

Appeal Decision

Site visit made on 13 March 2017

by Graham Chamberlain BA MSc MRTPI

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

Decision date: 20th March 2017

Appeal Ref: APP/Z1510/W/16/3165008

Land at Church Road, Kelvedon, Essex CO5 9JE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Gary Sharp against the decision of Braintree District Council.
 - The application Ref 16/00023/OUT, dated 23 December 2015, was refused by notice dated 10 June 2016.
 - The development proposed is to erect a two storey detached house and a pair of two storey semi-detached houses, form a private drive off Church Road and lay out parking and amenity areas.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The planning application was submitted in outline with landscaping as a matter reserved for future consideration. I have considered the proposal on this basis.

Main Issues

3. The main issues in this appeal are:
 - The effect on heritage, with particular reference to whether the proposed development would preserve the setting of 113, 115-117, 119 and 125-127 High Street, which are Grade II listed buildings, and whether the proposal would preserve or enhance the character or appearance of the Kelvedon Conservation Area;
 - Whether any harm to the significance of a designated heritage asset is outweighed by any public benefits of the proposal; and
 - Whether the proposed development would provide adequate living conditions for future occupants with particular reference to gardens and its effect on highway safety with particular reference to parking.

Reasons

The effect on heritage

4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to have special regard to the desirability of preserving the setting of 113, 115-117, 119 and 125-127 High Street, which are Grade II listed buildings. These listed buildings front onto the High Street and are
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understood to be of seventeenth century origins or earlier with later alterations. In part, the significance of these buildings rests in their vernacular architecture evident in the timber framing and use of materials. There is also a group value, with the properties appreciated from both the High Street and Church Road as an attractive and interesting collection of period properties distinct from the more modern housing development behind the High Street.

5. The appeal site has been cleared of vegetation save for the retention of the more notable trees. The undeveloped nature of the appeal site reinforces a sense of separation between the historic development along the High Street and the more modern housing in Church Road. This is evident from vantage points around the listed buildings and also in views from with the properties and their curtilages. The open nature of the site also enables views from Church Road of the roof scape of the listed buildings, which includes ornate chimneys, gables and other distinguishing features. In addition the open aspect of the site allows views of the rear boundary treatment of the listed buildings and a notable weather boarded outbuilding located in the gardens of 113 and 115-117. As such, the appeal site is within, and contributes to, the setting of the listed buildings.
6. The proposal would involve the erection of three dwellings. A detached four bedroom property would be erected as Plot 1 with a pair of semi-detached houses located towards the southern end of the site (as Plots 2 and 3). Each property would have a rear garden and parking would be broadly central to the site. A long access driveway would connect the parking area to Church Road.
7. The overall width, height and proximity to the eastern boundary of Plot 1 would result in the neighbouring listed buildings being hemmed in by a substantial modern structure. I therefore share the view of the Council that Plot 1 would have a competitive relationship with the listed buildings and would create a sense of encirclement and enclosure, especially in views out of the curtilages of the listed buildings. This would subsume the listed buildings into the context of modern housing rather than the gradual transition currently evident, where modern housing is seen from the listed buildings at a distance. Additionally, Plot 1 would block views from Church Road towards the roof scape of the listed buildings. Consequently, the erection of Plot 1 would significantly harm the setting of the listed buildings to the immediate east of the appeal site.
8. Plots 2 and 3 would be set further back into the site and would thus have a more limited impact on views towards the roof scape of the listed building. The design of these properties has attempted to replicate the row of semis to the north west of the appeal site, which have dormer windows in the front roof plane. Nevertheless, the proposed semi would be tall and thus highly prominent¹ and imposing in views from the listed buildings over and between the existing outbuildings. This would compound the sense of encirclement and enclosure that would be presented by Plot 1. An impact which would not be assisted by the wide span of the gables of the proposed semi, which would increase the overall perception of massing. As such, Plots 2 and 3, in combination with Plot 1, would also significantly harm the setting of the neighbouring listed buildings.

¹ The dormers in Plots 2 and 3 would compound this by highlighting the presence of an additional floor and thus the greater scale of the buildings relative to the neighbouring listed properties

