the appeal site, these spaces and the lower level windows currently have restricted outlooks with limited views of the sky. The proposed building would be up to 9m higher than the external areas, around 4.2m wide and located some 3.2m from the common boundary. It would, therefore, significantly close down the outlook from the external areas and the lower level windows compared with the existing situation. In reaching this finding I have taken into account the effects of the existing boundary fence and outbuildings and the building permitted under application ref FUL/MAL/13/01153.
11. The new building would be located to the south of Hill House Mews. Given its height, size and proximity, I find that this orientation would also materially reduce the amount of sunlight reaching the windows and external areas of the neighbouring properties.
12. The Council considers that the proposed building would reduce the privacy of the occupiers of Hill House Mews. The appellant argues that a condition could be used to require the windows proposed in the elevation facing Hill House Mews to be deleted or fitted with obscured glazing. The bedrooms served by these windows have other windows which would provide an alternative source of natural light and outlook. Therefore, the windows in question could be deleted or fitted with obscured glazing without harming the living conditions of the occupier of the proposed bedrooms. As such, had I been minded to allow the appeal, the privacy concern could have been dealt with by condition.
13. Nevertheless, I find that the proposal would be detrimental to the living condition of the occupiers of Nos 2, 3 and 4 Hill House Mews by reason of loss of outlook and light. Consequently, it would conflict with LP Policy BE1 insofar as it requires development to be compatible with its surroundings in terms of the amenity of neighbouring occupiers.

Character and Appearance – Mulberry Tree

14. A mulberry tree is located just outside of the western site boundary, although I note that its crown does not extend over the boundary fence. In determining the application, the Council considered that it has not been adequately demonstrated that the foundations of the proposed building would not adversely affect the roots of the tree. The appellant's appeal submissions include an Arboricultural Report (by Treefella Ltd) which finds that the tree has importance due to its age and species and categorises it as being of moderate quality and value (British Standard 5837 Category B). Whilst the tree is not prominent in public views, it can be glimpsed from Market Hill and is more conspicuous from views within the site and from Hill House Mews. As such, I consider that it makes a positive contribution to the Conservation Area and is worthy of protection.

15. The Arboricultural Report also finds that the roots of the mulberry tree are unlikely spread under the hard surfacing covering this part of the appeal site, but that this could be confirmed in tandem with an archaeological investigation which is also required. The appellant has suggested that, in the event that tree roots are found in the area of the proposed building, the foundations could be designed to prevent harm to the roots and that these requirements could be secured by condition. I note that the Council's statement does not dispute the findings of the Arboricultural Report and includes suggested conditions to deal with these matters. Based on the available evidence therefore, I consider that conditions could be used to ensure the protection of the mulberry tree. With these measures in place the proposal would not be harmful to the character of the appearance of the area with regard its effect on the mulberry tree. It would not, therefore, conflict with LP Policy BE13 to the extent that it requires development to protect trees in Conservation Areas.

Other Matters

16. I have had regard to the other concerns expressed locally, but none has led me to a different overall conclusion.

Planning Balance and Conclusion

17. The proposal would provide additional tourist accommodation in a town centre location and the appellant advises that it would create one additional full time and one additional part time job. Emerging Maldon District Development Plan (EDP) Policies S1 and S5 and Strategic Objective Svi seek to support sustainable local tourism in central Maldon, where there is an identified need, and to provide space for existing businesses. Notwithstanding that the EDP does not carry full weight in planning decisions, I recognise that its underlying aims in these regards are consistent with the Framework.
18. However, both the EDP and the Framework require development to be sustainable. Framework paragraphs 7 and 8 require the economic, social and environmental roles of sustainability to be considered together. I have found that the proposal would be harmful to the character and appearance of the area and the living conditions of neighbouring occupiers. Therefore, whilst the proposal would make a modest contribution to the economic role, it would perform poorly with regard to the social and environmental roles. As such, it would not amount to sustainable development. In terms of the assessment required by Framework paragraph 134 therefore, although the harm to the Conservation Area would be less than substantial, the public benefit of the proposal would not be sufficient to outweigh it
19. For the reasons set out above, the appeal should be dismissed.

Simon Warder

INSPECTOR