



Appeal Decision

Site visit made on 25 January 2023

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 6 February 2023

Appeal Ref: APP/V1505/W/22/3299400

97 Chapel Street, Billericay CM12 9LR

- 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 Mrs J Jarvis of Jarvis Developments against the decision of Basildon Borough Council.
 - The application Ref 21/01495/FULL, dated 1 October 2021, was refused by notice dated 4 January 2022.
 - The development proposed is the demolition of existing redundant property and provision of 5 No domestic dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the banner heading above is taken from the application form. Although the appellant's appeal statement sets out a longer description which they consider to be more accurate, there are no fundamental flaws with the application form description which require me to amend the banner heading.
3. An appeal decision¹ for a similar proposed development at this address was issued on 14 July 2022. The Council provided a copy of the decision with its questionnaire documents. More recently, the Council granted planning permission² on 6 January 2023 for the demolition of buildings at the rear of the site and the construction of a 4-bed chalet style dwelling. I have been provided with the decision notice and approved plans which have also been circulated to the appellant. I have taken into account both decisions as part of my assessment of this appeal.
4. The Council's decision notice refers to policies from the emerging Local Plan. However, this plan was withdrawn by the Council in March 2022. Therefore, I have not had any regard to these policies.
5. The second reason for refusal refers to the lack of a mechanism to secure a financial contribution to mitigate against the adverse impact of the proposed development on protected European habitat sites along the Essex coast. A Section 106 (S106) agreement in the form of a signed unilateral undertaking dated 17 May 2022 was submitted with the appeal. This issue is discussed further below.

¹ APP/V1505/W/21/3284930 relating to application ref 21/00373/FULL

² 22/01426/FULL

Main Issues

6. The main issues are:

- (a) whether the proposed development would preserve or enhance the character and appearance of Billericay Conservation Area; and
- (b) the effect of the proposed development on protected European habitat sites.

Reasons

Conservation Area

- 7. Billericay Conservation Area encompasses much of the town centre along the High Street and Chapel Street which run broadly parallel to each other. It contains a number of historic buildings including those that are listed, those of local interest (effectively locally listed), and those of townscape value according to the Conservation Area Appraisal and Management Plan (CAAMP). Typically, these buildings are no more than two storeys, although some, such as church buildings and the library, are taller. There is a mix of architectural styles and materials, from timber framed and plastered buildings to red brick houses.
- 8. The conservation area has been subjected to several modern developments from the mid-20th century onwards. These tend to be taller buildings of three or four storeys and/or buildings with a large footprint such the Waitrose supermarket with its large surface car park. This fragmentation of the town centre detracts from the character and appearance of the conservation area. Nevertheless, it retains a large number of attractive historic buildings that combine to produce pleasing townscapes. This contributes greatly to the significance of the conservation area as well as its character and appearance.
- 9. The appeal site is located within the conservation area towards the southern end of Chapel Street. The site contains a detached two storey red brick villa that dates from around the early 20th century. The property is set in from the side boundaries although there is an attached single storey flat roof garage on the south side. The property's windows and doors are modern plastic replacements and the roof uses concrete tiles. A modern conservatory is located at the rear. Nevertheless, the property has a two storey front projection with barge board and half-timber detailing in the gable along with bands of black painted brickwork along each elevation apart from rendered sections. The mullions between the windows on the front windows remain and are also painted black, while the property also retains two prominent chimney stacks. These features are of architectural interest.
- 10. The property is set within a generously sized garden to the front and rear, with mature vegetation at the rear and along the southern side boundary. At the front, the garden is bounded by a brick wall approximately a metre tall as well as a bus stop and shelter. The garden at the rear backs onto a former builders yard that also lies within the site. The yard includes redundant and dilapidated workshop structures. Due to the size of these structures and intervening vegetation, they are not readily apparent from Chapel Street.
- 11. The property has not been inhabited for many years and has suffered from a lack of maintenance and ventilation with severe roof leaks. At my site visit, I observed that internally, the building is in a poor state of repair with

considerable mould throughout along with collapsing areas of plasterwork and ceiling. There are cracks in several places that can be seen externally along with spalling brickwork and timber rot.

