
Appeal Decision

Site visit made on 11 August 2020

by Andre Pinto BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 December 2020

Appeal Ref: APP/B1550/W/20/3250266

Land Rear of 98 to 128, High Street, Rayleigh SS6 7BY

- 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 Dylan Collins of Eden Luxe Ltd against the decision of Rochford District Council.
 - The application Ref 19/00335/FUL, dated 4 April 2019, was refused by notice dated 27 January 2020.
 - The development proposed is demolition of existing buildings. Redevelopment of the site to provide 2 No commercial units and 35 No residential apartments with associated landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Eden Luxe Ltd against Rochford District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - whether the proposal would preserve or enhance the character or appearance of the Rayleigh's Conservation Area (the CA) and whether any harm to the significance of the CA is outweighed by any public benefits;
 - the effects of the proposal on highway safety, particularly in regard to means of access and parking;
 - the effects of the proposal on Rayleigh town centre Air Quality Management Area; and
 - the effects of the proposal on the living conditions of future occupants in regard to residential private outdoor space and the occupants of nearby properties, particularly the occupants of No 7a Crown Hill, in regard to overshadowing and overlooking.

Reasons

Effect on the Conservation Area

4. The appeal site is located to the rear of 98 – 128 High Street. The site is currently vacant but occupied by a series of commercial and storage buildings

- associated with its prior use. Due to its location and also its overall size, bulk and design, the building is not readily visible from the High Street.
5. The appeal site is located partially within the Rayleigh Conservation Area (the CA). The CA covers the historic centre of the village, which includes the Holy Trinity Church, the High Street, Church Street, Bellingham Lane, the Mount and Bailey Castle. The significance of the CA comes from its history, which includes the Mount and Bailey Castle, being one of the few castles mentioned in the Domesday Book and one of the oldest recorded castles in England.
 6. The High Street has been almost completely redeveloped in the second half of the 20th Century, leaving it with few traditional buildings in place. According to the Rayleigh Conservation Area Appraisal and Management Plan (2007), a few of the historical buildings that remain in place are the 1920s and 1930s buildings located at No 110-120 High Street, with gables to the street. The value of the terrace along 110-120, is therefore, significant.
 7. The relatively short row of houses forms a strong feature when the buildings are viewed from ground level, particularly their roof line, which greatly contributes to the character of the street, uniting it in design and form to the wider CA.
 8. The proposal is for the erection of a part two, three and four storey building comprising residential and commercial uses, partially to the back of the 110-120 High Street.
 9. Judging from the submitted Design and Access Statement (2019) the proposed development would be easily perceived from the High Street and stand proud behind the above mentioned terrace, detracting from its value. Although the current vacant site does not make a positive contribution to the CA, the proposed development would be more readily perceived from the High Street than the existing building on site, therefore having a more significant impact on a designated heritage asset.
 10. Furthermore, the modern external materials and appearance of the proposed development would negatively contrast with the historic relevance of the buildings along the High Street, further detracting from the significance of the CA and its value.
 11. The development would not, therefore, preserve or enhance the character and appearance of the CA. Consequently, the proposed development would be contrary to the National Planning Policy Framework (the Framework), Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy DM1 of the Local Development Framework Development Management Plan (2014) (DMP) which states that new developments must carefully consider and address its impact on the historic environment, including Conservation Areas.
 12. When considered alongside the diverse character of the area, I characterise the magnitude of this harm as less than substantial. The Framework requires that, where a development proposal leads 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.
 13. I acknowledge that there would be some public benefits from the proposal, which are mainly linked to the development's contribution to the delivery of

local housing targets, the economic benefits derived from the provision of retail space, other economic benefits linked to investment in construction and also spending potential of future occupiers, as well as bringing a derelict site back into use. However, any such public benefits would be outweighed by the relatively significant harm arising, bearing in mind the importance and weight given to designated heritage assets by statute and national and local planning policy.

Highway safety

14. The appeal site is located in close proximity to Rayleigh town centre and close to all the services and infrastructure, including transport infrastructure, that support the existing town centre. There are also dedicated footways on both sides of the High Street and several pedestrian crossings along it, which provide a safe pedestrian environment and connect the site to several different bus stations and a train station with services to London.
15. The scheme would offer a total of 21 car parking spaces for the proposed residential and commercial uses. Policy T8 of the Local Development Framework Core Strategy (2011) (The CS) states that the Council will apply minimum parking standards, including visitor's parking, for residential developments. Under the Council's Parking Standards: Design and Good Practice Supplementary Planning Document (2010) (Parking SPD) guidelines, the total parking required for the residential development component of the scheme would be 56 spaces for occupiers and nine parking spaces for visitors.
16. Parking along the High Street is controlled, which can be an indication of parking stress in the area and the Council claims in its Appeal Written Statement that car ownership levels in the District are high, which could lead to an increase in on-street parking.
17. Nevertheless, I am cognisant of paragraph 103 of the Framework which states that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, which can help reduce congestion and emissions, and improve air quality and public health.
18. Considering the site's town centre location, its proximity to significant infrastructure and services, including public transport, and the proposed housing mix with a significant proportion of 1 bedroom flats, the site is very well placed in order to provide future occupants with a genuine choice of transport modes. Consequently, it is reasonable to anticipate that a number of the future occupiers of the development would not rely on, or own, a private car.
19. I am also cognisant of paragraph 103 of the Framework which states that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes, which can help reduce congestion and emissions, and improve air quality and public health.
20. I do not have sufficient evidence before me in order to clearly demonstrate that the proposed development would have an unacceptable impact on highways safety or that the residual impacts on the road network would be severe. Furthermore, paragraph 109 states that development should only be prevented

or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

21. Consequently, the proposed development would not have a significant negative impact on parking and highway safety, and in that regard, the proposal would not be in conflict with Policy T8 of the Core Strategy and Policy DM30 and DM31 of the DMP which seek to ensure that new development provides parking for the needs of occupiers and visitors.

