



Appeal Decision

Site visit made on 25 November 2025

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 11 December 2025

Appeal Ref: APP/Z1510/W/25/3373214

Upper House, Church Hill, Helions Bumpstead, Essex CB9 7AJ

- 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 Richard Hatch against the decision of Braintree District Council.
 - The application Ref is 24/02564/FUL.
 - The development proposed is a self build scheme – erection of a dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development provided in the appellant's appeal form following the Council's agreement to the change from that originally stated in the application form.
3. I have a statutory duty under sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses and to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 202 of the Framework advises that heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance.

Main Issues

4. The main issues are:
 - The effect of the proposal on the special interest and significance of the Parish Church of St Andrew, a Grade II* listed building, and on the character or appearance of the Helions Bumpstead Conservation Area; and
 - The effect of the proposal on a public right of way.

Reasons

Heritage assets

5. Upper House lies within a relatively large plot with land extending from Church Hill and Camps Road and continues to the rear of the property and the church alongside. The appeal site lies to the rear of Upper House on land currently in use as garden and is separated from the house by a cluster of outbuildings. To the north, beyond mature boundary planting is open countryside.

6. The Parish Church of St Andrew is a Grade II* listed building (Ref.1338347) and in accordance with paragraph 213 of the Framework is of the highest significance. The list description mentions that the church dates from the 13th century and describes the building materials, its form and architectural features. In relation to this appeal, the building's significance is mainly derived from its considerable age, function, form and architectural detailing. The church is located on elevated ground surrounded by a churchyard, and is a landmark building within this small, rural community. It can be seen from many places within the surrounding landscape with views partly filtered by trees and other mature vegetation. Key views are obtained from footpaths running across fields towards the settlement from the north which generally head towards the church. These footpaths include routes across and near to the appeal site.
7. The land to the rear of Upper House, including the appeal site, is an attractive, sloping, grassy plot with clumps of trees and shrubs lying between the fields and church. It is part of the environment in which the church is experienced and appreciated, and this relatively open, rural setting is an important part of the significance of the listed building. Changes to it therefore have the potential to affect the environment in which the church is viewed.
8. The appeal site is within the Helions Bumpstead Conservation Area. This area centres on the historic properties and plot boundaries mainly located along the roads in the centre and is set in a rural landscape. It is a community where both traditional buildings and farmland contribute to the area's character and in parts the surrounding landscape extends into the settlement. The layout of buildings creates an historic settlement of varied appearance and significant visual interest. The rising ground results in a staggering of the buildings which adds visual interest and draws the eye, especially towards the church with its tower. The surrounding fields, hedges and trees reinforce the attractive, rural character of the area.
9. I have noted above that the appeal site contributes positively to the significance of the setting of the church. It therefore follows that the site is also an intrinsic part of the historic settlement form, representing part of a relatively open swathe of land flowing into the settlement. Although there are only limited glimpses of the appeal site from the surrounding roads due to the topography and surrounding vegetation, the footpaths across and near to the appeal site provide views of the church and surrounding buildings. The appeal site is therefore part of an area of land which makes a positive contribution to the character and appearance of the area.
10. The proposed dwelling would be constructed on a grassed area just to the rear of the outbuildings. It would be of 1.5 storeys in height with a cruciform plan and would be of timber-frame construction, partly clad in brick, with clay roofing tiles. Land around the dwelling would comprise some level hardstanding with the remainder of the garden retained as a grassed and wooded amenity area.
11. Although the proposed building would lie to the rear of the existing outbuildings and not directly alongside the church, it would be located within that wider parcel of open land which connects with the surrounding fields. It would therefore introduce a large built form where there is currently none and, despite the positive attributes of its design and the opportunity for additional landscaping, it would erode the way in which the church is seen and appreciated in its context. It would also, therefore, harm the historic form of the settlement. Whilst the proposed dwelling may only be glimpsed from surrounding roads, it would be clearly seen

from the nearby footpaths and from the churchyard. The prominence of the dwelling may be diminished by being located at lower level than the church and views would be softened by surrounding vegetation, nevertheless, its presence would be clearly seen in this rural context. Indeed, those views would be more pronounced in the winter months. That presence would be further exacerbated by the creation of a separate curtilage and associated domestic paraphernalia which would be likely to be more pronounced than the current use of the site as part of an extended garden.

