
Appeal Decisions

Site visit made on 25 October 2021

by Tim Wood BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2021

Appeal A: APP/P1560/W/20/3259134

Land at Warren Farm, The Bury, St Osyth, Clacton on Sea

- 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 R and P Bond against the decision of Tendring District Council.
 - The application Ref 18/00958/OUT, dated 13 June 2018, was refused by notice dated 19 March 2020.
 - The development proposed is described as "outline application for development of 7 almshouse type 1 and 2 bed dwellings and 6 houses in conjunction with the provision of car park for public use".
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Appeal B: APP/P1560/W/20/3259137

Land at Warren Farm, The Bury, St Osyth, Clacton on Sea

- 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 R and P Bond against the decision of Tendring District Council.
 - The application Ref 18/00959/FUL, dated 13 June 2018, was refused by notice dated 19 March 2020.
 - The development proposed is the provision of a car park for public use.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. Appeal A relates to an outline application with access and scale to be determined at this stage. In relation to the drawings which show features beyond the scope of the application, I have treated these as illustrative only. Notwithstanding the description of the proposed development, which I have repeated above, Appeal A relates solely to the housing element and it is clear that the proposed car park is separate and covered by a separate application and appeal, which is to be determined herein at the same time under Appeal B.
4. Since the applications were determined by the Council, they have adopted the 'Tendring District Local Plan 2013-2033 and Beyond: North Essex Authorities' Shared Strategic Section 1' (LP1). Amongst other things, this has resulted in a

change to the Council's housing land supply assessment and now means that the Council can demonstrate a supply of housing sites in excess of 5 years.

5. The appellant has submitted a completed Unilateral Undertaking with the appeal, which would ensure the provision of contributions referred to in the Council's reasons for refusal Nos 4 and 5 for Appeal A. It also seeks to ensure that the car park would be provided for free public use. As a result, I shall not examine the issues referred to in reasons 4 and 5.

Main Issues

6. The main issues in these appeals are:
 - The effects of the proposal on the historic environment (Appeals A and B)
 - The effects of the proposal and its scale on the settlement and its setting (Appeals A and B)
 - The effects of the proposal in relation to drainage (Appeal A).

Reasons

Effects on the historic environment

7. The appeal sites are contiguous and form part of a larger field in agricultural use. The site sits just outside the settlement boundary of St Osyth. Adjacent to the appeal site is the Church of St Peter and St Paul, a Grade I listed building, and its grounds. To the south sits Warren Farm House, grade II listed and the entrance to the site is within the St Osyth Conservation Area, although the main body of the site sits just outside its boundary.
8. The Conservation Area covers a large area of the village and contains a rich and attractive collection of buildings as well as the Priory complex which sits to the north. The Council do not allege any unacceptable effects on the Priory and I see no reason to disagree.
9. The boundary of the appeal site(s) abut the Vicarage, the Church and relatively modern housing along its eastern boundary. The proposed car park would be sited closest to the Vicarage and Church and the proposed housing would occupy the larger area to the south/south-east.
10. Public footpaths run along the access track to the south and also along the boundary of the site adjacent to the Vicarage, Church and modern housing and appeared well-used at the time of my site visit. Longer views of the edge of the village are clearly available from the south due to the topography.
11. At present, the appeal site offers a soft and rural appearance, adjacent to the village edge and set against the Church and its grounds. Notwithstanding the dense vegetation along the boundary with the churchyard, the Church itself is a prominent feature when within the appeal site and on the nearby public rights of way. I consider that the presence and appearance of the agricultural land contributes positively to the setting of the Church and adds to its significance by reinforcing its village location, within the agricultural/rural surroundings.
12. The proposed car parking area is said to be for up to 49 spaces. Reference is made for the need for some form of lighting. I consider that the hard-surfacing

of the site, along with the presence of that number of vehicles and other necessary features, would bring about a significant change to the character and appearance of the site. It would completely remove its agricultural appearance and character and it would therefore fail to preserve the setting of the listed Church, notwithstanding the possibility of providing landscaping.

13. In relation to the housing development, the presence of numerous buildings, roadway, drives and parking areas in a sub-urban style would also erode the rural/agricultural character significantly. I judge that this would also fail to preserve the setting of the Church, notwithstanding the possibility of landscaping part of the site.
14. These unacceptable effects would be clear and obvious to users of the nearby footpaths from where the proposals would represent a significant and negative change. In longer views, to some extent, the proposed houses may be seen against the backdrop of the adjacent modern housing but their presence would still be obvious in views of the Church and the car park would be likely to be obvious, particularly when in use.
15. In relation to the effects on the Conservation Area, for the same reasons set out above, I consider that the negative changes in the character and appearance of the sites would mean that the setting of the Conservation Area would be unacceptably affected.
16. With regard to Warren Farm House, I consider that this would be sufficiently divorced from the proposed development so that its setting would not be negatively affected. In relation to the proposed changes to the track, as referred to by the Council, I consider that this would not be a change that would have a negative effect on the setting of the Farm House nor on the other historic assets, if undertaken in sympathetic materials.

Effects on the settlement and its setting

17. The proposal would bring about a negative change to the appeal site and the setting of the historic features referred to above. For the same reasons, there would be a more general negative visual effect by the replacement of an open and attractive agricultural piece of land with a more urban style of development that would have a negative effect on elements of the settlement and would erode this part of the rural setting of the settlement.
18. Whilst the provision of additional homes, including some affordable homes, would be a benefit of the proposal, as the Council can now demonstrate a suitable supply of housing sites, I see no overriding benefit in this respect. The appellant also makes reference to the prospect of some of the housing being for self or custom-build purposes and thus justifying its proposed location. However, there is no mechanism submitted which would ensure this and ongoing obligations such as CIL exemption and minimum time limits for ownership. Therefore, I give this matter little weight.
19. The appeal sites are also within the identified Coastal Protection Belt as identified in the adopted Tendring District Local Plan 2007 (LP) and within the Draft Local Plan Section 2. The appellant suggests that such a designation is contrary to Government advice in the Framework. However, I note that the Framework seeks to protect valued landscapes, recognise the intrinsic character and beauty of the countryside and maintain the character of the

undeveloped coast, amongst other things, and I see the Council's aim as consistent with this.

20. As a consequence of the matters set out, I consider that the proposal would raise conflict with Policies EN1, EN3 and QL9 of the LP, SP3 of the LP1 and SPL1, SPL2, SPL3, PPL2 and PPL3 of the Draft LP Section 2 (the latter of which I attached only limited weight due to its initial stages towards adoption).

Drainage

21. The Council states that the Framework advises that developments of this scale ('Major Development') should incorporate sustainable drainage systems and without such measures, the proposal does not demonstrate that it would not give rise to flooding. The appellant states that, as the appeal site is less than 1 hectare, the relevant section of the Framework does not apply (paragraph 169 of the latest version of the Framework).
22. The Framework defines 'major development' for housing as being 10 or more homes, or the site has an area of 0.5 hectares or more. The housing site is said to be 0.8 hectares and would accommodate 13 dwellings. It seems clear to me that the proposal under appeal A is for 'major development' as defined by the Framework. As a consequence, the proposal is required to incorporate sustainable drainage systems. In my consideration the appropriate time to consider this matter would be at this outline stage as the subsequent stage (if the appeal were to be successful) would be the submission of reserved matters, which in this case would be appearance, landscaping and layout. None of these reserved matters would include drainage and so there would be no means to require such submissions and it is not possible to attach conditions to reserved matters which do not relate to those matters. As a consequence, I agree with the Council that the absence of such measures at this stage raises further concerns for the proposal. Therefore, it is contrary to Policy QL3 of the LP and the advice in the Framework.

Planning Balance

23. The appellant and others indicate that there is a clear need within the village for additional car parking for visitors, churchgoers and others. I acknowledge that this would represent a clear benefit of the proposal. The provision of new homes, including affordable homes, is also a benefit of the scheme. In relation to the views of Historic England, I have noted their acceptance of the scheme under Appeal A and that they did not wish to comment on the scheme for Appeal B. I have taken very careful account of their views in relation to the effects of the scheme (Appeal A) on the historic environment but, having visited the site, I have come to a different conclusion.
24. I judge that the level of harm to the setting of the listed Church and to the setting of the Conservation Area would be 'less than substantial' as set out in the Framework. This needs to be balanced against any public benefits which would arise from the proposal. I acknowledge that the scheme would bring about benefits particularly in the form of housing and a public car park. However, the Framework advises that any harm to the significance of a designated heritage asset should require clear and convincing justification. In my judgement, the harm to the significance of the Grade I listed Church and the setting of the conservation area are not outweighed by the benefits that would arise.

25. There is additional harm and policy conflict that I have identified in relation to the more general setting of the village and to drainage matters. I find that the totality of the harm is not outweighed by the acknowledged benefits.

Conclusion

26. For the reasons stated above, both appeals are dismissed.

T Wood

INSPECTOR