



Appeal Decisions

Site visit made on 20 November 2012

by Ron Boyd BSc (Hons) MICE

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

Decision date: 21 January 2013

Appeal A Ref: APP/Z1510/A/12/2178860
Rear of 3 Market Hill, Halstead, Essex CO9 2DA

- 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 A. Hunter-Blair against the decision of Braintree District Council.
 - The application Ref 12/00167/FUL, dated 3 February 2012, was refused by notice dated 2 April 2012.
 - The development proposed is described as applications for Full Planning Permission for the conversion of former workshop to a single dwelling and Listed building Consent for internal and external alterations.
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Appeal B Ref: APP/Z1510/A/12/2178872
Rear of 3 Market Hill, Halstead, Essex CO9 2DA

- 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 Mr A. Hunter-Blair against the decision of Braintree District Council.
 - The application Ref 12/00169/FUL, dated 3 February 2012, was refused by notice dated 2 April 2012.
 - The development proposed is described as applications for Conservation Area Consent for the demolition of existing shed and Full Planning Permission for the erection of a detached dwelling.
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Decisions

1. Appeal A: The appeal is allowed and planning permission is granted for the conversion of former workshop to a single dwelling at the Rear of 3 Market Hill, Halstead, Essex CO9 2DA in accordance with the terms of the application, Ref 12/00167/FUL, dated 3 February 2012, subject to the conditions on the attached schedule.
2. Appeal B: The appeal is dismissed.

Procedural matters

3. The Council's Appeal Statement in respect of Appeal A confirms that Listed Building Consent (Ref 12/00168/LBC) has been granted for the proposed works to the existing building. The Council's Appeal Statement in respect of Appeal B confirms that Conservation Area Consent (Ref 12/00170/CON) has been granted for the demolition of the existing shed.

Main issues

4. For each appeal I consider these to be:

- the effect that traffic generated by the proposed development would have on highway and pedestrian safety within and adjacent to the site, and along Head Street, in respect of the use of the access to the site having regard to its width and the available visibility at its junction with Head Street;
- the effect that the proposed off-street parking arrangements would have on highway and pedestrian safety within and adjacent to the site, and along Head Street; and
- whether the proposal would make appropriate provision to secure the provision or enhancement of open space within the vicinity of the site.

Reasons

5. Both sites are contained within an area of land (the yard) set to the rear of, and largely enclosed by, commercial and residential properties in Head Street and Market Hill. The area lies within the Halstead Town Centre Conservation Area which is characterised by historic properties. Appeal site A contains a vacant building described on the application as a workshop, located to the rear of Nos. 1-3 Head Street, and which is the subject of the proposed conversion to a two-storey, two-bedroom, dwelling. Appeal site B contains a dilapidated, vacant single-storey building (the shed) adjacent to the north-west boundary of the site; a small garden area to the north-east of the shed; and a small, similarly dilapidated, lean-to adjacent to the south-east site boundary and attached to the neighbouring property, Head Street Studio. The proposal is to demolish the shed and the lean-to and erect a two-storey three-bedroom dwelling.
6. Both sites also contain a common area of the yard including a passageway bounded by No. 3 Head Street and The Barn to the south west, and by Nos. 5 and 7 Head Street to the north east, and over which the appellant has rights of access. This provides the sole vehicular access between Head Street and the yard.
7. Both proposals lie within the Town Development Boundary where the principle of residential development is accepted subject to policy requirements in respect of design, highway, and environmental criteria and effect upon existing character and living conditions. Issues in respect of use of the access and provision of open space are common to both appeals.

Appeals A and B

Highway and pedestrian safety relating to use of the access

8. The Council's concern is that the proposals would intensify vehicular use of the access passage to Head Street which is not wide enough for two cars to pass. The Council considers visibility, where the access joins Head Street, to be insufficient, particularly towards the south-west. Head Street is part of the A131, a County Strategic Route running through the centre of Halstead and forming the High Street to the south west of Market Hill. The appeal site access joins the north-west side of the short length of Head Street between its mini-roundabout junctions with Market Hill to the south west and Colchester Road to the north east.
9. This length of Head Street has a footway along the north-west side serving commercial establishments in historic properties. St Andrews Church and a

