
Appeal Decision

Site visit made on 13 June 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 27th June 2017

Appeal Ref: APP/P1560/W/17/3169004

Land adjacent 28 Ashlyns Road, Frinton-on-Sea, Essex CO13 9EU

- 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 Smith against the decision of Tendring District Council.
 - The application Ref 16/01229/FUL, dated 8 July 2016, was refused by notice dated 11 October 2016.
 - The development proposed is dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would preserve or enhance the character or appearance of the Frinton and Walton Conservation Area.

Reasons

3. The detached house proposed would be within a plot located on the corner of Ashlyns Road and Upper Second Avenue. It currently comprises the side garden to the east side of 28 Ashlyns Road. The surrounding area forms part of low-density suburban housing on the west side of Frinton which became established in the early 1900s following the emergence of this resort in the previous century.
4. The site falls towards the north of this part of the Frinton and Walton Conservation Area, within the Avenues Area of Special Character (AASC) as defined in both the current Tendring District Local Plan 2007 (LP) and the emerging Local Plan¹ (ELP). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a statutory duty that special attention be paid to the desirability of preserving or enhancing the character or appearance of this area. The National Planning Policy Framework (the Framework) states in paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, in this case the conservation area, great weight should be given to the asset's conservation.
5. The significance of this part of the conservation area derives from the residential area displaying an outstanding Arcadian character, with wide

¹ Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document – July 2016.

straight, tree and hedge lined avenues, grass verges and large, spacious detached houses set in mature gardens. The domestic architecture, which contains fine examples of its period, generally features *asymmetrical plans and elevations, large spreading and uninterrupted roofslopes, chimneys, combinations of facing materials and the use of inventive detail*².

6. The housing density in this area, whilst generally low, provides for an informal mix of plot sizes and spacing. The preamble to LP Policy FW5 advises that within the AASC well-designed infill development on plots of at least 15m wide, as in the dimensions of the appeal site, may be acceptable in some cases. However, this proposal would provide for a more confined development than that remaining for No 28 and also result in the loss of an undeveloped corner which currently contributes strongly to the spacious character of this area.
7. Although appeal site is towards its northern boundary it is nonetheless within the conservation area. Whilst the housing along Ashlyns Road might comprise smaller dwellings in less extensive plots than in other parts, and this proposal would infill one of the last sections of open frontage, this would not alter the harm that would result from this proposal reducing the spaciousness within the conservation area. For this reason the proposal would conflict with LP Policy FW5 and ELP Policy PPL 12.
8. The proposed dwelling would be of a scale and proportions appropriate for the size of plot and in relation to the neighbouring houses and the design takes its cue from the existing dwelling at No 3. However, the dwelling proposed would not fully reflect the design and detailing of this existing house or capture its period character. Consequently, this proposal, whilst inoffensive, would appear no different to a typical modern estate dwelling of a moderately traditional style.
9. Therefore, the proposal would result in a somewhat anonymous design of dwelling which would pay little respect to the high quality, carefully-detailed Arts and Crafts architecture prevalent within this conservation area. Consequently, the scheme would not be of a design which would preserve or enhance the conservation area and therefore conflict with LP policy EN17 and ELP Policy PPL 8.
10. It is not my interpretation of paragraph 133 of the Framework that consent should only be refused where substantial harm to the significance of a heritage asset is caused and no substantial public benefits are achieved to outweigh this. However, for the reasons explained, there would be harm to the conservation area as a consequence of this proposal which is judged to be less than substantial. Having applied the requirements of paragraph 134 of the Framework, I find there to be no public benefits which would outweigh the harm found which, whilst less than substantial, must be afforded considerable importance and weight in this decision.
11. Whilst the ELP has yet to reach a stage at which its policies can be afforded more than limited weight, those of the LP relevant to this proposal are consistent with the aims for conserving and enhancing the historic environment as set out in part 12 of the Framework and therefore can be given significant weight. However, the LP is not up-to-date both in respect to its expired time

² Tendring District Council Conservation Area Review – Frinton and Walton Conservation Area, Frinton – March 2006

horizon of 2011 and in being unable to demonstrate a five-year supply of deliverable housing sites.

12. Where relevant policies of the development plan are out-of-date means granting permission under paragraph 14 of the Framework unless its policies specifically indicate that development should be restricted. Foot note 9 to this paragraph includes, as an example, policies relating to designated heritage assets, which in respect of this appeal indicate that the proposal would not be acceptable. Consequently the proposal would not gain support through the presumption in favour of sustainable development established by the Framework.

Conclusion

13. For the reasons set out above this proposal would not preserve or enhance the character or appearance of the Frinton and Walton Conservation Area and, having taken into consideration all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR