



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: 6th December 2024

Appeal Ref: APP/P1560/W/24/3339984

Brick Barn Residential Care Home, 106 Walton Road, Kirby le Soken, Essex CO13 0DB

- 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 Darren Harkin against the decision of Tendring District Council.
- The application Ref is 23/00893/FUL.
- The development proposed is erection of building for C2 (children's residential home) use (following demolition of existing buildings), construction of car parking area and new in/out access arrangement including new access onto Walton Road.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The above description is taken from the decision notice and appeal form as it is clearer than the description used on the application form.
3. Amended plans were submitted by the appellant a few days before the Council's decision. These were not accepted by the Council or subject to any re-consultation as the Council did not consider the amendments addressed most of its concerns. For completeness, I have considered the amended plans when assessing this appeal, but they have not led me to a different outcome.

Main Issues

4. The main issues are the effect of the proposed development on:
 - (a) the character and appearance of the area having regard to the heritage significance of the existing building, the design of the replacement building, and the effect on trees;
 - (b) highway safety; and
 - (c) protected species.

Reasons

Character and appearance

5. The appeal site is located on the eastern edge of Kirby le Soken on the southern side of the main road through the village (Walton Road). Modern housing is situated to the north and west, with a builder's yard and fields to the south and east. The site contains a large two storey building that was most recently used as a residential care home for the elderly. The building is set

within generous grounds with a tall line of mature trees along the north and east boundaries. To the rear of the site is a small modern chalet bungalow.

6. The building is predominantly red brick with a red clay tile roof. The parties differ on the exact age of the building, with the appellant referring to circa 1750 and the Council early 17th century. It has been subject to various extensions and adaptations, including 19th century works. Nonetheless, it is evidently a historic building and much older than anything in the nearby area.
7. The front elevation and west side elevation include tall gables and decorative brick detailing above windows and under the eaves. There is a flat roof brick porch on the front elevation of similar age and detailing to the main building. At the rear is a tall brick chimney, modern single storey brick extensions, and a two storey wing with two gable ended roofs, timber framing and tile creasing on the first floor. The east side elevation contains a stepped roof slope with a dormer window along with bay windows at ground level. This elevation also has a distinctive tall brick chimney. There is much variety in window design throughout the building including timber sashes and leaded lights.
8. Due to its size and architectural features, the building has a striking presence when viewed from Walton Road. The front and side gables and chimneys are very prominent, and the brickwork detailing is also evident. From within the site, the building has considerable visual interest with layers of development over time including the two storey wing and the stepped roof slope at the side. Consequently, it makes a positive contribution to the character and appearance of the area.
9. Internally, there are areas of historic timber framing on walls and ceilings, such as between the lounge, entrance foyer and pantry on the ground floor, and on the landing and bedrooms above where there are also bracing joints. The first floor timber framing continues to the rear within the sloped ceilings of other bedrooms, with exposed horizontal beams resting on brickwork with studs above in the southeasternmost bedroom. These elements are not insubstantial surviving features. They indicate that the earliest parts of the building, such as the two storey rear wing and the front northeastern area, are at least mid-18th century if not earlier.
10. Elsewhere inside the building, rooms appear to be decorated with modern plasterwork and flooring, although in the absence of detailed survey work, this might cover up older elements. However, the timber staircase from the entrance foyer is a historic feature with a curved handrail, carved newel post and thin balusters with timber treads.
11. Despite the various modern and institutional changes to the building, it retains significant architectural features and has important historic interest as a surviving and sizable pre-modern property that appears to have been used as a farmhouse originally. Therefore, I concur with the Council that it can be regarded as a non-designated heritage asset given its notable heritage significance. The lack of listed building or conservation area status does not diminish the importance of this building. The demolition of the building, as proposed here, would result in the total loss of significance of this heritage asset and cause significant harm to the character and appearance of the area. The ability to record the building before demolition would not outweigh the harm caused by its loss.

