

Appeal Decision

Site visit made on 11 September 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th September 2024

Appeal Ref: APP/X1545/W/23/3333449

Land adjacent to 13 Church Street, Tolleshunt D'Arcy, Essex CM9 8TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Tom Foster against the decision of Maldon District Council.
 - The application Ref is FUL/MAL/23/00052.
 - The development proposed is the demolition of existing garage and the erection of a new three bedroom house with ancillary parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the Council's site address as this more accurately describes the location of the proposed development. I note the appellant has also used this in their appeal form.
3. The proposed development relates to a building located within a conservation area. I am mindful of my duty under section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). However, there is no objection from the Council in respect of the effect of the development on the character or appearance of the conservation area. Based on the evidence before me, and my observations on site, I have no reason to disagree with those findings. I address the main issues below.
4. During the appeal, the Council withdrew its fourth and fifth reasons for refusal, relating to the effect of the proposed development on protected species and habitats. I have no reason to disagree with those findings and discuss these matters no further.
5. Amended plans were submitted with the appeal. These principally relate to revisions to the proposed front boundary treatments. Whilst an appeal should not be used to evolve a scheme, I am content that, by reason of the minor nature of the changes, no party would be prejudiced by my acceptance of the revised plans.

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area, including the effect on trees; and
- the effect of the proposed development on the living conditions of the occupiers of 13 Church Street.

Reasons

Character and appearance

7. The appeal site comprises a narrow parcel of land to the west side of Church Street. It is positioned directly opposite the Church of St Nicholas and forms a prominent site. It is highly visible from Church Street, the churchyard and from the private vantage points of some surrounding properties.
8. It is acknowledged that there is no dispute between the appellant and Council in respect of the principle of development or the position of the appeal site within the settlement boundary of Tolleshunt D'Arcy. However, the site is positioned in a part of the settlement where built form transitions into open countryside. The petering out of properties along this part of Church Street, including the modest scale of No 13 and St Nicholas Cottage at 1-1.5 storeys, combined with the strong visual presence of the appeal site's oak tree, contribute to a semi-rural, open character here.
9. The proposed dwelling would be set away from the established built form of No 13 and properties to the north, introducing built form where this is not currently the case, of two storeys. A larger area of hardstanding would be introduced between the new and existing dwellings. Combined, the proposed development would harmfully urbanise this largely open part of Church Street and erode the pleasant rural transition that occurs here. While I accept that Chip Hall is located to the south of the appeal site, and is of a greater scale than No 13 and St Nicholas Cottage, this is an historic and prominent building that is both discrete from the appeal site and No 13, with a well enclosed garden to its north.
10. Moreover, the large, glazed doors in the south-facing gable end of the proposed dwelling would be highly prominent and incongruous in this location, in which established properties typically feature modest and limited window openings in principal or visible elevations. Ultimately, the proposed development would have a harmful impact on the character and appearance of the area.
11. Notwithstanding the above, the proposed development would also involve the removal of the site's mature oak tree. This is referenced as T2 within the submitted Arboricultural Impact Assessment (AIA). This tree is large in its form and height and, whilst I accept that it is multi-stemmed, it is visually prominent from Church Street, the churchyard and multiple private vantage points. It is of high amenity value and contributes significantly to the verdancy of this part of Tolleshunt D'Arcy.

12. The AIA identifies the tree to be of good visual amenity, noting that it can be seen from public vantage points. However, it goes on to set out that it is of poor condition. This is justified, in part, by the presence of damage from vehicle strikes. It is also set out that it may become a potential nuisance in respect of maintenance and management. However, I have no substantive evidence before me to demonstrate that the tree would unlikely survive on the site and continue to make a contribution to the character and appearance of the area for many more years if it were retained. It would take many years for replacement trees to grow and be of equal or similar maturity, stature and value to local character as the existing tree. Replacement trees, therefore, would not compensate for the removal of the tree. Moreover, I am not persuaded that the development of the site is wholly dependent on the removal of this tree.
13. Overall, I conclude that the proposed development would harm the character and appearance of the area. Accordingly, the proposed development would be contrary to the relevant provisions of Policies S1, D1 and H4 of the Local Development Plan 2014-2029 (LP, adopted 2017). These policies, in summary and when taken as a whole, seek to achieve high quality design and the conservation of the natural environment. This is in a similar vein to the objectives of the National Planning Policy Framework (the Framework) insofar as high quality design and the retention of existing trees is concerned.
14. Although LP Policy N2 has been referenced in the decision notice, this principally relates to ecology and habitats. There is no dispute between the Council and appellant on such matters. Consequently, this policy is not considered relevant to this main issue.

Living conditions

15. The appeal site is currently used for the parking of vehicles and includes an area of unkempt grassland. It is understood that this may have once formed part of the domestic garden of 13 Church Street. However, whatever the history of the site, it does not have an obvious visual or functional link with No 13 when viewed today. The grassed area to the south of No 13 is separated from the appeal site by a domestic boundary treatment, vehicular garage and parking area. Moreover, No 13 benefits from its own established garden space, albeit relatively modest, positioned directly adjacent to the property. From that perspective, the proposed development would not harm the standard of accommodation for the occupiers of No 13, it would instead see the existing garden area retained.
16. Overall, the proposed development would not harm the living conditions of the occupiers of No 13, in accordance with the relevant provisions of LP Policies D1 and H4. These policies, in summary, seek to ensure high quality design in development that ensure that any impacts upon the amenities of neighbouring properties are taken into account. This is in a similar vein to the provisions of the Maldon District Design Guide and the Framework insofar as high quality design and living conditions are concerned.
17. The lack of harm in respect of living conditions does not outweigh or overcome the harm identified in respect of character and appearance.

Other Matters

18. The appeal site is located within the wider surroundings of several listed buildings, Church of St Nicholas (Grade I), St Nicholas Cottage (Grade II), Chip Hall (Grade II), Tolleshunt D'Arcy Hall (TDH, Grade II*), Wall at TDH (Grade II), Dovecote at TDH (Grade II*), Bridge at TDH (Grade II*), and Ancillary Building at TDH (Grade II). Mindful of the statutory duty set out in Section 66(1) of the Act, I have had special regard to the desirability of preserving the settings of the nearby listed buildings. The historic built backdrop of these buildings positively contributes to their significance. Given the position and extent of the proposal, I consider that it would preserve the settings of these listed buildings and the contribution they make to their significance. I note the Council had no concerns in this regard either.
19. I acknowledge the social and economic benefits of the proposed development. It would contribute one extra home to housing supply in the borough and provide employment during construction. I also accept that the proposed development would make efficient use of a small site. However, those benefits would be very limited and would not be sufficient to outweigh the harm I have found. In any case, the support in the development plan, and Framework, for new housing is not at the expense of appropriate design.
20. In respect of comments around the lack of screening to the existing parking area when compared to that of the proposed scheme, and comments relating to replacement boundary treatments, any improvement to the existing site is not wholly reliant on the scheme before me. Accordingly, these matters have not led me to an alternative conclusion on the main issues.

Conclusion

21. For the reasons above and having had regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR