



Appeal Decision

Site visit made on 26 November 2024

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 06 December 2024

Appeal Ref: APP/P1560/W/24/3350166

Land off Briarfields, Kirby le Soken CO13 0EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs Parker of Parkers Farms against the decision of Tendring District Council.
 - The application Ref is 23/01694/FUL.
 - The development proposed is nine dwellings comprising 6 x two bed almshouse style bungalows, 1 x three bed and 2 x five bed houses and a replacement garage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on (a) the character and appearance of the area and (b) the significance and setting of Kirby le Soken Conservation Area and the Grade II* listed Church of St Michael.

Reasons

Character and appearance

3. The appeal site is located on the southern edge of Kirby le Soken. To the north is the Church of St Michael and new residential development at Tamarisk Close. To the west are the properties and substantial grounds of The Old Vicarage and Kirby Hall. To the east is late 20th century housing at Briarfields and The Sparlings and to the south is open countryside.
4. The site comprises the northernmost part of a much larger arable field that stretches up to the horizon in the south. The southern boundary has no identifiable features on the ground but aligns with the rear boundary of properties on The Sparlings. The site boundary also includes the front garden to a residential property on the corner of Briarfields and a double garage. A public footpath connects the site to Briarfields and runs around the northern boundary past the church. Another footpath then runs south along the site's western boundary past The Old Vicarage and Kirby Hall into the countryside.
5. Modern housing at Tamarisk Close, Briarfields and The Sparlings is visible from within the site walking along the footpaths. However, these are sited off to east and north-east with boundary vegetation to the rear of Briarfields helping to partly soften the impact. There are a few trees in the churchyard to the south of the church, but otherwise no barrier between this open space and the site. The Old Vicarage and Kirby Hall are largely hidden by trees even in late

autumn which adds to the green edge along the north-west and west boundaries. The view to the south from the site is panoramic over open fields.

6. Despite the proximity of modern residential development, the site is predominantly rural and open, and provides a transition from the village into the countryside along two different footpaths. It acts as an attractive green gap between the church, hall and vicarage and Briarfields. Therefore, the site in its current form makes an important and positive contribution to the character and appearance of the area.
7. The proposed development would extend no further southwards than housing on The Sparlings with access taken via the existing double garage. The proposed housing would be set back from the churchyard by a communal green and the footpaths would remain. The housing would utilise a traditional design and materials with red bricks, clay tile roofs, gables and dormers that indicate good quality architecture and an overall symmetry.
8. However, the development would erode the rural and open qualities of the site and diminish the green gap that it provides. Views across the countryside from the northern part of the site, and views back towards the church would be impeded by built development. Boundary planting would help to soften the effect to some extent, but the housing would still be clearly visible. While neighbouring housing developments are visible, the proposal would not offset any existing adverse effects but instead be harmful in its own right.
9. In conclusion, the proposed development would have an adverse effect on the character and appearance of the area. Therefore, it would not accord with Policies SP3 or PPL3 of the Tendring District Local Plan 2013-2033 (LP) which, amongst other things, seeks to protect the rural landscape and avoid overriding harm to its character and appearance including skylines and prominent views, with future growth planned to ensure settlements maintain their distinctive character.
10. The officer report also refers to conflict with LP Policies SPL3 and SP7 which, amongst other things, require development to respond positively to local character and context, relate well to its surroundings, and respect or enhance local landscape character, views, skylines and landmarks. For the reasons set out above, I concur that the development would conflict with these policies too. The development would also not adhere to paragraph 180(b) of the National Planning Policy Framework (NPPF) which recognises the intrinsic character and beauty of the countryside.

Heritage assets

11. Kirby le Soken Conservation Area is located immediately to the north and west of the site. It incorporates the historic core of the village along The Street and includes the church, vicarage and hall. The significance of the conservation area is informed by its historic buildings and green spaces. It also has a strong rural setting too, especially to the south across open fields.
12. The Church of St Michael is listed Grade II* as a building dating back to the 14th and 15th centuries with extensive 19th century restoration work. As a medieval parish church with a tall distinctive tower, the building has considerable architectural and historic interest. Its significance is also informed by its clear rural setting to the south, with expansive views over the

countryside. The shallow depth and openness of the churchyard on this side only serves to accentuate the importance of the connection between the church and the rural landscape to the south. Although the conservation area appraisal does not identify specific views to or from the church, this does not undermine the existence of such open views here.

13. The site forms part of this rural setting as the topmost and nearest part of the large field to the conservation area and listed church. The public footpaths allow you to experience both heritage assets closeup from the site and provide a recreational route to and from the countryside. The proximity of modern housing at Tamarisk Close and Briarfields does not diminish the value of the site as those developments are to the side and partly screened. The strong green boundaries to The Old Vicarage and Kirby Hall reinforce the rural setting. Therefore, the site makes a strong positive contribution to the setting and significance of the listed church and the conservation area.
14. The proposed development would be highly visible from both heritage assets and would negatively affect their rural and open setting. The church would be enclosed by built development that would not be offset sufficiently by the proposed communal green or planting. This part of the conservation area would also be enclosed from the countryside with harm to views in both directions.
15. The appellant refers to similar type almshouse development being permitted in historic locations and notes recent permissions for housing development elsewhere in this conservation area. However, each case should be treated on its own merits. I do not have the benefit of all the plans and other documents relating to these cases. The appeal scheme cited in Maldon did not involve heritage assets or character and appearance as main issues of dispute. Therefore, this and other similar schemes do not alter my findings here.
16. The proposed development would result in harm to the significance of both heritage assets and would not preserve the setting and special interest of the listed church as required by Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. This carries considerable importance and weight in the overall balance. LP Policies PPL8 and PPL9 seek the preservation or enhancement of conservation areas and listed buildings and require the application of relevant NPPF paragraphs where harm would be caused.
17. NPPF paragraph 205 states that great weight should be given to the conservation of designated heritage assets irrespective of the level of harm, while paragraph 206 requires clear and convincing justification for any harm or loss. In this instance, the harm to both heritage assets would be less than substantial, but nevertheless NPPF paragraph 208 still requires such harm to be weighed against the public benefits of the proposal.

Planning balance

18. The proposed development would provide 9 additional dwellings to the local housing stock. No argument has been made that the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites. It is possible that the Council may need to find more housing land dependent on changes to national policy. However, even if the Council could not show a 5 year housing land supply, the provision of only 9 dwellings would represent no more than a moderate public benefit.

19. The dwellings would include 6 single storey almshouses that could benefit occupants with more limited mobility. LP Policy LP2 and NPPF paragraphs 63, 82 and 83 seek the provision of housing for different groups and to meet local needs in rural areas to help villages thrive. I have little information on the need for such housing locally, but nevertheless it represents a moderate public benefit. The provision of electric vehicle charging points is increasingly a standard requirement and so I only regard this as a modest benefit.
20. The appellant argues that the site is difficult to farm now due to limited access from the north and the public footpaths. However, it forms part of a much larger field which appears, from mapping evidence at least, to be accessible from roads to the south. Therefore, I give little weight to this argument as a public benefit or material consideration.
21. There are insufficient public benefits or material considerations to outweigh the harm to the significance of the conservation area and the listed church or the adverse effects on the character and appearance of the area. Therefore, the proposed development would conflict with LP Policies PPL8 and PPL9 as well as Policies SP3, SP7, SPL3 and PPL3, and would fail to adhere to NPPF paragraphs 180(b), 205, 206 and 208. In conclusion, the proposal would not represent sustainable development.

Other Matters

22. The third reason for refusal refers to the lack of a mechanism to secure a financial contribution to mitigate against the adverse impact of the development on protected European sites along the Essex coast. The appeal site is within the zone of influence for the Hamford Water Special Protection Area, Special Area of Conservation, and Ramsar site which is designed to safeguard breeding and non-breeding birds as well as coastal habitats. Potential adverse effects on such protected sites can be caused by recreational disturbance arising from visitors to the coast. The proposed gain of 9 additional houses could result in likely significant effects on the integrity of such protected sites in combination with other plans and projects.
23. On this basis, it would be necessary to carry out an appropriate assessment (AA) as part of my decision were I minded to allow the appeal. However, given my findings on the two main issues and my overall conclusion, there is no need for me to carry out an AA as there is no prospect of planning permission being granted. It is also not necessary for me to rule on whether a planning obligation or condition would be more appropriate to secure the contribution.

Conclusion

24. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR