

Appeal Decision

Site visit made on 14 December 2020

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2021

Appeal Ref: APP/D1590/W/20/3256358

16 Palmerston Road, Westcliff-on-Sea, Essex SS0 7TB

- 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 Thomas Vince against the decision of Southend-on-Sea Borough Council.
 - The application Ref 20/00446/FUL, dated 12 March 2020, was refused by notice dated 17 July 2020.
 - The development proposed is to change the front garden to a driveway.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would preserve or enhance the character or appearance of the conservation area; and the effect on highway safety and the operation of the highway network.

Reasons

3. The proposal would result in a dropped kerb and the use of the front garden as a parking area. An application for a dropped kerb was lodged with the Council on 13 February 2020. This was followed by the planning application which is the subject of this appeal.
4. The front garden of this property is described as previously containing a tree and a hedge with a front fence. These have been removed and it is now open to the street. The area between the side paths has been surfaced with loose coloured pebbles. The proposal is to use the full extent of the space between the paths for parking. Following the refusal, the appellant suggested that only one parking space would be required and submitted a revised plan as part of the appeal process to demonstrate this, advising that space would be available for extra plants. I must consider the details as considered by the Council but I have had regard to this plan.

The character and appearance of the conservation area

5. The property lies within the Leas Conservation Area which originally focused on the sea front and the houses that run parallel to it. However, it has been extended to also include the streets that run perpendicular to the sea front,
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including most of the properties in Palmerston Road. The area overall is characterised by the substantial and distinctive period properties that line the roads. These are complemented by street trees and vegetation within the wide front forecourt gardens. Low front boundary walls are also a characteristic feature of the original layout. The Conservation Area Appraisal describes this property as an attractive building, converted into flats, with a landscaped front garden which makes it an attractive addition to the street.

6. Palmerston Road includes many historic alterations that have resulted in it having a lower quality appearance and character in comparison to the properties on the road that faces the sea. It is evident that many of the front boundary walls have been removed and front gardens have been surfaced to accommodate parking. Some properties have retained their original characteristics although these are now in the minority and are more generally towards the southern end of the street which is more closely associated with the sea front properties. I found that the limited remnants of the original enclosures and the remaining landscaping, including the street trees, now play a greater role in maintaining the positive aspects of the areas character, given the lack of vegetation in many forecourts and the scale of the surfacing that has been introduced.
7. Although the greenery has recently been removed from the frontage of this property, the potential for it to be reinstated has not been lost, although this is a matter for the residents. Its use as proposed would prevent its future use for anything other than parking. Although the appellant has suggested, as an alternative, a single central parking space with some planting, the plans do not demonstrate a positive landscaping scheme. The scale of the historic losses of individual forecourts, greenery and the introduction of parking into these areas, has resulted in considerable harm to the character and appearance of the area. Allowing this proposal would consolidate and encourage this decline. Whilst the loss of each single remaining forecourt may individually cause only limited further harm, the loss of forecourts that offer positive elements or retain the potential to positively enhance the area, would be a retrograde step and would harm the existing character of the area.
8. Accepting the loss of one of the remaining forecourts that is not in use for parking, would result in harm to the character and appearance of the conservation area. This harm to the conservation area would be less than substantial, as described in paragraph 196 of the *National Planning Policy Framework (Framework)*. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a general duty on decision makers that special attention be paid to the desirability of preserving or enhancing the character or appearance of conservation areas. This proposal would neither preserve nor enhance this conservation area.
9. Policy CP4 of the Southend-on-Sea Core Strategy 2007 (CS) is clear that the historic environment, including conservation areas, should be safeguarded and enhanced. Policy DM5 of the Development Management Document 2015 (DMD) requires that proposals that affect a heritage asset, such as a conservation area, will be required to conserve and enhance its historic and architectural character, setting and townscape value. This proposal would be contrary to these policies.

10. The proposal also represents poor design given that it would permanently eliminate the potential for any re-instatement of key elements of the property's original detailing and would result in a layout and use that would be harmful. The proposal would therefore conflict with CS Policies KP2(9) and CP4(4&5) which seek to maintain and enhance the character of residential areas and secure improvements to the urban environment through quality design. There would also be clear conflict with DMD Policies DM1(i&ii) and DM3(1) which similarly require high quality design and detailing that contributes to and enhances the distinctiveness of places. The design and heritage policies of the development plan are consistent with the requirements of the *Framework* and should be afforded full weight.
11. The Council's Supplementary Planning Document: Southend-on-Sea Design and Townscape Guide 2009 (SPD) advises that in the borough's conservation areas there is generally a good balance between the visual "hardness" of buildings and streets and the "softness" of gardens and planted open areas. It advises that front gardens, in particular, should be maintained as planted areas. Paragraph 325 states that hardstandings in front gardens harm the appearance of the individual properties and the character of areas if badly designed. It suggests that they will only be acceptable if no reasonable alternative to parking is possible, and there is adequate space in the garden to allow a good design incorporating a suitable surface, landscaping and partial enclosure of the frontage with a traditional boundary wall or railings. As alternative parking is currently available on-street and as the design does not meet the detailed requirements, the proposal is clearly at odds with the SPD. As the SPD is consistent with the design requirements of the *Framework*, I afford it considerable weight.

Highway safety and the operation of the highway network

12. It was evident from my visit that two cars can currently park outside this property without infringing on the area of the dropped kerbs that serve the adjacent properties. It has not been demonstrated that either of the raised kerbs that would be retained to each side, following the dropping of the kerb centrally to this property as proposed, would be able to accommodate a parking space. The dimensions provided by the appellant suggest that the remaining raised kerbs would be less than two metres long although I note that the raised kerbs extend beyond the boundary of this property to both sides.
13. The proposal would result in cars reversing in or out of this proposed parking area. Given the nature of the road and the prevalence of other access points, I am not satisfied that this would result in unacceptable highway safety concerns. As the side boundary fences are low and the area would be devoid of planting, inter-visibility with users of the pavement would be good. Manoeuvres in or out of the space would be unlikely to result in safety concerns with regard to pedestrians.
14. The proposal would result in the loss of at least one and perhaps both of the on-street parking spaces currently available. Although the number of spaces for parking overall may not alter significantly, the space or spaces provided would only be available to the residents of one of the flats in this property. It would result in the loss of at least one and perhaps two spaces currently available to other residents and the public generally.

15. The Council have made reference to CS Policy CP3 and DMD Policies DM3 and DM15. These seek general improvements to transport infrastructure and services and have wider aspirations with regard to sustainability. They are not directly relevant to this proposal.
16. The Council's Vehicle Crossing Policy and Application Guidance (2014) appears to be a highways department guidance document rather than a planning policy document. No information has been provided to indicate whether it has been through appropriate stages of consultation or adoption. I am also not satisfied that it is entirely consistent with the development plan design policies or the SPD. It would appear that much of the guidance could be achieved, particularly if the single car option were to be adopted. The proposal would reduce the opportunity to park on the street but I am not clear if this area is considered as an area of high parking stress as described in the guidance. In any event, although the guidance is a material consideration, it can be afforded very limited weight in any planning assessment.
17. With regard to the effect on the highway network, the proposal would not materially alter the free flow of vehicles and would not significantly increase highway safety concerns. It would result in a marginal reduction in on-street parking provision. The proposal would not result in significant harm but there would be no public benefits with regard to highway safety or parking provision.

Other matters and conclusions

18. Overall, the proposal would not result in harm with regard to highway safety or the management of the highway network. It would however fail to preserve or enhance the character or appearance of the conservation area and it would conflict with the heritage and design policies of the development plan and the SPD. Whilst there would be some benefits to the residents of this flat, this would be at the expense of public parking. I am not satisfied that there would be any significant public benefits.
19. The *Framework* is clear that any harm to a heritage asset, such as a conservation area, should be weighed against the public benefits of the proposal. Whilst the harm to the conservation area would be less than substantial, there would be no public benefits sufficient to outweigh this harm. The works therefore conflict with the heritage requirements of the *Framework*.
20. The additional plan has not been formally considered by the Council or other parties and it would be inappropriate to use it as a basis for a decision. In any event, it does not overcome my concerns.
21. Given the heritage concerns and as the proposal would conflict with both the development plan policies, the SPD and the requirements of the *Framework*, I dismiss the appeal.

Peter Eggleton

INSPECTOR