



Appeal Decision

Site visit made on 15 August 2023

by L Hughes BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 September 2023

Appeal Ref: APP/J1535/W/22/3303841

The Old Coal Yard, rear of 32 High Street, Roydon CM19 5EA

- 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 Enterprise Residential Developments Limited against the decision of Epping Forest District Council.
 - The application Ref EPF/2830/21, dated 25 October 2021, was refused by notice dated 1 April 2022.
 - The development proposed is the demolition of existing structures and the erection of 7 dwellings and associated infrastructure.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Epping Forest District Local Plan 2011-2033 (LP) was adopted in March 2023. The previous Local Plan, referenced as the 'adopted Local Plan (1998) and Alterations (2006)', has been revoked and all its policies superseded, including those cited in the decision notice.
3. The appellant has submitted a signed Unilateral Undertaking (UU) dated 28 March 2023 as part of their appeal evidence. An unsigned version was before the Council at the time of its decision, but all parties have had a chance to comment on the UU content both during the application stage and during this appeal. In the interests of natural justice, I therefore find that no parties would be prejudiced by my acceptance of this updated UU.

Main Issues

4. The main issue is the effect of the proposed development on:
 - the character and appearance of the area, with particular regard to the setting of the listed buildings and the preservation or enhancement of the Roydon Conservation Area.

Reasons

Character and Appearance

5. The appeal site comprises a large area of scrubland with some trees, and a smaller overgrown area of hardstanding being the former coal yard. Access is from a single width narrow track off High Street in between 2 single storey outbuildings, which lie within the site but are attached to the neighbouring buildings. Open fields sit to the north separated by thick vegetation and trees. The remaining boundaries comprise fencing and hedgerows with some tree

cover, with the rear gardens of dwellings beyond. The site is allocated for an approximate capacity of 7 dwellings under the LP allocation ROYD.R1 'The Old Coal Yard'. The proposal is for 7 dwellings and ancillary structures in a courtyard layout, with rear gardens bordering those to the south and east. The access would be widened through demolition of the outbuildings.

6. The site lies within the Roydon Conservation Area (CA), and so I have a statutory duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing its character or appearance. Section 16 of the National Planning Policy Framework ('the Framework') (2021) also requires that great weight should be given to the conservation of designated heritage assets.
7. The significance of the CA derives from its historic street pattern, its wide range of buildings of special architectural and historic interest, traditional building materials and the variety of architectural features, the domestic building scale and low height, the varied density, the rural setting and open grassed areas with numerous trees and hedges, and the village's quiet residential character.
8. Although the land now is overgrown, it makes a positive contribution to the CA, because as an open area with some strong vegetated boundaries it reflects some of these key CA features. Although the site is not visible from the streets other than in glimpses from its entrance, some public views across it from the footpath beyond its eastern boundary also allow an appreciation of the rear of the historic linear pattern of the surrounding development, and the traditional roofscape. It has a transitional character in linking the village's built form with the open countryside, as well as remnants of its former part coal yard use which would formerly have had an industrial character.
9. I also have a statutory duty under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to consider the impact of the proposal on the special architectural and historic interest of listed buildings and their settings. There are several grade II listed buildings along High Street and the northern side of Harlow Road, some of which have rear gardens adjoining the appeal site. The nearest to the proposed dwellings is the Old Post Office, a late sixteenth century, timber framed and plastered 2 storey building with red plain tile roof.
10. Further listed buildings lie opposite the site's entrance on High Street. The White Hart is a timber framed and plastered 2 storey public house dating from the 15th century. The early 19th century 3 storey terrace of industrial grey brick and slate roofed cottages at 1-7 Allens Row, is significant as it appears to have had some full length accommodation which was possibly workrooms, as an extremely important example of a type otherwise unknown in rural Essex. The significance of these buildings is collectively as a strong visual contribution to the historic appreciation of the linear development of Roydon, with a varying but cohesive architecture, form, and materiality. They clearly play an important role in contributing to the character and significance of the CA.
11. The reason for refusal included the failure to justify the loss of a historic brick lean-to building at the site's entrance ('the building'). It is attached to the adjacent public house, appears to have been built at the same time, and is

shown on the Ordnance Survey map of c1874 as reproduced in the Roydon Conservation Area Character Appraisal (CACA) (2006). It is in a poor state of repair, and at some point its front section was partially demolished, along with some of the public house buildings to which it would have been connected.

12. The CACA identifies this stretch of the street as a specific character area leading south from The Crusader public house. It describes it as being more enclosed as the High Street becomes narrower and the buildings are set closer together. The timber building at the entrance does not positively contribute to the CA, and thus its demolition would not in itself create harm. However, the demolition of the brick building would harm this character, by creating an even wider gap and thus reducing the density and strong frontage line of the buildings to the south, including The Old Post Office. Although the building is not listed or locally listed, it is of value to the streetscene and the character of the CA. It also has a historic association, and physical relationship with the adjoining buildings, including the setting of the listed buildings on the opposite side of High Street.
13. The demolition of the building would lead to less than substantial harm to the significance of designated heritage assets. I give great weight to this harm, as advised by the LP policy DM7 and the Framework paragraph 199. Policy DM7 requires development proposals to preserve and enhance the significance of heritage assets, and gives great weight to their conservation. It also identifies that less than substantial harm should be weighed against the public benefits of the proposal, an approach reiterated by the Framework paragraph 202. I return to this below.
14. With relation to the central part of the site, the Council accepts to some extent that the proposed development would be of a scale and form which reflects the varied range of proportions of the older buildings within the village, and gives some impression of the former industrial use of the site. The materials also take clear architectural references from the industrial character of the previously developed part of the site, featuring simple forms and facing materials such as yellow bricks and zinc standing seam roofs. Vertical timber cladding would soften the appearance while tying it with the wider rural character of the site, and parking would be in simple and unobtrusive cart shed style outbuildings. I see no reason to come to an alternate conclusion.
15. However, the Council considers the layout should be more compact, to replicate to a greater extent the historic linear pattern of development on the surrounding roads, and to retain long range views. While the spacing and footprint of the proposed dwellings do not fully replicate those patterns, I find the site context to be sufficiently different from the surrounding layout for this not to be determinative. The built form would be placed far enough away from the main grouping of listed buildings on Harlow Road that their setting and roofscape would be respected.
16. There would also be a reasonable distance between the dwelling on plot 1 and the Old Post Office as the closest nearest listed building, and that dwelling is orientated such that its gable end would further reduce its massing impact. Furthermore, pushing the dwellings further north-west and compacted would create a somewhat unnecessarily cramped layout.