12. The replacement two storey building would occupy a similar position to the existing building albeit sited somewhat further to the east. The bungalow would also be demolished to make way for a single storey side wing. The main part of the replacement building would have a large square footprint with a crown roof. The architectural details would be uniform with a standard window and door design and large expanses of brickwork. There would be some visual interest such as quoins and brick window arches, but the overall effect of the building would be bulky and bland. It would not seem institutional, but neither would it conserve or enhance the character and appearance of the area. While there are several modern properties nearby, the replacement building would not be in keeping with the surrounding area due to its size and appearance
13. The mature trees to the north and east of the existing building are attractive specimens and provide the site with considerable screening from the road and adjoining lane. As such, they make a positive contribution to the character and appearance of the area. However, no arboricultural impact assessment or tree protection plan appears to have been submitted with the proposal. The plans show the location of trees but there is no detailed information.
14. The replacement building would be nearer to the trees than the existing structure and its position cannot be easily changed at the appeal stage. While the appellant's plans show protective fencing, and materials could be stored elsewhere on site, there is a lack of information on the quality and condition of each tree and whether any root protection areas would be affected. Given that the development could adversely affect important trees, this information should be provided before a decision is made rather than left to conditions.
15. Concluding on this main issue, the proposed development would have a significant adverse effect on the character and appearance of the area, having regard to the heritage significance of the existing building, the design of the replacement building, and the effect on trees. Therefore, it would not accord with Policy SPL3 of the Tendring District Local Plan 2013-2033 (LP) which, amongst other things, seeks development that makes a positive contribution to local character and maintains or enhances important existing features of landscape, ecological, heritage or amenity value. The development would also not accord with LP Policy LP10 which requires proposals for care housing to have no significant material adverse impact on the landscape and be appropriate in scale and design for their location.
16. The proposed development would not meet paragraph 135 of the National Planning Policy Framework (NPPF) which requires visually attractive development that is sympathetic to local character and establishes or maintains a strong sense of place. It would also not meet NPPF paragraph 136 on the importance of trees to the character and quality of urban environments.
17. NPPF paragraph 209 states that the effect on the significance of a non-designated heritage asset should be taken into account in determining a development proposal. The paragraph also states that a balanced judgment will be required having regard to the scale of any harm or loss and the significance of the asset. This balance is carried out below.

Highway safety

18. Walton Road is also known as the B1034 and acts as a secondary distributor road between Walton on the Naze and Thorpe le Soken. It is 40mph past the

size and appears to carry considerable levels of traffic between the two settlements. At my late morning site visit, I observed some larger vehicles as well as multiple cars travelling through Kirby le Soken. While only a snapshot, this would support the notion that it is a busy road at times.

19. There is an existing access onto the road in the northwest corner of the site and a bus stop at the northeast corner. Visibility west into the village is reasonable as the road is largely straight, but it curves eastwards and views are also impeded by site trees.
20. The appellant proposes creating a new access in the northern boundary with the existing access becoming exit only. The required visibility splays for the road speed are 2.4m by 120m. The plans indicate that from the new access splays of around 66m to the west and 72m to the east can be achieved. This appears to be within either the appellant's or the local highway authority's land and so could be kept free of obstructions such as vegetation, but the distances would be insufficient. While this would be less of an issue if the new access was used as an entrance only, there would appear to be little to prevent it being used as an exit in the future. No splays have been shown for the existing access, but it would also seem insufficient particularly to the east.
21. Traffic entering or emerging from the new access would be near to the existing bus stop where there is currently no safe place for bus users to stand or walk. The appellant has indicated that a footpath could be provided between the two, but there is no indication from the local highway authority that it would be content with this measure.
22. A children's residential home could result in a significant increase in vehicular movements across two access points with substandard visibility splays near to an existing bus stop. Therefore, based on the evidence before me, the proposed development would have a significant adverse effect on highway safety and so would be contrary to LP Policies SPL3, CP1 and LP10. Amongst other things, these policies seek no significant material adverse impact on highway safety, with safe access to sites and the promotion of sustainable transport. The development would also not adhere to NPPF paragraph 114 which seeks safe and suitable access to sites for all users.

