
Appeal Decision

Site visit made on 10 March 2020

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 25th March 2020

Appeal Ref: APP/A1720/W/19/3239301

65 Whittington Court Car Park, High Street, Fareham PO16 7BG

- 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 Bentley Slade Ltd against the decision of Fareham Borough Council.
 - The application Ref P/19/0458/FP, dated 26 April 2019, was refused by notice dated 13 August 2019.
 - The development proposed is described as to sever land and erect 4 no 3 bedroom houses with parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on: a) the character and appearance of the area and whether the proposal preserves or enhances the Fareham High Street Conservation Area (CA) and the setting of adjacent Listed Buildings; b) the living conditions of future occupants in respect of the proximity to an electricity substation; and c) European protected species and the Solent Coastal Special Protection Areas.

Reasons

Character and Appearance

3. The site is located to the rear of properties on Fareham High Street. Most properties along the frontage are listed buildings, the exceptions being Nos 65 and 66 High Street. The Fareham High Street Conservation Area encompasses land beyond all sides of the appeal site. The site is currently used as a car park accessed underneath part of No 65 via an arch beneath existing residential properties.
4. Burgage plots to the rear of the High Street, including the appeal site, are typically delineated by high brick walls interspersed with a number of passage and access ways leading to land beyond. The Conservation Area Character Assessment recognises that the strong character of the present-day High Street derives from the remarkable survival of the old burgage plots which were laid out by the Bishops of Winchester in the late twelfth and early thirteenth century. The pattern of plot layout remains recognisable and the land remains generally open save for a number of ancillary buildings,

- subsidiary in scale to the principal buildings and including low rise garages and outbuildings. This historic pattern of these rear plots is distinctive in the CA and contributes to its significance.
5. The proposal involves the introduction of a block of 4 dwellings at right angles to the frontage buildings. They would project significantly above the adjoining boundary wall to the extent that the eaves of the proposed building would be twice the height of the boundary wall. The ridge at 8 metres would be particularly prominent from the adjoining Lysses Path, a well-used public path access between the High Street and the public car park at Lysses which is located on land at a lower level.
 6. The design of the buildings would incorporate modern detailing with reclaimed brick and charred timber however the design would not be reflective of the character of the buildings in the area. The scale, bulk and massing of the proposed structure with a proliferation of rooflights would result in a dominant, prominent and obtrusive building which would represent an imposing built form which would be out of character with the prevailing characteristics in a sensitive part of the CA, that impact would not be sufficiently ameliorated by the limited landscaping which the proposal would incorporate. The appellants suggest that the walls to the Burgage plots would not be altered and that the proposals would introduce softer landscaping to complement the site. However, the building would completely obscure the wall from one side and would significantly dominate it from the Lysses Path. I have no evidence that the proposal would enable the boundary walls or the buildings on the listed frontage to be better appreciated as suggested by the appellants heritage statement.
 7. The appellants defines the existing environment as negative and describes the buildings as presenting as one and a half storeys. However, at around 8 metres tall the buildings would be substantial in bulk and form. The current use to which the land is put is functional and has a benign effect on the character of the CA as the bulk of the site is open with an absence of buildings save for the modest garages.
 8. For these reasons the impact of the building would have an adverse and harmful effect on the setting of the heritage assets including the wider setting of adjoining listed buildings and the CA in general. It would affect the significance of these heritage assets, even though the harm, in the words of the National Planning Policy Framework (the Framework), would be less than substantial.
 9. In accordance with the Framework, great weight should be given to the conservation of those assets. I address the balance against public benefits in my conclusions below.
 10. Taking all the above into account the development would conflict with Policy CS17 of the Fareham Borough Core Strategy (2011) (Core Strategy) and to Policy DSP5, of the Fareham Borough Local Plan Part 2: Development Site and Policies (2015) (LPDSP) and to the provisions of the Framework. These policies seek, amongst other things, to ensure the protection and enhancement of heritage assets; enhance the character of CAs; take account of relevant Character Appraisals; that development responds positively to heritage assets and creates a sense of identity and distinctiveness.

Living conditions

11. The existing substation comprises utilitarian equipment with a brusque appearance which, in this proposal, would be located prominently to the front of the properties and in particular units one and two. It would not be sufficiently softened by the proposed landscaping in respect of the pedestrian or vehicular approach to the properties nor from the occupation of units one and two. The proposed planting would be rather limited in its ability to ameliorate this impact even though the appellants argue that the substation would not compromise the amenity of the units and landscaping could adequately mitigate it. I disagree, the location would be so prominent from those dwellings that the arrangement would be unacceptable.
12. The appellants argue that it is not feasible to move the substation, but that it would be possible to negotiate the mitigation of sound emanating from it through the use of fencing. Therefore, to a degree, the appellants acknowledge that there would be an impact on the dwellings by reason of noise and an effect on living conditions. I concur with the Council that the proximity would not provide an acceptable relationship for properties to have their outlook directly onto a substation and that this would not represent a high standard of design as envisaged by the Framework. The result would adversely affect the enjoyment of these properties by future occupants which would be to the detriment of their living conditions.
13. For these reasons the proposal would conflict with Policy CS17 of the Fareham Borough Core Strategy and to the provisions of the Framework. These policies seek to deliver development of high-quality design which create quality places and create a sense of identity.

