

Appeal Decision

Hearing held on 11 October 2016

Site visit made on 11 October 2016

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8th November 2016

Appeal Ref: APP/D1590/W/16/3149155

30-32 The Leas, Westcliff on Sea, Essex SS0 8JB

- 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 Elmore Homes Ltd against the decision of Southend-on-Sea Borough Council.
 - The application Ref 15/01492/FUL, dated 26 August 2015, was refused by notice dated 12 November 2015.
 - The development proposed is demolish completely all buildings conserving recyclable materials, excavate part site for low ground level/access ramps. Erect part 2/3/4/5 storey building for 8No. 2 bedroom apartments and 1No. 3 bedroom penthouse, including balconies, refuse and cycle storage. Lay out car parking, landscaping, walling and fencing. Remove existing crossovers, form new crossovers and driveway.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would preserve or enhance the character or appearance of the Crowstone Conservation Area.

Reasons

3. The appeal site is a pair of semi-detached properties and a detached dwelling which form part of the Westcliff-on-Sea Seafront. The buildings nearby are a mixture of traditional Edwardian properties and modern houses and apartments which look out over the sea.
 4. The proposed development would be within the Crowstone Conservation Area (CA). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, paragraph 132 of the National Planning Policy Framework (the Framework) makes clear that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
 5. I acknowledge that the Council have previously taken steps to de-designate the CA. I have also considered the appellant's evidence with regard to the overall significance of the CA and the buildings which are included within it. However, the fact remains that the CA was not de-designated and is a designated heritage asset. Furthermore, the Crowstone Conservation Area Appraisal
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(2009) (CCAA) has since been adopted by the Council. There is nothing before me to indicate the CCAA was not prepared by people with appropriate expertise and following the correct procedures. Thus, consistent with the Inspector's findings in the appeal decisions¹ relating to Crowstone House, I attach significant weight to the CCAA as the Council's most up to date position with regards to the significance of the CA.

6. The CCAA notes that the CA consists of a group of buildings located either side of the junction of Crowstone Avenue and Chalkwell Esplanade and sits alongside The Leas Conservation Area. It identifies Crowstone House, a locally listed building, as the defining feature of the CA, noting its exuberant neo-baroque corner tower. The CCAA also notes the significance of the other remaining original buildings, including Nos 30-32 The Leas (Nos 30-32) as part of the historic character of the Seafront and as buildings which are complimentary in character to Crowstone House.
7. Policy DM6 of the Southend-on-Sea Development Management Document (2015) (DMD)² sets out a range of criteria to be applied to new development in the Seafront area. It states existing buildings along the Seafront that form a cohesive frontage, have a historic context or are recognised as key landmarks and/or contribute to a distinctive Southend³ sense of place will be retained and protected from development that would adversely affect their character, appearance, setting and the importance of the Seafront. Furthermore, it states new development must accord with development principles which include resisting inappropriate development fronting the Seafront to ensure that established Seafront architectural style and form is maintained.
8. I acknowledge that No 30 The Leas is of a lesser architectural quality than Nos 31 and 32 The Leas. However, all three properties have attractive traditional characteristics including red brickwork, clay roof tiles, asymmetrical roof form, decorative gables, bay windows and relatively grand entrances. Even though they are vacant and in relatively poor condition, it is clear to me that all three are historic buildings which contribute to the historic character of the Seafront and the significance of the CA.
9. It has been put to me that Nos 30-32 are beyond viable economic repair. I was told that when the appellant acquired Nos 30-32 they were occupied, albeit they did not provide a standard of accommodation which the appellant deemed to be acceptable. Paragraph 130 of the Framework states that where there is evidence of deliberate neglect of a heritage asset the deteriorated state of the heritage asset should not be taken into account in any decision.
10. There are other buildings along the Seafront of a similar age and construction to Nos 30-32 which are exposed to the same weather conditions, in use and in relatively good condition. Based on the evidence before me, it seems to me that the condition of Nos 30-32 is the result of a lack of appropriate maintenance over a considerable period of time. I have therefore attached little weight to the current condition of Nos 30-32.
11. I acknowledge the existing traditional buildings occupy narrower plots and have more of a vertical emphasis than the modern buildings nearby on wider plots.

¹ APP/D1590/A/09/2110678 & APP/D1590/E/09/2110683

² Although not referenced on the Council's decision notice this policy was discussed at the Hearing.

³ Policy applies to all seafronts in the Borough.

However, modern buildings with a horizontal emphasis are a common characteristic of the Seafront and the CA and on my site visit, I noted some modern developments that in my view have been successful and others less so.