9. In reaching this view I note that the proposal would adhere to the guidance for back to back distances set out in the Essex Design Guide (EDG). Nevertheless, this standard is more concerned with safeguarding living conditions. As the setting of listed buildings is dependent on their particular context, a standardised measured approach is unlikely to be applicable in many cases and is not in this instance. As such, the EGD does not justify the encirclement of the listed buildings that would arise from the appeal scheme.
10. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Kelvedon Conservation Area (CA), a designated heritage asset.
11. The significance of the CA can be found in the historic and original linear character of the village and the period architecture evident along the High Street. The appeal site is located behind the historic frontage development in the CA and provides some 'breathing space' between this and the more modern housing in Church Road. As such, the appeal site helps to reveal the significance of the CA.
12. The appellant's historic analysis², the findings of which are not disputed by the Council³, explains the evolution of the appeal site and demonstrates that it was once part of a large field which has been developed over time for housing. The appeal site no longer has a visual or spatial connection to the countryside and therefore, whilst the appeal sites historic function is interesting, this is nevertheless a matter of limited significance to the understanding of the CA. Consequently, it would not prevent the sensitive development of the appeal site as a matter of principle.
13. In the absence of a street scene elevation it is difficult to judge the height, massing and composition of the development relative to surrounding properties, particularly the listed buildings to the east. Plot 1 would be a substantial structure located in close proximity to the eastern boundary of the appeal site. In this respect it would appear squeezed into the site and thus a discordant addition. Therefore, I am not satisfied that Plot 1 would sit comfortably in the street scene and thus preserve the quality of the CA.
14. Plots 2 and 3 would be located close to the rear boundary and outbuildings of the listed buildings. These properties, along with Plot 1, would lack a sense of subservience to the frontage development along the High Street due to the proposed scale. Weatherboarding has been proposed as a material finish in the belief this would echo the functional character of subservient rear buildings, such as that in the garden of 133 and 115-117 High Street. However, this concept is unconvincing as the semi would have the overt scale and appearance of a pair of houses rather than a converted outbuilding. The semi would therefore appear out of place with an insufficient degree of subservience to the frontage development. This would undermine and disrupt the historic linear character and significance of the CA. The character or appearance of the CA would not be preserved.
15. When considered as a whole, many of the properties in the CA include a distinguishable local pallet of materials, historic patterns and styles of

² By B. Hillman-Crouch

³ Although the conclusions and interpretation are matters in dispute

fenestration and period detailing such as chimneys. Although the proposed dwellings would not have chimneys, they would have a number of other period details⁴ and Plot 1 would have a narrow plan. This would hint at the historic form and style of buildings within the conservation area. The low brick wall that would be to the front of Plots 2 and 3 would also reflect that found nearby. Moreover, in some respect Plot 1 would mirror the detached brick and faux timbered building north of the public footpath. As such, whilst elements of the proposal could be improved to better reflect the historic architecture evident in the CA, the architectural response of the appeal scheme would not be entirely alien to its context. Nevertheless, this does not mitigate for the harm I have identified in respect of the scale and massing of the proposal.

16. I therefore conclude that the appeal scheme would significantly harm the setting of nearby listed buildings and would fail to preserve the character or appearance of the CA. This is a symptom that the appeal site would be 'overdeveloped' if the appeal scheme were to advance. Consequently, the proposal would fail to adhere to Policy CS9 of the Braintree District Core Strategy 2011 and saved Policies RLP3, RLP17, RLP95 and RLP100 of the Replacement Braintree Local Plan 2005 (LP). These policies state that a development proposal should safeguard the historic environment and preserve or enhance the setting and special interest of listed buildings and conservation areas. This is consistent with Section 12 of the National Planning Policy Framework (the 'Framework') and can thus be afforded significant weight.

Whether the less than substantial harm to the significance of designated heritage assets is outweighed by the public benefits of the proposal

17. The Council are currently unable to demonstrate a five year housing land supply as required to by the Framework. As such, relevant policies for the supply of housing should not be considered up to date. In such circumstances Paragraph 14 of the Framework is engaged. This states that where relevant policies are out of date permission should be granted unless 1) any adverse impacts would significantly and demonstrably outweigh any benefits when assessed against the Framework as a whole or 2) specific policies in the Framework indicate development should be restricted.
18. Paragraphs 17 and 132 of the Framework seek to conserve heritage assets and states that any harm to a heritage asset should require clear and convincing justification. Paragraph 134 of the Framework states that where a proposal would lead to less than substantial harm to a designated heritage asset, the harm should be weighed against any public benefits of the proposal. In my view, this is intended to place a restriction on development⁵. Therefore, the test to apply to the appeal scheme is the balance in Paragraph 134 of the Framework and not whether any adverse impacts of the proposal would significantly and demonstrably outweigh any benefits.
19. The significant harm to the setting of the listed buildings and the harm to the CA that I have identified would not result in a total loss of significance and the impact would be reasonably localised. Furthermore, aspects of the proposal,

⁴ Such as a period style to the fenestration

⁵ Footnote 9 to Paragraph 14 of the Framework lists policies relating to designated heritage assets as policies restricting development. In this context the Framework requires the policies restricting development to be followed rather than the tilted balance elsewhere in Paragraph 14.

such as the use of good quality materials, would result in some softening of the impacts. As such, the harm to the CA would be less than substantial.

