



Appeal Decisions

Site visit made on 18 June 2013

by Ava Wood Dip Arch MRTPI

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

Decision date: 4 July 2013

Appeal A: APP/D3505/E/12/2184328
9 Mill Street, Nayland, Colchester CO6 4HU

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
 - The appeal is made by Mr Howard Norfolk against the decision of Babergh District Council.
 - The application Ref: B/12/00090/CAC/GC, dated 19 January 2012, was refused by notice dated 4 May 2012.
 - The demolition proposed is of existing disused bus garage.
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Appeal B: APP/D3505/E/12/2184323
9 Mill Street, Nayland, Colchester CO6 4HU

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mr Howard Norfolk against the decision of Babergh District Council.
 - The application Ref: B/12/00092/LBC/GC, dated 19 January 2012, was refused by notice dated 4 May 2012.
 - The works proposed are demolition of existing disused bus garage, clearance of site and construction of two semi-detached domestic dwellings, alterations to external landscaping to the rear of the properties to provide external parking provision, alterations to side elevation and street elevation of adjacent dwelling to No.9 Mill Street and minor alterations to adjacent land known as Swans Nest to provide domestic gardens and pedestrian access to new properties.
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Appeal C: APP/D3505/A/12/2184331
9 Mill Street, Nayland, Colchester CO6 4HU

- 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 Howard Norfolk against the decision of Babergh District Council.
 - The application Ref: B/12/00091/FUL/GC, dated 19 January 2012, was refused by notice dated 4 May 2012.
 - The development proposed is demolition of existing disused bus garage, clearance of site and construction of two semi-detached domestic dwellings, alterations to external landscaping to the rear of the properties to provide external parking provision, alterations to side elevation and street elevation of adjacent dwelling to No.9 Mill Street and minor alterations to adjacent land known as Swans Nest to provide domestic gardens and pedestrian access to new properties.
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Decisions

1. Appeals B and C are dismissed. No action is taken on Appeal A for the reasons explained below.

Preliminary Matters

2. The bus garage with its associated (and adjoining) outbuildings is in very poor condition; the building's fabric and structure have deteriorated to the point of being unsafe. That said, the building or parts of it adjoin No. 9 Mill Street¹ which is listed as Grade II, and/or the pre-1948 sections fall within its curtilage. The garage and outbuildings should therefore be treated as part of the main listed dwelling, as required by Section 1(5)(b) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. Section 74 of the same Act does not apply to listed buildings²; so conservation area consent is not required for demolition of the garage. I therefore take no further action on Appeal A. Furthermore, listed building consent is only required for demolition of the existing garage and works of alteration to No. 9 Mill Street; it does not apply to erection of the dwellings. That is the basis on which I have determined Appeal B.

Main Issues

4. In Appeal B the main issues are: first, the effect that the proposed works of demolition and alteration would have on the listed building and on features of special architectural or historic interest which it possesses. Secondly, whether they would preserve or enhance the character or appearance of the Nayland Conservation Area.
5. Appeal C turns on the following main issues:
 - Whether the proposal would undermine the Council's employment objectives;
 - The effect it would have on the character and appearance of the conservation area and on the setting of listed buildings;
 - Whether safety for highway users would be unduly compromised, and
 - The effect on the living conditions of neighbours.

Reasons

Appeal B

Listed Building Issue

6. There are 2 main elements to the works proposed: demolition of the bus depot (or garage) buildings and works to the southern and eastern façades of the listed dwelling. National Planning Policy Framework (NPPF) expects an applicant to describe the significance of any heritage assets affected. The planning application was determined without such an exercise being undertaken. However, during the course of the appeal a heritage report was prepared, which describes and dates the bus depot buildings. The report was

¹ Also referred in the evidence as 9-11 Mill Street

² See S75 of the Listed Building Act

subject to consultation and the local authority has commented on it. Taking account of the report in the consideration of the appeals will therefore not prejudice anyone's interests.