12. The property forms a pair with 93 Chapel Street to the north, although that building has been subject to a number of extensions and alterations and is now used as a doctors surgery. Nevertheless, there remains a degree of symmetry and harmony between the two buildings. The property also shares some similarities to the architecture of the villa at 105 Chapel Street.
13. Chapel Street contains a number of modern blocks of flats as well as a car showroom, surface car parks, and the long façade of a nondescript telephone exchange building immediately opposite the site. However, there are several historic buildings in the vicinity of the site, including two storey red brick properties to the north on either side of Chapel Street. To the south of the site and on the other side of the mature boundary vegetation is the Billericay United Reform Church, a building of local interest built in an imposing Gothic style with tall arched windows and doorways. Opposite the church and continuing into Sun Street are buildings of local interest and townscape value.
14. Therefore, the southern end of Chapel Street warrants its place within the conservation area notwithstanding some modern interventions. The appeal property is noted as a building of townscape value in the CAAMP. Despite its poor condition, it forms part of the historic townscape of this part of Chapel Street and so makes a positive contribution to the character and appearance of the conservation area.
15. The proposed development is very similar to the scheme dismissed at appeal last year, although that scheme involved white render rather than red brick. As with the previous scheme, there would be a terrace of three dwellings at the front roughly where the existing property sits and a pair of semi-detached properties on the builders yard at the rear. The existing access to the rear would remain along the boundary with 93 Chapel Street. The proposal would utilise materials and a design more in keeping with the existing property and other historic red brick properties found nearby on Chapel Street. It would be set back from the road by a similar distance to the existing property.
16. However, the proposed development would contain three floors of accommodation at the front and rear of the site. The terrace at the front would occupy much of the width of the plot and comprise three long dwellings. As a consequence, the terrace would be significantly taller, wider and deeper than the existing property. While there are taller historic buildings within the conservation area, the terrace would be very bulky and overly dominant compared to the nearby two storey historic properties and would compete with the scale of the United Reform Church. While the recent planning permission (ref 22/01426/FULL) has established the principle of development at the rear of the site, the proposed semi-detached properties would be wider and taller than the approved chalet style dwelling and visible from the street. This would exacerbate the scale of development in conjunction with the front terrace.
17. The proposed orientation of the front terrace would mean that its front elevation would face away from Chapel Street unlike the existing historic properties. The rear gardens would immediately adjoin the street. While no boundary treatments have been identified, it is likely that the height of the existing brick wall would need to be noticeably taller to ensure adequate

privacy for future occupants of the terrace. This would reinforce the incongruous and overly dominant form of development.

18. At my site visit, I saw several examples of taller and larger modern developments within the conservation area including the Town Council's new building on Chantry Way. However, I do not have sufficient information on what existed prior to their development to understand the reasons why they might have been permitted. Furthermore, these developments are located in different parts of the conservation area and it is necessary to understand the context in which they are sited.
19. The proposed replacement buildings would result in harm to the significance of the conservation area due to their bulk, scale and layout. The development would also result in the loss of the existing property as a building of townscape value that would further harm the significance of the conservation area.
20. The appellant has provided a structural report dated August 2021 setting out a range of issues with the property both internally and externally. It concludes that the building requires some major works to first ensure that it is safe and then remedial works to make it habitable. The report's authors estimate that such works would cost in excess of £300,000. The appellant has also submitted a cost estimates report from a quantity surveyor dated April 2022 which puts the total amount needed to refurbish the property to a habitable standard at over £850,000.
21. As with the structural report, the quantity surveyor report includes elements that are not necessary to make the property habitable, such as replacement windows to match the original building. Nevertheless, the cost estimate is a considerable sum of money. However, like the Inspector for the previous appeal decision, I have little information on the cost of demolition and new build to compare with the above figures. This limits the weight I can give to the appellant's claim that the refurbishment of the existing building is not viable. Thus, it has not been demonstrated that the property is beyond the point of economic repair or incapable of beneficial use, as required by section 6.1 of the CAAMP in relation to demolition.
22. Even if such information was available, the proposed development would still cause harm to the significance of the conservation area for the reasons set out above. The harm would be less than substantial but still of a significant magnitude given that the existing building makes a positive contribution to the conservation area and the replacement buildings would be overly large and dominant.
23. Paragraph 202 of the National Planning Policy Framework (NPPF) requires such harm to be weighed against the public benefits of the proposal. NPPF paragraph 199 states that great weight should be given the conservation of a designated heritage asset irrespective of the harm to significance. NPPF paragraph 200 explains that any harm to significance should require clear and convincing justification.
24. In terms of the public benefits, the appellant has noted that the Council is unable to demonstrate a five year supply of deliverable housing sites and has provided evidence that shows the current supply stands at 2.4 years. The appellant has also noted that the delivery of housing in the borough is only at 41% of the requirement over the past three years. The Council has not

