



Appeal Decision

Site visit made on 1 November 2022

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 November 2022

Appeal Ref: APP/D1590/W/22/3295646

Billet Wharf, High Street, Leigh-On-Sea, Essex SS9 2ER

- 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 Sally Osborne (Osborne Bros Ltd) against the decision of Southend-on-Sea Borough Council.
 - The application Ref 21/01846/BC4, dated 13 August 2021, was refused by notice dated 10 November 2021.
 - The development proposed is to use public amenity space adjacent seating area to Osborne Bros Café to provide additional external seating area with associated boundary treatment and alterations to pedestrian access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of the proposed development above is largely taken from the appeal form. This represents a more accurate description of the proposal.
3. The appeal site lies within the Leigh Old Town Conservation Area (CA)¹. The site also lies within the setting of the grade II listed building known as The Crooked Billet Public House².

Main Issues

4. The main issues are:
 - whether the proposed development would preserve or enhance the character or appearance of the CA;
 - the effect of the proposed development on highway safety and public accessibility; and
 - the effect of the proposed development on the setting and significance of The Crooked Billet Public House.

Reasons

Conservation Area

5. The appeal site is an area of publicly accessible open space in Leigh Old Town between the main bulk of development on the High Street and Belton Bridge. It

¹ The provisions of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

² The provisions of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 are engaged.

is a paved area between the road and the seafront. The site is currently occupied by trees, landscaping, public seating areas and features such as the Old Leigh Buoy and an anchor, with a walkway between the High Street and the seafront area.

6. The significance of the CA relates to its diverse marine townscape, densely developed with mostly small buildings packed close together in an informal layout along one main road. As an area of public open space, the appeal site provides a pleasing break from the dense built form and affords publicly accessible views of the Thames Estuary. The site makes a positive contribution to the significance of the CA.
7. External seating for businesses is a common feature within the CA, including the existing seating area for Osbornes Café. However, the appeal site is currently open with limited street furniture and generously sized public space providing access to and from the seafront and into Old Leigh. Although the proposed development would not entirely block public views of or access to the seafront, the division of the appeal site and erection of boundary fencing would reduce the open and spacious nature of the site and its permeability as a free-flowing public area, to the detriment of the character and appearance of the Conservation Area. Furthermore, the proposed enclosure of the site would extend the built form of the High Street towards the west and result in the loss of the visual break between the current development and the adjacent bridge, which currently has a positive impact on the character and appearance of the Conservation Area.
8. The proposed white picket fencing would be similar to the existing fencing used for a seating area adjacent to The Crooked Billet Public House, opposite the appeal site. However, the proposed seating area would be sizeable and would use a greater amount of fencing than the neighbouring site, particularly when viewed in combination with the metal fencing around the existing seating area for the café. The appeal site is also located in a more prominent position than the seating area for the public house and as a result would be a more dominant addition to the CA. The appellant indicates that the proposed seating would be moveable. However, the appeal site would still be enclosed and the proposed boundary fencing would appear to be permanent.
9. The Old Leigh Buoy and the historic anchor do not appear to be statutorily protected. Nevertheless, they are interesting features within the CA and provide historic focal points for the visiting public. Regardless of the proposed development, views of these structures would still be possible from the public realm. However, the proposed development, including the boundary fencing, would be situated around these features, further enclosing them and reducing their importance and prominent nature within this space to the detriment of the overall CA.
10. The proposal would retain the existing landscaping on the site. This provides much needed greenery within the dense development of the CA and is an attractive entranceway into Old Leigh. The appellant has proposed additional planting along the seafront, intended to enhance the appearance of the area. In all likelihood, the proposed fencing would be within the root protection areas of the trees on the appeal site. A planning condition could be used to secure the protection of these important trees during construction. The proposal would

not harm the contribution these trees, or the existing landscaping within the appeal site, make to the character and appearance of the CA.