7. That said, as a retrospective exercise there must be a question mark over the extent to which the importance of the significance of the bus garage and adjoining buildings was considered when the appeal scheme was developed. Furthermore, the document is a description and conditions survey of what exists, together with an outline of the history, rather than an analysis of significance or an impact assessment. For instance, the report confirms the presence of fragments of an early C19 stable and section of wall dating from about the same time. This may or may not be of vital interest as a stable linked to the house. The evidence emerging from the report suggests that it could be pre-1847 but the potential impact of its removal or opportunities for its retention have not been fully assessed.
8. The bus shelter and garage area are likely to date from the end of the First World War. Other elements of the depot, the workshop and attached units are said to have been erected later in the C20 with alterations and rebuilding carried out to some parts in 1986 and as late as the mid-'90s. There were makeshift additions with materials re-used in places. The end result could best be described as utilitarian. Save for the 1980s rebuilt brick building in the garden of 9 Mill Street, much of what remains of the bus garage and outbuildings is dilapidated.
9. Although derelict and unsightly, the depot is regarded with some affection locally for the historic link with The Norfolk Bus Co, described as Britain's oldest independent bus company which operated from these premises from 1868-1991. From the report it appears that its main significance lies in that history, rather than in the piecemeal and now derelict appearance of the garage and related structures. The history could be preserved by appropriate recording methods. Physical retention of the structure may not be necessary in the interest of preserving the significance of the listed building but without evidence of the nature of that significance, an assessment of the potential impact cannot be made.
10. The alterations proposed to the dwelling's south facing elevation are necessary to accommodate the new development. They would interfere with the building's fabric and lead to loss of the bay window. While the heritage report makes no reference to how the works would impact on the listed building's significance, my view is that the character of the building would not be altered to such an extent as to diminish its interest unduly. On the other hand, without redevelopment of the bus depot site, the works cannot be justified on heritage grounds or on the basis of public benefits.
11. Assessing the nature, extent and importance of the significance of the listed building (as a whole) is important to making decisions in line with the objectives of the NPPF and the development plan³. That exercise was not undertaken at the time of the application. It remains incomplete for the purposes of considering the impact of the works on the listed building and whether conflict between conservation and any aspect of the works can be avoided. The appeal therefore fails on the first main issue.

³ Advice contained in the Planning Policy Statement 5 – Practice Guide

Conservation Area Issue

12. The Nayland Conservation Area Appraisal points to the negative effect the former bus shed casts over the conservation area. Its dilapidated state certainly compromises views of the listed building while also detracting from the attractiveness of the streetscene. But again, there is no certainty what impact loss of the bus depot would have on the conservation area, given what I said earlier about the inadequacy of the information on which to make an informed decision. Without that certainty, Appeal B fails on the grounds of the second issue identified.

Appeal C

Employment Issue

13. The appellant claims that employment use of the site has ceased, as a result of the time elapsed since formal trading ceased at least 10 years ago. There is even a suggestion that the premises' lawful use has been abandoned because of the condition of the bus shelter and adjoining structures. However, the Council's evidence provides a detailed and convincing account of why employment use of the site has not been abandoned. The appellant's stated intention of restarting a business reinforces that view. Proximity of residential properties does not preclude Class B1 uses operating from the site, as such uses are often acceptable alongside residential premises.
14. The Local Plan (LP)⁴ states that there is a pressing need to protect existing employment sites. For that reason, LP Policy EM24 expects an applicant to demonstrate that retention of existing or vacant employment premises for an appropriate employment has been fully explored. The NPPF, however, encourages a change from commercial to residential in the circumstances of an identified need for additional housing in the area, unless there are strong economic reasons why such development would be inappropriate.
15. The planning statement records a need for more housing in the District. This has not been countered or disputed in the Council's evidence. Given the date of the LP, and absence of updated evidence in this appeal on the continuing need for employment sites in villages like Nayland, the balance must lie in favour of allowing the appeal site to be developed for residential purposes, in accordance with the NPPF.

Conservation Area Issue

16. The appeal property lies at the heart of this historic conservation area, the fabric of which is defined by the large number of historic and listed properties of varying architectural styles and ages. Buildings are grouped closely together, and around the Mill Street area generally positioned against the back of the footway. The effect is intimate and enclosing. Swan's Nest, to the south of the bus depot, comprises an area of undeveloped space, with mature trees and vegetation. The openness and greenery of Swan's Nest is a pleasant break in the otherwise built up frontage on Mill Street .
17. The proposed scheme appropriately allows for the masonry and railings marking the road frontage boundary of Swan's Nest to be retained. Incorporating Swan's Nest into the curtilages of the new dwellings as gardens

⁴ Babergh Local Plan, Alteration No.2, adopted in June 2006

would help to maintain the open qualities contributing positively to this streetscape. However, in all other respects the proposed scheme falls far short of standards expected of new development in an historic environment.

18. The run-down appearance of the buildings to be demolished does little to complement the streetscene. However, these are longstanding commercial structures, of some value to the area's history; plus the utilitarian, makeshift nature of what exists goes some way to lessen the impact of size. The new building would occupy much of the area already developed, and the design purportedly draws from the local vernacular. However, the extensive volume of building, its massing and the unrelieved monotony of the facades would render it wholly out of keeping with the intimate scale of buildings intrinsic to this conservation area, and to which the new development would fail to relate positively. The unbroken ridge line would add to the building's bulk and to its dominance in the streetscene. Continuing the existing terrace lengthways on the street frontage, as proposed, would cause the new building to compete for presence in the street, thus diminishing the importance of 9 Mill Street and other historically important buildings nearby.
19. Setting aside concerns about fundamental issues such as form and massing, matters of detail also cause the design to fall short of quality. Windows in the north and south elevations would be poorly proportioned. The arrangement of solid to voids, particularly in the long facades, show scant regard for proportions or aesthetics. There is little in the composition of the building or in the design of its individual components that might be regarded as attractive. Nor is the design imaginative or original enough to bring its own distinctive quality to the area. It has to be said, the quality of the architecture leaves a lot to be desired.
20. For the reasons explained, the proposed building, and the unsympathetic way it would relate to this historic environment, would be harmful to the appearance of the conservation area and to the setting of listed buildings.
21. The trees and vegetation in Swan's Nest are important to the appearance of the conservation area; none more so than the protected Plane tree. Its canopy extends in a wide circle across Swan's Nest and over the roof of the bus shelter building.
22. The evidence confirms that the development could be constructed without damaging the tree. However, the extent of the tree's coverage over the gardens to the new properties, and the proximity of its branches to the proposed building, would in all likelihood reduce the amount of daylight entering windows to the new dwellings. Usability of the garden would also be curtailed. In time, pressure would be brought to bear on the Council for its removal or at best severe pruning. Both measures would seriously impact on the area's visual amenity and on the pleasant verdant contribution Swan's Nest makes to the area's character.
23. Given what I say above, material harm would be caused to the character and appearance of the conservation area and to the setting of listed buildings. The proposed development would therefore not comply with LP Policies CN06 and CN08. As the policies broadly accord with the NPPF's policies of conserving the historic environment, I have accorded them significant weight.

