



Appeal Decision

Site visit made on 6 September 2023

by Nick Palmer BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2023

Appeal Ref: APP/P1560/W/22/3312243

Land off Lime Street, Brightlingsea, Colchester CO7 0BH

- 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 & Mrs Summers against the decision of Tendring District Council.
 - The application Ref 22/00501/FUL, dated 10 March 2022, was refused by notice dated 31 May 2022.
 - The development proposed is demolition of six lock-up garages and replacement with three single storey one bed almshouse type properties.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The appellant has clarified that the postcode for the site address given on the application form was incorrect and the correct postcode is that which I have given in the banner heading.

Main Issues

3. The main issues in the appeal are:
 - i) the effect of the proposal on the character and appearance of the area including its effect on designated heritage assets; and
 - ii) the effect of the development on European designated sites.

Reasons

Character and Appearance

4. The site includes a row of six garages with a lawned area to the rear. It is immediately to the south of development that fronts High Street. It is outside, but adjacent to the settlement development boundary as defined in the development plan. It is also adjacent to the Brightlingsea Conservation Area (CA).
5. Policy SP3 of the Local Plan section 1 (LP1)¹ sets out the spatial strategy for north Essex. This states that development will be accommodated within or adjoining settlements. Although the site is not within the settlement as defined by the settlement development boundary, it does adjoin it.

¹ Tendring District Local Plan 2013-2033 and Beyond Section 1 (2021)

6. Brightlingsea is a medieval town with historic maritime connections. The High Street is based on the medieval core and there was expansion between this and the waterfront in the 19th century. The Conservation Area Review² notes that *"Lime Street is a rough track which has a very rural air with hedgerow trees down the right-hand side"*.
7. Jacobes Hall is a Grade I listed building which fronts High Street immediately adjacent to its junction with Lime Street. This is a medieval hall house which dates from the 15th century. It is a two-storey timber framed building with plain tiled roofs. It has a cross wing on each side and a brick stair turret on its front elevation. It was occupied by an important local family and its historic occupation as well as its architecture inform its significance.
8. The rear garden of Jacobes Hall adjoins Lime Street opposite the site. The trees along this boundary act as a screen between the site and the listed building. There could be some intervisibility if the trees were to be cut back and potentially when they are not in leaf. I saw on my visit that the site is clearly visible from the junction of Lime Street and High Street, adjacent to the side of Jacobes Hall.
9. Lime Street is open and rural in character. It is a private road which provides access to garages to the rear of houses on Tower Street and it also forms a public footpath route. Its rural character is clearly distinct from the built-up area along High Street. This character contributes to the significance of both the CA and Jacobes Hall in that it has historically been rural.
10. A previous appeal³ against a refusal for three x 2-bedroom houses on the site was dismissed. That proposal was for outline permission and in the absence of full details, the Inspector was not satisfied that it would not harm the setting and significance of the listed building. He also concluded that the development would have a harmful urbanising effect on the setting of the CA.
11. The proposal differs from that which was subject to the previous appeal in that it would be single storey, and full details have been submitted. It would have the appearance of a historic row of almshouses and would include appropriate architectural detailing. The limited height of the development would avoid a sense of enclosure on Lime Street to the rear of the listed building. Nonetheless, the development would still be significantly bulkier than the existing garages. The development would also change the character of the site and its surroundings by extending the built-up area into the predominantly rural surroundings of Lime Street. In these respects, the development would harm the settings and significance of both the CA and the listed building.
12. The value of the open landscape in which the site is situated is recognised in its designation as a Coastal Protection Belt in the development plan. Policy PPL2 of the Local Plan section 2 (LP2)⁴ requires protection of the open character of the undeveloped coastline and resists development which does not have a compelling functional or operational requirement to be located there. The proposal has not been demonstrated to fulfil any functional or operational need and would not accord with that policy. This forms part of a recently adopted Local Plan and is consistent with the National Planning Policy Framework.

² Tendring District Council Conservation Area Review (Area 2)

³ APP/P1560/W/21/3270697

⁴ Tendring District Local Plan 2013-2033 and Beyond Section 2 (2022)

13. A number of development plan policies require proposals to preserve or enhance the quality of existing places and to respect or enhance local character. Policy SP7 of the LP1 and policies SPL3 and LP4 of the LP2 have these requirements. The site is previously developed, and the garages occupy most of its frontage. However, the proposal would be bulkier and of a different character and for these reasons would not accord with those policies.
14. I have found that the development would harm the settings and significance of the listed building and CA. That harm would be less than substantial because the site is already occupied by garages and the proposal would be limited to single storey.
15. The development would provide three new one-bedroom dwellings which would be suitable for elderly persons. They would be in close proximity to services and facilities within the town centre. The dwellings would contribute to housing supply, but the Council can demonstrate more than a five-year supply of deliverable housing sites. The public benefit of the proposal is not sufficient to outweigh the harm to the heritage assets that I have identified.
16. For these reasons the proposal would not accord with the relevant provisions of Policy SP7 of the LP1, and policies SPL3 and PPL8 of the LP2. Those policies require preservation and enhancement of heritage assets.
17. I conclude that the proposal would not accord with the development plan as a whole and that it would unacceptably harm the character and appearance of the area.

European Designated Sites

18. The site lies within a zone of influence for the Colne Estuary Ramsar site and Special Protection Area. The Essex Coast Recreational disturbance, Avoidance and Mitigation Strategy (RAMS) requires financial contributions from residential development within the zone of influence, to secure mitigation measures.
19. The appellant submitted a Unilateral Undertaking (UU) with the appeal to secure the requisite contribution. The Council has pointed out that the UU does not include adequate provision for index linking the contribution and makes a number of other detailed comments.
20. The UU provides in the third schedule for the RAMS contribution to be calculated using the index from April 2020 and the latest published index but provides no definition of these terms and is not clear as to how the index linked element would be calculated. For these reasons I have doubt as to the effectiveness of the UU, and therefore the provision for mitigation in respect of the European designated sites. However, because I am dismissing the appeal for other reasons this is not critical to my decision.

Conclusion

21. For the reasons given, I conclude that the appeal should be dismissed.

Nick Palmer

INSPECTOR