



Appeal Decision

Site visit made on 18 January 2023

by I A Dyer BSc (Eng) FCIHT

an Inspector appointed by the Secretary of State

Decision date: 9 February 2023

Appeal Ref: APP/Z1510/W/21/3289300

Land east of Church Lane, Castle Hedingham, Essex

- 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 Graeme Fraser Steele against the decision of Braintree District Council.
 - The application Ref 21/01985/FUL, dated 17 June 2021, was refused by notice dated 9 August 2021.
 - The development proposed is 2 bedroom cottage.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. In July 2022 and subsequent to the determination of the planning application the Council adopted the Braintree District Local Plan. The Braintree District Local Plan (2022) - the Local Plan – comprises two parts, Section 1 (adopted 2021) and Section 2 (adopted 2022). The Local Plan replaces the former development plan documents.
3. No address for the appeal site was provided on the application form. I have therefore used the address provided on the decision notice as I consider that this provides clarity for identifying the site.

Main Issues

4. The main issues in this appeal are: -
 - The effect of the development on the character and appearance of the site and the surrounding area, with particular reference to the Castle Hedingham Conservation Area (the CA);
 - Whether the development would provide adequate living conditions for future residents, with particular reference to amenity space and parking provision;
 - Whether the development would provide safe access for all users of the proposal and the public highway.

Reasons

Character and appearance

5. The appeal site (the site) fronts onto Church Lane, a narrow street within the village of Castle Hedingham. Opposite the site is an open space and a village hall. To the north the site adjoins a row of single storey garages, and beyond that lies St Nicholas' Church, a Grade I Listed Building. Opposite the church lies a row of modest two storey dwellings. Both sides of Church Lane lie within the CA. Behind the site lie more substantial buildings fronting Queen and King Street, including a public house (the Wheatsheaf Inn) and more substantial dwellings.
6. The significance of the CA, in so far as it relates to this appeal, derives from its evidential, historic and aesthetic value found in the authenticity of its vernacular architecture. The character and appearance of the CA in this vicinity is of a spacious, verdant, rural village street, fronted by buildings of predominantly traditional design.
7. The appeal site is given over to vegetation and has an unkempt appearance. It is bounded to the sides and rear by brick walls and open to the street at the front. There is no dispute between the parties that the site formerly accommodated a dwelling. However, during my site visit there was little evidence of the former building.
8. Whilst the site contributes to the open verdancy of the vicinity, because of its unkempt appearance it does not make an overall positive contribution to the character, significance and appearance of the CA.
9. The proposal would place a one and a half storey dwelling on the site, set close to the carriageway of Church Lane. There would be two dormer windows and a roof light in the front roof face, and three roof lights in the rear face. A side balcony would project from the building on the northern side, over the area provided for car parking.
10. The size and form of the dwelling, together with the proposed materials would be acceptable to both of the main parties, but dispute remains between them regarding detailed design, specifically the proposed balcony and the roof lights.
11. During my site visit I observed that, whilst there are some examples of roof lights in the area, these are far from prevalent features, appearing occasionally in the street scene. Similarly side balconies facing directly onto the street are not a notable feature in the locality.
12. Given the position of the site on the edge of the built up area, facing onto open space, the balcony would appear as an incongruous, alien feature in the streetscape of the locality, in contrast to the traditional vernacular architecture which predominates. Although it would be largely screened by the bulk of the building in views from the south along Church Lane, it would be noticeable from the open space and Church Lane from the north and, in these views, by virtue of its scale in comparison to the proposed building and prominence, it would be a dominant feature.
13. The roof light in the front roof slope would be a noticeable feature from the open space and car park of the village hall. Whilst the roof lights on the rear roof slope would have very limited visibility from the public realm, they would

be noticeable to persons in the beer garden of the public house to the rear and looking out of rear windows of properties fronting King Street and Queen Street.

14. These unusual and incongruous features would be notable and undermine the authenticity of the vernacular architecture of the CA and thus would harm the significance of the CA as defined above.
15. I note that the appellant has sought to reduce the visual impact of the balcony by using railings that replicate railings used elsewhere in the CA and that of the roof lights by the use of 'conservation' units. However the use of such materials would fail to address the incongruous nature of the features, particularly, in the case of the railings, as these are, in the examples given, associated with ground level structures.
16. I therefore find that the development would cause material harm to the character and appearance of the Castle Hedingham Conservation Area. The proposal would not comply with the expectations of the Planning (Listed Buildings and Conservation Areas) Act 1990. It would be contrary to Policies LPP47 and LPP53 of the Local Plan in as much as these policies jointly, amongst other things, require new development to be designed to a high quality of design and respect and respond to local context, especially in the District's historic areas and preserve or enhance the character and appearance of designated Conservation Areas.
17. The statutory duty in Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 is a matter of considerable importance and weight. As a consequence of its design the appeal scheme would have a harmful impact on the CA insofar as it would neither preserve nor enhance the character or appearance of the CA. The proposal would not lead to the loss of any buildings that make a positive contribution to the character or appearance of the CA. As such, whilst material, I find that the harm would be less than substantial. Paragraph 202 of the Framework directs that where a development proposal will lead to less than substantial harm, this harm should be weighed against the public benefits of the proposal.
18. The development would provide public benefits in terms of the provision of an additional dwelling to supplement the local housing stock and I am conscious that the Council is currently only able to demonstrate a 4.86 year supply of housing land. However, a single home would only have a limited benefit, irrespective of the level of shortfall in housing land supply. There would be likely minor benefits to the local economy in terms of short term employment in the construction industry and longer term support of local businesses. However, benefits would be limited by the scale of the development.
19. The proposal would provide natural surveillance of the open space, with benefits to security. However, there is no evidence before me to demonstrate that anti-social behaviour is a problem that requires to be addressed.
20. The appellant considers that the site represents previously developed land. I am mindful of the definition of "previously developed land" within the Framework which excludes land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

21. During my site visit there was little evidence of the former building present on the site and I consider that the remains of the former dwelling have blended back into the landscape. I therefore attribute the argument that the site constitutes previously developed land little weight. Nonetheless, the proposal would bring a derelict site back into use and this is a public benefit, albeit of limited weight given that, in doing so, the overall verdure of the area, which is a positive feature, is diminished.
22. The benefits of the proposal would be of limited weight overall. The proposal would result in a moderate level of harm to the significance of a designated heritage asset. However, the harm must be considered in the context of the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA. I afford considerable importance and weight to this statutory duty. This does not amount to a direction to refuse proposals that harm, and thus fail to preserve, designated heritage assets, but it provides a strong presumption in favour of preservation.
23. Thus, I find that the material harm to the CA that would arise from the proposal would not be outweighed by its public benefits. Accordingly, there would be a conflict with Paragraph 200 of the Framework as harm to designated heritage assets would not have clear and convincing justification and the Framework states that great weight should be given to a designated heritage asset's conservation.
24. Given that I have found harm to a designated heritage asset, the tilted balance of Paragraph 11d) of the Framework is not engaged.

Living conditions

25. The rear elevations of properties on Queen Street and King Street contain windows which, due to the local topography are well above the site. Further, the area close to the rear boundary of the site is used as a beer garden by the Wheatsheaf Inn. This too, is at a higher level than the application site.
26. The development would provide open amenity space in the form of a small rear garden, supplemented by a balcony above the car parking space. The distance between the beer garden and the proposed amenity space would be very short and, whilst the balcony would be roughly level with the beer garden, the rear garden would lie on a significantly lower level. The proposed amenity spaces would be provided with fences on that side to provide privacy.
27. By virtue of its design and location the rear garden would become a sunken, enclosed space. The outlook from the rear garden would be severely limited by the height of the boundaries and given the size, depth below ground of the area and proximity of the surrounding buildings and boundaries, would provide a claustrophobic and gloomy outlook. The size and configuration of the rear garden would not provide space for normal domestic activities such as drying clothes.
28. The balcony would have an open outlook to the north and west onto the street and green open space. I have limited information to demonstrate the degree of impact the proposed dwelling would have on light reaching the balcony. However, given the orientation of the proposed building and the position of the balcony it is likely that it would be largely in shadow for much of the day.