small green abut the south-east side. It is subject to a 30 mph speed limit. The appellant's speed survey assesses an 85th percentile speed of 21.4 mph for the north-east bound traffic. My own observation of the traffic flow, which is slowed down by the two relatively close mini-roundabouts and a slight upgrade to the north-east, gives me no reason to doubt this. I note the Council's argument that stopping site distances and thus visibility splays for the access should be assessed on the basis of the Highways Agency's Design Manual for Roads and Bridges, the design standard for Trunk Roads and Motorways. However, this section of Head Street, which is in effect an extension of the High Street, clearly has a significant place function as well as a movement function. In view of the low traffic speeds I consider the advice in Manual for Streets 2 (MfS2) to be relevant.

10. The Highway Authority (HA), whilst pointing out that it is not able to verify the accuracy of the speed survey, calculates that a visibility splay of 27m to the south west would be required to comply with MfS2. MfS2 allows an x distance of 2m in slow speed situations where flows on the access are low, which I consider applies in this case. MfS2 also advises that the length of a visibility splay is more accurately assessed by measuring to the nearside edge of the vehicle track rather than simply to the kerb line. On such a basis I am satisfied that a visibility splay to the south west of around 27m is available for vehicles exiting the access. Visibility to the north east is significantly greater. In the light of the above I conclude that the available visibility splays are acceptable in context and satisfy the requirements of MfS2.
11. No verifiable details of traffic movements relating to either of the two existing buildings' previous uses in connection with No.3 Market Hill whether directly related to storage facility or to the use of the parking spaces by employees, customers or others, have been submitted. Whilst I note the Trics based assessment, put forward by the appellant, I place little weight on its conclusions as a realistic comparison of trip generation between existing permitted and the proposed uses other than that the number of trips for either use is likely to be small. The HA has not disputed the trip generation assumed for the proposed residential developments. However, notwithstanding the proximity to the town centre there is clearly the potential for residential trips to take place day and evening seven days a week. Nevertheless, I consider that the extent of additional traffic movements to and from the proposed two small residential developments, compared with those likely from any permitted alternative uses of the existing buildings and parking spaces, would not be such as to lead to any material deterioration in highway safety.
12. The HA confirms that its accident data shows no accidents at the access itself. I observed two vehicles emerging from the access in mid afternoon with the sort of considerate approach that has no doubt contributed to such a record. The narrowness of the access encourages the slow passage of vehicles using it to the benefit of pedestrians, whether sharing the access or on the footway, alongside Head Street, which in the vicinity of the access is over 2m wide. I note the concern about two vehicles meeting on the access. As I experienced at my site visit in such circumstances it is straightforward for an emerging vehicle to reverse back into the yard to the Head Street Studio thus avoiding any need for an entering vehicle having to reverse into the highway. Whilst this may not always be the case my observations give me no reason to suppose other than that it would generally be possible.

13. In the light of the above I conclude that the access is capable of accommodating the level of additional traffic likely to result from the two residential developments proposed, without unacceptably impacting upon highway or pedestrian safety. In this particular respect the proposals would not be in conflict with Policies RLP 3 and RLP 10 of the Braintree District Local Plan Review Adopted July 2005 (the Local Plan).

Open space

14. The appellant has submitted signed and dated certified copies of Unilateral Undertakings in respect of both appeals. Under their terms, should the relevant developments proceed, the appellant would pay, in respect of each development prior to commencement, a specified contribution towards Public Open Space within the Ward or catchment area of the development. The Council's Green Space Strategy highlights the deficiency of open space within the Halstead Urban Sub-Area and identifies projects within the St Andrews Ward which the contributions would facilitate. I am satisfied that the Undertakings satisfy the requirements of paragraph 122 (2) of the CIL Regulations 2010 and have taken them into account in my determination of the appeals. I conclude that each proposal would make appropriate provision to secure the provision or enhancement of open space within the vicinity of the site in accordance with the relevant development plan policies.

