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## Appeal Decision

Site visit made on 20 January 2020

**by Bhupinder Thandi BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6 April 2020**

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**Appeal Ref: APP/X1545/W/19/3236469**

**Land on corner of Fish Street and Head Street, Goldhanger**

- 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 Punch Partnerships (PML) Limited against the decision of Maldon District Council.
  - The application Ref FUL/MAL/19/00609, dated 29 May 2019, was refused by notice dated 24 July 2019.
  - The development proposed is erection of one detached house, formation of new vehicle access onto Head Street following removal of part of wall and reconfiguration of car park.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Following the determination of the application by the Council, the appellant has submitted amended plans which proposes an alternative design for the dwelling and replacement of the acoustic fence with a brick boundary wall. The appellant has also submitted an updated Noise Impact Assessment.
3. The Procedural Guide to Planning Appeals – England states that the appeal process should not be used to evolve proposals. The guidance is clear that revisions intended to overcome reasons for refusal should normally be tested through a fresh application. The proposed revisions and additional information directly address both reasons for refusal.
4. Having regard therefore to the Wheatcroft Principles, the nature of the revisions proposed and updated information, and in the interests of fairness, I have therefore determined the appeal on the basis of the plans and information that were before the Council when it made its decision and on which all parties were consulted.
5. The appellant has submitted a signed Unilateral Undertaking (UU) agreeing to a financial contribution towards the cost of measures to mitigate the likely effect of the development upon the Essex Coast RAMS. I have addressed this in my reasoning below.

## **Main Issues**

6. The main issues are:

- a) The effect of the proposal on the character and appearance of the area, including whether it would preserve or enhance the character or appearance of the Goldhanger Conservation Area (CA) and;
- b) The effect of the proposal upon the living conditions of future occupiers, with particular regard to noise and disturbance.

## **Reasons**

### *Character and appearance*

7. The appeal site comprises part of the customer car park that serves the Chequers Inn public house. The car park occupies a prominent position in the village and the CA particularly on the approach from Church Street. The low red brick wall along with the existing street furniture on Head Street including the statutory listed telephone kiosk and wheel pump positively contribute to the area. This part of the CA has a sense of spaciousness created by the open car park, the grass verge one side of the road and dwellings set back from the road. Dwellings in the area vary in terms of their scale and design but contribute to the village's historic appearance.
8. The Goldhanger Conservation Area Review and Character Appraisal (CARCA) sets out that the CA encompasses the historic core of the village focusing on statutory listed Church of St. Peter and the Chequers Inn public house. The appeal site sits within the core of the CA and the area in front of it is known as 'The Square'. It is an important part of the CA and forms the setting of a number of statutory listed buildings. It also forms the focal point of the village.
9. I acknowledge that the surface of the car park is low quality, however, its low wall and open nature positively contributes to the character and appearance of the historic core and is a prominent feature at the junction of Church Street, Head Street and Fish Street.
10. Taking into account the sites prominent position in the village, the proposed development due to its design, form and scale would not successfully integrate into the area. It would be very apparent and visually intrusive appearing as an incongruous form of development that would unacceptably change the historic appearance of this part of the village through the introduction of a dwelling that is suburban in its design.
11. I acknowledge that existing properties along Head Street vary in terms of scale and design so does the spacing between them. However, I find that the juxtaposition between the significantly taller proposal and neighbouring No 1 Head Street, a modest bungalow, would result in an unacceptably awkward relationship between the two properties, which would appear discordant within the street scene. The separation between the properties and the deep set back proposed would not, in my view, overcome my concerns.
12. Low red brick walls are the dominant boundary treatment in the CA. Their simple form provides a degree of coherence to the area and reflects the historic significance of the core of the village. The proposed acoustic barrier to the car park would have a modern appearance out of keeping with the historic form of

boundary treatments in the CA. Furthermore, its height would make it unduly prominent from within the surrounding area undermining the character and appearance of the CA.

13. The proposal also involves a new opening through part of the boundary wall. I note that despite their historic nature, many walls in the area have modest openings to allow vehicular and pedestrian access. I find that the removal of a small section of the wall would not undermine the character and appearance of the CA.
14. Considering the above I find that there would be some, albeit limited harm to the CA. Accordingly, the proposal would be contrary to D1, D3 and H4 of the Maldon District Approved Local Development Plan (2017) (LDP) and paragraph 127(c) of the Framework.
15. In accordance with Paragraph 196 of the National Planning Policy Framework (the Framework), it is for the decision maker, having identified harm to designated assets, to consider the scale of that harm. In this case I conclude that the proposal would lead to less than substantial harm to the significance of the CA. This harm should be weighed against the public benefits of the proposal including, where, appropriate, securing its optimum viable use, which I now turn to.
16. In this regard, the proposal would contribute to local housing supply through the construction of one dwelling, but this benefit is modest. I therefore afford this benefit limited weight. Taking into consideration the points above I find that the harm to the CA would clearly outweigh the public benefits of the proposal.
17. As such the proposed development would fail to preserve or enhance the character and appearance of the CA. It would therefore be contrary to Policies D1, D3 and H4 of the LDP which, amongst other things, requires development to respect and enhance character and local context in terms of architecture, scale and form and the historic environment and preserve or enhance the special character and appearance of heritage assets. It would also conflict with the Framework.

#### *Living conditions*

18. The proposed dwelling would neighbour the car park serving the Chequers Inn public house divided by the acoustic fence. The proposed development would also involve the reconfiguration of the existing car park.
19. I acknowledge that there are other noise sources in the area and that the public house is food led with no amplified music. However, the Chequers Inn attracts customers during the day and evening. In particular, during the evening there would be comings and goings, the sound of car doors and vehicle engines and conversations when future occupants would reasonably expect to enjoy the comfort of their own surroundings.
20. These activities would be intermittent and the uncertain and arbitrary nature of them is likely to be more noticeable having an unacceptable impact on the living conditions of future occupants in terms of noise and disturbance. The adverse impacts could not, in my judgement, be controlled or adequately mitigated against, notwithstanding the orientation of the dwelling, position of windows and contents of the Noise Impact Assessment.

21. I acknowledge that there are a few properties that neighbour the existing car park. Also, I am not aware of any noise complaints stemming from the public house or the car park. However, these factors weigh neither for nor against the proposal in coming to my decision.
22. Consequently, I am not satisfied that adequate living conditions would be provided for future occupiers in terms of noise and disturbance. Taking all matters into account I find that the proposal would be contrary to Policies D1 and D2 of the LDP which, amongst other things, seek to protect the amenity of surrounding areas and the provision of adequate mitigation from possible pollution including noise.

### **Other Matters**

23. I acknowledge that the site lies within the 'Zones of Influences' of the Essex Estuaries Special Area of Conservation, the Blackwater Estuary Special Protection Area and Ramsar site, Dengie Special Protection Area and Ramsar site and the Crouch and Roach Estuaries SPA and Ramsar site. However, as I am dismissing the appeal on other substantive grounds it has not been necessary for me to consider this matter further, notwithstanding the submission of a signed UU.

### **Conclusion**

24. For the reasons set out above the appeal does not succeed.

*B Thandi*

INSPECTOR