
Appeal Decisions

Site visit made on 23 May 2023

by L Fleming BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th August 2023

Appeal A Ref: APP/P1560/W/22/3303049

Land rear of Some View and Roborough, Church Hill, Ramsey, Harwich, CO12 5EU

- 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 Messrs N. Neale and S. Geisha against the decision of Tendring District Council.
- The application Ref 20/00585/OUT, dated 7 May 2020, was refused by notice dated 14 January 2022.
- The development proposed is erection of five bespoke self-build/custom built dwellings (concurrent application with a proposal for an additional car park for the Two Village primary School).

Appeal B Ref: APP/P1560/W/22/3303051

Land adjacent to Two Village School, Church Hill/Mayes Lane, Ramsey, Harwich, CO12 5EU

- 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 Messrs N. Neale and S. Geisha against the decision of Tendring District Council.
 - The application Ref 20/01057/FUL, dated 6 August 2020, was refused by notice dated 21 January 2022.
 - The development proposed is provision of an additional car park for the Two Village primary School (concurrent application with proposal for the erection of 5 bespoke self-build/custom built dwellings).
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Decisions

Appeal A: APP/P1560/W/22/3303049

1. The appeal is dismissed.

Appeal B: APP/P1560/W/22/3303051

2. The appeal is dismissed.

Costs

3. Both Appeals A and B are the subject of costs applications which have been dealt with in separate decisions.

Procedural Matters, Background and Main Issues

4. As set out above this decision letter relates to two appeals. Appeal A is an outline proposal for five self-build dwellings with all matters reserved apart from the access. I have dealt with Appeal A on that basis, treating the plans as

illustrative only except where they relate to the access. Appeal B relates to a full application proposing a car park. Whilst I have considered each proposal on its own merits, as the schemes are related and the sites are close to each other, to avoid duplication I have dealt with both Appeal A and B together, except where otherwise indicated.

5. The evidence suggests the scheme proposed in Appeal B, would be provided as part of the delivery of the development proposed in Appeal A. As I am dismissing both appeals for other reasons, I have not needed to explore how the concurrent delivery of both schemes would be secured. Instead, for the avoidance of any doubt, I confirm I have considered both Appeals A and B on the basis that they would be delivered independently or would be delivered concurrently, which has made no difference to the outcome of either appeal.
6. Section 2 of the Tendring District Council 2013-33 and Beyond Local Plan (2022) was adopted after the Council made its decisions on both proposals and supersedes some of the policies referenced in the Council's decision notices. Both main parties are aware of this and have had the opportunity to comment. I must make my determination on the development plan at the time of my determination. This is Sections 1 and 2 of the Tendring District Council 2013-33 and Beyond Local Plan (2021 & 2022) (LP). I am satisfied that no party has been prejudiced by my approach.
7. The Council's first reason for refusal in both Appeals A and B were concerned with effects on the character and appearance of the area including the landscape. Even though effects on the grade I listed St Michael's Church (the Church) was only referenced in the reasons for refusal in Appeal B, mindful of my statutory duty and noting the inevitable location of the proposed access road in Appeal A, I have also considered the effect of Appeal A on the designated heritage asset.
8. In respect of the Appeal A, the Council's second and third reasons for refusal were concerned with the absence of a unilateral undertaking to secure ecological and recreational mitigation. A duly executed unilateral undertaking has been submitted with Appeal A satisfying the Council's ecological concerns but the need for recreational mitigation remains in dispute. However, even if I had found all planning obligations sought by the Council met the relevant tests, and had been duly provided, this would not have altered the outcome of Appeal A. Therefore, I have not needed to reach a definitive conclusion on this matter. However, for the avoidance of doubt, I confirm I have determined Appeal A on the basis that all obligations sought would be met and I have taken them all into account in my planning balance for Appeal A.
9. The second reason for refusal in Appeal B only was concerned with highway safety. Therefore, against this background the main issues are the effects of the proposed developments on:
 - the character and appearance of the area having particular regard to the landscape and the setting and significance of the Church (Appeals A and B).
 - highway safety (Appeal B)

Reasons

Context (Appeals A and B)

10. The five dwellings proposed in Appeal A would be within the western corner of a large pastoral field (the field). The illustrative details show they would be behind detached dwellings positioned along the south side of Church Hill's frontage which includes three self-build dwellings granted planning permission in 2017¹ (the self-build dwellings on Church Hill). The illustrative details for Appeal A show an access road, crossing the field and connecting with an existing point of access on Mayes Lane close to the entrance to the Two Village Primary School (the School).
11. The car park proposed in Appeal B would be in the southern corner of the field adjacent to the School. It would provide 22 car parking spaces accessed from Mayes Lane. The Church is located in its churchyard on the north side of Church Hill opposite the frontage dwellings on Church Hill, the northern corner of the field and the junction between Church Hill and Mayes Lane.

Character and appearance (Appeals A and B)

Landscape

12. The field, the linear arrangement of dwellings on Church Hill and the churchyard, give the area an overall spacious linear edge of settlement character and appearance.
13. Policy LP7 of the LP supports self-build homes in small developments within a reasonable proximity to settlement boundaries subject to criteria, which includes ensuring that proposals do not have a significant material adverse impact on the landscape or the form and character of nearby settlements.
14. Both Appeal sites A and B would be within the defined settlement development boundary for Harwich and Dovercourt. They would also both be within a Local Green Gap LP designation and within the Oakley Ridge Landscape Character Area (ORLCA) as identified in the Council's Landscape Character Assessment (LCA)².
15. The ORLCA is described, in summary, as a distinct flat ridge between the Stour Estuary and Hamford Water with a wide sense of elevation and magnificent views. The LCA notes the ORLCA is dominated by a mixture of open fields and built development, particularly, Harwich and its suburbs. Encroachment of built form on the setting of historic landscapes and features is also noted as is the flatter ridgetop described as already densely settled and less sensitive.
16. I accept both Appeal sites A and B are obscured from views to and from the Stour Estuary by buildings on Mayes Lane and the School. Views to and from Hamford Water are also constrained by houses on Church Hill. However, even though the LCA is some 20 years old, the characteristics of the ORLCA described are consistent with my own site observations, thus, insofar as is relevant to these appeals the LCA is not out of date. Based on the evidence

¹ Council Reference 17/01756/OUT

² Tendring District Council Landscape Character Assessment Volume One: Landscape Character Assessment and Landscape Guidelines, LUC, November 2001

before me, overall, I find the ORLCA has a moderate landscape quality and a moderate to high sensitivity to change.

17. Appeal sites A and B both share several characteristics with the ORLCA. They are both flat and pastoral and form part of the much larger field, bound by hedging, used for grazing horses which is a gap in built form in a small settlement contiguous with and on the edge of Dovercourt and Harwich. The field is opposite and obviously forms part of the historic landscape setting of the ancient Church which has inevitably become more developed over time.
18. An appeal for a development proposal on the field including 71 dwellings was dismissed in September 2016³ (the 2016 appeal). I accept the Inspector in the 2016 appeal noted, when viewed from the Essex Way, that the 2016 appeal scheme would not be visible due to screening from Whinney Woods. However, whilst I also accept the same applies to both Appeal sites A and B, both are clearly visible through gaps in hedging from Mayes Lane, and the public right of way which extends along the southern boundary of Appeal site B. Furthermore, the proposed access road for Appeal scheme A would be noticeable from Church Hill as would the car park proposed in Appeal B.
19. Thus, even though both Appeal proposals A and B would be viewed in the context of built form, and neither are within a protected landscape their characteristics, in my view, give both sites, as part of the wider ORLCA, a medium landscape value and a medium to high sensitivity to change.
20. Appeal proposal A would replace part of a large pastoral field with a development of five dwellings dissecting that field with a lengthy access road. Appeal proposal A would therefore erode part of an undeveloped gap between built form and the access road would be noticeable within the historic landscape setting of the Church (I return to this matter below). Furthermore, the illustrative details show the proposed dwellings would be arranged around a cul-de-sac behind roadside dwellings, at odds with the linear pattern of development in this edge of settlement location.
21. Consequently, based on the illustrative details before me, I find Appeal proposal A would have a moderate adverse effect on landscape character. Even with landscaping (on or off site nearby), with the absence of detailed evidence to the contrary, based on the illustrative details I am not satisfied these effects would change over time.
22. Appeal proposal B would replace part of the same field with a 22 space car park. I accept this would be directly next to the School such that it would not appear noticeably out of place. However, even though the details show boundary landscaping, it would introduce an urban feature into the pastoral field, which is part of the historic landscape setting of the Church and a gap between built form in the area. Therefore, in my view, the development proposed in Appeal B would have a limited adverse effect on landscape character. Again, even with landscaping (on or off site nearby), with the absence of detailed evidence to the contrary I am not satisfied these effects would change over time.
23. Turning to effects on visual amenity. Subject to details being agreed particularly landscaping and associated new planting and the field hedging

³ Appeal Decision APP/P1560/W/16/3146802

retained, significant views of Appeal proposal A would be from Mayes Lane, particularly along the access. There would also be glimpsed views from Church Hill opposite the field. The proposal would be prominent from the dwellings adjoining the site which face Church Hill. From these vantage points the conflicting pattern of development would be noticeable as would the reduction in size of the pastoral field. Thus, Appeal proposal A would also have a moderate adverse effect on the visual amenity of the users of the roads and occupiers of the dwellings adjoining the site in the immediate locality of the appeal site.