11. Nevertheless, for the reasons above, the proposed development would fail to preserve or enhance the character or the appearance of the CA and would conflict with the relevant sections of Policies KP2 and CP4 of the Southend on Sea Core Strategy (the CS) 2007 and Policies DM1, DM3, DM5 and DM6 of the Southend on Sea Development Management Document (the DMD) 2015. These policies seek to ensure that development is well designed, safeguards the historic environment, including conservation areas, giving appropriate weight to the preservation of a heritage asset, with development near the Seafront Area not detrimentally impacting upon the Thames Estuary's openness.
12. The proposal would also be contrary to the general design and heritage objectives of the National Planning Policy Framework (the Framework) and the Southend on Sea Design and Townscape Guide Supplementary Planning Document (the SPD) 2009. Amongst other things, the SPD states that the Council will seek to preserve and enhance aspects of the townscape that make a significant contribution to the special qualities of Conservation Areas.
13. Due to the nature of the proposed development as an external seating area, the harm that I have found to the CA would, in the context of the Framework, amount to less than substantial harm to the significance of the CA. Great weight should be given to the conservation of designated heritage assets and any harm to their significance must be balanced against any public benefits.
14. The appellant has highlighted that the restaurants and cafés in Leigh Old Town form an intrinsic part of the town's economic development. The provision of a larger seating area to serve this café would be likely to increase footfall and improve the café's overall contribution to the local economy. However, no cogent evidence has been provided outlining the extent of this contribution. On the basis of the information before me, the likely increase in trade would not be significantly greater than that of the current business. As such, I afford this benefit limited weight.
15. No additional public benefits have been identified by the appellant. In this instance, the public benefits of the appeal scheme would not outweigh the less than substantial harm to the heritage asset that I have found above.

Highway Safety

16. The proposed development would be located on land which is currently open for public use, including public seating areas and pedestrian access into Old Leigh. The Council have stated that the area is busy and a popular destination for tourists and locals. As I saw during my site visit, the appeal site is a well-used pedestrian throughfare providing access from the adjacent car park into the main section of Old Leigh where cafes, pubs and restaurants are located. The proposed development would occupy a significant amount of this public space, including a large majority of the public seating area. It would partially block a well-used route from the High Street towards the seafront.
17. Whilst a route would remain to the south of the proposed development, adjacent to the seafront, this would be narrower than at present and partially blocked by an existing CCTV camera post and base, making access difficult for those with reduced mobility. A route would also remain to the north of the

proposed development. However, this is also narrow and is located adjacent to the busy road and mini roundabout which provides access to the adjacent car park. Less space for pedestrians within this area of high-footfall, particularly during busy times such as at weekends or during festivals and events, could force pedestrians into the road and compromise highway safety interests.

18. As I noted, public access and permeability within other parts of Old Leigh are generally narrow and restricted, due to the dense layout of the historic development. The resultant permeability on the appeal site could still be superior to this. However, the proposal would not justify the reduction in the level of pedestrian accessibility currently experienced and the resultant harm to highway safety, particularly in this heavily used entranceway into Old Leigh.
19. The harm to highway safety and public accessibility that I have identified would be contrary to Policies KP2, CP3 and CP4 of the CS and Policies DM1 and DM15 of the DMD. The relevant sections of these policies collectively seek to ensure that new development improves road safety and equality of access for all, creating safe, permeable and accessible spaces whilst providing a layout that takes account of all potential users and minimises conflicts with traffic, avoiding barriers to movement.
20. The proposal would also be contrary to the objectives of the National Planning Policy Framework which, amongst other things, requires new development to ensure safe and suitable access to a site for all users. Although included within the reason for refusal, Policy DM3 of the DMD and the SPD are not relevant to this main issue as they do not relate to highway safety.

Listed Building

21. The Crooked Billet Public House dates from the late 16th century and is located on the opposite side of the road to the appeal site. Limited information has been submitted regarding the significance of this building. From my observations on site, it would appear that its significance is derived, at least in part, from the antiquity of the structure and from its status as a well preserved example of a vernacular building of its age and type. The sea front location and position at the start of the High Street contributes to an appreciation of this designated heritage asset. This setting makes a positive contribution to the significance of this listed building.
22. The proposed development would alter the public access and permeability between the listed building and the seafront. However, the proposal would not block the visual connection between the two. The Crooked Billet Public House is already well enclosed by the existing buildings within the High Street and its own seating areas both adjacent to the building and in front of it. The proposed development would not significantly add to this sense of enclosure or harmfully alter the current views of the building from the surrounding area. The additional seating would add to the visual clutter within the area. Nevertheless, this would be sufficiently separated from the listed building by the road and would so as not to crowd its overall setting.
23. I conclude on the third main issue that the proposed development would preserve the setting of The Crooked Billet Public House and not harm its significance.

Overall Conclusion

24. Whilst the proposed development would not have a harmful impact on the setting or significance of The Crooked Billet Public House, it would fail to preserve or enhance the character or the appearance of the CA. There would also be harm to highway safety interests and public accessibility. When all of the above are weighed together, and having had regard to all other matters raised, I conclude that the appeal should not succeed.

E Grierson

INSPECTOR