20. On the other hand the appeal scheme would result in the erection of three dwellings in a location where services would be accessible by means other than private vehicles. With a local housing supply of around 3.52 - 3.8 years the provision of additional housing is a clear benefit of the scheme. However, as only three dwellings would be proposed the benefit would not be a significant contribution to the Council's housing supply and therefore I afford this matter only moderate weight as a public benefit.
21. The construction of the proposed dwellings would provide some economic benefits to the construction industry but these would be modest in scale and for a limited time. Given the small scale of the development the contribution to the local economy from the spending power and taxes of future occupants is unlikely to be significant. Additionally, there is nothing before me to suggest local services are struggling due to a lack of patronage. The public benefits relating to the local economy are therefore of moderate weight.
22. The proposal would reduce the likelihood that the site would be used for fly tipping. However, there is nothing before me to suggest that the proposed development, in the form proposed, is necessary to address this pre-existing problem and therefore it would be a limited public benefit. Especially as it has not been demonstrated that other measures could not be employed to keep the site tidy and secure. Overall, the public benefits of the proposal are of moderate weight as factors in favour of granting planning permission.
23. When attaching considerable importance and great weight⁶ to the special regard I must have to the desirability of preserving or enhancing the character or appearance of the CA and the setting of listed buildings, I find that the less than substantial harm to designated heritage assets would not be outweighed by the public benefits of the proposal. I therefore conclude that there would be a conflict with Paragraph 132 of the Framework as the harm to the designated heritage assets would not have a clear and convincing justification.

The effect on highway safety

24. The Council have suggested that Plots 2 and 3 would have insufficient parking when applying the adopted local parking standards⁷ as the spaces proposed would be too small and there would be insufficient room for the cars to safely manoeuvre into and out of the spaces due to the narrow width of the access drive⁸. I share the Council's view that for these reasons the proposal would not provide four adequate and safe off road parking spaces to serve Plots 2 and 3.
25. However, the appellant has suggested that Plots 2 and 3 could adequately function with a single parking space each. This is because the appeal site is located in a position that is highly accessible to everyday facilities and services, including public transport. During my site visit I was able to observe that this was an accurate assessment with shops, a primary school, surgery, recreation ground, bus stop, restaurants and a rail station being located within a safe and comfortable walk.

⁶ The Framework requires great weight to be given to the conservation of designated heritage assets

⁷ Parking Standards Design and Good Practice 2009 ('The Essex Parking Standards')

⁸ As motorists would need to reverse along the access drive as there would be insufficient space to turn

26. As such, many everyday needs are served by the village. Employment opportunities and a wider array of services can be accessed from public transport. As a consequence, future occupants of the appeal scheme would be far from car dependent. Although Kelvedon is not an urban area in the conventional sense due to its scale, it is nevertheless well connected and therefore a parking provision of one parking space⁹ each for Plots 1 and 2 can be justified. Moreover, I have not been presented with substantive evidence to suggest on street parking would pose a highway safety hazard.
27. Notwithstanding the views of the Highway Authority, I conclude the proposal would adhere to saved Policies RLP3, RLP56 and RLP90 by meeting the requirements of the parking standards, which permits a parking reduction in accessible areas. This is consistent with Paragraph 39 of the Framework.

Whether the proposed development would provide adequate living conditions

28. The gardens for Plots 2 and 3 would fail to adhere to the Council's guidance on garden sizes set out in the EDG, which states three bedroom properties should have a minimum sized garden of 100sqm. However, I share the view of the appellant that a failure to adhere to this standard is not sufficient in itself to dismiss the appeal. The standards are only guidance, an indicator of what is likely to be acceptable.
29. In this instance the gardens would provide space for adequate privacy, a sitting out area, bins to be stored and for landscaping and storage. The gardens would also be of a useable shape, would permit a small area for children to play and would be south west facing, which would allow sunlight penetration in the latter parts of the day. The combination of these factors indicates that the gardens would function adequately even though they would not adhere to the size standards set out in the EDG. I therefore conclude that the proposal would provide adequate living conditions for future occupants and would therefore adhere to Paragraph 17 of the Framework.

Conclusion

30. The proposal would result in less than substantial harm to the setting of listed buildings and the CA. This harm would not be outweighed by the public benefits of the proposal. The proposal would preserve highway safety and would provide adequate living conditions for future occupants. Nevertheless, the absence of harm in respect of these matters is not a benefit of the proposal, but is a neutral matter. Consequently, it would not be sufficient to outweigh the less than substantial harm I have identified. As such, the proposal is not sustainable development for which the Framework carries a presumption in favour. Accordingly, for the reasons given above, and having regard to all other matters raised, including the letters of interested parties, I conclude the appeal should be dismissed.

Graham Chamberlain
INSPECTOR

⁹ Amendments to the layout could be secured through a planning condition in the event the scheme was otherwise acceptable to ensure only a two spaces are provided for Plots 2 and 3