12. I am told that the proposed development has taken reference from Chapman Sands. I find no reason to disagree with the appellant in that Chapman Sands is a successful modern development in its location. However, Chapman Sands is not within the CA and is some distance along the Seafront to the west and its context is not therefore comparable to the appeal site.
13. The proposed apartment block, would be significantly taller and wider than the traditional buildings it would replace. I note that the proposed building would be set in from the boundaries on both sides and the front and side elevations would have variations in depth. However, although stepped the proposal would be significantly taller than the flat roof of No 29 The Leas. Furthermore a significant part of the proposed building including the proposed turret detail would sit forward of the front elevations of the neighbouring buildings on either side.
14. I acknowledge that other modern buildings⁴ nearby are of a comparable or larger scale and are taller than the proposed apartment block. However, I find the proposed development would be highly prominent in the street scene particularly when approaching from the east where the proposed forward projection and turret would partly restrict views of Crowstone House and its corner turret. Furthermore, the proposed roof rising significantly above the roof line of No 29 The Leas would dominate the skyline of the CA, again particularly when approaching from the east.
15. Therefore, through its prominence, scale and positioning, the proposed building in place of the modest traditional buildings which compliment Crowstone House, would be a dominant feature of the CA which would detract from the setting of Crowstone House and thus the overall significance of the CA.
16. For these reasons, the proposal would fail to preserve the character and appearance of the CA, contrary to the provisions of the respective sections of the Act. Moreover, the proposal would also fail to accord with paragraph 132 of the Framework, which attaches great to the conservation of designated heritage assets and their setting.
17. For the same reasons the proposed development is therefore in conflict with the statutory requirements, the development plan and the design aims of Supplementary Planning Document 1: Design and Townscape Guide (2009) and the Framework. It would specifically conflict with development plan Policies KP1, KP2 and CP4 of the Southend-on-Sea Core Strategy (2007) and Policies DM1, DM5 and DM6 of the DMD. These Policies, taken together, aim to ensure good design and that new development does not harm designated heritage assets or the historic Seafront.
18. That said, in the context of the significance of the heritage assets as a whole, Crowstone House is a substantial property of some prominence. Furthermore, No 7 Chalkwell Espalande and No 33 The Leas are reasonably sized properties which have attractive traditional features. Therefore, due to the historic buildings that would remain, in my view, the historical significance of the CA as

⁴ Hamilton Grange, Admirals Court and Nirvana/The Shore

a designated heritage asset would also remain. Thus, I would calibrate the harm arising from the proposed development, in accordance with paragraphs 133 and 134 of the Framework, as less than substantial. In these circumstances, the Framework requires the degree of harm to be balanced against any public benefits the development may bring.

19. There would indeed be some benefits, such as nine more dwellings, albeit a net increase of two, thus contributing to housing supply in the Borough. The occupants might work locally and support local services and there may also be employment opportunities associated with building the properties. The proposal would also represent the redevelopment of previously developed land. However, these benefits, though they may be accepted as public, are modest, and do not outweigh the harm identified to the designated heritage asset. Nor would they outweigh the conflict of the proposals with the provisions of the respective sections of the Act requiring that special regard and attention being given to the desirability of the preservation of the CA, which, the Courts advise, should be accorded considerable importance and weight.

Other Matters

20. I note the appellant's comments with regard to whether the Council is able to demonstrate a five year supply of deliverable housing land in accordance with paragraph 49 of the Framework and I have considered the committee report⁵ for another site in the Borough. However, even if the Council cannot demonstrate a five year supply, I have found the proposal would be harmful to a designated heritage asset. Thus, footnote 9 of the Framework indicates that development should be restricted and this harm significantly and demonstrably outweighs the very limited benefit of the additional housing provided.
21. I have also considered the appellant's comments with regard to the market demand for the type of accommodation proposed. However, there is no substantive evidence before me to suggest that the type of accommodation proposed would meet the housing needs of the area. Thus, I have afforded this matter limited weight.
22. I also note the site is identified in the Council's Strategic Housing Land Availability Assessment (SHLAA). However, the SHLAA is a relatively high level technical document which evidences land supply. On the basis of the detailed information before me, I have found that the proposed development would be harmful to the character and appearance of the CA.

Conclusion

23. For the reasons given above, and with regard to all other matters, I conclude that the appeal should be dismissed.

L Fleming

INSPECTOR

⁵ Council Reference 15/01844/OUTM

APPEARANCES

FOR THE APPELLANT

Tony Bowhill	Planning Consultant
Jonathon Edis	Heritage Consultant
Nicholas Elmore (Elmore Homes Ltd)	Appellant
Patrick Elmore (Elmore Homes Ltd)	Appellant
Peter Millard	Surveyor
John Sime	Structural Engineer

FOR THE COUNCIL

Abbie Greenwood	Senior Planner (Design and Conservation)
Janine Rowley	Senior Planner (Development Control)

INTERESTED PERSONS OBJECTING TO THE DEVELOPMENT

Richard Mangham
George Hughes
Laurence Deacon
Paula Deacon

DOCUMENTS

- 1 Final Signed Statement of Common Ground
- 2 The Council's letter notifying interested parties of the hearing