
Appeal Decision

Site visit made on 11 November 2020

by Paul Jackson B Arch (Hons) RIBA

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

Decision date: 17th November 2020

Appeal Ref: APP/B1550/W/20/3245553

35 London Hill, Rayleigh, Essex SS6 7HW

- 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 Ms M Hughes against the decision of Rochford District Council.
 - The application Ref 18/00772/FUL, dated 23 July 2018, was refused by notice dated 25 July 2019.
 - The development proposed is erection of 2 No. detached dwellings with associated access road and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would preserve or enhance the character or appearance of the Rayleigh Conservation Area; and
 - The effect of the proposal on the setting of Rayleigh Castle, which is a Scheduled Ancient Monument (SAM);

Reasons

3. The appeal site comprises a large part of the garden of a detached house on the north eastern side of a distinctive spur of high ground at the centre of the town of Rayleigh, known as Rayleigh Mount. It is the site of a medieval motte and bailey castle and is managed by the National Trust. It is now largely covered by trees and vegetation, but some long distance views are available from the higher points.
4. The site lies within the Rayleigh Conservation Area (CA) which encompasses the mount, some other nearby properties in London Road and the adjacent town centre which owes its origins to the castle. This includes the Holy Trinity Church and a restored early 19th century windmill. The *Rayleigh Conservation Area Appraisal and Management Plan* of May 2007 (RCAAMP) is now of some age but provides a helpful guide to the heritage significance of the mount and identifies management issues for the CA as a whole. It remains highly relevant and attracts significant weight. It divides the CA into character areas, one of which is Rayleigh Mount including the appeal property.
5. The mount is an attractive area of trees, bushes and grassland crossed and circumnavigated by footpaths, which eventually lead, via steep steps, to the

high grassy summit of the motte. The verdant vegetation does not take away from the historical and archaeological significance of the site. One particularly well-used footpath circumnavigates the bailey and the motte and follows a dry moat that enclosed the castle. It passes alongside and within a few metres of the site boundary. At this point the open space of the garden of No. 35, unlike close development elsewhere around the mount, allows appreciation of the wider setting. Nearby buildings are not obvious because of vegetation and/or elevation. This path is easily accessible from the town centre and is popular for recreational walks and relaxation. Notice boards and signs provide information on local flora and fauna and the history of the castle.

6. Seen from the circular route, the pool room of the existing house at No. 35 is set well above the path and the main dwelling is out of sight behind trees and bushes. It is identified in the RCAAMP as making a neutral contribution to the character of the area. However the much lower lawned area, which although much altered by historic use as a coal yard, has a natural slope. It is easily seen beneath and between the trunks of a mature leyland cypress belt and other trees on the boundary. This is the proposed site for the new dwellings. The open garden area forms part of the experience of most of those visiting the mount who follow the circular path. Even though not in its original form, it contributes positively to understanding the relationship between the motte and the inner and outer baileys, once separated by a ditch. This is more difficult at other locations around the mount where 19th and 20th century development has encroached much closer towards the monument.
7. The RCAAMP draws attention to the need to control vegetation growth on the mount to reveal the shape and character of the earthworks. In the likelihood of this occurring, there is the potential for surrounding open spaces such as the appeal site to be more easily seen as part of understanding the form and history of the whole mount area. The suggested improvement of the path surface is likely to lead to a larger number of visitors and greater use of the amenity the area offers.
8. In this context, the introduction of 2 large new dwellings in close proximity¹ to the boundary, conspicuous to the visitor, would appear incongruous and distracting. Moreover the proposed dwellings, despite having some Essex vernacular features in terms of external finish, would be ordinary in appearance and not untypical of much modern development that can be found in many other places which are not in a conservation area or close to a SAM with public access and great recreational value. The dwellings would not be particularly sensitive to the sloping topography of the location, relying on a new substantial straight retaining wall across the already altered landform to allow a level ground floor and a consistent relationship between the houses and the surrounding gardens and vehicle hardstanding areas. Given that the contours would be significantly changed, this additional structure would add noticeably to the incongruity of the scheme. In addition, the close, cramped juxtaposition of mirrored identical house types would appear awkward seen from the mount.
9. The current proposal is intended to address the reasons for refusal of a previous application, subsequently dismissed at appeal². That scheme comprised 3 dwellings. The dwelling intended for plot 3 close to the existing house is now omitted but 2 dwellings are retained in approximately the same

¹ About 11.8 metres at its closest

² APP/B1550/A/14/2218538

locations as first intended for plots 1 and 2³. Whilst the existing trees on the boundary do screen the site to some extent, the view between the lower branches is likely to become more open as they continue to grow. New boundary treatment in the form of hedge planting and metal posts and wires would not prevent the development being visible, due to the sloping landform and variations in leaf cover. Over time, there is likely to be pressure to remove the old leyland cypress trees and potentially other trees for reasons of poor outlook and natural light experienced by the occupiers of the new houses, especially that on plot 2. In combination with vegetation control on the mount, that would be likely to lead to increased visibility. Adding to this, there would be an increased concentration of domestic paraphernalia in the rear gardens that would be noticeable. Overall, the development would fill in an area of backland, currently open, that is important in maintaining the character of this part of the CA, with unremarkable suburban development.

10. Users of the mount would find their experience of the northern part of the open space for relaxation and recreation noticeably different. The RCAAMP notes the value and importance of the area for its contrast with the nearby town centre.
11. When considering whether to grant planning permission, the Listed Buildings and Conservation Areas Act 1990 places a duty on the decision maker to pay special attention to the desirability of preserving the character or appearance of conservation areas. The open character of this part of the CA would be significantly diminished by the prominent and uncompromising design of the scheme. The proposal would not preserve or enhance the character or appearance of the CA.
12. SAMs are, by definition, of national importance. The development would introduce conspicuous and bulky built form, of unremarkable appearance, into a sensitive area that contributes to the setting of the SAM and remains valuable in aiding understanding of its original form, evolution over time and historic significance.
13. The National Planning Policy Framework (NPPF) advises at paragraph 196 that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. The harm caused would be less than substantial in the terms set out at paragraphs 193 and 196 of the NPPF. There is a public benefit in providing 2 dwellings, but this falls a long way short of outweighing the disadvantages of the scheme in compromising the character and appearance of the CA and diminishing the setting and heritage significance of the mount.

Other matters

14. I have taken into account the sightlines available for drivers of vehicles exiting on to London Road, but do not consider that the circumstances would be unacceptable compared to the existing situation, especially as the new arrangement would allow vehicles to turn round and exit forwards. Nothing has been put forward to suggest that there would be an unacceptable effect in any other respect including the capacity of the drainage system or the outlook and privacy of neighbouring occupiers. Notwithstanding these points, the effect on character and appearance and heritage significance is determinative.

³ Numbering of plots and former plots taken from application drawing 0126-03A

15. It is recognised that the existing owners have difficulty maintaining such a large garden and wish to remain in the property. However, the advantages of the proposed scheme in this respect do not outweigh the long term harm to planning objectives that would be caused.

Conclusion

16. The proposed development would conflict with the design quality and heritage protection aims of Rochford's 2011 Core Strategy policies CP1 and CP2 and 2014 Development Management Plan policies DM1 and DM3, as well as the advice in the NPPF. The appeal should not succeed.

Paul Jackson

INSPECTOR