



## Appeal Decision

Site Visit made on 28 September 2021

**by L Fleming BSc (Hons) MRTPI**

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

**Decision date: 5<sup>th</sup> October 2021**

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**Appeal Ref: APP/P1560/W/21/3270697**

**Land Off Lime Street, Brightlingsea, Colchester CO7 0JD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr K Summers against the decision of Tendring District Council.
  - The application Ref 20/00934/OUT, dated 8 July 2020, was refused by notice dated 14 September 2020.
  - The development proposed is demolition of 6 lock up garages and replacement with a terrace of three x 2 bedroom houses.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The application was submitted in outline with all detailed matters reserved for future approval. I have dealt with the appeal on that basis, treating the plans as illustrative only.
3. A duly executed legal agreement under S106 of the Town and Country Planning Act 1990, has been submitted. This provides for open space and Essex Coastal Recreational disturbance and Avoidance and Mitigations Strategy contributions. As such it addresses the Council's second and third reasons for refusal. Whilst I have taken the obligations into account in my decision, as I am dismissing the appeal for other reasons, I have not considered matters or policies relating to reasons for refusal two and three any further.
4. Since the determination of the planning application, the Council has adopted the Tendring District Local Plan 2013-2033 and Beyond, North Essex Authorities Shared Strategic Section 1 Plan (TDLP1). Consequently, a number of policies of the Tendring District Local Plan (2007) (TDLP) cited on the decision notice have been superseded in part or full by policies of the TDLP1. This is addressed in my reasoning below where necessary. It is also now undisputed in this appeal, that the Council can currently demonstrate a five year deliverable housing land supply. Therefore, I have also not considered this matter any further.
5. However, the Tendring District Local Plan 2013-2033 and Beyond, North Essex Authorities Shared Strategic Section 2 Plan is currently being examined. Whilst it has reached the later stages of examination there are no definitive details before me as to whether the relevant draft policies cited on the decision notice are subject to unresolved objections. I have therefore afforded these policies limited weight. However, for the reasons that follow, even if I had afforded full

weight to these policies the outcome of the appeal would still have been the same.

6. The revised National Planning Policy Framework (the Framework) was also published on 20 July 2021, the parties have had the opportunity to comment on its implications and I have taken account of the revised Framework in my decision.

### **Main Issue**

7. The main issue is the effect of the proposal on the character and appearance of the area bearing in mind it would be within the settings of the grade I listed Jacobes Hall and the Brightlingsea Conservation Area and within the Coastal Protection Area.

### **Reasons**

8. The appeal site is a row of garages and associated land on Lime Street close to the grade I listed Jacobes Hall (Jacobes Hall) and the boundary of the Brightlingsea Conservation Area (CA). It is within an area designated as the Coastal Protection Belt (CPB) through Policy EN3 of the TDLP.

#### *Significance of Jacobes Hall and Brightlingsea Conservation Area*

9. Jacobs Hall is a large medieval timber framed hall house which was once occupied by the Beriff family (wealthy shipping merchants). Jacobes Hall has cross-wings (left and right), a red plain tiled roof and is two storey above ground with attics. Its high quality timber framing, including half arched braces and block mullions to cross-wings is largely intact. It has a hexagonal red brick turret on the elevation facing High Street and the main southern elevation faces the direction of the coastline to the south. In my view and insofar as is relevant to this appeal the significance of Jacobes Hall is founded on its historical use and occupation and the associated maritime relationship as well as its fine traditional architectural detailing.
10. The CA covers a large part of Brightlingsea, a settlement of medieval origin. The CA includes the settlements historic core, High Street and areas adjoining the historic coastline. The maritime connection is evident in and around the CA through routes leading to the waterfront, boat storage and repair premises and boat paraphernalia. There is also significant C19 development, particularly dwellings in a formal street pattern and form. Thus, insofar as is relevant to this case, the significance of the CA derives from its relationship with the coastline and the layout and variety of the traditional architectural detailing of the buildings within it.

#### *Effect on Jacobes Hall and the Brightlingsea Conservation Area*

11. The existing garages are modest and in keeping with other structures nearby such that their removal would have a neutral effect on the character and appearance of the area. However, they would be replaced with three two bedroomed terraced dwellings with the illustrative details showing a deeper building in roughly the same location as the existing garages. The appellant's evidence also refers to the detailed design taking reference from the mainly two storey dwellings on Tower Street, which are mainly relatively tall, formal dwellings with pitched roofs.

