



Appeal Decisions

Site visit made on 26 March 2024

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 June 2024

Appeal A - Ref: APP/P1560/W/23/3321310

Vicarage Field, Church Road, Brightlingsea, Essex CO7 0QU

- 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 Maunton and Mr Carter against the decision of Tendring District Council.
 - The application Ref 22/01688/FUL, dated 6 October 2022, was refused by notice dated 16 December 2022.
 - The development proposed is two new self-build/custom build dwellings.
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Appeal B - Ref: APP/P1560/W/23/3321311

Vicarage Field, Church Road, Brightlingsea, Essex CO7 0QU

- 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 and Mrs Maunton and Mr and Mrs Carter against the decision of Tendring District Council.
 - The application Ref 23/00169/FUL, dated 3 January 2023, was refused by notice dated 11 April 2023.
 - The development proposed is two new self-build/custom build dwellings.
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Decisions

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Preliminary Matters

3. Because the appeals relate to a proposal that would affect the setting of a Grade II listed building, I have had special regard to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. A revised version of the National Planning Policy Framework (the Framework) was released in late 2023. The changes were not material to the appeals and I have referred to the revised Framework as appropriate throughout my Decision.
5. Appeal A relates to a proposed development of two self-build/custom build homes, which would both be two-storeys, and an associated entrance gate and walls. Appeal B is similar but both proposed dwellings would be one-storey.
6. The decision notice for Appeal A refuses the proposal on the basis of the principle of location with regard to the Coastal Protection Belt. The decision notice for Appeal B refuses the proposal on that basis and also with regard to

harm to the significance of the Grade II listed building, 'Greythorpe'¹. The proposals for both appeals are similar. Therefore, although not a reason for refusal for Appeal A, I have considered the effect of both proposals against the significance of the listed building. This does not prejudice either party because of the similar nature of the proposals.

Main Issues

7. The main issues are:

- whether or not the appeal site is an appropriate location for development of this type, having regard to local and national planning policy and guidance; and,
- the effect of the proposed works on the special architectural or historic interest of the Grade II listed building, 'Greythorpe', in terms of how the building is experienced in its setting.

Reasons

Location

Principle

8. As clearly set out on the policies maps, including the Brightlingsea insert, all of the appeal site falls within the defined Coastal Protection Belt (CPB). Policy PPL2 of the Tendring District Local Plan 2013-2033 and Beyond Section 2, adopted January 2022 (the LP Part 2) states that within the CPB, applications will be refused unless the development has a compelling functional or operational requirement to be located in the CPB. There is no definition of functional or operational requirement in the LP, but it is reasonable to relate this to the nature of the CPB, that is the proximity to the coast.
9. The proposal, for either appeal, is for two dwellings. There is no compelling functional or operational requirement for such development to be located close to the coast or otherwise to be within the CPB. I place limited weight on the fact that the appeal site is on the periphery of the CPB, or any alleged failure of the site to share the characteristics of the majority of the CPB, because such clarifications are not set out within the policy.
10. The reasoned justification for the policy states that protection of the CPB is to direct development not needing to be located in the CPB to more sustainable locations. I agree that there is a need for residential development in general and for self-build/custom build in particular. However, no substantiated evidence has been provided that such development is required within the CPB, as opposed to other, more appropriate, locations. I particularly note that Policy LP7 of the LP Part 2 explicitly states that whilst self-build/custom build housing is encouraged, this is only where it is appropriate for the location having regard to other policies in the LP. Both appeal proposals would not be in an appropriate location because of the conflict with Policy PPL2.
11. The proposals are therefore unacceptable in principle. It is not necessary for me to also consider the effect of the proposal on the character and appearance of the area, because Policy PPL2 requires both the principle of location and character and appearance tests to be met. Therefore, the appeal site is in an inappropriate location for the development proposed for both appeals and both

¹ List entry number 1306722

proposals would fail to comply with Policies PPL2 and LP7 of the LP Part 2. Policy SP7 of the North Essex Authorities' Shared Strategic Section 1 Plan, adopted January 2021 (the LP Part 1) is referenced on both decision notices but is not relevant to the appeals because I do not need to consider the effects of the proposals on the character and appearance of the area.

Setting of the listed building

12. Greythorpe is to the south of the appeal site. It is surrounded by existing development within Brightlingsea. Between the building and the appeal site is a significant hedgerow and tree line as well as an existing dwelling.
13. Greythorpe is an early 19th Century house that was built as a vicarage for the All Saints Church. Its significance derives partly from its innate architectural and historic quality, partly from its relationship with the church and its functional role within Brightlingsea, and partly from a historically rural setting, albeit this has been significantly eroded by the expansion of Brightlingsea.
14. There is no historical or functional relationship between the vicarage and the appeal site. It is also mostly visually screened from the appeal site by the intervening hedgerow, trees and existing dwelling. However, the appeal site is relatively open and the existing structures are equestrian and therefore of a rural character and appearance. The appeal site therefore positively contributes to the setting of the listed building, and therefore to its significance, albeit only to a limited degree.
15. The proposed two houses, either two or single storey, would erode this through the urbanisation of the appeal site, although this would be seen within the context of the already significant expansion of Brightlingsea. The demolition of the existing equestrian buildings would not weigh in favour of either proposal because they are of rural character and appearance and do not, therefore, detract from the setting of the listed building. There would therefore be harm to the special historic interest of the Grade II listed building, 'Greythorpe', from both appeals, in terms of how the building is experienced in its setting. The proposal therefore fails to comply with Paragraph 203 of the Framework, which highlights the desirability of sustaining and enhancing the significance of heritage assets. It also fails to comply with Policy PPL 9 of the LP Part 2, which reflects the provisions of the Framework.

Planning and Heritage Balance

16. The proposals would cause some harm to the significance of the 'Greythorpe' Grade II listed building. The proposals for both appeals are also unacceptable in principle due to the location within the CPB. Therefore, although I acknowledge the importance of the provision of self-build housing, I place limited weight on this benefit of the proposal. There would also be economic benefits from the proposals, both in the short term through construction and the long term from expenditure on goods and services in the area by the future occupants of the homes. However, only two dwellings are proposed and this is of limited weight. Overall, the proposals therefore fail to comply with the Development Plan, when considered as a whole.
17. For both appeals, I have identified harm to the significance of the listed building. The level of harm would be less than substantial but I nevertheless place great weight on this harm, in accordance with Paragraph 205 of the

Framework. The public benefits of the proposal are limited, as set out above, and would not outweigh the harm to the heritage asset. There are therefore no material considerations that indicate I should make a decision otherwise than in accordance with the Development Plan.

European Protected Sites

18. The appeal site lies within the Zone of Influence of the Colne Estuary Special Area of Conservation and Special Protection Area sites, as defined in the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy 2018-2038. Had the proposal been acceptable in planning terms, it would have been necessary for me to have undertaken an Appropriate Assessment (AA) as the competent authority. However, the Conservation of Habitats and Species Regulations 2017 indicates the requirement for an AA is only necessary where the competent authority is minded to approve planning permission, so I have therefore not undertaken an AA.

Conclusion

19. For the reasons above, Appeal A is dismissed.
20. For the reasons above, Appeal B is dismissed.

O S Woodward
INSPECTOR