
Appeal Decision

Site visit made on 8 September 2020

by L Gilbert BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th October 2020

Appeal Ref: APP/P1560/W/20/3250196

Rear of the Oaks, High Street, Thorpe Le Soken, CO16 0DY

- 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 Bradshaw against the decision of Tendring District Council.
 - The application Ref 19/01096/FUL, dated 23 July 2019, was refused by notice dated 2 October 2019.
 - The development proposed is demolition of former pizza parlour building and replacement with a one bedroom dwelling and boundary wall.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An emerging plan, The Tendring District Local Plan 2013-2033 and Beyond Publication Draft, is currently under examination. It is therefore not part of the adopted development plan. More work is needed to demonstrate the soundness of the plan, it is not clear the extent to which any objections to its policies are unresolved or how consistent the policies are with the National Planning Policy Framework (the Framework). I therefore give these policies limited weight and they do not alter my conclusions.

Main Issues

3. The main issues are:
 - the effect on the setting of nearby listed buildings and whether the scheme would preserve or enhance the character or appearance of the conservation area;
 - Whether or not the appeal development would provide adequate living conditions for future occupiers, with particular reference to private garden space;
 - The effect of the proposal on highway and pedestrian safety; and
 - The effect of the appeal development on a Special Protection Area and Ramsar.

Reasons

Listed buildings and conservation area

Listed buildings

4. The dwelling would be constructed behind The Oaks and The Old Bakehouse which are joint grade II listed buildings that date from the 17th/18th century. They are timber framed with plastered elevations and a clay tiled roof, panelled doors and sash windows. Therefore, they have both architectural and historic significance. According to the Council the land subject to the appeal has been associated with The Oaks since at least the 19th century.
5. The setting of The Oaks includes the outbuilding to be demolished and is that of a densely developed retail street to the front whilst to the rear, there is looser form of development of small dwellings which are located alongside a quiet lane. The part of the site to be developed contains a single storey building which would be demolished. Whilst the listed building is surrounded by other development, the development to the rear is fairly low key and provides space around the building providing a rural village ambience to the listed building.
6. The existing outbuilding is visible from Mill Road. It is a low-quality structure; however, its simple design and low height result in it having a subservient appearance to The Oaks. There are appealing views of the upper floor of The Oaks when travelling up Mill Road towards the appeal site.
7. The proposed dwelling would not be as wide as the existing outbuilding, but it would be two storeys in height and noticeably taller than the outbuilding to be demolished. The proposal would also result in the subdivision of the appeal site and the creation of two separate houses, gardens and a parking area. This would result in an increase in built development within the appeal site and would significantly impinge on views of The Oaks from along Mill Lane.
8. Consequently, the proposal would affect the character, setting and significance of The Oaks and The Old Bakehouse. The effect would be greater on The Oaks, which would be closest to the proposed dwelling. As the influence of the proposed development on the setting of the listed buildings would not affect all vantage points, the harm would be less than substantial to the significance of these designated heritage assets.
9. The Mill House is a grade II listed building located on the opposite side of Mill Lane to the appeal site. It is an early 19th century or earlier house with red brick in Flemish bond, mainly plastered, roofed with handmade red clay tiles. There are attractive views of the rear of the building from Mill Lane. I consider the subdivision of the site and the position of the proposed two-storey dwelling would detract from some views of The Mill House. Consequently, it would alter the setting of the listed building. As not all vantage points would be affected, the harm would be less than substantial to the significance of the designated heritage asset.
10. There are numerous listed buildings located along the High Street. There is also the grade II listed Mill Barn Farmhouse located further along Mill Lane.

Due to the position of these listed buildings, I do not consider the proposal would affect their character, setting or significance.

Conservation area

11. The appeal site sits within the Thorpe Le Soken Conservation Area. According to the Tendring District Council Conservation Area Review, Thorpe Le Soken Conservation Area (2006), Mill Lane is referred to as 'an extension of the older part of the village but with greater informality'. The rooflights would be concentrated at the rear of the proposed house and be of a modest size, set flush within the roof plane. Consequently, I do not consider the proposed rooflights would detract from or harm the character or appearance of the conservation area.
12. The proposal would have timber weatherboarding with a natural slate roof. The first-floor rear projecting gables at The Oaks are timber so the proposed use of weatherboarding would be acceptable. There is a mixture of building types and materials along Mill Lane. Although the slate roof would not be consistent with the nearby listed buildings, it would be in keeping with the overall mixed character on Mill Lane. Therefore, I consider the proposed materials would be acceptable.
13. However, as the proposal would harm the setting of nearby listed buildings, consequently it would fail to preserve or enhance the character and appearance of the conservation area.
14. The public benefit is the provision of a one-bedroom dwelling located close to services and facilities in Thorpe Le Soken. These public benefits would be limited due to the scale of the development and do not outweigh the harm to the conservation area or the significance of the nearby listed buildings.
15. As the proposed dwelling would harm the significance of the heritage assets and the harm would not be outweighed by public benefits, there would be conflict with Policies EN17 and EN23 of the LP, which seek amongst other things that development within the Conservation Area must preserve or enhance the character or appearance of the Conservation Area; and preserve the setting of listed buildings.