European Protected Species and Special Protection Areas

14. The appeal site lies within proximity to the Solent Special Protection Areas (SPAs). The cumulative effects resulting from development proposals have been assessed as part of the preparation of the Solent Recreation Mitigation Strategy which has been adopted by the Council, alongside other Local Authorities. The proposal would be likely to have a significant effect, in combination with other plans and projects, on the SPAs through recreational pressure. Residential schemes located within 5.6km of these protected areas are required to make a financial contribution towards mitigation measures to comply with that strategy, these are normally secured through planning obligations.
15. Natural England has also highlighted that there is existing evidence of high levels of nitrogen and phosphorous in parts of The Solent with evidence of eutrophication, levels of which would increase with additional development.
16. A Unilateral Undertaking has been submitted as part of this appeal which the Council have confirmed would provide appropriate mitigation in respect of impacts on recreation and the effects of traffic emissions but does not address the adverse effects from waste-water, As a result there would be conflict with Policy CS4 of the Core Strategy and Policies DSP13 and DSP15 of the LPDSP.
17. As I am dismissing this appeal on other substantive grounds, this is not a matter which needs to be considered further here. However, should the development have been considered acceptable in all other respects, I would

have had to be satisfied that an Appropriate Assessment had been undertaken to ensure the proposal's compliance with the Habitats Regulations.

Planning Balance and Conclusion

18. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 requires special regard to be had to the desirability of preserving the setting; Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, before reaching a decision on an appeal, I must also pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. For the reasons given above the appeal proposal would not achieve that aim. Therefore, in accordance with paragraph 196 of the Framework, where less than substantial harm to the significance of a designated heritage asset would occur, that harm should be weighed against the public benefits of the proposal.
19. There is no dispute between the parties that the council cannot currently demonstrate a five-year supply for the provision of housing. The Council confirm that the provision is currently 4.66 years. As such the provisions of paragraph 11d of the Framework, also known as the tilted balance is relevant to this case. There would be a benefit from the development through an increase to the local housing supply through the provision of additional units of housing although the benefit from four units would be relatively modest. The tilted balance does not negate the need to ensure that the impact on designated heritage assets, in this case the CA and the setting of adjacent listed buildings are fully considered. Furthermore, any harm to a designated heritage asset requires clear and convincing justification.
20. Given the benefits of additional housing in such a sustainable town centre location, I have given moderate weight to the public benefits that would arise from this proposal. However, I must give considerable importance and weight to the conservation of the heritage assets. In accordance with the development plan and the Framework, when taken as a whole, there are clear reasons for resisting the development. Overall, I consider that the benefits do not outweigh the harms I have identified, and the appeal therefore fails.

Other Matters

21. The appellants assert that the proposal would improve the function and appearance of this brownfield site making effective use of the land and adding verdant character to an otherwise oppressive environment. Whilst the site could have a better and more cared for appearance the current condition does not justify the introduction of a building of this magnitude in such a sensitive location. The limited planting proposed could not reasonably be regarded, as the appellants suggest, as being sufficient to achieve a verdant character.
22. The appellants highlight the significance of windfall sites and their contribution to the delivery of housing however there are wider considerations to take into account, and for the reasons already set out these do not outweigh the harm which has been identified.
23. The appellants state that the substation has been designed around. However they say if it were to be fundamental to the success of the appeal then its relocation would be investigated. It is not the function of an appeal to develop alternatives during the life of the appeal and whilst any amended proposal

would be for the Council to consider it would also have to address the fundamental conflict with policy which would remain even if the substation were to be relocated.

24. The appellants argue that the loss of parking (currently used for a local employer) could result in a change to commuting patterns. Whilst some commuting patterns may change there is no evidence to demonstrate that loss of the existing parking provision would lead to a net decrease in cars in the area and this does not weigh in favour of the development.
25. A lack of permeability has been highlighted by the appellants reasoning that the development offers an opportunity to improve the way the site functions and to reduce surface water. I have little substantive evidence on these points and in any event, it does not alter my conclusions in relation to the policy conflicts identified.
26. For the reasons set out and having regard to all other matters raised the appeal is dismissed.

Janet Wilson

INSPECTOR