17. While longer range views of the roofscape from the public footpath would be affected, this would be in part due to the enhanced boundary landscaping and tree cover, required by ROYD.R1. Along with the size of proposed gardens and the central courtyard area, these would provide a sufficient sense of space and greenery to the character of the site such that its key CA features would be retained. Its form and materiality would suitably blend in with the domestic building scale and architecture of the surrounding older development, and not detract from the historic street pattern and the rural setting. As such, it would not detract from the listed buildings. The proposed dwellings and the layout of the main part of the site would therefore preserve the character and appearance of the CA and the setting of the listed buildings.
18. As I have found above that the demolition of the building on High Street would cause harm, I am required to weigh this against the public benefits. The proposal would be a deliverable contribution to the housing land supply of the otherwise vacant allocated site. The resulting social and economic benefits would be the additional market housing provided in a sustainable location, the new occupiers increasing local expenditure and demand for local services and so improving the village's vitality and viability, and the use of local trades persons and materials during construction where possible.
19. There would also be environmental benefits of enhanced landscaping to the edge to the settlement and increased biodiversity, a high standard of thermal efficiency of the new units, EV charging points, and some reduced land contamination.
20. I give substantial weight cumulatively to these benefits. Compared to the great weight I give to the less than substantial harm to the CA and the listed buildings, this indicates that the overall judgement is finely balanced.
21. Although the appellant suggests that the building should have been excluded from the allocation boundary if it was intended for retention, Criterion D) of ROYD.R1 does identify that buildings that contribute to the character of the CA should be retained and reused. Although criterion E) acknowledges that there are potential site access constraints, it requires proposals to assess the need to widen the existing access in order to ensure a safe access point.
22. Although the hedge immediately to the south on third party land may restrict the visibility splay in that direction, my site visit identified that it would not block views of the closest lane direction of traffic, that the pavement is relatively wide and so would allow for reasonable view of pedestrians, and that constrained driveways are a feature of the street of which pedestrians would be aware. In this context, and in the absence of a formal assessment by the Council that a realigned entrance would not be acceptable, I therefore cannot be certain that the demolition of the historic building is essential.
23. On this basis, I find that the demonstrated public benefits would not outweigh the harm. These benefits would also be achieved if a site access could be achieved which retained the building.
24. The development would therefore cause harm to the setting of listed buildings, and less than substantial harm to the character and appearance of the area, with particular regard to the lack of preservation or enhancement of the

Roydon CA. The proposal would conflict with the LP Policy DM7 and the allocation ROYD.R1. It would also conflict with the Framework Section 16 on conserving and enhancing the historic environment, and specifically paragraphs 199 and 202.

Other Matters

25. Outside of the evidence submitted directly for this appeal, I am aware of some debate as to whether the Council can currently demonstrate a 5 year housing land supply. However, even if it cannot, the provisions of the Framework paragraph 11(d) for the presumption in favour of sustainable development does not apply in instances where there would be harm to a designated heritage asset, which I have identified above would be the case.
26. The Epping Forest Special Area for Conservation (EFSAC) is a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations). Permission may only be granted after having ascertained that the proposed development would not affect the integrity of the EFSAC. The appellant has submitted a completed UU which would secure an air pollution financial contribution, made in accordance with the Interim Air Pollution Mitigation Strategy for the EFSAC (2020). However, as I have identified above that I am dismissing the appeal on other grounds, I do not need to consider further the implications of the Habitats Regulations, and whether the contributions would adequately mitigate the proposal's effect on the integrity of the EFSAC.
27. The UU also provides for various other financial contributions relating to provision for off-site education, and various types of open space and green infrastructure. There is some disagreement as to whether an education contribution is required, based in part on the evidence suggesting that such contributions were twice removed from previous drafts of the UU by the County Council. Again, as I am dismissing the appeal on other grounds, I have not concluded as to whether these UU contributions would be appropriate.

Conclusion

28. I have found above that the proposal would cause harm to the character of the area. With relation to the CA this would lead to less than substantial harm to the significance of a designated heritage asset. Paragraph 202 of the Framework identifies that less than substantial harm should be weighed against the public benefits of the proposal. Public benefits of the scheme have been presented, but I have found above that they do not outweigh this harm.
29. In conclusion therefore, the scheme conflicts with the development plan as a whole. With no other material considerations indicating otherwise, for the reasons given above I conclude that the appeal is dismissed.

L Hughes

INSPECTOR