
Appeal Decision

Site visit made on 16 May 2023

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 May 2023

Appeal Ref: APP/A1530/W/21/3286281

Buildings Adjacent to Messing Park and Messing Farm Bungalow, Messing, Essex, CO5 9TG

- 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 S Davis of Stuart Davis Ltd against the decision of Colchester City Council.
 - The application Ref 212300, dated 12 August 2021, was refused by notice dated 12 October 2021.
 - The development proposed is described as 'Erection of 5 No. dwellinghouses'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the proposal would preserve the setting of Messing Park and the Stable and Grooms House, which are respectively Grade II* and Grade II listed buildings;
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on community facilities and sport, open space and recreational facilities.

Reasons

Whether the proposal would preserve the settings of listed buildings

3. Messing Park is a fine example of an early 18th Century country house with early 19th Century alterations including a gault brick façade. The building exhibits 'polite' classical styling from the era including sash windows, pediments, arches and pilasters. This affords it a grand and imposing presence and was probably intended as a projection of the owner's wealth and status.
4. The Stable and Grooms House also dates from the early 18th Century and is a more restrained building finished in red brick with a rustic plain tiled roof. It would have been an ancillary and subservient outbuilding connected to the occupation of Messing Park. Nevertheless, it is designed to complement the main house with the replication of some architectural detailing including sliding sash windows. It would have been designed to be functional but also attractive given the proximity to the main house.

5. In light of the foregoing, the significance of the listed buildings, in the context of this appeal, is primarily their evidential, aesthetic and historic value as important examples of high-status domestic architecture.
6. Historic mapping supplied by the appellant demonstrates that Messing Park (formally Hill House) was surrounded by parkland. The parkland landscaping around the building appears to have been designed in a natural rural style. This would likely have been a deliberate composition founded on the picturesque movement. It is also likely that the parkland was devised to frame views of the Messing Park, thereby linking the two. The ability to experience the listed buildings in a rural parkland setting is important to the significance of Messing Hall and the Stable and Grooms House to a lesser extent.
7. Mapping from around 1898 seems to suggest that the field to the direct south of Messing Hall was at that time no longer part of the parkland. That said, as things currently stand the field is rural and picturesque as it is being grazed and encompasses several mature feature trees. This is the case despite the presence of some equestrian paraphernalia. It therefore provides some semblance of how the parkland probably looked and functioned. It also allows uninterrupted views towards the listed buildings.
8. The appeal site occupies the southern corner of the field and encompasses two chicken sheds. They are reasonably low in profile but are otherwise very long and utilitarian structures that are unattractive. They have encroached into what was once the historic parkland and the settings of the listed buildings. Their presence and form, including the long unbroken ridges, undermine the attractive settings of the listed buildings. However, they have a rural agricultural appearance and a limited curtilage. This provides some modest mitigation. Overall, the buildings detract from the settings of the listed buildings.
9. The appeal scheme would involve the demolition of the chicken sheds and the erection of five detached houses and five garages/car ports. Each of the buildings would be set within generous residential curtilages. The site would therefore have an overtly domestic character and appearance that would be inappropriate and strident in an area of former parkland. The garages in particular would be especially suburban and significantly undermine the 'farmstead' concept outlined by the appellant. The proposal would therefore harm the experience and setting of the listed buildings by suburbanising their rural and former parkland setting. Historic England have objected on these grounds, and I give this expert view significant weight.
10. In arriving at this finding, I have carefully considered the attempt to mitigate some of the impacts through the design of the scheme. For example, three of the buildings would exhibit a rural barn type style. The others would have the appearance of traditional gate lodges as a means of responding to the gate lodge at the entrance to the parkland. All would be single storey and it would be possible to plant a hedge around the periphery of the site to soften the presence of the buildings and the domestic paraphernalia in the gardens. Demolishing the chicken sheds and associated silos would also reduce the extent of built form and remove unattractive buildings from the setting of the listed buildings. Suburban close boarded fencing could be substituted for soft landscaping through a condition.

