

# Public Document Pack

**Southend-on-Sea Borough Council**

**Legal & Democratic Services**

**Strategic Director: John Williams**

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29 January 2021

Dear Councillor

## **DEVELOPMENT CONTROL COMMITTEE - WEDNESDAY, 3RD FEBRUARY, 2021**

I refer to the Agenda for the meeting of the Development Control Committee taking place on Wednesday, 3rd February, 2021. Unfortunately, the attached Appendix 1 to the report on Application No. 20/01759/FULM - Former Car Wash, 120 Broadway, Leigh on Sea (Agenda Item No. 5), has been included with the report regarding Application No. 20/00728/OUTM - The Old Vienna Restaurant, 162 Eastwood Road, Leigh on Sea (Agenda Item No. 4) in error. Please accept my apologies for this error and for any inconvenience and confusion caused.

Yours sincerely

Tim Row  
Principal Committee Officer

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## Appeal Decision

Hearing held on 26 November 2019

Site visit made on 26 November 2019

**by William Cooper BA (Hons) MA CMLI**

an Inspector appointed by the Secretary of State

Decision date: 14<sup>th</sup> February 2020

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**Appeal Ref: APP/D1590/W/19/3232683**  
**Car Wash, 120 Broadway, Leigh-on-Sea SS9 1AA**

- 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 Liam Panormo of Plaistow Broadway Filling Stations against the decision of Southend-on-Sea Borough Council.
- The application Ref: 18/01820/FULM, dated 25 September 2018, was refused by notice dated 4 April 2019.
- The development proposed is described as 'demolition of existing buildings and construction of 17 apartments, 272 sq.m of commercial floorspace, amenity space, landscaping, parking and associated works'.

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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Whilst the description in the banner heading above is taken from the application form, the description shown in the appeal form and decision notice is more precise, namely: to demolish existing buildings and erect a 5 storey building comprising of 17 self-contained flats with balconies and amenity space, 272 sq.m of commercial retail floorspace (Class A1) at ground floor level, layout landscaping, parking and instal vehicular access onto Victor Drive (Amended Proposal).

### Main Issue

3. The Unilateral Undertaking (UU) contains obligations for the following: financial contributions in respect of affordable housing and secondary education; provision of travel packs; alteration to the Traffic Regulation Order; and public realm works. In the light of the UU, the Council has stated that it no longer wishes to defend the second reason for refusal of the appeal scheme, which covered the following: lack of formal undertaking to secure an appropriate financial contribution to the provision of affordable housing and secondary education; and lack of acceptable servicing arrangements, with a proposed layby. I see no reason to take a different view on these matters and therefore do not consider them as main issues in this decision.
4. As such, the main issue is whether the proposed development would preserve the setting of the Leigh Cliff Conservation Area (CA) and the setting of the Grand Hotel locally listed building (LLB).

## Reasons

### *Setting of the CA and effect on the LLB*

5. The appeal site is located within a designated secondary shopping frontage, in the district centre of Leigh-on-Sea. It comprises a former hand carwash unit, surfaced forecourt and two-storey building. Some of the site's surroundings comprise residential development of various age and scale. In addition, Broadway high street with its shops, and the Grand Hotel LLB on the opposite side of Broadway, are located to the west. The five-storey Grand View apartment block at No 136 Broadway abuts the northern boundary of the site.
6. The site and the LLB are located near the fork-shaped intersection of Broadway as it bends to the north, the rising sweep of Grand Drive and Redcliff Drive. The location of the site and the LLB at this node contributes to their prominence. The site is situated close to the boundary of the CA.
7. The CA covers an area between Broadway and Cliff Parade in Leigh-on-Sea. The CA's significance derives from the following: its sea views are an essential element of the CA's setting, as described in the Leigh Cliff Conservation Area Appraisal (2010) (CAA), and it has a fine position towards the top of a hill slope, overlooking the Thames Estuary, as set out in the Council's Leigh Cliff Conservation Area Conservation Leaflet (CL); it is associated with Leigh-on-Sea's transition from village to larger urban area in the late 19th century; and it has typical late Victorian and Edwardian architecture.
8. Furthermore, as identified in the CL, aspects which contribute to the CA's interest include the Grand Hotel LLB. This is a late Victorian, four-storey red brick building, with decorative facades, distinctive shaped gables and large chimney stacks. The CL identifies the LLB as the most notable building in the townscape of the CA, on a prominent corner site. As described by the Inspector in the Grand Hotel appeal decision<sup>1</sup> in 2018, the Grand Hotel is the most significant landmark building in the CA. Construction work is under way on a mixed used leisure and residential scheme to rejuvenate the LLB.
9. Within the above context, the appeal site is part of the immediate setting of the CA, and the setting of the LLB within it. As I saw during my site visit, the site is part of the view which includes the terminating vista of the north-eastern end of the CA, as Broadway bends to the north. The appeal site also borders vistas of the principal southern elevation of the LLB, viewed from the Broadway bend at the north-eastern end of the CA, and from the sweep of Grand Drive as it rises up in a north-westerly direction to meet the boundary of the CA.
10. Furthermore, the space above the appeal site acts as the early part of a 'corridor of sight' (CoS) between the top two floors of the eastern elevation of the LLB and Thames Estuary. Given its proximity to the LLB, the part of the CoS which runs over the appeal site has potential to influence appreciation of sea views - which are identified in the CAA as an essential element of the setting of the CA - from the aforementioned most significant landmark building.
11. The appeal site is not especially picturesque 'on the ground', in its existing condition. Nevertheless, given its location, the site has an important influence on how the CA and LLB are experienced. Through the combination of above

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<sup>1</sup> Ref: APP/D1590/W/18/3192902.