29. The dwelling would be opposite a green open space, and this would provide amenity to future occupiers for sitting out and childrens' play. Nonetheless, I find that, whilst satisfying the numerical requirements set out in the Essex Design Guide, the proposal would fail to provide good quality amenity areas for future occupiers, such that the spaces would fulfil the needs of occupiers expected of a family residence.
30. The appellant considers that the Essex Design Guide is primarily aimed at improving the quality of residential estate development. However, the document provides guidance applicable to a range of development and there is no evidence before me to justify limiting its applicability in the manner suggested by the appellant.
31. The proposal would provide a single off-street parking space for future occupiers and their visitors. The Essex Parking Standards (2009) - the parking standards - sets out the need for two parking spaces for a dwelling of the size proposed. However, I am mindful of the advice provided in the parking standards that "For main urban areas a reduction to the vehicle parking standard may be considered, particularly for residential development". The parking standards describe main urban areas as "those having frequent and extensive public transport and cycling and walking links, accessing education, healthcare, food shopping and employment."
32. The appellant has identified that two pubs, a restaurant, post office, tea rooms, village shop, hairdresser, beauty parlour tennis courts and a bowls club lie within the village and that a wider selection of services is available in Sible Hedingham, nearby. It is stated that there is ready access to both primary and secondary schools. However, I have no information before me regarding the accessibility to, or frequency of public transport, or the location of the local schools.
33. Whilst there is a car park for the village hall this lies outside the control of the appellant and there is no certainty that it would be available in perpetuity.
34. It has not, on the basis of the evidence before me, been demonstrated that the level of access to local services and facilities is such that a relaxation of parking standards would be justified in this case.
35. I therefore conclude that the development would have an unacceptable impact upon the living conditions of the future residents, with particular reference to amenity space and parking provision, contrary to the provisions of Policies LPP35, LPP43 and LPP52 of the Local Plan, which seek to safeguard the living conditions of future residents, including making adequate provision for car parking.

Access

36. Church Lane is a narrow village street, roughly straight for most of its length, but with a sharp bend to the south of the site. Forward visibility for drivers is restricted on this bend by a high wall.
37. At the time of my site visit, albeit that this represents a single snapshot in time, vehicular speeds on Church Lane were low, and would be likely to be constrained by the alignment of the street and the village environment. Between Queen Street and the site Castle Street is restricted to one way flow, from Queen Street towards the site.

38. The parking space for the proposal would be positioned close to the northern wall of the proposed building, set back from the carriageway
39. Visibility to the south for, and of, a vehicle emerging from the parking space would be severely constrained by the proposed building and, despite the likely low speeds, drivers of vehicles approaching the access or emerging from the parking space would have an increased risk of collision and injury.
40. I have been provided with a layout drawing showing visibility for vehicles egressing from the parking space. However, there is no driver set-back noted on the drawing and the visibility is measured to the centre line of the street. Thus there are areas of carriageway that could, on this one-way section, conceal an oncoming cyclist or motorcyclist.
41. It has been brought to my attention that there is no history of personal injury accidents on Church Lane, despite there being accesses for garages close to the site. These garages are set back behind open forecourts and are closed by doors. The driver of an emerging vehicle would also be able to edge forward from the garage without entering the carriageway. A driver travelling north would be able to observe the open garage doors and emerging vehicles and thus have a degree of forewarning of the likely manoeuvring of a vehicle, allowing earlier reaction than would be the case for the proposed access to the parking space. I do not, therefore, consider the accesses to be so similar as to be directly comparable.
42. The applicant sought pre-application advice from the Council regarding a proposal on the site for garages. However, there is no evidence before me to demonstrate that the local highway authority was consulted at that time and so its views on access were not available.
43. On the evidence before me I cannot be certain that vehicles would be able to emerge safely and thus the lack of adequate visibility would result in an unacceptable risk of harmful collision between vehicles at the proposed access point.
44. I therefore conclude that proposal would not provide safe access for all users of the proposal and the public highway and would thus be contrary to the aims of Paragraph 110 of The Framework in as much as this seeks to ensure that for all development safe and suitable access to the site can be achieved for all users.

Other Matters

45. I note that the Parish Council have no objection to the principle of development. However, I also note that this was subject to details of the design being acceptable.
46. I note that the appellant would be likely to accrue significant costs in developing the site, however, that is not a planning matter.
47. The proposal lies close to a Grade I Listed Building (St Nicholas' Church). Had I been minded to allow the appeal I would have needed to assess the effect of the proposal on its setting. However, I am dismissing the appeal for other reasons, including its effect on a designated heritage asset and so this matter cannot affect the outcome of this appeal and so I have not considered it further.

Conclusion

48. I have found that the material harm to the CA that would arise from the proposal would not be outweighed by its public benefits. I have further found that the proposed development would fail to provide suitable living conditions for future residents or a safe access for all users of the public highway.
49. The proposed development would be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal fails.

I A Dyer

INSPECTOR