Appeal A only

15. The Council has no objection in principle to the proposal. In addition it considers that in view of the minor nature of the proposed exterior alterations there would, subject to appropriate conditions, be no adverse impact upon the character or appearance of the building itself or its surroundings. Nor would the use of the existing window in the north-east gable of the building, to serve the proposed second bedroom, generate unacceptable overlooking towards the neighbouring residence of The Barn. I agree with the Council's assessment and conclude that in the above respects the proposal would, as a result of there being no significant material change, preserve the character and appearance of the Conservation Area and have no unacceptable effect upon the living conditions of neighbouring residents.

Parking

16. In respect of parking provision an area sufficient to accommodate the tandem parking of two cars would be available alongside the front (north-west) elevation of the building but with no additional space for visitors. The Council considers this to be adequate off-street parking provision for the proposed dwelling and that sufficient space would be retained for other vehicles to pass through the yard as they do now. I agree, and consider the context of the immediate area and the proximity of town centre parking provision to be material considerations which outweigh the requirements of Local Plan Policy RLP 56 in respect of bay size and provision of visitor parking, in accordance with the Council's adopted standards, in this particular case.
17. However, the Council considers that allocation of these two parking spaces to the proposed dwelling would result in the loss of two parking spaces otherwise available for the retail premises at 3 Market Hill, resulting in insufficient parking provision for those premises. The appeal building was previously used for storage in connection with No.3, which is also owned by the appellant, but the

Grounds of Appeal Statement, June 2012, advises that such use ceased two years ago. No evidence that the tandem parking space is currently used by, or required for, No. 3 Market Hill, or should be made available to anyone else, has been put forward. I note that as at 31 October 2012 the ground floor of 3 Market Hill was in the process of being leased for retail purposes with no rights in respect of the appeal building. The Council confirms that its parking standards for retail use are maximum figures.

18. No evidence has been put forward to suggest that were the appeal to fail the appellant would be obliged to allocate the tandem parking area adjacent to the appeal building to No. 3 Market Hill or to anyone else wishing to park in the yard. The appellant has indicated that in the event of the appeal failing the building would be advertised as an independent storage unit with associated parking in accordance with its current (Class B8 use) rights.
19. I conclude that there is no reason to suppose that the use of the tandem parking space by the proposed dwelling would be harmful to the present parking situation by removing two parking spaces either required by No.3 Market Hill or which should be made available to any other present users of the yard. Nor that the proposal would lead to additional pressure to park within the application site or be prejudicial to highway or pedestrian safety within and adjacent to the site, or along Head Street. I consider the proposal to accord with the requirements of Local Plan Policies RLP 3 and RLP 10 in these respects.

Conclusion and conditions

20. I have taken into account all the other matters raised in the evidence, including the concerns of the occupants of neighbouring properties regarding use of the access and in particular its use during construction. However, neither these, nor any of the matters raised, are sufficient to outweigh my conclusions on the main issues which have led to my decision on this appeal. For the reasons given above I conclude that the appeal should succeed.
21. I have considered the conditions suggested by the Council in the light of the advice in Circular 11/95. I consider the conditions in the attached schedule to be reasonable and necessary – these deal with: resource efficiency; recycling and refuse facilities; external lighting; provision of a construction method statement including working times; and car parking. They are in the interests of sustainability, the living conditions of neighbours and highway safety. There is also a requirement that, other than as set out in this decision and conditions, the development should be carried out in accordance with the approved plan, for the avoidance of doubt and in the interests of proper planning.
22. In addition the permission is also subject to the conditions attached to Listed Building Consent 12/00168/LBC.

Appeal B only

23. The Council has no objection in principle to the proposed new dwelling, finds the design acceptable in the context of the site and considers there would be no adverse impact upon the character or appearance of the surrounding area or upon the living conditions of occupants of neighbouring properties through loss of privacy or overlooking. I agree with the Council's assessment in the

above respects, and consider there would be no adverse effect upon the setting of the nearby listed building. I conclude that in view of the compatibility of the design with its surroundings and its particular location, the proposal would preserve the character and appearance of the Conservation Area by leaving it unharmed.

Parking

24. The site contains four parking spaces all of which are under the control of the appellant and lie adjacent to the shed, two in front of the shed's south-eastern elevation and two against the south-western elevation. In the Grounds of Appeal Statement dated June 2012 the appellant advised that two served the shed itself and the building to the south west of the shed (Building B on the submitted plans – also owned by the appellant) and two served the commercial use operating on the ground floor of 3 Market Hill. Under the proposals the two in front of the south-eastern elevation would disappear, one under the proposed dwelling itself, the other to act as a turning head.
25. The two against the south-western elevation would be used by the new dwelling. Bay sizes meeting the Council's minimum size requirements would be met but no visitor parking would be provided. In the context of the site's proximity to town centre parking provision the Council considers such an omission acceptable and I agree.
26. The proposal would result in the loss of two parking spaces which were formerly allocated to 3 Market Hill. The appellant has explained that as at 31 October 2012 the ground floor of 3 Market Hill was in the process of being leased for retail purposes with no rights in respect of the appeal building. However, it is clear that some parking and storage facilities would still be required in connection with the commercial operation at 3 Market Hill. The effect of the proposed development would be that such facilities would be relocated to building B as shown on submitted Plan No. PAS/H-BLA/06/A. This would be the only provision of parking and storage in the yard allocated to the ground floor of 3 Market Hill.
27. In respect of Appeal A it is clear from the submitted plans that the provision of the tandem parking area to serve the proposed converted workshop would not unacceptably affect vehicle manoeuvring within the yard. However, in the case of Appeal B it has not been demonstrated how, with the existing parking spaces adjacent to the shed and serving 3 Market Hill no longer available; and those parking spaces serving both the two proposed dwellings (Appeals A and B) and the upstairs flat in 3 Market Hill occupied by residents' vehicles; a vehicle parking in Building B could then manoeuvre to leave the site in forward gear. Or how a commercial vehicle using the storage facility in building B could allow passage of residents' vehicles to and from the new dwelling proposed in Appeal B.
28. In this light I conclude the proposed development would be likely to have an adverse effect upon the safety of vehicle manoeuvring within the yard to the detriment of the safety of both drivers and pedestrians within the yard and highway safety in respect of the potential effect upon use of the access. In view of this harm the proposal would conflict with the requirements of Local Plan Policies RLP 3 and RLP 10 in respect of the above aspects. The Policies are consistent with the planning principles of the Government's National Planning Policy Framework.

Conclusion

29. I have taken into account all the other matters raised in the evidence, including the provision of outside amenity space and the sustainable location as well as that the development plan requirements in respect of the provision of open space would be met. However, neither these, nor any of the matters raised, are sufficient to outweigh my conclusion above in respect of the effect the proposal would have on vehicle manoeuvring within and adjacent to the site, and the consequent safety implications, which has led to my decision on this appeal. For the reasons given above I conclude that that the appeal should fail.

R.T.Boyd

Inspector

Appeal A – Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with approved plan PAS/H-BLA/07.
- 3) The development hereby permitted shall not be occupied until the car parking area for Building A as indicated on submitted plan PAS/H-BLA/06/A has been hard surfaced, sealed and marked out in parking bays. The car parking area shall be retained in this form at all times and shall not be used for any purpose other than the parking of vehicles that are related to the use of the development.
- 4) No development shall take place until a scheme including an implementation timetable for the following has been submitted to and approved in writing by the local Planning authority:-
 - water efficiency, resource efficiency, energy efficiency and recycling measures during construction;
 - measures to secure water conservation, recycling of rain water, sustainable drainage and other devices to ensure the more efficient use of water within the completed development;
 - measures for the long term energy efficiency of the building and renewable energy resources;
 - details of the location and design of refuse bin and recycling materials, storage areas (for internal and external separation) and collection points; and details of any proposed external lighting to the site.

The development shall be constructed in accordance with the approved details and thereafter so maintained.

- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall include for:
 - i) the permitted hours of working;
 - ii) the hours during which construction materials shall be delivered to or removed from the site, the type and size of vehicles to be used, the number of such vehicles permitted on the site at any one time, and details of means to ensure such number is not exceeded;
 - iii) the parking of vehicles of site operatives and visitors;
 - iv) loading and unloading of plant and materials;
 - v) storage of plant and materials used in constructing the development;
 - vi) the erection and maintenance of security hoarding;
 - vii) wheel washing facilities;
 - viii) measures to control the emission of dust and dirt during construction; and
 - ix) a scheme for recycling/disposing of waste resulting from demolition and construction works.