- factors, the appeal site makes a positive contribution to the setting and thus significance of the CA and the LLB.
12. The proposed building would comprise commercial units with a recessed frontage at ground-floor level, and residential storeys above. The building's 'middle band', comprising its first and second-floor facades, would be brick-faced, above which the top two storeys would be somewhat set back, clad with frosted glass.
  13. I acknowledge the planning history of the site, including the refusal of planning permission for the following proposals in 2017 and 2018, for reasons other than character and appearance: a five-storey building with 20 flats and commercial floorspace<sup>2</sup> ('the 2016 scheme'); and a four-storey building of nine flats, with Class A1 commercial use of the ground floor<sup>3</sup>. The Planning Officer's Report on the 2016 scheme - compared to which the increase in the currently proposed building bulk would be relatively modest - considered that it would be a positive addition. The Planning Officer's Report on the current appeal proposal took the view that - given the building's scale, form, setbacks and materials - it would sit comfortably in the streetscene, and have an acceptable impact on the setting of the LLB and the CA.
  14. I also note the emphasis on the LLB's 'dominance' of space around it, in the 2007<sup>4</sup> appeal decision to allow a part two/part three/part five-storey building with 14 apartments on the No 136 Broadway site. Nevertheless, the current appeal proposal has greater proximity than the other site to the promontory node of Broadway and Grand Drive. It has its own circumstances and spatial and visual relationship to the LLB, and I assess it on this basis.
  15. The mass of the proposed block would limit some views of the characteristic chimney stacks within the roofscape of the LLB, on the approach to the top of Grand Drive. However, given the somewhat disparate architectural character of the upper end of Grand Drive, the red brick-faced middle band of the proposed building would have a framing effect on views of the Grand Hotel LLB, looking north-west up the top part of Grand Drive, and east, south and north along Broadway. The framing effect of the block's middle band would help to draw the eye to the red brick LLB within the visually busy urban streetscene, and counterbalance the loss of some views of the LLB's chimney stacks.
  16. I acknowledge that the proposal would step down from the five-storey Grand View block to the north. Furthermore, appropriate detailed design and signage for the ground floor shopfronts, and a landscape scheme could be secured by planning condition.
  17. However, notwithstanding the above and their setback position, the proposed fourth and fifth storeys, would - due to their combination of bulk, elevated position, angularity, and modernity - appear as visually jarring 'top boxes', which would noticeably contrast with the brick-faced, round-cornered, middle band of the proposed block, and the facades of the nearby LLB. Exterior frosted glass cladding would not prevent the combination of above factors drawing attention to the top storeys, and some reflectiveness would add to this harm.

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<sup>2</sup> Planning Application Ref: 16/01756/FULM.

<sup>3</sup> Planning Application Ref: 17/02146/FUL.

<sup>4</sup> Appeal Ref: APP/D1590/A/07/2042806.

- The above factors would, together, result in the building 'looming up' discordantly, when looking up Grand Drive and north-east along Broadway.
18. Moreover, the substantial horizontal built mass of the proposed top two storeys would block out spacious views over the local roofscape towards the sea from some windows on the eastern side of the second floor and attic level of the LLB. This would partially sever the visual connection between the LLB and Thames Estuary, including through erosion of picturesque views of the interplay between changing light, sky and sea along the horizon line. Consequently, the proposal would fail to preserve sea views from the LLB, which are important to how the CA is experienced from this landmark building, and contribute to a positive and defining element of the CA.
  19. The above factors, in combination, would, overall, result in the proposed building sitting uncomfortably within the streetscene, and distracting from and jarring with the heritage character of the CA and the LLB. Consequently, the proposed development would be detrimental to the setting of the CA, the setting of the LLB, and the view of the terminating vista towards the north-eastern end of Broadway within the CA.
  20. Having regard to National Planning Practice Guidance<sup>5</sup> (PPG), I turn to the question of the effect of the proposal on the LLB's ongoing conservation. The proprietors of the LLB are concerned that - due to loss of sea views - the proposed development would have a detrimental effect on the sale of converted apartments in the LLB, such as to 'significantly damage the prospects of the Grand Hotel being restored and brought back into sustainable use'.
  21. There would be some loss of sea views from some of the LLB's upper rooms on its eastern elevation. However, development of the LLB is substantially under way. Moreover, there is not substantive evidence before me that the above impact would outweigh the attractions of living in the apartments in the LLB, to an extent which would jeopardise the rejuvenation and ongoing conservation of the fabric of the Grand Hotel. The absence of harm in this respect is a neutral factor, which does not weigh in favour of the proposed development.
  22. Taking the above together, I find that the proposal would cause harm to the character and appearance of the area, undermining defining and distinctive characteristics of the CA. It would also fail to preserve elements of the CA's setting which make a positive contribution to how it is experienced. Furthermore, it would have a negative impact on the setting of the Grand Hotel LLB. I attach great weight and importance to this totality of harm.
  23. However, the effect of the proposal would be localised and therefore would lead to less than substantial harm to the significance of the setting of the CA. Given paragraph 195 of the National Planning Policy Framework (the Framework), it is necessary to weigh the harm that would arise to the heritage asset against the public benefits of the proposal.
  24. With regard to the above, the proposed development would 'tidy up' and bring the disused site into use, through supplementing and joining up the retail frontage on the approach to the CA, with associated employment. The proposal would provide 17 additional apartments on a brownfield site, and contribute to