Living conditions

16. The proposed garden would lie westerly of the proposed house. Therefore, it would receive sunlight during the latter part of the day and I consider this would be acceptable in terms of its orientation. However, the private garden would be around 35 square metres, which is 15 square metres below the standard for a one-bedroom house in Policy HG9 of the LP. This would result in a space which would be inadequate for a combination of drying washing, cultivating plants and sitting out. I acknowledge the notes for this policy suggest the standards should be considered on a case by case basis. The appellant argues the appeal site is close to public open space, however little evidence has been provided as to where this is in relation to the appeal site. Consequently, I consider there is no acceptable justification for the large shortfall in garden space for the proposed property.
17. Accordingly, the proposal would not provide adequate living conditions for future occupiers and would conflict with Policies HG9 and QL10 of the LP which

seek amongst other things that one-bedroom houses are provided with a minimum of 50 square metres private amenity space.

Highway and pedestrian safety

18. There is a lack of on-site provision of either car or cycle parking for the proposed new dwelling. Policy QL10 of the LP requires that planning permission will only be granted for new development if certain criteria are met or can be shown not to apply. This includes the provision for vehicle and cycle parking. The adopted Essex County Council Parking Standards Design and Good Practice (2009) (PSDGP) identifies that a one-bedroom unit should provide one car parking space and one secure cycle parking space.
19. Consequently, although the proposal would not meet the standard in the PSDGP, Policy QL10 of the LP requires justification for when parking is not provided. The appeal proposal is for a one-bedroom unit and it would be near to the High Street which offers day to day services and facilities including a Tesco Express, primary school, pubs and pharmacy. It is also served by bus services, although I have not been provided with details of these routes or how regularly they operate. There is a train station that serves London however, this is outside the village centre and therefore is not close to the appeal site by foot.
20. Therefore, I consider it would be necessary for the proposed development to provide either car or cycle parking facilities to enable access to a wider range of services and facilities. As the proposal is for a small residential unit, I consider this could be achieved through an on-site cycle parking provision, which would make the train station more accessible. This could be dealt with by a planning condition. Furthermore, a one-bedroom unit is unlikely to result in excessive parking pressure on nearby roads due to the size of the unit.
21. The proposal would introduce two new car parking spaces for The Oaks. The plan indicates there would be sufficient space for the proposed two tandem car parking spaces. The proposed house would be set back from the road and low level planting is proposed in front of the new house. A planning condition would ensure appropriate visibility splays are provided by the new house. Planning permission was previously granted (reference 12/01029/FUL) for a parking space adjacent to proposed fencing enclosing The Oaks rear garden. Therefore, I consider this arrangement to be acceptable with respect to visibility.
22. Consequently, although the proposal would not be fully consistent with QL10 of the LP with respect to a lack of car parking provision, on balance the appeal development would not cause material harm to the safe and convenience of users of the adjacent highway network and therefore would be acceptable. Policy QL10 of the LP seeks amongst other things, that the access to the site is practicable and the highway network will be able to safely accommodate the additional traffic the proposal will generate. It would also be consistent with Paragraphs 108 and 127 of the Framework. This outweighs the proposals inconsistency with the PSDGP.

Special Protection Area and Ramsar

23. The appeal site is within the Zone of Influence (ZoI) for the Hamford Water Special Protection Area (SPA) and Ramsar. These are European Designated

Sites afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Without mitigation, new residential development would likely have a significant effect on the sensitive interest features of the coastal European designated sites, through increased recreational pressure resulting from the occupants of new residential development, such as the appeal scheme.

24. The appellant has supplied a Unilateral Undertaking which includes a financial contribution for the proposed new dwelling in line with emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS). However, as I am dismissing the appeal for other reasons, there is no need for me to consider this matter further.

Other Matters

25. Planning conditions were not discharged following a previous planning permission being granted at The Oaks, but as time has lapsed the Council has confirmed no enforcement action can be taken. Consequently, the appellant argues a pizza takeaway use could continue on site. Even if this is the case, this continued use would not outweigh the harm identified above.

Planning Balance and Conclusion

26. The Framework does not alter the statutory status of the development plan as the starting point for decision making. I have found a less than substantial harm to the setting of nearby Grade II listed buildings and this would fail to preserve or enhance the character and appearance of the Thorpe Le Soken Conservation Area.
27. Both parties agree that there is a shortfall in the 5-year housing land supply. However, even if I were to accept the appellant's views and were to consider the proposal against paragraph 11(d) of the Framework, it falls under footnote 6 for the purposes of 11d(i). The application of policies in the Framework relating to designated heritage assets provides a clear reason for refusing the application. Therefore, the presumption in favour of sustainable development does not apply in this case.
28. Accordingly, for the reasons set out above, I conclude that the appeal should be dismissed.

L Gilbert

INSPECTOR