
Appeal Decision

Site visit made on 18 October 2016

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 4th November 2016

Appeal Ref: APP/P1560/W/16/3152037

The Hawthorns, High Street, Thorpe-le-Soken, Essex CO16 0EA

- 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 Moore against the decision of Tendring District Council.
 - The application Ref 15/01437/FUL, dated 17 September 2016, was refused by notice dated 9 February 2016.
 - The development proposed is the erection of 1 No. detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 1 No. detached dwelling at The Hawthorns, High Street, Thorpe-le-Soken, Essex CO16 0EA in accordance with the terms of the application, Ref 15/01437/FUL, dated 17 September 2016, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The Council's second reason for refusal relates to affordable housing. However, the Council has subsequently confirmed that following recent changes to the Planning Practice Guidance that the provision of affordable housing is no longer required and the Council no longer wishes to pursue this matter. I have not therefore considered it any further.
3. I have been referred to Policy PLA8 of the Tendring District Local Plan Proposed Submission Draft 2012, as amended by the Tendring District Local Plan Pre-Submission Focussed Changes 2014 ('ELP'). However, I have no information to suggest the plan is likely to be adopted in the near future and as the Inspector has not yet delivered their findings and the policy do not form part of the development plan I have given it only limited weight in my decision.

Main Issue

4. The main issue is the effect of the proposal on the setting of The Hawthorns, a Grade II listed building.

Reasons

5. The appeal site is formed by part of what appears to have been the rear garden of The Hawthorns, a substantial two storey red brick dwelling with rear wing, constructed in Flemish bond, roughcast render and weatherboarding with a handmade red clay tiled roof, fronting onto High Street.
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6. The National Planning Policy Framework ('the Framework') states that the setting of a heritage asset is the surroundings in which it is experienced and that this can be more extensive than its curtilage. Heritage assets are clearly influenced by the comprehension of external factors and development within their setting, the extent of which is not fixed and can evolve over time.
7. The Hawthorns historically had a curtilage that was much larger than surrounding properties and although the appeal site once had a historic relationship and association with it, it no longer retains a functional or visual relationship as it is separated from the garden of that property by a close boarded fence and has a somewhat overgrown and unkempt appearance. Accordingly, the contribution that the appeal site makes to the setting of The Hawthorns has evolved and diminished over time.
8. In this case, the setting of The Hawthorns is influenced by a variety of building styles, designs and sizes, of a variety of different forms and from different periods. This includes residential dwellings on much more tightly constrained plots such as Honey Dew, on the opposite side of New Town Road, Whitethorn Lodge to the rear and the various commercial, residential and retail buildings on High Street. Furthermore, the property would still retain a substantial amount of rear and side garden areas commensurate with its size and significance.
9. The appeal site is of a comparable plot size to the surrounding pattern of development and from High Street it would be similar to the existing view of recently constructed detached dwellings to the rear that are clearly seen in association with The Hawthorns, albeit it would be closer. Nonetheless, the view would also be limited given existing mature landscaping in the side garden of The Hawthorns and moreover, the proposal is of a modest size and scale and its materials would reflect those of neighbouring properties. In particular the use of weatherboarding would respect and complement the existing weatherboarding on the flank of The Hawthorns. It would retain sufficient space to its side boundaries and would not appear cramped or incongruous in its position relative to The Hawthorns. Accordingly, it would not visually compete with the heritage asset or distract from it by being unduly close or overly dominant.
10. For these reasons, the proposal would preserve the setting of The Hawthorns and would not conflict with Policy EN23 of the Tendring District Local Plan 2007 which does not permit development that would adversely affect the setting of a listed building. In the context of the Framework, the proposal would not cause harm to the significance of a designated heritage asset in terms of its setting and therefore the proposal would not conflict with the heritage objectives of the Framework.

Other Matters

11. The appeal site is located within the Thorpe-le-Soken Conservation Area ('TCA') but I note that the Council do not raise any concerns in this regard. In my view the proposal would preserve the character and appearance of the TCA, given its size, scale, design and form and the character and appearance of its surroundings.
12. I note the concerns regarding parking and the condition of New Town Road from a third party. However, the Council do not object to the proposal on

these grounds and furthermore, I share their view that traffic associated with the proposal would not be significant and that these are not matters which could not be effectively controlled by condition. Such matters do not therefore alter my view.

Conditions

13. I have considered the conditions put forward by the Council and have amended the wording where necessary in the interests of clarity and simplicity. A condition is required to ensure compliance with the approved plans as this provides clarity. Although the materials are shown on the plans, a condition requiring samples of the external materials to be agreed is necessary, in order to preserve the character and appearance of the TCA.
14. Conditions requiring details of the soft and hard landscaping of the site, including boundary treatments are necessary to protect and enhance the character and appearance of the area and that such works are retained and replaced, where necessary. To minimise disturbance to and help to ensure the satisfactory retention of the existing Oak tree, the Council have requested a condition requiring protection measures to be agreed before development takes place. However, I find that the submitted 'Skilled Ecology' Arboricultural Impact Assessment contains sufficient information regarding protection of the Oak. I have therefore not imposed the condition but have referred to the document in condition 2.
15. To prevent the increased risk from flooding, I have imposed a condition requiring all new driveways and parking areas to be made of porous materials or provision made for direct water run-off to a permeable or porous area or surface. Conditions 3 and 4 are conditions precedent and I am satisfied that such conditions are fundamental to ensure that development does not occur until such matters are resolved, in the interest of a combination of the effects on heritage assets and the character and appearance of the area.

Conclusion

16. For the reasons set out above and having considered all other matters raised, the proposal would not conflict with the development plan, when read as a whole or the Framework and I therefore conclude that the appeal should be allowed.

Richard Aston

INSPECTOR

SCHEDULE

CONDITIONS

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: 13061/TM/1, NTR/T/14/3, NTR/T/14/1 and the Skilled Ecology Arboricultural Impact Assessment dated 22 June 2015.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details of the soft and hard landscaping of the site, including the provision of boundary treatments have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) All planting, seeding, turfing and other details comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) All new driveways and parking areas shall be made of porous materials, or provision shall be made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the dwelling.