

Appeal Decision

Site visit made on 13 June 2016

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 14 July 2016

Appeal Ref: APP/X1735/W/16/3144551
2 & 4 East Pallant, Havant PO9 1EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Mr Jason Bradwell against the decision of Havant Borough Council.
 - The application Ref APP/15/01276, dated 12 November 2015, was refused by notice dated 14 January 2016.
 - The application sought planning permission for the demolition of existing centre and construction of 1No pair of semi-detached 3 bedroom houses without complying with conditions attached to planning permission Ref 05/65703/005, dated 8 September 2005
 - The conditions in dispute are Nos 7 and 8 which state that:
 - "7. The dwellings shall not be occupied until the parking and turning area and the access has been constructed in accordance with the approved plan and surfaced in materials approved in accordance with Condition 6. The parking and turning area shall thereafter be retained."
 - "8. The soft landscaped areas created in accordance with Condition 6 shall be retained as landscaped areas thereafter and shall not be used for the parking of vehicles."
 - The reasons given for the conditions are:
 - "(7) In the interests of the amenities of the locality."
 - "(8) In the interests of the amenities of the locality."
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing centre and construction of 1No pair of semi-detached 3 bedroom houses at British Red Cross Society, East Pallant, Havant, PO9 1EA in accordance with the application Ref APP/15/01276 dated 12 November 2015 subject to the following conditions:
 - 1) The development shall be carried out in accordance with the following approved plans: Site Location Plan, Existing Site Plan, Proposed Site Plan, Proposed Front Elevation (Drg No 1), Proposed Side Elevation (Drg No 2), Parking Overlays.
 - 2) Prior to the implementation of the revised parking layout, details of the vehicular access, including modification of the existing vehicular crossing and visibility splays, shall have been submitted to and approved in writing by the Local Planning Authority. The approved vehicular access shall be constructed as approved and permanently retained thereafter.
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- 3) The railings on the eastern boundary of the site shall be retained in perpetuity.
- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows shall be constructed at first floor level or above in the side (east and west) elevations of the building.

Preliminary Matter

2. It is clear from the details before me that this appeal concerns 2 and 4 East Pallant. I have therefore included both properties as the site address in the banner heading above. However, in my formal decision, I have used the address given on the permission which this appeal seeks to vary, in the interests of continuity.

Main Issue

3. The appeal site currently comprises two semi-detached dwellings which were granted planning permission under ref 05/65703/005. Conditions 7 and 8 of this permission required the retention of the approved parking and turning area, and soft landscaping to the front of the dwellings.
4. The main issue is whether the variation or removal of conditions 7 and 8 to allow a reconfigured parking layout would preserve or enhance the character or appearance of the St Faiths Conservation Area.

Reasons

5. The St Faiths Conservation Area (CA) surrounds St Faiths Church and includes the older parts of Havant town centre and surrounding residential areas. The pair of semi-detached dwellings which form the basis of this appeal are located in a predominantly residential part of the CA. This area comprises a number of traditional properties which display a wide variety of designs and detailing, and these make a significant contribution to the character and appearance of the CA.
6. Although located close to the town centre and in a relatively dense residential area, the appeal properties occupy a visually isolated position. They are the only properties which face onto this section of East Pallant, which is a narrow and one-way street linking Beechworth Road and Fairfield Road. To the front of the properties, on the other side of the road, is a high wall beyond which is a car park. Long views of the site along East Pallant are largely obscured by landscaping and high boundary treatments belonging to properties in the other roads. Clear views of the appeal site are therefore only possible when passing directly in front of it. The dwellings themselves are a relatively recent addition to the area. Overall, therefore, the appeal site makes a neutral contribution to the character and appearance of the CA.
7. The pair of semi-detached dwellings were approved with a communal parking and turning area, containing three parking spaces, to the front of the properties, and a triangular shaped area of landscaping. The parking and turning area, and the area of landscaping, were conditioned to be retained under conditions 7 and 8 of permission 05/65703/005. The appeal seeks to vary or remove these conditions to allow the reconfiguration of the frontage to

- provide four parking spaces; two per dwelling, to be separated by 1.8m high brickwork and railings.
8. The site already has a substantial amount of hard standing across the frontage for parking. Nevertheless, the dwellings remain the main focus and the raised brick planters to the front of these provide interest. The plans show that these would be retained. The proposed parking layout would result in the loss of the triangular area of landscaping to the front. However, this area is planted mainly with bamboo which does not make a significant contribution to the appearance of the CA.
 9. Concern is also raised with respect to the loss of the short section of front brick piers and railings across the front boundary. The Council argue that this would lead to a loss of enclosure to the street and reduction in screening. Given the limited views of the site and its position I do not consider that such a change would be harmful to the character and appearance of the CA.
 10. In addition to the above, this section of East Pallant is currently quite enclosed with high brick walls on both sides, and few properties fronting onto it. It appeared to be relatively well used by pedestrians at the time of my site visit, which was on a weekday close to the end of school. Opening up the frontage of the properties would have an added benefit of increasing the level of passive surveillance here, which would, in my opinion, increase the perception of safety along this narrow enclosed street.
 11. The proposed layout shows two replacement trees are to be provided. I agree with the Council's Conservation Officer that the small beds proposed to plant these in are unrealistic for trees to thrive in. Nevertheless, I do not consider it necessary for two replacement trees to be planted in order to preserve the character and appearance of the CA, given the existing conditions described above.
 12. I note the Council's Highway Officer is satisfied that the proposed layout would work, and raises no concern with respect to vehicles reversing onto the road given the one-way system and the slow speeds along this section of East Pallant, and I find no reason to conclude otherwise. I am also mindful that the proposal would provide additional parking for the occupants of 2 and 4 East Pallant which would reduce pressure on parking in the surrounding area which is somewhat restricted.
 13. I therefore conclude that conditions 7 and 8 are not necessary and can be removed to allow a reconfigured parking layout, and that this would preserve the character and appearance of the St Faiths Conservation Area. As such I find no conflict with Policies CS11.4 and CS16.1(a) of the Havant Borough Core Strategy (2011) which, amongst other things, seek to protect the borough's heritage designations by ensuring development responds positively to existing features of historic character. Similarly, I find no conflict with the National Planning Policy Framework which also seeks to conserve heritage assets.
 14. I note the Council's desire to not just protect the CA but, as per Policy CS11.4, to, where appropriate, enhance conservation areas. Given the very specific siting of the appeal site in relation to the CA I do not consider this to be appropriate in this case. In any event, in terms of the statutory test, the courts have held that the objective of preservation can be achieved by development which has a positive contribution, or which leaves the character

and/or appearance unharmed. For the reasons I have given I find that the latter is met in this instance.

Conditions

15. In light of my findings I have removed conditions 7 and 8 of permission 05/65703/005. It is, however, necessary to condition the parking layout plans before me for the avoidance of doubt and in the interests of proper planning. As suggested by the Council's Highway Officer I have also included a condition requiring submission of access details in the interest of highway safety.
16. The Council have suggested a standard time limit condition. However none was attached to the original permission, and there is no reason to include such a condition on this permission. A condition requiring the submission of details relating to the trees shown on the proposed parking layout has also been suggested. However, as set out above, I do not consider the planting of trees in the small landscaped areas proposed to be necessary.
17. The guidance in Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should also repeat the relevant conditions from the original planning permission, unless they have already been discharged. As I have no information before me about the status of the other conditions imposed on the original planning permission, I shall reapply and modify, where necessary, those that remain relevant. In the event that some have, in fact, been discharged, that is a matter which can be addressed by the parties.

Conclusion

18. For the reasons given above I conclude that this appeal should succeed. I therefore allow the appeal subject to conditions.

Hayley Butcher

INSPECTOR