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<sup>5</sup> Paragraph Reference ID: 18a-013-20190723.

affordable housing. This is within a context of a not insubstantial shortfall in the five year supply of deliverable housing sites in the Borough which, the documentary evidence before me indicates, is in the region of 2.5 to 3 years, without immediate prospect of the emerging South Essex Joint Strategic Plan changing this, given the latter's early stage of production. The proposed additional residential accommodation would also provide socio-economic benefit to the area during and after construction, including through New Homes Bonus and custom for local businesses and services.

25. Together the above would amount to a moderately substantial public benefit. Nevertheless, having regard to the great weight which I am required to give to the conservation of heritage assets by both statute and policy, I consider that the public benefit would be insufficient to outweigh the harm identified.
26. To conclude on this main issue, the proposal would fail to preserve the setting of the CA, or the setting of the LLB. It would therefore conflict with Policies KP2 and CP4 of the Southend-on-Sea Core Strategy (2007), and Policies DM1, DM3 and DM5 of the Southend-on-Sea Development Management Document (2015). It would also not accord with guidance in section 3.2 of the Southend-on-Sea Design and Townscape Guide (2009), which requires suitably scaled development to safeguard key vistas. The Policies together seek to ensure that development is of appropriate design and appearance to conserve or enhance the historic environment, and is sympathetic to local character.
27. Furthermore, the proposal would not accord with the approach of the Framework in respect of the desirability of sustaining and enhancing the significance of heritage assets, with great weight given to the asset's conservation.

### **Other Matters**

28. I appreciate that the Planning Officer's Report found insufficient harm in relation to the character and appearance effect on the setting of the CA and the LLB, to justify refusal of the proposed development. However, this does not alter my reasoning. In any case, Members reached a different conclusion.

### **Planning Balance and Conclusion**

29. As outlined above, there is a shortfall in the five year supply of deliverable housing sites in the Borough. However, the identified harm to the CA provides a clear reason for refusing the proposed development. As such, paragraph 11d)i of the Framework, and associated footnote 6, are engaged. Therefore the 'tilted balance', as set out by paragraph 11 of the Framework, does not apply.
30. Bringing matters together, I find that the proposal would harm the character and appearance of the area, and the significance of heritage assets. Paragraph 193 of the Framework establishes that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. As set out above, I have determined that the public benefits of the proposal are not sufficient to outweigh the less than substantial harm that would be caused to the significance of a designated heritage asset. Accordingly, I confirm that overall, the benefits of the proposal are insufficient to outweigh the totality of the harm that I have identified in relation to the main issue in this case.

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

*William Cooper*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANTS:

Jack Baron	DAP Architecture Ltd
Richard Bray	Arebray Ltd
Michael Calder	Phase 2 Planning
Jen Kedgley	Heritage Collective
Daniel Panormo	Plaistow Broadway Filling Stations
Liam Panormo	Plaistow Broadway Filling Stations
Samantha Stephenson	Phase 2 Planning

### FOR THE LOCAL PLANNING AUTHORITY:

Lois Curson	Southend-on-Sea Borough Council
Spyridon Mouratidis	Southend-on-Sea Borough Council
Janine Rowley	Southend-on-Sea Borough Council
Graeme Tidd	Southend-on-Sea Borough Council

### INTERESTED PARTIES:

Russell Forde	Smart Planning (on behalf of the Grand Hotel)
Jeanette Fozard	Local resident
Diane Upton	Local resident
David Wilson	Local resident

## **DOCUMENTS SUBMITTED AT THE HEARING**

1. Statement of Common Ground, signed and dated 26 November 2019.
2. Unilateral Undertaking, signed and dated 24 November 2019.
3. Drawing 1047.250.00 As Proposed Fourth Floor Comparison Plan (Appellant).
4. Application of proposed formula for assessing housing need, with contextual data (Appellant).
5. Calculating the Five Year Land Supply Requirement based on 2019.
6. Five Year Requirement Summary Table (Appellant).
7. Drawings 1622 - 05L Proposed Elevations Sheet 1 and 1622 - 06H (The Grand Hotel).