



Appeal Decision

Site Visit made on 6 April 2021

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th May 2021

Appeal Ref: APP/B1550/W/20/3255477

61A High Street , Great Wakering SS3 0EF

- 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 A Thorpe & Mr H Hyde against the decision of Rochford District Council.
 - The application Ref 19/01134/FUL, dated 10 December 2019, was refused by notice dated 17 June 2020.
 - The development proposed is described as the "construction of three 1-bed flats, one 1-bed maisonette and one 2 two bed flat".
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant submitted an additional drawing¹ (the additional drawing) in support of the appeal which clarified the level of private amenity space to be provided for each unit. I have considered this drawing under the principles established by the Courts in Wheatcroft² and I am satisfied that the drawing does not change the development to such a degree that to consider it would deprive those who should have been consulted on the drawing, the opportunity of such consultation. I have therefore determined the appeal on the basis of the drawings submitted with the application and the additional drawing.

Main Issues

3. The Council's decision notice has five reasons for refusal. However, reasons one and two overlap each other and are concerned with the effect of the development on the character and appearance of the area, including the Great Wakering Conservation Area (GWCA) and the setting of a listed building. In addition, reasons three and five are concerned with the effect of the development on the living conditions of adjoining occupiers as well as the living conditions of future occupiers of the proposed development.
4. Therefore, I consider the main issues in this appeal to be the effect of the development on the:
 - character and appearance of the area, and whether the development would preserve or enhance the character or appearance of the GWCA and the setting of Grade II listed buildings at 61 High Street,

¹ 2971/03 Rev A

² Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] P&CR 233

- living conditions of adjoining occupiers on Conway Avenue with particular regard to outlook and the living conditions of future occupiers with particular regard to amenity space, and,
- Coastal European Designated Sites – Essex Coasts

Reasons

Character and Appearance/GWCA and Listed Buildings

5. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires the decision maker to pay special attention to the desirability of preserving a building or its setting or any features of special architectural or historic interest which it possesses. In addition, Section 72 of the Act requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area.
6. The National Planning Policy Framework (the Framework) states that the significance of an asset derives not only from its physical presence, but also from its setting and defines this as the surroundings in which the heritage asset is experienced. Therefore, in undertaking this duty, I have based my assessment on the evidence presented before me and the observations I made during my site visit.
7. The appeal site is an area of open space which is being used for the storage of motorhomes, touring caravans and the parking of coaches and cars. The site lies between a more modern style residential building known as 1 – 6 Southgate Mews and a Grade II listed building being used as a butcher's store at 61 High Street. To the rear are further residential properties on Conway Avenue which back onto the site. The proposal would introduce a building containing five flats within the site, one of which is described as a maisonette. It would align with Southgate Mews, continuing until it turns perpendicular at its southern boundary to create an 'L' shaped building, largely following the ridge height of Southgate Mews.
8. The GWCA covers a large area that follows, to a greater extent, the commercial and residential properties that face onto the High Street and contains a variety of style and size of property, including listed and other historic buildings as well as those of a more contemporary nature. The GWCA has a close knit appearance and as the High Street bends towards its eastern end and the church. There is a strong building line fronting either side of the street and although buildings vary in depth, on the whole rear gardens and service areas for commercial properties remain undeveloped. The High Street within the GWCA retains the character of an historic village throughfare, and is an attractive, spacious, and broadly linear form. In my view, this pattern of development adds much to the character and appearance, and thus the significance of the GWCA.
9. In addition, 61 High Street is a Grade II listed building and described within the GWCA appraisal³ (the appraisal) as one of the most characterful buildings on the High Street. It is a detached building and probably dates from the early 17th century and is bound by a footpath to the west and the entrance to the appeal site to the east. The building has a single storey element that projects forward of the main two storey element, which results in the building sitting forward of those that flank it. Consequently, the building is quite conspicuous within the street scene and although it has been pebble dashed, it nonetheless retains a charm through its shop front and elements of its historic use as a butcher's, with wrought iron

³ Great Waking Conservation Area Appraisal and Management Plan 2007

brackets and meat hooks under its front canopy. So far as it relates to this appeal, I find that the principal characteristic of the building is its simplicity, aesthetic, and historic value as a high status building which is reflected in it being statutorily listed.