commented on this matter, but for the purposes of my decision I have assumed that the appellant's points are correct. The net increase of four dwellings would represent a boost to housing supply. There would be economic benefits from the construction of the development and the local expenditure of future occupants. The town centre location means there is good access to a wide range of services and facilities. There would be a more efficient use of land and the rudimentary workshop structures at the rear would be removed. However, given the relatively limited amount of development, I afford these public benefits no more than moderate weight.

25. The removal of the existing property would not represent a public benefit despite its current poor condition. While the Council has powers to ensure the proper maintenance of land and buildings, it is ultimately the responsibility of landowners to ensure their properties are well-maintained. Therefore, I afford no weight to this matter in favour of the development.
26. The public benefits would be insufficient to outweigh the harm to the conservation area or provide the clear and convincing justification for that harm. In conclusion, the proposed development would not preserve or enhance the character and appearance of Billericay Conservation Area. Therefore, the development would conflict with Policy BAS BE12(i) of the Basildon District Local Plan Saved Policies 2007 which seeks to refuse planning permission for new residential development if it causes material harm to the character of the surrounding area including the street scene. The development would also not comply with NPPF paragraphs 199, 200 and 202 or follow the advice contained in the CAAMP.

Protected European Habitat Sites

27. The site is within the zone of influence for the Essex Coastal Recreational Avoidance and Mitigation Strategy (RAMS). There are several protected European habitats sites along the Essex coast which are designed to safeguard breeding and non-breeding birds as well as coastal habitats. Potential adverse effects on these protected sites can be caused by recreational disturbance arising from visitors to the coast. The proposed net gain of four additional houses could result in likely significant effects on the integrity of these protected sites in combination with other plans and projects.
28. On this basis, it would be necessary to carry out an appropriate assessment (AA) as part of my decision were I minded to allow the appeal. However, given my findings on the first main issue and my overall conclusion, there is no need for me to carry out an AA as there is no prospect of planning permission being granted. Therefore, it is not necessary for me to assess the S106 agreement³ or reach a finding on this main issue.

Other Matters

29. NPPF paragraph 11(d) states that where the policies which are most important for determining the development are out of date, including where the local planning authority cannot demonstrate a five year housing land supply or sufficient housing delivery, planning permission should be granted unless one of two exceptions applies. The first exception in paragraph 11(d)(i) is relevant here as the application of policies in the NPPF relating to designated heritage

³ Although I note that there is no date on the first page of the agreement and the application reference number incorrectly refers to the previous application

assets provide a clear reason for refusing the development proposed. This indicates that planning permission should not be granted on this occasion. Based on this finding, it is not necessary for me to consider the second exception in paragraph 11(d)(ii).

30. Interested parties have raised concerns about a range of other matters but due to my overall conclusion it has not been necessary to consider them in any detail.

Conclusion

31. For the above reasons, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR