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## Appeal Decision

Hearing held on 20 September 2016

Site visit made on 20 September 2016

**by Nick Fagan BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 30 September 2016**

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**Appeal Ref: APP/P1560/W/16/3146802**

**Land adjacent to Two Villages School, Mayes Lane, Ramsey, Essex  
CO12 5EL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Thornpark Developments against the decision of Tendring District Council.
  - The application Ref 15/00964/OUT, dated 23 June 2015, was refused by notice dated 7 January 2016.
  - The development proposed is the erection of 71 dwellings and associated garages.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The application is in outline with all matters reserved except access, as confirmed at the Hearing. The submitted layout plan (drawing number 3027:001 Revision C) is therefore merely illustrative.
3. A S106 agreement between the District Council, County Council and appellant dated 16 September 2016 was handed to me at the Hearing.

### Main Issues

4. The main issues are the effect of the proposed development on the character and appearance of the area including its effect on the setting of the nearby Grade 1 listed St Michael's Parish Church, and whether it would be sustainable development as defined by the National Planning Policy Framework (NPPF).

### Reasons

#### *Effect on St Michael's Parish Church*

5. This Grade I listed building dates mainly from the 12<sup>th</sup> to 16<sup>th</sup> centuries. The tower, which is particularly prominent in the local landscape due to its height and size, dates from the early 15<sup>th</sup> century, repaired in the late 16<sup>th</sup>, 17<sup>th</sup> and 18<sup>th</sup> centuries<sup>1</sup>.
6. S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, when considering whether to grant planning permission for

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<sup>1</sup> This information is from the listing description (first listed 30 January 1987)

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development which affects a listed building or its setting, special regard shall be had to the desirability of preserving the building or its setting or any features or architectural or historic interest it possesses.

7. The Church would originally have sat on its own in the rural landscape on top of the ridge overlooking the valley towards Ramsey village to the west. Although there has been some more recent (mainly 20<sup>th</sup> century) residential development on Church Hill and on the east side of Mayes Lane the setting of the Church is still predominantly rural. Beyond the nearest dwellings to the west on the north side of Church Hill and those immediately to the north (the site of the old vicarage) are agricultural fields. To the south west is the appeal site, a 3.28ha field of rough pasture bordered by hedges with gaps.
8. The Church's tower and roof are very noticeable from the Essex Way long distance footpath to the south and south west, which the main parties viewed with me at the site visit and as confirmed by the appellant's photograph taken from the ridgeline on the Essex Way handed to me at the Hearing. The whole of the Church is prominent in views from the access road to Two Villages School, particularly from the field gate on the footway. It is also clearly visible from the footpath at the south west corner of the site.
9. Views out from the entrance to the Church and its graveyard are principally across the open field of the appeal site, albeit across the B1352 and in the context of the houses in Mayes Lane and the more recently erected School. Although there is inevitably a degree of severance from the wider countryside of the site by the road, which no doubt is host to increasing traffic movements, I disagree with the appellant that this is significant because the route of the road is historic and vehicles on it do not generally block views of the open countryside, partly because they are transient. Neither can I agree that that the small wooden bus shelter in the lay-by diagonally opposite the Church detracts from the Church's setting.
10. All the above views emphasise the important rural landscape setting of the Church to its significance as a listed building.
11. The appeal site slopes generally down to the south west such that there is a height difference of about 5m between the location of the new road access on Mayes Lane and the south west corner of the site. Whilst the layout plan is illustrative it is clear that in order to build 71 dwellings on the site it would be necessary to erect dwellings on the highest part of the site, as set out on the illustrative plan.
12. In the AMEC Stage 2 Report<sup>2</sup> the site was defined as important in providing a setting for the Church and in providing a visual link between the Church and the School and the suggested development form was to maintain a visual link between the two as set out on the indicative plan for Site 3/3A (the appeal site). The appellant at the Hearing said that it would be possible to incorporate a green corridor to provide such a visual link in the final scheme because the submitted layout was only illustrative, although he acknowledged that this would increase the density of the developable area of the site since the application was for 71 dwellings. I agree that the provision of such a green

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<sup>2</sup> Potential Areas for Development Landscape Impact Assessment Final Stage 2 Report, March 2010 by AMEC Earth and Environmental (UK) Ltd – Site 3/3A

corridor would be possible and that this would retain views of the Church from the road and footway to the School.

