



Appeal Decision

Site visit made on 7 January 2026

by R Sabu BA(Hons), MA, BArch, PgDip, RIBA, ARB

an Inspector appointed by the Secretary of State

Decision date: 28th January 2026

Appeal Ref: APP/W1525/W/25/3372895

16-17 Victoria Road, Chelmsford, Essex CM1 1NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission. The appeal is made by Oakley South Ltd against the decision of Chelmsford City Council.
 - The application Ref is 25/00006/OUT.
 - The development proposed is described as, 'outline application for demolition of existing buildings and construction of a new mixed use multi story residential led block with ground floor E Class use and residential upper floors of not less than 5 storeys and not more than 12 storeys and not less than 35 residential units, with all matters reserved'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was made in outline with all matters reserved for future consideration. I have therefore assessed the submitted drawings on an indicative but informative basis.
3. From the evidence the description of development was amended during the application process. Therefore, I have used the description of development stated in the decision notice and appeal form, in the interests of certainty.
4. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (Act) requires special regard to be paid to the desirability of preserving the building or its setting. I have had regard to this statutory duty in my assessment of this appeal.

Main Issues

5. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposal on the setting of nearby heritage assets;
 - whether the proposal would secure the provision of appropriate infrastructure, services and facilities;
 - the effect of the proposal on Blackwater Estuary Special Protection Area and RAMSAR site; and
 - whether the proposal would accord with the Council's development strategy for the provision of trees.

Reasons

Character and appearance

6. Scale is a matter reserved for future consideration. The Planning Practice Guidance (PPG) states that applications for outline planning permission seek to establish whether the scale and nature of a proposed development would be acceptable before fully detailed proposals are put forward¹. Moreover, the description of development states that the block would be not less than 5 storeys and not more than 12 storeys. It is therefore necessary to determine whether a scheme within these height parameters would be acceptable in planning terms including with respect to the character and appearance of the area.
7. The site lies on Victoria Road in Chelmsford which has a mix of uses. The site is occupied by three storey buildings. Adjacent to the site on both sides, and opposite the site on the other side of the street, are single and two storey buildings. Accordingly, the immediate context of the site is predominantly characterised by two storey buildings. The buildings have traditional forms and style such that the area surrounding the site has a modest traditional character and appearance.
8. There is a bend in the road along Victoria Road where the buildings increase in height and massing. The building known as Amlin House lies near this bend on the opposite side of the street as the site. It is around five to seven storeys in height and has a wide frontage along the street. As such this building has a large massing commensurate to its commercial use. Opposite this building lies a four to five storey building that also has a wide frontage which results in a large massing.
9. These buildings mark a change in the character of the street from a modest traditional character near the appeal site to a large scale, modern commercial character further along Victoria Road. Past the bend in the road, there are other large scale buildings with heights around seven storeys and wide frontages. These buildings, which include a Premier Inn building and Dorset and Victoria House, appear in keeping with their siting near a railway station and junction with Duke Street. However, they are not visually prominent from the appeal site given the bend in the road. Accordingly, the site has a closer relationship to the modest traditional character of its immediate context, than the area to the west along Victoria Road that is characterised by buildings with large massing.
10. Near the junction of Victoria Road and New Street lie buildings with a range of massing. The buildings that front the junction on the same side as the appeal site are generally two storeys and in keeping with the character of the area surrounding the site.
11. Chelmsford Police Station has a large massing that results in a monolithic appearance and also lies near this junction. Opposite the police station on New Street lies a magistrate's court that also has a large massing. However, these buildings are some distance from the appeal site and not visually prominent from the site such that the site has a closer relationship with its modest surroundings than the area beyond this junction.
12. A building of at least five storeys would be a minimum of three storeys taller than the buildings adjacent to the site. This would constitute an abrupt change in scale given

¹ Paragraph: 010 Reference ID: 26-010-20191001

the two and three storey buildings in the immediate vicinity. A building within the proposed height range would appear significantly taller than the adjacent buildings, resulting in an unacceptably discordant effect on the modest traditional character and appearance of the surrounding area. As such, whilst appearance, scale and layout are reserved for future consideration, a building of between five and twelve storeys would appear awkward in its context, and out of keeping with the traditional modest character of the street scene.

13. Given the width of the site, a proposed building of at least five storeys would have a smaller street frontage than the large buildings in the wider area that would result in a tall and narrow form. A tall and relatively narrow building at the site would appear discordant not only when viewed with the modest buildings immediately adjacent to the site, but also with the larger buildings in the wider area that have wide frontages. Therefore, although there are buildings such as the Amlin building with large massing in the wider area, the proposal would have a poor relationship with these buildings and have a discordant effect on the broader street scene.
14. Consequently, the proposed development would unacceptably harm the character and appearance of the area. Therefore, it would conflict with Policies DM23, DM24 and DM28 of the Chelmsford Local Plan 2013-2036 May 2020 (CLP) which seek, among other things, development that are compatible with the character and appearance of the area and tall buildings that reinforce the surrounding scale.

Setting of heritage assets

15. The Grade II listed 12 Cottage Place is located opposite the site and is known as Imperial House. It dates from the 18th century and is a two storey timber framed building. Accordingly, the significance of this building, insofar as it relates to this appeal, lies in the evidence of historic architecture with original features. Given the proximity of the site to this building, it lies within the setting of this heritage asset.
16. The existing building is around three storeys tall and in keeping in terms of scale with the surrounding buildings in the immediate vicinity including Imperial House. It therefore positively contributes to the setting of Imperial House. The proposal would be between five and twelve storeys tall and would therefore be significantly taller than the heritage asset, visually dominating it and harmfully eroding the modest traditional character of its setting. The scheme would therefore detract from the significance of this listed building.
17. The Wheatsheaf Public House (The Wheatsheaf) faces New Street and lies a short distance from the site. It is a Grade II listed building with 16th century origins and is also timber framed. Its significance lies in the evidence of historic architecture. The site can be seen in views with The Wheatsheaf from across the junction of Victoria Road and New Street. The site therefore lies within the setting of this listed building. The existing building is in keeping with the scale of the surrounding buildings, including those at the junction on the same side of New Street and adjacent to the listed building. It therefore provides a positive contribution to the modest traditional setting of The Wheatsheaf.
18. A proposed building of between five and twelve storeys in height would appear significantly taller than The Wheatsheaf as well as the buildings surrounding it. A building of between five and twelve storeys would dominate its surroundings and appear incongruous in the area. The dominating effect would be seen from the junction and would harm the setting of the listed building.

19. The magistrates court to the south of The Wheatsheaf is taller and modern in form compared with the listed building and lies opposite the police station. However, the police station is set back from the junction by a significant distance and the magistrates court building steps down in height such that their presence does not mitigate the dominating effect that the proposal would have on the setting of the listed building.
20. While I note the evidence regarding other developments being constructed near the listed buildings, further details of these schemes are not before me to enable a direct comparison to be made with this appeal.
21. Consequently, the proposed development would harm the setting of nearby heritage assets. The harm with respect to Imperial House would lie in the moderate range of the less than substantial harm spectrum given the proximity of the heritage asset to the site. Given the distance between The Wheatsheaf and the site, the harm in this respect would lie in the low end of the less than substantial harm spectrum.
22. Paragraph 215 of the Framework states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
23. Paragraph 212 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Accordingly, I attach great weight to the harm to significance of the heritage assets.
24. The scheme would contribute at least 35 dwellings to the local housing supply. There would be temporary economic benefits during the construction phase and future occupiers would contribute towards the local community. The proposal would utilise brownfield land within a settlement and would be sited close to the railway station and bus station. I attach great weight to these public benefits given the number of dwellings proposed.
25. Given the above, the public benefits do not outweigh the harm to the significance of the heritage assets. The proposal would therefore conflict with CLP Policy DM13 which requires, among other things, that development within the setting of a listed building would not adversely affect the significance of the listed building, including views to and from the building. The proposal would also fail to satisfy the requirements of the Act and the Framework.

Infrastructure, services and facilities

26. CLP Policy S9 states that new development must be supported by the provision of infrastructure, services and facilities that are identified as necessary to serve its needs. CLP Policy S10 states that infrastructure will be secured through the use of planning condition and/or planning obligation and/or financial contributions through the Community Infrastructure Levy or its successor.
27. The Appellant confirmed that 37% of the residential units, or any other amount that may be agreed at detailed planning stage, would be affordable housing, and details of proposed shared ownership details have been provided. No details of on-site provision of infrastructure, services and facilities such as local open space, natural open space, strategic open space and education (pupil place provision) are before

me. In any event, no planning obligation is before me to secure the provision of these matters.