10. The appeal site in its current state does little to contribute towards the character of the GWCA. It is rather run down with unmanaged grassed area to the rear with large vehicles parked and stored upon it along with areas of degraded tarmac and concrete. Its status within the GWCA is recognised at paragraph 7.22 and figure 36 of the appraisal which describes the site as an area that creates and untidy and unattractive setting to the listed building as well as being an unappealing view from the street. I have no reason to disagree with that assessment. Nonetheless, the site does provide relief between 61 High Street and Southgate Mews and contributes towards the openness at this part of the GWCA.
11. The proposal would create a large mass of building within the site, introducing an area of hardstanding for the parking of vehicles, not only within the depth of the site, but also along the flank of Southgate Mews. It would be set almost hard against the rear boundary of the site, leaving very little room about the building save for very small areas of landscaping and amenity areas to the front and rear of the building, with the central core of the site principally given over to hardstanding for parking spaces.
12. I have carefully considered the appellant's Heritage Statement⁴ submitted in support of the planning application. However, the building as proposed would have a significant mass, bulk and height and when combined with the hardstanding being provided, would result in a discordant development that would appear cramped within the site and leads me to conclude that the proposal would result in overdevelopment of a small parcel of land, quite out of keeping with the prevailing more open character that exists in the area. This would result in a development that is out of context with the areas local distinctiveness, failing to positively contribute to the areas sense of place.
13. The Council refer to the "form of architecture" of the development. However, I am not persuaded that the external appearance of the proposal alone would amount to harm that would undermine the significance of either the GWCA or the listed building. However, the formalisation and domestication of the appeal site, considering the mass, bulk, scale, and quantum of development, would detract from the spacious and undeveloped character of this part of the GWCA to the detriment of its character and appearance. As such the cumulative level of development would detract from the character and appearance of the area. It would also fail to preserve or enhance the WGCA and would harm the setting of nearby Listed Building. The development would therefore harm the significance of the designated heritage assets.
14. I am conscious that paragraph 184 of the Framework states that heritage assets are an irreplaceable resource to be conserved in a manner appropriate to their significance. Furthermore, paragraph 193 of the Framework also requires that great weight should be given to the conservation of assets, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Given the size of the GWCA, the proposed development would result in less than substantial harm to the significance of the designated heritage assets. Thus, the Framework requires at paragraph 196 that this harm should be weighed against the public benefits of the proposal, including, where appropriate, securing its optimum viable use.

⁴ Heritage Statement, Rev A, APS Design Associates Ltd

15. Although the harm is less than substantial it should not be treated as a less than substantial objection to the proposal. As the development would secure five units of residential accommodation, there would be social and economic benefits arising from the development. However, given the scale of the development proposed, I am not persuaded overall that these matters represent any more than a limited benefit which would be insufficient to outweigh the otherwise identified harm, nor the great weight that the Framework requires at paragraph 193 to be given to the conservation of heritage assets.
16. Thus, the development would have a detrimental impact on the character and appearance of the area. It would be in conflict with Policy CP1 of the Rochford District Council Core Strategy 2011 (CS), Policies DM1 and DM3 of the Rochford District Council Development Management Plan 2014 (DMP) which seek, amongst other things, to ensure that developments reflect local distinctiveness of the development area. The proposal would also fail to preserve or enhance the character and appearance of the GWCA and harm the setting of the adjacent listed building. Thus, the development would harm the significance of designated heritage assets and would be in conflict with paragraphs 193 and 196 of the Framework, the specific requirements of which are specified above.

Living Conditions - Adjoining and Future Occupiers

17. The proposed building would be sited close to its rear boundary, which separates the appeal site from properties to the south on Conway Avenue. The building would vary in height and is currently separated from the properties on Conway Avenue by an existing wall.
18. I have taken into consideration that the wall constructed along the southern boundary of the site is set back from the rear elevations of adjacent properties. However, the overall height of the proposal at such close proximity to the shared boundary and garden areas is likely to make occupiers of those dwellings on Conway Avenue that back onto the site feel excessively enclosed and boxed in. This would therefore result in a more oppressive living environment, harming the outlook that the occupiers currently enjoy.
19. Turning to future occupiers of the proposed development, Policy DM3 of the Rochford District Council Local Development Framework Development Management Plan (DMP) relates to infilling, residential intensification and 'backland' development and is referred to in the Council's appeal statement. This policy requires the adequate provision of private amenity space for proposed dwellings as set out in the Rochford District Council Supplementary Planning Document 2 Housing Design 2007 (SPD). In this instance, the SPD requires that a minimum balcony area of 5 sq. m with ground floor flats having minimum patio garden of 50 sq. m or the provision of a useable communal resident's garden on the basis of a minimum of 25 sq. m per flat.
20. The additional drawing provided by the appellant details the amenity areas to be provided for each unit. Flats 4 and 5 would be provided with balcony areas below that required by the SPD. Moreover, the spaces to be provided for flats 2 and 3 would fall significantly short of that required by the SPD and would be bound by walls, making them very constrained spaces with little value as an amenity area to sit out, relax or hang out washing. In addition, whilst the space for flat 1 would be slightly larger at some 14 sq. m, it would also be located to the front of the property and close to proposed parking spaces, thereby reducing the quality of the space as an amenity area.