13. But it would not obviate the need to develop the rest of the site and indeed increase the density on the developable parts of it, which in turn would be likely to make the scheme's form even more urban. The highest central parts of the site would still be built on, as would that part of it fronting Church Hill, albeit that it is proposed to inset the houses from the road frontage. I acknowledge that the proposed 'village green' with its balancing pond would be created at the north east corner of the site closest to the Church as well as the green corridor as part of the final layout. But such features would not disguise the overall urbanising effect of the development on what is currently the principal rural setting of the Grade 1 listed Church.
14. This is because the view from the footpath to the west of the School<sup>3</sup> would be of an urban or suburban housing estate if the development went ahead rather than of the Church in its existing predominantly open rural setting. Although there may be glimpses of the top of the Church tower from this point, the new housing rising up the hill towards the Church would preclude any real appreciation of it and certainly of the Church as a whole historic building.
15. Likewise the view from the Essex Way as described above. This viewpoint is at a higher elevation than VP4 and there is no doubt that the top of the Church tower would continue to be visible from here if the development was constructed. But the majority if not all of the Church's tiled roof would be likely to be masked by the new dwellings and the fragment of its tower that would remain from this view would only serve to confirm that its rural open setting had been significantly compromised by built development. This is not the only viewpoint of the Church from the Essex Way: indeed it can be seen currently as one continues in a northerly direction until cut off by Whinny Grove woods.
16. I appreciate the appellant's argument that churches are inward looking buildings but disagree that views outwards from the entrance to the Church or from its graveyard are therefore unimportant. Views from the approach paths to the Church entrance and from the graveyard across the appeal site are important to an appreciation of its setting. There is no doubt that dwellings constructed along Church Hill, even as shown set back from the road as on the illustrative plan, would significantly diminish this setting.
17. For these reasons I conclude that the proposed development would harm the setting of St Michael's Parish Church and that this would diminish the significance of the Grade I listed building. As such it would be contrary to Policy EN23 of the Tendring District Local Plan (LP) and paragraph 132 of the NPPF.
18. The development would not affect the fabric of the listed building itself and would lead to less than substantial harm as defined by NPPF paragraph 134. As such the harm must be weighed against the public benefits of the proposal. In this case these benefits centre on the social and economic benefits of building 71 dwellings including up to 25% affordable units in a District where this is no acknowledged five year supply of developable housing sites (5YHLS).

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<sup>3</sup> Viewpoint (VP) 4 in the appellant's Landscape and Visual Appraisal (Rev C) (LVIA)

19. However, in my view, given the above statutory presumption to the desirability of preserving listed buildings or their settings, the public benefits of the proposed development do not outweigh the harm to this Grade I listed building.

*Effect on the Local Green Gap and the Landscape in General*

20. The site lies within the Local Green Gap (LGG) in the adopted LP. Policy EN2 states that land within LGGs defined on the Proposals Map will be kept open and essentially free of development in order to prevent the coalescence of settlements and to protect their rural settings. The role of this particular LGG, in terms of this site, is to preserve the attractive and extensive views across Church Hill; to safeguard the separate identity, character and rural setting of Ramsey village; and to prevent further ribbon development on Church Hill.
21. It is common ground between the main parties that this Policy, and indeed Policy EN1 which seeks to protect local landscape character, are out-of-date insofar as they act as a constraint to residential development because the Council cannot demonstrate a 5YHLS. It follows that the second bullet point in NPPF paragraph 14 is triggered: permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, or specific policies in the Framework (including those relating to heritage assets) indicate development should be restricted.
22. However, and as the two recently allowed appeal decisions cited by the appellant acknowledge<sup>4</sup>, the function of these two Policies in preventing settlement coalescence and protecting rural settings is not out-of-date because it accords with wider NPPF policy.
23. The earlier versions of the emerging new Local Plan (ELP) in 2012 and 2014 proposed deleting the site from the LGG and allocated it as a housing site (HAD5). However, following a rethink of the Council's spatial strategy by the new Council in 2015 following advice from the Inspectorate about the level of housing proposed, the Council decided to keep the site within the LGG and opt for development on other sites in the Harwich-Dovercourt area. The Council confirmed at the Hearing that the site was inadvertently omitted in error from the LGG on the Proposals Map which went out to public consultation this summer<sup>5</sup> and the appellant accepted this.
24. The proposed development would not preserve the attractive and extensive views across Church Hill and would increase ribbon development on it for the reasons set out above. But the site itself is relatively self-contained. Its Church Hill frontage is shielded between the existing four houses on the southern side of the road and Mayes Lane, including by dense planting surrounding the gardens of these houses, from Ramsey village and the valley bottom. The wider part of the site to the south and south west is shielded from Ramsey and the valley by the surrounding topography and by the landscape barrier of Whinny Grove woods to the west, which would remain.
25. As such I consider that its development as proposed would not contravene the fundamental aim of this LGG which is essentially to prevent the edge of Dovercourt merging with Ramsey village on the other side of the main A120, to keep the valley and its principal slopes to the south open and to preserve a

