The Planning Inspectorate

Appeal Decision

Site visit made on 21 February 2017

by Richard Aston BSc (Hons) DipTP MRTPI

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

Decision date: 13th March 2017

Appeal Ref: APP/D1590/W/16/3160919
9 Hadleigh Road, Leigh-on-Sea, Southend-on-Sea, Essex SS9 2DY

- 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 Frank Ebdon against the decision of Southend-on-sea Borough Council.
- The application Ref 16/00073/FUL, dated 7 December 2015, was refused by notice dated 14 April 2016.
- The development proposed is creation of 4 new dwellings.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:

    - The effect of the proposal on the character and appearance of the Leigh Conservation Area.
    - The effect of the proposal on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.
    - Whether the proposal would create acceptable living conditions for future occupiers, with particular regard to useable amenity space.
    - The effect on highway safety.

Reasons

Conservation area

3. The appeal site is located within the Leigh Conservation Area ('LCA') and is formed by the rear garden of No. 9 Hadleigh Road which benefits from vehicle access from Laurel Close to the rear, a residential development of two storey terraced dwellings and single storey communal garage blocks. Hadleigh Road is a steep residential street that rises up the hillside to join with Leigh Park Road and to New Road at its base, a busy and well trafficked route that runs parallel to the London, Tilbury and Southend railway line.

4. Apart from a dilapidated single storey garage building the site is free from significant development and slopes down toward the rear yard areas of Nos. 26- 31 New Road, a terrace of yellow stock brick Georgian dwellings under a slate roof. To the side of the appeal site is a terrace of four dwellings located

on Hadleigh Road. These properties have small rear yard areas abutting the appeal site and the rear elevations are very close to it.

5. I consider that the significance of the LCA derives mainly from its history as part of a working marine village, the variety of traditional architecture and its position on a steep hillside, overlooking the Thames estuary. Whilst there are buildings from different periods and of different sizes and designs, the prevailing character on this side of New Road is of modest detached, semi-detached and terraced two storey dwellings that over time have spread up the hillside. Whilst there are much larger and more modern flatted blocks further up the hill, I found that the buildings within the immediate locality are of a domestic scale with simple designs in loosely connected groups. The properties utilize a varied palette of traditional buildings materials such as weatherboarding, yellow stock brick, slate roofs and timber framed windows and are of an attractive appearance.

6. The appeal site forms a substantial gap when viewed from the junction of Hadleigh Road and New Road, with soft landscaping evident across a small car parking area. Despite the tight urban grain that exists within the local area, it provides a good example of how this grain is interspersed with open spaces, gardens and trees. It provides visual relief and forms an integral part of the character and appearance of the area, positively contributing to the significance of the LCA.

7. Although the buildings would be set back and down from one another the overall scale, form and height proposed, in such close proximity to its boundaries, would result an overly prominent development that would appear cramped on the site and unduly dominant in the streetscene. Furthermore, it would substantially diminish the perception of spaciousness and openness of the appeal site and consequently, its contribution to the character and appearance of the area.

8. These effects would be further exacerbated by the mansard roof form and large amounts of glazing within the third storey which would extend across the whole width of the building. They would appear as unsympathetic and visually jarring intrusions to the prevailing pitched roof and gable end roofscape within the immediate area. In combination with the mansard roof the proposal would have an overly vertical emphasis which would be at odds with the character and appearance of the LCA. I acknowledge the attempt has been made to exploit the panorama available across the estuary but this would result in an appearance that would not assist in softening the roof form. In its context the proposal would not represent a high quality of design and to my mind it is also the type of development that the Design and Townscape Guide 2009 ('DTG') seeks to resist.

9. For these reasons, the proposal would fail to preserve or enhance the character and appearance of the LCA. It would conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy 2007 ('CS'), Policies DM1 and DM5 of the Development Management Document 2015 ('DMD') and the DTG. Amongst other things, these require development to respect the character and scale of the existing neighbourhood, result in high quality sustainable design that adds to the overall quality of an area and conserve and enhance heritage assets.

10. In the context of the National Planning Policy Framework ('the Framework') I find that the harm would be less than substantial. The weighing of public benefits against this harm is a matter to which I return to below.

Living conditions of neighbouring occupiers

11. The side elevation facing Hadleigh Road would be very close to the rear yard areas and elevations of Nos. 1-7 Hadleigh Road. In particular Nos. 5 and 7 would face directly onto a large wall, containing two windows at first floor level that serve bedrooms which would look directly over these properties. The combination of the depth and height of the building would be overbearing and oppressive to the outlook from the rear garden areas and windows within the rear elevations of these properties.

12. Nos. 26-31 New Road sit at a much lower height than the appeal site, so much so that the first floor windowsills are broadly the same height as the ground level of the appeal site. Consequently, there would also be some direct overlooking into these properties from the proposed balconies. Given the scale and height of development in such close proximity to the first floor windows and rear yard areas, the proposal would also be overbearing and visually intrusive to the outlook from them.

13. I acknowledge that there is some landscaping in the form of mature conifers along these boundaries. However, there is nothing before me to suggest that such landscaping could be retained, given the close proximity of the buildings to them. In my experience it is highly likely that such landscaping would need to be removed to facilitate construction of the dwellings and I do not consider that additional landscaping, which would take a long time to mature would mitigate this harm.

14. For these reasons, the proposal would cause harm to the living conditions of the occupiers of Nos. 1-7 Hadleigh Road and Nos. 26-31 New Road in terms of outlook and loss of privacy. Whilst there may well be examples of similar relationships within the wider LCA, having assessed the proposal on its own merits, as I am required to do, these do little to justify or outweigh the harm that would be caused. The proposal would conflict with Policies KP2 and CP4 of the CS, Policy DM1 of the DMD and the DTG insofar as these require development to result in high quality sustainable design that protects the amenity of immediate neighbours with regard to privacy and outlook. I find these policies consistent with the Framework in terms of seeking a good standard of amenity for all existing and future occupiers of land and buildings. Accordingly, the proposal would also conflict with the Framework.

Living conditions of future occupiers

15. I have not been referred to any specific conflict with an adopted policy standard in terms of amenity space. Nevertheless, there would be adequate areas of lawn for the occupiers of the properties and I note that the proposed units would also benefit from balconies. I also saw from my visit that the site is close to the foreshore and beach. Within a very short distance from the appeal site there are substantial areas of open space[1] that would provide additional and accessible open space for the occupiers of the properties, should they wish to use it.

[1] Hadleigh Country Park, Two Trees Island and Belton Hills Nature Reserve.

16. For these reasons, the proposal would provide acceptable living conditions for future occupiers, in terms of amenity space and insofar as this issue is concerned the proposal would not conflict with the development plan or the Framework.

Highway safety

17. The proposal details the provision of one off street parking space per dwelling and this includes No. 9 which would retain a garage in Laurel Close. Consequently, there would be a shortfall of 5 spaces compared with the Council's minimum standards although I also have doubts concerning the accessibility of spaces 1 and 2 which would be challenging to manoeuvre in and out of.

18. Nevertheless, the site is within walking distance of Leigh-on-Sea station and the shops and services within Leigh Centre. Although there were parking restrictions on New Road, no such restrictions were in place in Laurel Close or on Hadleigh Road. Although the street was heavily parked, with vehicles on both sides of the road, there is no evidence before me of any particular highway safety issues associated with on-street parking in this locality. From my observations, albeit during the morning, some spaces were available and based on the evidence before me, there is nothing to demonstrate that any modest increase in potential on-street parking as a result of the proposal would cause harm to highway safety.

19. Taking everything together, I find that there is sufficient justification to apply the standards flexibly and the proposal would not result in harm to highway safety. It would not therefore conflict with Policy DM15 of the DMD which requires development to demonstrate that there will be physical and environmental capacity to accommodate the type and amount of traffic generated in a safe and sustainable manner. In this respect, it would also not conflict with the highway safety objectives of the Framework.

Other Matters

20. The appellant contends that the proposal would be sustainable development as envisaged by the Framework. However, the Council do not object to the principle of development and the policies which form the basis for the Council's objections are criteria based policies regarding qualitative and aesthetic design, amenity and heritage considerations rather than policies that constrain the supply of housing land. In this particular case, the development plan is not absent, nor is it silent, there are no relevant policies that are out of date and the proposal would not accord with it. As such, it would not therefore be the sustainable development for which the Framework indicates a presumption in favour.

21. The Council's third and fourth reasons for refusal relate to insufficient information to demonstrate the accessibility and adaptability of units and the potential effects of the use of renewable energy resources on the LCA. However, given my findings in relation to the main issues I have not considered it necessary to deal with these matters any further as reaching a conclusion would not alter the outcome of the appeal.

22. I note the appellant's comments in relation to the Council's handling of the application but the Council's administration and determination of the application are not matters for me to address as part of the appeal.

Planning balance and conclusion

23. Although I have found no harm to highway safety or the living conditions of future occupiers in terms of amenity space, the proposal would fail to preserve or enhance the character and appearance of the LCA and cause harm to the living conditions of neighbouring occupiers in terms of outlook and privacy. In my view, these are the prevailing considerations and the minimal public benefits of four additional dwellings in an accessible location do not outweigh the considerable weight and importance I give to the desirability of preserving or enhancing the significance of the designated heritage asset and the harm that I have identified in terms of living conditions of neighbouring occupiers.

24. Although there would be compliance with some aspects of the development plan the proposal would conflict with the development plan, when read as a whole and the Framework. Material considerations do not indicate that a decision should be made other than in accordance with the development plan and having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR