



Appeal Decision

Site visit made on 1 February 2024

by Lewis Condé BSc, MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2024

Appeal Ref: APP/B1740/W/23/3322228

1a Southampton Road, Lymington, Hampshire SO41 9GH

- 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 & Mrs Abraham against the decision of New Forest District Council.
 - The application Ref 23/10122, dated 6 February 2023, was refused by notice dated 5 April 2023.
 - The development proposed is a replacement dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's first reason for refusal, on its decision notice, refers to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'), but does not cite Section 66(1) of the Act which relates to the setting of listed buildings. However, it is clear from the wording of the first reason for refusal and the Council's appeal submission that its concerns also lie with the effect of the proposal on the setting of nearby listed buildings.
3. In any case, in considering the appeal scheme, I have a statutory duty under Section 66(1) of the Act to have special regard to the desirability of preserving the setting of the listed buildings or any features of special architectural or historic interest which they possess.
4. A revised version of the National Planning Policy Framework (the Framework) was issued on 19 December 2023. In respect of the matters of interest in this appeal, there have been no fundamental changes to national policy. Additionally, main parties would have had the opportunity to comment on the revisions to the Framework during the appeal process.

Main Issues

5. The main issues are the effect of the proposed development on: i) designated heritage assets, namely, the character and appearance of the Lymington Conservation Area and the setting of the Grade II Listed Buildings at Nos. 5 – 57 Southampton Road; and ii) the living conditions of neighbouring residents of 1 and 3a Southampton Road in respect of outlook and loss of light.

Reasons

Heritage Assets

6. The appeal property is a single-storey flat roof dwellinghouse, located on the corner of Southampton Road and Eastern Road.
7. The site lies within the Lymington Conservation Area (LCA), which covers an area around the core of the historic town and its periphery, including the quayside and river frontage to the east. The significance of the LCA is largely derived from its historic role as an important port, the largely unaltered medieval structure of the town, alongside the abundance of buildings of varied historical and architectural interest that it contains. Indeed, the LCA Conservation Area Appraisal (adopted 2002) (the LCA Appraisal) identifies how the town's historical growth and development remains highly legible, whilst it also highlights the considerable extent of both listed and important unlisted buildings located throughout the LCA that provide a rich, historic townscape.
8. Southampton Road is a key route of arrival into the LCA, as such, it is a sensitive position from which the conservation area is experienced. I note the appellant's historical photographs of Southampton Road and appreciate that aspects of the street have undergone considerable change. Nevertheless, this part of the LCA still retains extensive historic built form, notably terraced housing from the late 18th and 19th Centuries that are of architectural significance, whilst also indicating the historic growth of the town.
9. The long terrace of Grade II listed buildings (nos. 5 – 57 Southampton Road) are a key aspect of this part of the LCA. Although there is some variance in the precise detailing of the terrace buildings, they fundamentally share a high-degree of uniformity in terms of their scale and form. The terrace has a consistent, strong frontage and roofscape, providing balance and rhythm to the street. Indeed, from the evidence before me and my observations on site, it is clear that the significance of these buildings lie in their group value both in terms of their architectural interest, as well as their historic interest in terms of the evolution of the settlement. They also significantly contribute to the LCA as a whole, through adding to the pleasing, attractive townscape.
10. There are two residential buildings located between the appeal property and the wider listed terrace, neither of these buildings are listed, locally listed, or suggested to be non-designated heritage assets. Nonetheless, these buildings relate positively to the form of the existing listed terrace. Furthermore, it remains that the appeal site shares a close relationship and can be appreciated in connection with the terrace of listed buildings. It therefore forms an important part of the setting of the listed buildings.
11. The appeal property is of a form and design that does not relate particularly well to the surrounding built development. Indeed, I note the LCA Appraisal identifies that smaller flat roof developments, with utilitarian and poor detailing are features that do not make a positive contribution to the LCA. However, although the appeal building is located on a prominent corner of a busy thoroughfare within the LCA, it remains rather inconspicuous in the streetscene. This is largely due to its diminutive scale, and that it is significantly set back from the existing, consistent, frontage line of buildings along this section of Southampton Road. As such, whilst I find the existing building to somewhat detract from the character and appearance of the streetscene, it remains that its impact on the LCA and the setting of the nearby listed buildings is rather negligible. Overall, I find the existing appeal dwelling

- to have a very minor negative contribution to the character and significance of the LCA and the setting of the nearby listed terrace buildings.
12. The proposed development seeks to take inspiration from the form of neighbouring residential properties along Southampton Road, including through the use of materials and detailing of windows. It would more closely follow the profile of adjacent dwellings, than the current flat roof building and also add vertical emphasis which is a notable feature of the dwellings along the street.
 13. However, despite the proposal's eaves height matching that of the listed terrace and its ridgeline matching the eaves height of no. 1 Southampton Road, the proportions would be ill-fitting. Indeed, the narrow width of the proposal's frontage onto Southampton Road, and the incongruous scale of the hip and gable roofs, would ensure that the proposal would be at odds with the surrounding built form. The result would be a rather pastiche but highly unsympathetic addition to the streetscene.
 14. I recognise that the scale of the existing dwelling is also at odds with its surroundings, however, the appeal scheme would also be far more visually prominent than the existing dwelling on the site. As such, I consider it would draw more attention and result in a greater interruption to the rather steady scale and rhythm of properties along this section of Southampton Road than existing conditions.
 15. Overall, I find that the proposed development would have a harmful effect on the character and appearance of the LCA and the setting of the listed buildings.
 16. The harm that I have identified to the significance of the designated heritage assets would be less than substantial. Nevertheless, any harm to the significance of designated heritage assets requires clear and convincing justification and in accordance with the Framework, I must weigh the harm against the public benefits of the proposal.
 17. The proposal may improve the energy efficiency of the building, which could result in some sustainability benefits. However, given the scale of the proposal, such benefits are likely to be highly limited in nature. Additionally, similar improvements to energy efficiency may be achievable through other means that would not cause such harm to designated heritage assets. Enhancement to the overall layout of the property through increased space may also improve the living conditions for its occupiers, however, this would largely constitute private benefits. In this instance, there are no public benefits that would outweigh the proposal's harm to the designated heritage assets.
 18. As a result, I find that the appeal proposal would fail to preserve or enhance the character and appearance of the LCA, whilst it would also fail to sustain or enhance the setting of the nearby listed buildings. Consequently, the appeal proposal would conflict with the design and historic environment aims of Policies ENV3 of the Local Plan 2016-2036 Part 1: Planning Strategy (adopted 2020) (the Local Plan Part 1), Policy DM1 of the Local Plan Part 2: Sites and Development Management (adopted 2014) (the Local Plan Part 2), and the Lymington Local Distinctiveness Supplementary Planning Document. When read together these policies and guidance require development to be of a high quality of design that should protect, conserve and where possible enhance the historic environment.

19. Furthermore, the proposal would also fail to meet the requirements of Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 or the Framework insofar as it relates to heritage assets.

Living Conditions of Neighbouring Residents

20. The appeal proposal would introduce a two-storey dwelling adjoining no.1 Southampton Road (no.1). It would occupy a position to the south of the adjoining dwelling. That being said, majority of the two-storey element would sit alongside the existing flank side-elevation of no.1, while the appellant's submitted shadow diagram indicates that overshadowing of the neighbouring property would be unlikely to significantly increase as a result of the proposed development.
21. The first-floor element of the proposed dwelling would project approximately 2.8m beyond the existing rear elevation of no. 1 including upper floor windows serving the neighbouring property. In relation to these neighbouring windows, the upper floor element of the proposed development would largely be orientated to the north-west. The proposal would add a greater sense of enclosure and result in some loss of outlook and light to the neighbouring upper floor windows. However, the impact would be most keenly felt by the nearest window to the development (approx. 1m away), which I understand serves a landing area in no.1 as opposed to a habitable room. Additionally, in respect of the remaining upper floor windows to no.1, I am satisfied that the proposal would not lead to a significant or harmful loss of outlook or light to the relevant rooms. This is due to the proposal's overall projection beyond the rear elevation of no.1 and its positioning/orientation in relation to the relevant windows.
22. The Council has not raised concerns with regards to the proposal's proximity to the existing groundfloor window serving the side elevation of no.1, nor in respect of loss of light to the neighbouring property's kitchen. From the information before me and my observations on site, I have no reason to conclude differently. I therefore consider that the proposal would not cause a significant harmful impact on the living conditions of no. 1 Southampton Road, with respect to a loss of outlook or light.
23. Turning to 3a Southampton Road (no.3a), the upper floor flat has three windows in its southern facing side elevation. There is no information before me as to what rooms these windows serve. The proposal's first floor element would be sited directly opposite one of these windows, with a separation distance of approximately 5m. Due to its position directly opposite and the limited separation distance involved, this would result in the window of no. 3a facing onto a highly imposing blank wall. Furthermore, in the absence of detailed evidence to demonstrate otherwise, I cannot rule out that the relevant window within no.3a serves a habitable room. In such, circumstances the proposal would result in a harmful loss of outlook to the residents of no.3a.
24. Whilst the residents of no.3a may not have objected to the proposed development, this is not suitable justification to deem that the proposal would not cause harm to the living condition of the occupiers of that property.
25. Overall, I cannot rule out that the appeal scheme would cause an unacceptable loss of outlook to the neighbouring residents of no.3a. The proposal therefore conflicts with Policy ENV3 of the Local Plan Part 1 that, amongst other matters,

seeks to avoid unacceptable effects to residential amenity including overbearing impacts and a loss of outlook.

Other Matters

26. In seeking to justify the proposal, the appellant has referred to a permission (ref: 23/10282) for the development of 32 dwellings at the former Police Station site on Southampton Road. I do not have full background details of that permission, including the approved plans. However, from the information before me and my observations on site, that development appears to be of an entirely different context to the scheme before me. Notably it is set further from the terrace of listed buildings at no. 5 – 57 Southampton Road, whilst there is also more intervening built form, and therefore does not share such a close relationship. It is also located outside of the LCA. Additionally, the scale and design of that proposal, alongside the planning benefits, would be far different to the scheme before me. As such, my decision does not turn on this matter.
27. The appellant has expressed frustration with the manner in which the application was dealt with by the Council, given that it followed feedback received from a previous application at the site (ref: 22/10963). However, the appeal scheme has been determined on its own merits.

Conclusion

28. For the reasons given above I conclude that the appeal should be dismissed.

Lewis Condé

INSPECTOR