28. The PPG² states that a positively worded condition which requires the applicant to enter into a planning obligation is unlikely to pass the test of enforceability. It goes on to say that a negatively worded condition limiting the development that can take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases. From the evidence, there are no exceptional circumstances that would justify a condition requiring a planning obligation being entered into.
29. The Chelmsford City Council Planning Obligations SPD January 2021 (Planning Obligations SPD) sets out the Council's approach towards seeking planning obligations which are needed to make the development proposals acceptable in planning terms. Although planning obligations may require provisions such as certain payments to be made at particular stages of a development, the Planning Obligations SPD does not confirm that it is not necessary for planning obligations to be entered into at outline application stage.
30. Consequently, the proposal would not secure the provision of appropriate infrastructure, services and facilities. Therefore, it would conflict with CLP Policies S9, S10 and DM2 which together seek, among other things, to secure infrastructure, services and facilities and affordable housing.

Habitats sites

31. The site lies within the Zone of Influence of Blackwater Estuary Special Protection Areas (BESPA) and RAMSAR sites. The proposal would increase the number of dwellings on the site and would be likely to result in additional recreational pressure on BESPA. Accordingly, the development would result in a likely significant effect on the integrity of BESPA either alone or in combination with other plans or projects. As such an Appropriate Assessment would be required.
32. The qualifying features of the BESPA include waterbird assemblage. The Essex Coast Recreational Disturbance Avoidance and Mitigation Strategy (RAMS) sets out the required financial contributions per additional dwelling and mitigation measures that would be funded. These include the provision of information and awareness raising, and fencing.
33. There is no planning obligation before me that would secure the mitigation measures against the likely significant effects of the proposal as detailed in the RAMS. A condition requiring the submission of a planning obligation in this respect would be unlikely to meet the test of enforceability.
34. Consequently, the proposal would harm the Blackwater Estuary Special Protection Areas (BESPA) and RAMSAR sites. Therefore, it would conflict with CLP Policy DM16 which states, among other things, that developments that are likely to have an adverse impact (either individually or in combination with other developments) on European Designated Sites must satisfy the requirements of the Habitats Regulations.

² Paragraph: 010 Reference ID: 21a-010-20190723

Trees

35. CLP Policy S2 addresses climate change and flood risk. The Planning Obligations SPD states that where practicable, all new housing development should seek to plant three trees per net new dwelling.
36. Given the site constraints, on-site tree planting would be limited. Accordingly, a condition relating to landscaping would not be effective. However, no planning obligation is before to secure off-site tree planting or financial contributions towards such planting. A condition requiring the submission of a planning obligation in this respect would be unlikely to meet the test of enforceability. Therefore, the proposal would conflict with CLP Policy S2.
37. Consequently, the proposal would not accord with the Council's development strategy for the provision of trees.

Planning Balance

38. The Council cannot demonstrate a five year supply of housing. However, as I have found that there would be harm to the significance of heritage assets that would not be outweighed by public benefits, the application of policies in the Framework relating to designated heritage assets provide a strong reason for refusing the development proposed. Therefore, the provisions of paragraph 11dii of the Framework are not engaged.
39. The proposal would contribute at least 35 dwellings to the local housing supply, would provide temporary economic benefits during the construction phase and future occupiers would contribute to the local community. The scheme would utilise brownfield land and would be sustainably located. I am also mindful of the Government's objective of significantly boosting the supply of homes. I attach great weight to these benefits.
40. Balanced against these benefits, the proposal would unacceptably harm the character and appearance of the area and would harm the significance of nearby heritage assets.
41. The Framework requires that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting, and states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design. I therefore attach very great weight to the conflict with the Framework and development plan policies in this respect.
42. As there are no planning obligations before me to secure the provisions relating to infrastructure, services and facilities, mitigation relating to BESPA and RAMSAR sites, and provision of trees, the proposal would also conflict with the development plan in these respects.
43. Accordingly, the benefits of the scheme as material considerations do not override the conflict with the development plan as a whole.

Other Matters

44. I note concerns regarding the service provided by the Council. However, I have necessarily determined the appeal based on its planning merits.

Conclusion

45. For the reasons given above, the proposal would conflict with the development plan as a whole and in the absence of material considerations to indicate otherwise, the appeal is dismissed.

R Sabu

INSPECTOR