11. However, the existing chicken sheds are generally low key due to their dark colour, solid agricultural appearance and functional character. They harm the settings of the listed buildings, but to a lesser extent than the appeal scheme would. This is mainly because the five homes proposed would still broadly occupy the same extent of the site as the chicken sheds and have an overtly domestic appearance despite the converted barn style. Plot 1 would not have the simple form of a barn and would be particularly unconvincing. The siting of the 'gate lodges' would also appear odd, being in the centre of the site. In addition, limited space would be available for boundary hedges to mature.
12. Aspects of the design are sensitive, and the homes would be attractive. This would reduce the extent of harm that would occur. However, the scheme overall would have a greater adverse impact on the settings of the listed buildings than the existing chicken sheds. Indeed, the proposed residential incursion into the appeal site would be more harmful to the rural setting of the listed buildings due to the extent of development proposed, its composition and the overtly domestic character caused by features such as car ports.
13. In conclusion, the proposal would moderately harm the significance of the listed buildings by failing to preserve their settings. For reasons I will go into, the harm is not outweighed by public benefits. The proposal would therefore be at odds with Policy DM16 of the Colchester Local Plan 2017-2033 Section 2 (LP), which seeks to secure development that conserves the significance of designated heritage assets unless the harm can be justified.

The effect on the character and appearance of the area

14. As explained above, the appeal site is situated in a rural landscape. Indeed, the Colchester Borough Landscape Character Assessment (LCA) places the site in Area F1 Messing Wooded Farmland, which is characterised by a sparse settlement pattern. The planning guidelines in the LCA for this area is to conserve the mostly rural context and integrate new development with the surrounding landscape.
15. For the reasons already given, the appeal scheme would result in an overt domestic incursion into the countryside that would have a greater adverse impact on the rural character of the landscape than the existing chicken sheds. This impact would be conspicuous from New Road despite the existing roadside hedges, and through the site entrance. The proposed removal of existing landscaping would not assist in this respect. The proposal would therefore harmfully erode the largely rural countryside setting of the locality and thus fail to integrate with the landscape character of the area.
16. In conclusion, the proposal would harm the character and appearance of the area. As such, it would be at odds with Policy DM15 of the LP, which seeks to secure development that respects the context and surroundings of a site and positively integrates into the landscape.

Community, sport, open space and recreational facilities

17. To adhere to Policy SP6 of the Section 1 Local Plan¹, the Council submit that the proposal must make a financial contribution of £18,745.10 towards sport,

¹ As supported by The Provision of Community Facilities and the Open Space, Sport and Recreational Facilities Supplementary Planning Document. That said it is unclear what status the former has and whether the latter supplements Policy SP6, which it predates by some way.

open space and recreational facilities and £8,208.10 towards community facilities. These figures are set out in the Council's appeal statement and are considered up to date in the absence of any alternative figure. The Council has set out in its statement why it considers these contributions meet the necessary tests². In summary, the contributions would be used to mitigate the additional pressure placed on existing infrastructure caused by the occupation of the appeal scheme. I have no reason to doubt this.

18. The appellant has not disputed the Council's request and has therefore provided a signed planning obligation dated the 16 May 2023. Accordingly, the obligation appears to have been executed correctly and would secure the financial contributions listed above prior to the commencement of development. The proposal would therefore mitigate the impacts it would have on community facilities and public open space. Thus, a conflict with Policy SP6 of the LP would not occur.

Other Considerations

19. Prior approval was granted on the 5 May 2020 for the conversion of part of one of the chicken sheds to five homes. The supporting statement to that application outlines an intention to demolish the remainder of the buildings on site. This would seem sensible given the disturbance, including odour, that future occupants would endure if the current agricultural activities continued. However, there is no condition requiring demolition and therefore it is unclear whether the approved details secured the demolition works. I have assumed that they did not for the purposes of my assessment.
20. The prior approval has now lapsed and is incapable of being implemented. Nevertheless, there is nothing before me to demonstrate that circumstances have changed such that a similar application for prior approval would not also be approved. In so doing, the appellant may explore spreading the dwellings across the site. However, it is unclear what benefit this would bring. It is likely this would have already been pursued if it is the optimum way to develop the site pursuant to Class Q of the General Permitted Development Order. Moreover, drawings have not been provided or an application made for a different scheme to that previously approved. The alternative proposition therefore seems theoretical rather than genuine.
21. In any event, regardless of which part of the existing buildings were converted to dwellings, the impact on the character and appearance of the area from doing so would be less harmful than building five homes in the way proposed. This is because the appeal scheme would be a prominent and discordant residential incursion into the area, whereas the existing buildings have a rural agricultural character that would endure even when converted. Therefore, the potential to convert the existing agricultural buildings to dwellings may be a material consideration that outweighs the spatial strategy objection to new housing at the appeal site³, which was the position the Council originally took, but it would not justify the harm to the character and appearance of the area and settings of the listed buildings that would also occur.
22. The Tiptree Neighbourhood Plan (NP) has been made since the Council issued its decision. The NP allocates land at Elms Farm for a minimum of 200 homes.