12. Therefore, although the proposal would not completely remove the green link between the church and the surrounding landscape, it would significantly erode the contribution that the rural landscape makes to the way that the church is viewed and understood. It would also be harmful to the layout and grain of the historic settlement, and the way that the buildings are appreciated in their context. Historic England may have not offered specific comments on this proposal but that does not equate to a lack of objection. In my experience, it is common practice with cases such as this for decisions to be deferred to the Council's specialist advisors. I, therefore, conclude that the proposal would have a harmful effect on the special interest and significance of the Parish Church of St Andrew, a Grade II* listed building, and on the character or appearance of the Helions Bumpstead Conservation Area.
13. Paragraph 212 of the Framework advises that when considering the impact of proposals on the significance of designated heritage assets, great weight should be given to the asset's conservation. Paragraph 213 goes on to advise that significance can be harmed or lost through development within its setting, and any such harm should have a clear and convincing justification. I find the harm in the context of the significance of the heritage assets, in the language of the Framework, to be at the lower end of less than substantial in this instance. This commands considerable importance and weight and is not to be treated as a less than substantial objection to the proposal. Furthermore, the Grade II* status of the listed building amplifies the weight. The Framework advises that this harm should be weighed against the public benefits of the proposal.
14. The dwelling would contribute towards housing land supply, an important Framework consideration in favour of the development. It would also be within an established residential area and there would be some social and economic benefits during construction and occupation, and it would contribute to the vitality of local services. However, given the size of the development proposed, these public benefits would be modest in scale, and I attribute them limited weight.
15. The proposal is described as a 'self-build dwelling'. The Framework recognises the need to provide housing for different groups of people including those wishing to commission and build their own homes. A self-build dwelling has the potential to make a limited but important contribution to the housing mix and the need for such plots in the area. It would therefore contribute to the Council's self-build obligations, and the Council acknowledge that it has a shortfall of sites.
16. However, although the description of development identifies that it would be a self-build dwelling, I am not certain that this alone would be sufficient to ensure that it is built as such. Although the appellant has suggested that this could be secured by condition, conditions requiring occupation of the dwelling by the person who built it would be unlikely to pass the tests within the Framework, especially regarding

enforceability. A Section 106 obligation is likely to be the most appropriate method of meeting the legal definition in the Self-build and Custom Housebuilding Act 2015 (as amended) to ensure that the development would be self or custom build housing rather than market housing. These factors greatly diminish the positive weight which I afford to the potential provision.

17. The appellant suggests that the scheme would be of quality design and would meet high environmental standards. These aspects of the proposal generally represent good planning expected in all cases, and therefore I attribute them limited weight.
18. Given the above, I conclude that the overall limited weight that I attribute to the public benefits would be insufficient to outweigh the level of harm to the designated heritage assets, which collectively I consider to be significant and to which I attach great weight. For the avoidance of doubt, even had I considered that the proposal met the legal definition of a self-build dwelling, that would not have been of sufficient weight to tip the balance in favour of the proposal. As such, the proposal would not comply with the Framework. In addition, there is no clear and convincing justification for the harm to the significance of the designated heritage assets. Consequently, the proposal would not comply with Policies SP7, LPP47, LPP52, LPP53 and LPP57 of the Braintree District Local Plan (2022) (BDLP) in so far as they seek to conserve or enhance the significance of heritage assets.

Public Rights of Way

19. Footpath 52 would be affected by the appeal proposal. This is shown on the appellant's proposed block plan running from an entry in the churchyard wall, north towards the surrounding fields, and a separate limb of the footpath running from the entry diagonally towards The Old Marquis. I saw on site that the point where the footpath enters the churchyard had a 'footpath closed' sign but there is little before me to explain the circumstances surrounding this. I also saw that the diagonal part of the footpath appeared to terminate at a brook with no apparent way of continuing. There was also a footpath running around the perimeter of the appellant's land, adjoining the fields, which both parties agree is an informal walked path.
20. Whilst the appellant suggests that Footpath 52 near to the appeal site has not been formally walked in recent years it remains the legal route. The appellant indicates that a footpath diversion has been applied for but has not yet been determined. Such a diversion of the legal right of way is not within the jurisdiction of the planning authority. It is therefore a requirement that the legal route of the footpath is maintained free and unobstructed to ensure the continued, safe passage of the public on this definitive right of way. Consequently, the proposal must consider the legal route of the footpath rather than an informal walked path.
21. BDLP Policy LPP42, amongst other things, requires that development which would adversely affect the character, or result in the loss of existing rights of way, will not be permitted unless alternative provision or diversions can be arranged which are at least as attractive, safe and convenient for public use. Even if the footprint of the proposed dwelling was not on the line of Footpath 52, the evidence indicates that the route would be impacted by the alteration of land immediately around it. This may involve the laying of hardstanding, boundaries or ancillary buildings. Consequently, I am not assured that even if the land was unobstructed, that the

character of the route, which currently passes across an attractive open grassed area linking the church and surrounding fields, would not be adversely affected. The development would therefore be likely to affect the enjoyment of that route by footpath users.

22. Should an application to divert the footpath be approved in the form sought or an alternative alignment, the Council would still require an assessment of the proposal based on that revised route. Given the uncertainty of that route or the outcome of the proceedings, this matter could not be dealt with by condition as it would not meet the Framework tests.
23. Consequently, the evidence indicates that the proposal would have a harmful effect on a public right of way. It would conflict with BDLP Policies LPP42 and LPP52 and the Framework which advises that planning decisions should protect and enhance public rights of way.

Conclusion

24. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. Overall, the cumulative benefits of the proposed development, which include the matters I have highlighted above, are clearly worthwhile but nevertheless carry limited weight in favour of the scheme. However, these benefits would not be of sufficient magnitude to outweigh the harm and related policy conflicts that I have identified. That harm would be very significant and permanent and such that the scheme would not be in accordance with the development plan when considered as a whole.
25. For the above reasons, and having taken all other matters raised into account, there are no material considerations that indicate the proposal should be determined otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

G Bayliss

INSPECTOR