21. The appellant argues that the site is within 200m of the Conway Avenue children's playground. However, the play area is quite small and does not compensate for the undersized amenity spaces to be provided on site. Furthermore, although I acknowledge the age of the SPD, it nonetheless provides a minimum standard on which, amongst other things, garden areas for a development is based and I have nothing substantive before me to suggest that such a requirement is not reasonable for a scheme of this nature. Moreover, Policy DM3 of the DMP is unequivocal that developments must provide adequate private amenity space.
22. Thus, I conclude that the proposal would not provide satisfactory living conditions for future occupants in terms of external amenity space and would have a detrimental impact on the living conditions of adjoining occupiers with regard to outlook. It would therefore conflict with Policies DM1 and DM3 of the DMP and paragraph 127 of the Framework which seek, amongst other things, to ensure that developments are provided with adequate amenity space and have a positive relationship with nearby buildings. In reaching this decision I have also had regard to the guidance of the SPD insofar as it seeks to secure suitable external amenity space for developments.

Coastal European Designated Sites - Essex Coasts

23. The appeal site falls within the "Zone of Influence" for one or more of the European designated sites scoped into the emerging Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (Essex Coast RAMS). It is anticipated that, without mitigation, new residential developments in this area and of this scale could have a significant effect on the sensitive interest features of these European designated sites, through increased recreational pressure, particularly when considered 'in combination' with other plans and projects.
24. Notwithstanding that the appellant has provided a completed unilateral undertaking to provide a financial contribution to offset the impact of the development on the designated sites, by virtue of its protected status, an Appropriate Assessment under the Conservation of Habitats and Species Regulations 2017 would be required were I minded to allow the appeal. However, considering that the appeal is to be dismissed on other issues mentioned in this decision, no further consideration is required on this matter as there is no prospect of planning permission being granted.

Other Matters

25. The appellant refers to a development at the Red Lion public house which was granted planning permission⁵ for its change of use to provide four apartments together with the erection of four houses within the site. Although this development is sited behind the former public house, it nonetheless provides adequate private amenity space for each unit and has a more open and spacious character in comparison to the development before me and are set back further from the shared boundary of properties on Conway Avenue. Given these differences, I do not find that the development at the Red Lion represents an irresistible precedent to find in favour of the proposal before me.
26. I acknowledge that the site is previously developed land and as a small windfall site, the proposal has the ability to be built out quite quickly and can provide additional housing within the borough. While noting the benefits that would result in this respect, I do not consider that either individually or cumulatively they outweigh the harm identified above.

⁵ 18/00120/FUL dated 2 May 2018

27. The appellant refers to buildings that were historically on the site. Nonetheless, the site as it currently stands is devoid of development. I also note that representations were made by a local resident, raising additional concerns. However, given my findings on the main issues, it is not necessary to consider these matters in detail.

Planning Balance and Conclusion

28. The appellant states that the Council is unable to demonstrate a five year supply of deliverable housing sites. In such circumstances, the appellant argues that the tilted balance at paragraph 11 d) ii) of the Framework is applied which states that planning permission should be granted unless the adverse impacts of the development outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
29. However, given my findings in regard to the harm to the significance of designated heritage assets and pursuant to paragraph 11 d) i) and footnote 6, the Framework provides a clear reason for refusing the development proposed and the presumption in favour of sustainable development does not apply.
30. Thus, for the reasons given above, I conclude that there are no material considerations of such weight as to indicate that a decision be taken other than in accordance with the development plan. As I have found significant, substantial conflict with the development plan, the appeal is dismissed.

Graham Wyatt

INSPECTOR