24. The objections described would amount to less than substantial harm to the significance of designated heritage assets. NPPF expects such harm to be weighed against public benefits. The appellant's evidence indicates that the proposal would result in an improved place and environment as a vacant and redundant site is brought back into beneficial use. The site's owner must, however, carry some responsibility for leaving the property unused and not taking adequate measures to keep the building weathertight. As for improving the environment, there is much that can be done to improve the state of the bus depot buildings. While I accept the proposed development could represent a more advantageous financial option, it would bring permanent and far reaching adverse impacts without the weight of public benefits in its favour.
25. Nayland lies within the Dedham Vale Area of Outstanding Natural Beauty (AONB). As the development would be contained by the built-up fabric of the village, its impact would not extend beyond the developed environs of Nayland to the extent of harming the landscape qualities of the AONB.

Highways Issue

26. The proposed access width of about 2.6m is insufficient for more than one car to access or leave the site at any given time. Visibility would be restricted by the arched access way and the narrow drive width would continue into part of the site. The conditions described could lead to drivers reversing onto the highway in the event of vehicles meeting at the site entrance. The amount of space allocated for the parking and manoeuvring of vehicles on site would exacerbate the situation. The potential for conflict is inevitable, given the number of vehicular movements likely to be generated by three separate dwellings sharing a single and sub-standard access point.
27. There are examples of arched and narrow access ways elsewhere in Nayland and indeed commonly feature in historic environments. However, the combined circumstances in this case of inadequate on-site space, narrow width of the shared access drive and restricted visibility lead me to conclude that the proposal would give rise to hazardous highway conditions. In this way, it would not comply with the NPPF desire to create safe environments.

Neighbours' Living Conditions

28. I recognise that the Council has raised no objection in relation to this matter, but neighbours have submitted written evidence to support their case.
29. The roof of the existing bus depot buildings is visible from the small garden and rear windows of No. 7 Mill Street. The new building would be taller (extending to the ridge height of 9 Mill Street) while also curving to within 4-6m of the boundary to No.7 and even closer to No.9. There would be 8 new windows at first floor level facing the neighbouring properties where currently there is none. Of the 8, all but one window would be serving non-habitable areas. Obscured glazing to the windows would overcome the loss of privacy feared, although the perception of being overlooked would remain. The distance of Nos. 7 and 9 from the north facing elevation of the new building would mitigate the overbearing or overshadowing concerns expressed by neighbours.
30. The effect of the rear parking area, however, raises a serious issue. Noise generated by the parking and manoeuvring of vehicles close to the boundary of No.7 would be apparent and disturbing. The rear garden to No.7 is small and the occupiers' enjoyment of that space could be severely compromised by the

conditions described. The harm caused to their living conditions would cause the proposal to fail against LP Policy HS02, which expects developments to take account of residential amenity, among other matters.

Other Matters

31. Given the site circumstances (watercourse to the south of Swan's Nest, mature trees and historic buildings) there is a reasonable likelihood that protected species are present nearby or within existing buildings, and which could be affected by the proposal. An ecological survey has not been submitted to establish otherwise.
32. ODPM Circular 06/2005⁵ states: "*It is essential that the presence of protected species, and the extent that they may be affected by the proposed development, is established before planning permission is granted...*" It goes on to advise against securing surveys through planning conditions, save for in exceptional circumstances. There is no evidence to indicate that circumstances in this case are exceptional. The proposal therefore should not proceed without establishing the presence of protected species and measures for their protection.
33. I note the Council's requirements for financial contribution towards public open space and play equipment. A draft planning obligation has been submitted along those lines. However, as Appeal C is to be dismissed for other reasons, the need or otherwise for the contributions have not been considered further.
34. Having taken all other matters into account, I find nothing to override the weight of the harm that would arise from allowing the appeals.

Ava Wood

INSPECTOR

⁵ Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System