Air Quality Management Area

22. The majority of the appeal site lies outside of, but in close proximity to, the Rayleigh town centre Air Quality Management Area (the AQMA), which was declared as a result of the exceedance of the annual mean objectives for Nitrogen Dioxide.
23. Policy ENV5 of the Core Strategy states that new residential development will be restricted in order to reduce public exposure to poor air quality. It further states that the Council will seek to reduce the impact of poor air quality on receptors in those areas and address its causes.
24. The appellant has undertaken an Air Quality Assessment which states that the predicted net traffic associated with the proposed development is likely to result in a reduction of traffic movements when compared to the site's previous use. Considering that one of the main objectives of the AQMA is to reduce the local levels of Nitrogen Dioxide which are, amongst others, produced by motor vehicles, the present proposal would, when compared to the previous lawful use of the site, positively contribute, at least in part, to the objectives of the AQMA.
25. Notwithstanding the above, the present proposal would also result in an increase the number of residential developments in close proximity to an Air Quality Management Area, which is not encouraged under policy ENV5. However, the majority of the appeal site lies outside of the designated Air Quality Management Area, therefore some flexibility is required in the interpretation and application of the policy.
26. Taking into consideration that the proposal would contribute to a reduction in the amount of traffic movements in the area, which would, in turn, address one of the main sources of Nitrogen Dioxide emissions in the area, the proposal would be partially in accordance with the overall objectives of Policy ENV5, which is to address the causes leading to air pollution.
27. Although I accept that the Council seeks to restrict residential development within the AQMA in order to reduce public exposure to poor air quality, the development proposal would likely lead to a reduction of traffic movements in the area, which would in turn, address the reason why the AQMA was declared.
28. The development proposed would therefore assist in the overall objectives for the RTCAQMA and, in that regard, not be in conflict with Policy ENV5 of the Core Strategy.

Living Conditions

29. Policy DM1 of the DMP states that development must demonstrate that avoiding overlooking, ensuring privacy and promoting visual amenity has been carefully considered and addressed as part of the design of new development proposals. Policy DM3 states that proposals for infilling must assess the impact on residential amenity and provide adequate private open space, in accordance with Supplementary Planning Document 2: Housing Design (2007) (SPD2).
30. The Council's concerns, in regard to open space, are centred on the layout of the space and its usability, namely along the northern, southern and western boundaries of the site, and to the front of the proposed building.
31. Although I accept that some of the proposed dwelling's open spaces would not be private, particularly those located at ground floor level as these would be easily overlooked by occupiers of units above, all proposed apartments would have some form of private outdoor space, may it be in the form of private gardens on the ground floor or balconies for the units located above. Also, the front gardens and the common open space proposed in the courtyard would increase natural surveillance and promote chance encounters amongst occupiers, creating informal opportunities for social interaction and foster a sense of community.
32. Consequently, and considering the location of the appeal site and the nature of the urban environment in which the site is located, the proposed outdoor space would be suitable to support the proposed development.
33. In regard to overshadowing and overlooking, the main disagreement between the parties is in relation to No 7A Crown Hill.
34. Although the proposed development does include some windows which would allow for direct views into the private garden space, and potentially into one of the first floor rooms of No 7A Crown Hill, the proposed development would still be at quite some distance from the dwelling at No 7A. In addition, there is also a wall, approximately 3 metres high, which would continue to offer some degree of privacy and protection to the occupiers of No 7A.
35. Although I accept that that the proposal would extend significantly beyond the existing wall, therefore changing the overall outlook from the No 7A when looking up leading to concerns in relation to the development being overbearing, considering the urban environment in which the appeal is located and the distance between No 7A and the proposed new development, the living conditions of the occupiers of No 7A Crown Hill would not be significantly or unreasonably affect by the proposed development.
36. The appellant has also presented evidence, in the form of a Shadowing and Light Assessment, which demonstrates that the development will not harm the amount of daylight or sunlight to No 7A Crown Hill. This evidence is not disputed by the Council.
37. In conclusion, and for the reasons stated above, the proposed development would not significantly harm the living conditions of future occupants in regard to residential private outdoor space or the occupants of nearby properties, particularly in regard to overshadowing and overlooking. Consequently, the proposed development would not be, in that regard, in conflict with Policies

DM1 of the DMP, which seeks to ensure that new development contributes to residential amenity.

Conclusion

38. Although I have found that the development would not have a negative impact on the Rayleigh town centre Air Quality Management Area, would not significantly affect the living conditions of future occupants or the occupants of nearby properties, or significantly impact parking and highway safety, I have found it would fail to preserve or enhance the character and appearance of the CA.
39. Considering the importance and weight given to designated heritage assets by statute and national and local planning policy and that no public benefits have been identified that would outweigh the relatively harm arising, I conclude that the appeal should be dismissed.

Andre Pinto

INSPECTOR