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## Appeal Decision

Site visit made on 1 October 2020

**by P Mileham BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 October 2020**

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**Appeal Ref: APP/X1545/W/20/3252764**

**The Church, Batts Road, Steeple, CM0 7LE**

- 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 Philip Ellis against the decision of Maldon District Council.
  - The application Ref FUL/MAL/20/00227, dated 25 February 2020, was refused by notice dated 1 May 2020.
  - The development proposed is described as the erection of 2No. Two bed dwellinghouses.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The appellant describes the scheme as being a single two-storey house divided into two flats. However, the plans and the appellant's statement refer to the scheme as being for two two-storey semi-detached dwellings. As such, I have adopted the Council's description of development which more accurately describes the proposal, and to which there is no disagreement between the parties.

### Main issue

3. The main issue is the effect of the proposed development on the character and appearance of the area with particular regard to the Church, a non-designated heritage asset.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a converted former Church located on Batts Road. The Church itself is of 'T' shaped form and the site is relatively open and includes the graveyard which remains in use and within the appellant's ownership. The site has a generally spacious and open character, and the existing building is located centrally on the plot. The Church and its curtilage make a positive contribution to the character of the site and the area due to its Victorian architecture and spacious open grounds. To the south of the site, the area is characterised by pairs of two-storey semi-detached dwellings which have a mixture of hipped and pitched roofs and sit within spacious plots. The site is in a prominent position close to the junction of Batts Road and The

Street and looks out over agricultural fields. The Church has been the subject of a recent conversion into a residential dwelling.

5. The Church is identified as a locally listed building under policy D3 of the Maldon District Local Plan (2017) ('the MDLP') and is included as reference CH63 in the list within the appendix titled 'non-designated heritage assets' included within the plan. Paragraph 197 of the National Planning Policy Framework (the Framework) states that a balanced judgement will be required in weighing applications that directly or indirectly affect the significance of a non-designated heritage asset. The Church's previous use for worship, along with its Victorian architecture, its decorative windows and along with the presence of the graveyard all contribute to its significance. The appellant indicates that the Council has not defined the architectural quality of the building in the context of the village. However, having regard to the features described above, the building is nonetheless locally significant.
6. The Church is a prominent building and is highly visible from longer range views, including from the street, where gaps in the field boundaries provide views of the site. The proposed development would be set back from Batts Road on the existing parking area for the Church. The proposed dwellings would be sited in order to align with the orientation of the rear old school hall section of The Church. Whilst the proposed dwellings would be orientated to align with of the adjoining semi-detached properties on Batts Road, they would be set further back from the adjoining properties. The proposed dwellings would be located in close proximity to the southern gable of the Church, and when seen from longer range views they would provide little separation from the Church resulting in a terracing effect. Whilst it is noted that the number of proposed dwellings has been reduced following two previous appeal decisions<sup>1</sup> to provide two dwellings to the south of the Church, due to their siting close to the Chapel, the proposed development would appear cramped. This would be in stark contrast to the wider spacing of the existing properties in Batts Road.
7. The appellant has provided a heritage statement to accompany the proposal. Section 5.2 of the heritage statement indicates that the proposal would retain the Church as the central and most significant element. However, the appeal proposal would almost fill the width of the plot between the Church and No. 1 Batts Road. As a result, it would erode part of the setting of the Church to which its openness is a key characteristic of its local listing. This would result in harm to the setting of the non-designated heritage asset.
8. The proposed development has been designed with contemporary square dormer windows at first floor level and would be finished with brick with weatherboard above. The proposal has been designed as a deliberate contrast to the Victorian brick architecture of the existing Church. The prevailing character of the dwellings on Batts Road is one of dwellings finished in brick or with brick and render. The proposed design including angular front dormer windows at first floor level would not assimilate well with the surrounding development and would appear awkward and incongruous in the street scene. This would result in a development that would be at odds with the character of the area.
9. The frontage of the appeal site is partially screened by an existing hedge boundary of around 1.8 metres in height. Because of the siting of the proposed

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<sup>1</sup> APP/X1545/W/19/3220513 and APP/X1545/W/17/3183374

development to the south of the Church, there is no hedge boundary found at this part of the site due to the existing access for the vehicle parking area. The proposed development is for two-storey dwellings, and therefore, whilst the retention of the hedge could be secured through the imposition of a planning condition, this would be insufficient to screen the impact of the dwellings from the public realm due to their height and position on the site.

10. The appellant has indicated that the proposed development would give rise to public benefits as it would provide two dwellings, enhance the restoration of the graveyard as well as providing electric charging points for vehicles. In the appellant's view, these public benefits would outweigh the effects of the proposal on the non-designated heritage asset. However, although the restoration of the graveyard would be a positive benefit, this is not sufficient to address the harm that would be caused by the erosion of the setting of the building. Further, the contribution made to housing need arising from two dwellings would be of very limited public benefit. In addition, whilst the provision of charging points would provide a positive benefit, due to the fact that the type of vehicles used by occupants is not a matter that can be controlled by the planning system this is afforded very limited weight. As such, these benefits would not be sufficient to outweigh the less than substantial harm to the heritage asset.
11. In light of the above, I conclude that the proposal would result in harm to the character and appearance of the area with particular regard to the Church, a non-designated heritage asset. As such, it would be contrary to policies S1, D1 and D3 of the MDLP which state, respectively, that the Council will provide protection to heritage assets in accordance with their significance; make a positive contribution in terms of the historic environment particularly in relation to designated and non-designated heritage assets; and that development proposals that affect a heritage asset (whether designated or non-designated) and / or its setting will be required to preserve or enhance its special character, appearance and setting.
12. The proposal would also fail to accord with paragraph 197 of the Framework as detailed above.

### **Other matters**

13. Concern has been raised that the appeal site is located within 13 kilometres of the Blackwater Estuary Special Protection Area (SPA), the Dengie SPA, the Colne Estuary SPA and the Foulness Estuary SPA. The appellant has submitted an initial Unilateral Undertaking to provide a contribution to the agreed off-site mitigation albeit this has not been agreed by the Council. However, in light of the harm I have identified against the Development Plan, it is not necessary for me to consider this further as the appeal is to be dismissed.
14. A number of representations have been received raising concerns regarding the effect of the proposed development on the existing graves located on the site. However, in light of the harm identified in the main issues it is not necessary to consider these matters in further detail.

### **Conclusion**

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

*P Mileham*

INSPECTOR