24. Views of Appeal proposal B would be from Mayes Lane, the PROW, Church Hill opposite the field and from the dwellings on the south side of Church Hill adjacent to the field. However, from all these vantage points the proposal would appear as part of the School. Nevertheless, the erosion of the field and associated gap in built form would be noticeably harmful. Thus, in my judgement, Appeal proposal B would have a minor adverse effect on visual amenity.
25. Overall, for the reasons given both Appeal proposals A and B would harm the character and appearance of the area including the landscape. Both proposals are therefore in conflict with Policy PPL3 of the LP which seeks to safeguard the character and appearance of the area and the rural landscape. However, consistent with the Inspector in the 2016 appeal, neither Appeal proposal A or B would contravene the fundamental aim of the Strategic Green Gap which is to prevent the edge of Dovercourt from merging with Ramsay. Consequently, I find no conflict with Policy PPL6 of the LP.

The significance of the Church

26. The grade I listed Church is a heritage asset of the highest significance. 12th century in origin, with significant extensions and alterations over the centuries. Its prominent tower dates from the 15th Century, with 16th, 17th and 18th century restoration. The Church is of flint and pebble rubble construction with some red brick and limestone dressing, it has a red plain clay tiled roof and its nave is plastered. As a building of great age which has evolved over centuries it has a rich variety of architectural details and internal fixtures and fittings dating from different periods. The Church would have once sat prominently on top of a ridge in a spacious rural landscape overlooking the valley.
27. However, even acknowledging the many changes within its setting, the Church still sits relatively centrally in its spacious churchyard, between spacious linear development with gaps between buildings, and opposite the large field, which is predominantly rural in character. Although development has occurred around the Church and the field, there is no substantive evidence, to suggest the relationship between the Church and the field as it appears today is not as open and as has been for centuries. There is also no substantive evidence of a designed view or of any functional, financial or ownership link between the Church and the field to the south of Church Hill. However, the field adjoins Whinney Woods and other fields to the south and west forming part of an extensive swathe of countryside.
28. The field and overall edge of settlement character of its surroundings, give the Church a spacious, calm, rural setting. Whilst the setting of the Church, is without doubt, less calm than it once was particularly with the introduction of the School, the presence of the field on the south side of Church Hill provides a

rural setting for the Church which clearly has been part of the ancient building's setting and charm for centuries.

29. Thus, insofar as is relevant to this appeal, I find the significance of the grade I listed Church is founded on its architectural detailing which narrates the evolution of the building from the 12th century and its community value as a place for worship, burials and other religious activities. However, its significance, also derives from its quiet and peaceful rural setting.

Effect on the significance of the Church

30. I acknowledge Essex County Council Heritage have found no harm arising from either Appeal proposal A or B on the setting of the Church. I also note Historic England responded to a previous application⁴ by issuing a non-intervention letter. I also acknowledge the comments with regard to the Council's handling of previous similar planning applications.
31. I have considered the appellant's suggested field of vision diagram which shows views in relation to the Church and both appeal sites. I acknowledge the areas identified reflect the findings of the Inspector in the 2016 appeal decision and take account of the self-build dwellings recently approved on Church Hill. However, those previous schemes are not before me, and Appeal scheme A and B are very different to the 2016 appeal decision scheme. Whilst I must take account of the consultee comments, I am not bound by them. Instead, it is my statutory duty to carry out my own assessment of the effects of both Appeal schemes on the designated heritage asset.
32. Although the dwellings proposed in Appeal A would be tucked in behind other properties on Church Hill the proposed access road would not. I accept the thick hedging around the edge of the field would offer some screening. However, the proposed access road, irrespective of the finishing materials, would dissect the field and fundamentally alter its character. The character of the field would be changed from a large area of pastoral land to two smaller parcels of land either side of a road which would be the only means of access for five large dwellings.
33. Thus, instead of just animals grazing and associated activity, a significant number of vehicles would pass through the field in front of the Church on a daily basis. Even with additional landscaping, based on the illustrative details I am not satisfied the development proposed in Appeal A would not erode the tranquil rural edge of settlement setting of the Church. Consequently, I find Appeal proposal A would harm the significance and fail to preserve the designated heritage asset.
34. In reaching this conclusion, I note the comments with regard to the appellant's legal right to use the School access road and turning area and the associated ability to provide a new driveway at the location of the existing access gate. However, even if I accept this, with the absence of substantive evidence to the contrary, I am not satisfied any such access drive associated with the pastoral use of the field would have the same effect as an access drive which would serve five large detached dwellings.
35. Turning my attention to Appeal B. I accept the car park would be next to the School. However, it would still involve the loss of a significant part of the field.