12. Without evidence to the contrary, to accommodate three two bedroom houses the proposed terrace would inevitably involve the introduction of a building much taller and of an overall significantly greater bulk than the modest garages to be demolished.
13. I accept the vegetation along Jacobes Hall's boundary and Lime Street provides screening between the appeal site and the grade I listed building and its grounds. However, this vegetation could be thinned or removed and its effect as a screen would be reduced during the late autumn and winter months opening up the visual relationship between the listed building and the appeal site.
14. The introduction of three dwellings with gardens, parking and associated vehicular movements would lead to a significant intensification of domestic activity on this part of Lime Street and the proposed additional bulk of development would have an enclosing effect on the grade I listed building and its grounds on its south east side. Consequently, without details to demonstrate otherwise, it could diminish views to and from Jacobes Hall to the south and south east and through the proposed building and associated activity, could urbanise the setting of the listed building and diminish its relationship with the coastline. Thus, for these reasons and on the basis of the evidence before me I cannot be satisfied that the proposal would not harm the setting and significance of the grade I listed building.
15. Furthermore, without details to the contrary, the proposed dwellings and associated intensification of activity and built form on the edge of the CA on a quiet lane which leads towards the coastline would also have an urbanising effect on the setting of the CA. This would erode the rural and coastal setting of the CA harming its setting and significance as a whole.

#### *Coastal Protection Belt*

16. Policy EN3 of the TDLP seeks to protect the unique and irreplaceable character of the Essex coastline from inappropriate forms of development with the open coastal areas particularly vulnerable to visual intrusion due to high visibility on the foreshore, skyline or on vistas along undeveloped coast. It states new development which does not have a compelling functional need to be located in the CPB will not be permitted.
17. No compelling functional need has been demonstrated and as such the proposal is in conflict with Policy EN3 of the TDLP. However, the Framework is more permissive of development in rural areas such as the appeal site and therefore the weight I afford to this conflict is significantly reduced. Nevertheless, Policy EN3 goes on to say where a need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline. Avoiding harm to landscape character and quality is consistent with the good design and landscape protection aims of the Framework (paragraphs 130 and 174).
18. I note the comments about another appeal relating to a site in Great Oakley which concerned another proposal's impact on the CPB. However, the full details of that scheme are not before me nor does it have any bearing on the immediate context which is relevant to the appeal site. I also acknowledge that Lime Street is more open in character the further it leads south. However, the proposal would introduce a significant bulk of development and intensify

domestic activity in a part of the CPB which has only relatively low height modest buildings on it. Even though the site is adjacent to the settlement boundary it still forms part of the CPB.

19. Therefore, even though the appeal site is brownfield and already has built form across its entire frontage, for the reasons already given, based on the evidence before me I cannot be satisfied the appeal scheme would not have harmful urbanising effects on the landscape and the CPB. Thus, with the absence of details which demonstrate otherwise, I find the scheme would harm the open coastal character of the CPB. Irrespective of functional need the scheme would therefore be in conflict with Policy EN3 of the TDLP insofar as it seeks to avoid harm to the coastal landscape.

### *Planning and Heritage Balance*

20. The combined harm I have identified to the significance of the designated heritage assets would be less than substantial. In which case paragraph 202 of the Framework requires it to be weighed against the public benefits of the proposal, including where appropriate, securing optimum viable use.
21. The proposal would provide three new dwellings with associated social and economic benefits such as homes, construction jobs and sustaining local services and employment. There would be environmental benefits associated with the redevelopment of a brownfield site. The dwellings would be located where services and employment could be easily accessed through a range of sustainable transport choices.
22. However, even taking into account the planning obligations the combined benefits of the scheme are relatively modest and are insufficient to outweigh the great weight I must attach to the harm I have identified to the designated heritage assets. Whilst I attach significantly reduced weight to the conflict with Policy EN3 of the TDLP and the harm to the CPB this adds further weight against the proposal.
23. In reaching these conclusions I have noted Historic England have not raised any objections. I have also noted there have been various developments in the vicinity of the appeal site, Jacobes Hall and the CA over time. I have also considered the appeal decision<sup>1</sup> relating to a site in Maldon District where development was approved close to a grade I listed building and within the settings of numerous other heritage assets. However, I have determined the appeal with regard to the bespoke characteristics of the appeal site and its relationship with its surroundings, particularly having regard to the unique setting and significance of the specific heritage assets which are relevant to this case and cannot be comparable. I have also attached limited weight to the Council's concerns with regard to establishing a precedent for similar forms of development on Lime Street as each scheme must be considered on its merits.
24. Overall, for the reasons given the appeal proposal would harm the character and appearance of the area bearing in mind it would be within the settings of the grade I listed Jacobes Hall and the Brightlingsea Conservation Area and within the Coastal Protection Area. It would therefore conflict with Policies QL6, QL11, HG13, EN1, EN3, EN17 and EN23 of the TDLP and Policies SP3 and SP7 of the TDLP1 which amongst other things seek to ensure new development

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does not harm the character and appearance of the area, good design and that new development preserves or enhances heritage assets or their settings.

25. However, I find no substantive evidence to demonstrate there would be any conflict with Policies HG6, HG7, HG14, TR1A, TR7 and BR4 of the TDLP and Policy SP4 of the TDLP1 as these policies respectively deal with detailed design and access arrangements, boat storage related uses and how housing needs will be met in the district generally.

### **Conclusion**

26. For the reasons given above and taking into account all other matters raised, I conclude that the appeal should be dismissed.

*L Fleming*

INSPECTOR