Protected species

23. The appellant's preliminary ecological appraisal notes the potential for roosting bats in the existing historic building and the modern bungalow. The appraisal recommends that emergence and re-entry surveys are carried out on each building, but these have not been provided.
24. Paragraph 99 of Circular 06/2005¹ states that surveys should only be required where there is a reasonable likelihood of protected species being present and affected by the development, but that such surveys should be carried out before planning permission is granted. This is because all relevant material considerations need to be addressed in the decision making process rather than leaving such surveys to a later date. The fact that surveys could not be carried out due to the timing of the roosting season does not overcome the need for such surveys at this stage.

¹ Government Circular 06/2005: Biodiversity and Geological Conservation: Statutory Obligations and Their Impact within the Planning System

25. Even if the bungalow remains during construction, most trees remain on site, and the new development incorporates bat boxes, there remains a lack of information about the roosting potential of the existing site and what effect the proposed development might have on protected species.
26. In conclusion, it has not been demonstrated that the proposed development would have an acceptable impact on protected species. Therefore, it would not accord with LP Policy PPL4 which requires proposals to be supported by an appropriate ecological assessment and avoid significant impacts on protected species. It would also not adhere to NPPF paragraphs 185 and 186 which seek to protect and enhance biodiversity and avoid significant harm.

Planning balance

27. There is no objection from the Council to the principle of the proposed development, given the existing use of the site is a C2 residential care home. The Council has not challenged the need for a children's residential home but argues that the existing buildings could be refurbished and reopened for this use without the need for planning permission.
28. The condition of the historic building is poor, and it does not appear to have been occupied or maintained for a number of years. Some windows need repair, and there are multiple locations internally where plasterwork has fallen off and exposed timberwork behind. Some beams and lintels are rotten, and brickwork has been dislodged, such as in the southeasternmost bedroom. Externally, there are some cracks in the brickwork and missing roof tiles, with damage to exposed beams. One section of roof along the eastern elevation is sagging considerably. For the avoidance of doubt, the redundant and deteriorating condition of the building does not affect my findings that it is an important non-designated heritage asset.
29. The appellant has submitted a structural engineering report dated July 2022 which provides a general structural appraisal and high-level advice on the implications of converting the building to a children's residential home. The report notes that it is not a detailed condition survey. It concludes that the building is in an average to poor condition for its age and type with lack of maintenance contributing to its condition.
30. The report considers that the level of structural intervention needed for conversion to a care home would be onerous due in part to the muddled layout and floor level changes which would raise financial viability questions. If unviable, the report argues the building would have to be demolished and replaced with a new structure. However, it also considers that a sensible and appropriate engineering strategy could be developed to refurbish the building as a single dwelling which retains much of the existing fabric.
31. There is little evidence before me to indicate that a conversion to a children's residential home would be impractical or unviable. It is apparent that despite its poor condition, the building is not beyond saving and could be refurbished for a future use either within the same use class or for other residential purposes subject to consideration of other planning matters.
32. The proposed development would cause significant adverse effects on the character and appearance of the area through the loss of a building of notable heritage significance, the design of the replacement building, and the effect on

trees. It would also have a significant adverse effect on highway safety, and it has not been demonstrated that there would be an acceptable impact on protected species. The benefits of providing a children's residential home, while important, would not outweigh these adverse effects, especially where it has not been adequately demonstrated that the building is beyond re-use. In conclusion, there would be overall conflict with the development plan and no material considerations to indicate that planning permission should be granted.

Other Matters

33. Interested parties raise concerns regarding the effect on living conditions along with disruption at the construction stage, as well as the lack of services and facilities in the village for such development. However, given my above findings, it has not been necessary to consider these other matters in detail.

Conclusion

34. 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