⁴ Planning Application 19/00439/OUT

Even with landscaping and irrespective of the proposed surfacing, this part of the field would be transformed into a predominantly urban feature. This would also erode the tranquil rural setting of the Church, harming its setting and significance and failing to preserve the grade I listed building.

36. The harm arising from both Appeal proposals A and B would be less than substantial and towards the lower end of the range in both cases. In which case paragraph 202 of the National Planning Policy Framework (the Framework) requires such harm to be weighed against the public benefits of the proposals. I will return to this as part of my overall planning and heritage balances below.

Highway Safety (Appeal B only)

37. Paragraph 111 of the Framework makes clear that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
38. The development proposed in Appeal B would provide a car park with 22 spaces. The Highway Authority have raised concerns with regard to the proposal, noting the proposed limited footway links to the School and the proximity of the proposed car park access to the existing School vehicular access. Concerns were raised that pedestrians using the car park including those who's mobility may be impaired will need to travel from the car park to the existing pedestrian access to the School via a footway some distance from the proposed carpark. Furthermore, the proposed car park would adjoin the PROW and concerns were raised that the proposed car park could affect users of it.
39. However, if I were to find Appeal scheme B acceptable, I am satisfied acceptable visibility could be achieved at the point of access. I am also content that acceptable landscaping, boundary treatments, signage or other arrangements could be agreed to manage the safe movement of pedestrians (including those with disability and/or reduced mobility) in and around the relatively small carpark, PROW and existing point of pedestrian access to the School through the imposition of appropriate planning conditions.
40. Thus, on this basis, subject to the imposition of appropriate planning conditions, Appeal scheme B would not harm highway safety in the area. In this regard the scheme would therefore accord with Policy SP7 of the LP and paragraph 111 of the Framework which, taken together, seek to ensure new development does not compromise highway safety.

Planning and Heritage Balances

41. Dealing first with Appeal A. It would deliver five-self build dwellings as encouraged by LP7 of the LP and in line with the Framework's aims of ensuring a mix of housing to meet the needs of different groups in the community. I acknowledge the comments that there are no self-build schemes included in the Council's five-year housing land supply figures and that the Council has only approved 13 self-build dwellings in the last five years without any mechanism to ensure those plots are available to self-builders. Against this background, and without substantive evidence to the contrary, I attach significant weight to the benefit of the self-build dwellings in a location where

occupiers could easily access day to day services and employment through a variety of sustainable transport modes.

42. Notwithstanding detailed mechanisms to secure its provision, for the avoidance of any doubt if I accept, the car park proposed in Appeal B would be provided alongside Appeal A, given the obvious demand for parking in the area, I also attach significant weight to the provision of the car park as a public benefit in favour of Appeal A. Appeal proposal A would also generate economic benefits associated with construction as well as benefits to the local economy through additional labour force and local expenditure a further public benefit which carries significant weight.
43. However, taking into account the provision of all the planning obligations sought by the Council, the significant weight attached to the delivery of self-build homes, the significant weight attached to the delivery of the Appeal B car park and the significant weight attached to the economic benefits is outweighed by the harm I have identified to the grade I listed building which carries great weight. The harm I have identified to the landscape and character and appearance of the area generally only adds further weight against the scheme.
44. Turning my attention to Appeal scheme B, the provision of car parking spaces in an area where there is high demand, irrespective of whether there are any existing highway safety issues is a significant public benefit. There would also be economic benefits associated with construction which is a significant public benefit. However, all public benefits combined are outweighed by the great weight I must attach to the harm to the grade I listed Church. That harm is also only further outweighed by the harm identified to the landscape and character and appearance of the area generally.
45. Overall, for the reasons given both Appeal A and B would harm the character and appearance of the area having particular regard to the landscape and the setting and significance of the Church and that harm is not outweighed by public benefits. Thus, both Appeal schemes A and B are in conflict with paragraphs 199 and 202 of the Framework and fail to accord with Policies SP7, PPL3, LP7 of the LP insofar as these policies taken together and amongst other things seek to safeguard the character and appearance of an area and protect and enhance heritage assets and their settings.

Conclusions

46. For the reasons given above and taking into account all other matters raised, on balance both Appeals A and B would not accord with the development plan, and I therefore conclude that both appeals should be dismissed.

L Fleming

INSPECTOR