² See Paragraph 57 of the National Planning Policy Framework (the 'Framework')

³ When applying Policies SP1, SP3 and SP4 and SG1, SG2, OV2 and ENV1 of Sections 1 and 2 of the LP

The boundary of this allocation adjoins that of the appeal site. As a result, the area of land between the appeal site and the northern edge of Tiptree will be subject a significant urbanising influence and this could have a bearing on the rural character of the area. However, at this stage it is unclear what form the development would take, whether homes would be constructed up against the appeal site boundary and how the setting of Messing Park would be accounted for. Crucially, the allocation would not result in housing between the appeal site and Messing Park. Accordingly, my findings are unaltered.

Other Matters

23. The appeal site is located within a zone of influence placed around the Essex Coast European Sites as established in the Essex Recreational Disturbance Avoidance and Mitigation Strategy. To mitigate the impact of recreational disturbance upon these sites I understand that the Council has accepted the payment of a financial contribution.
24. However, this approach is problematic as there is no formal or legal link between the payment and the planning application and thus a lack of transparency. There is also no obligation on the Council to spend the money in the way envisaged and in a particular timescale. As a result, there is insufficient certainty that the payment would mitigate the impacts. Nevertheless, as the appeal has failed for other reasons, I have not considered this point further or reverted to the parties for additional comments.
25. The appellant has referred to the recent approval for the replacement of Messing Park Bungalow with a new dwelling. As it would involve the substitution of one dwelling with another, the impact on the settings of the listed buildings would not be the same as the appeal scheme.

Heritage and Planning Balance

26. The moderate harm that would occur to the significance of the listed buildings would be 'less than substantial' within the meaning of the National Planning Policy Framework (the 'Framework'). Policy DM16 of the LP and Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal. In so doing, considerable importance and weight must be given to the special regard I must give to the desirability of preserving the setting of listed buildings⁴.
27. The appeal scheme would deliver five homes which would modestly boost housing land supply. However, this needs to be viewed in the context that the appellant has stated that they would pursue a prior approval scheme for five homes if the appeal was unsuccessful. There is also no indication that the Council is currently unable to demonstrate a five-year housing land supply and is therefore currently failing to significantly boost the supply of housing.
28. Building five homes would provide a small boost to the construction industry but this would be limited to a reasonably short period given the scale of the scheme. The subsequent occupation of the homes would provide a more enduring boost to local spending, but the scale would not be of a high order. Overall, I afford limited weight to the economic benefits of the scheme. Being isolated from settlements, the houses would do little to boost the vitality of rural communities. The Preliminary Ecology Report also suggests that there

⁴ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

would be scope for some limited enhancement measures and the financial contributions towards community facilities and open space may modestly benefit more than just the future occupants of the appeal scheme.

29. The Framework states that designated heritage assets are an irreplaceable resource that should be conserved for existing and future generations. Any harm to their significance is therefore an important matter. Indeed, the Framework states that great weight should be given to an asset's conservation and the more important the asset, the greater the weight should be. Conservation in this context means sustaining, and thus not harming, an assets significance. In this case, the designated heritage assets include a Grade II* listed building with a high degree of significance. Consequently, more than great weight should be afforded to the conservation of this asset.
30. The proposal would result in moderate but permanent harm to the settings and significance of the listed buildings. This matter carries weight of a high order. Against this, the public benefits of the proposal are cumulatively of limited weight. Overall, the benefits would not outweigh the less than substantial harm that would occur. Accordingly, there would be a conflict with Paragraph Policy DM16 of the LP and Paragraph 200 of the Framework as harm to the significance of designated heritage assets would not have clear and convincing justification.
31. In this instance it follows that the benefits of the appeal scheme would not outweigh the totality of harm I have identified either.

Conclusion

32. The proposed development would mitigate its impacts on infrastructure but would harm the settings of listed buildings and the character and appearance of the area. It would therefore be contrary to the development plan and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal has been dismissed.

Graham Chamberlain
INSPECTOR