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<sup>4</sup> APP/P1560/W/15/3140113 and APP/P1560/W/16/3150967

<sup>5</sup> Tendring District Local Plan 2013-2033 and Beyond: Preferred Options Consultation Document, July 2016

rural edge to Dovercourt. It would therefore comply with the aims of LP Policy EN2.

26. However, LP Policy EN1 states that the District's distinctive local landscape character should be protected and where possible enhanced, including in terms of the settings and character of settlements, of attractive and/or vernacular buildings within the landscape and in terms of prominent views.
27. I have described above the existing prominent views of the Grade I listed St Michael's Church and how the proposed development would harm such views. These views not only demonstrate the importance of the Church's setting to its significance as a listed building but form an important integral element of the character of the area. The development would significantly detract from the Church's setting and thereby degrade the distinctive local landscape character of the area contrary to Policy EN1. NPPF paragraph 132 states that great weight should be given to a heritage asset's conservation and this is an allowable exception to the default position of granting development when development plan policies are out-of-date, as in this case.

### *Sustainability*

28. The purpose of the planning system is to contribute to achieving sustainable development, which is defined in paragraphs 18 to 219 of the NPPF taken as a whole. Economic, social and environmental gains should be sought jointly and simultaneously through the planning system.
29. The provision of 71 houses in a District which cannot demonstrate a 5YHLS is an important social benefit, as is the provision of up to 25% of these units as affordable housing in an area of clear unfulfilled need for such units. Such a housing development would provide extra demand for services in the area, which would benefit local businesses and would provide financial contributions to local infrastructure such as health, education and open space proportionate to its impact via the signed 106 agreement as well as local economic multiplier effects through the construction process.
30. However, although I have concluded that the purposes of the Ramsey-Dovercourt LGG would not be severely harmed, the setting and thereby the significance of the Grade 1 listed St Michael's Church would be and this would also harm the distinctive rural character of the area. Given the statutory duty to the desirability of preserving the building or its setting and the policy presumption of doing so both within the NPPF and the development plan, I conclude that the harm to the significance of the listed building would outweigh the benefits of providing 71 new dwellings. The joint and simultaneous dimensions of sustainable development would not be satisfied in this case.

### **Other Matters**

31. The S106 agreement would provide a sufficient range of proportionate mitigation benefits to satisfy the Council's policies and comply with the *Community Infrastructure Levy Regulations 2010*. But since these would only be provided if permission was to be granted it is unnecessary to consider these obligations any further.

32. Local Members, the Parish Council and local residents raised other objections, principally those connected with flooding, foul drainage and the amount of traffic and congestion that the new housing development would generate. But I note neither the Local Planning Authority, nor the Highway Authority nor any statutory consultees raised any specific issues concerning these matters and I have no evidence before me to suggest that all of them could not be satisfactorily addressed by the development, if necessary by suitable planning conditions.

### **Conclusion**

33. For the reasons given above I conclude that the appeal should be dismissed.

*Nick Fagan*

INSPECTOR

### **APPEARANCES**

#### **FOR THE APPELLANT:**

Edward Gittins BA(Hons) DipTP FRTPI  
Sophie Greenhow BA(Hons)  
Nigel Neal  
Ian Alderton MCIAT Accredited Conservationist  
Kirsten Bowden Chartered Landscape Architect

Edward Gittins & Associates  
Edward Gittins & Associates  
Appellant  
Architectural Management

#### **FOR THE LOCAL PLANNING AUTHORITY:**

Malcolm Inkster BSc(Hons) MRTPI  
Gary Guiver

Planning Consultant  
Planning Manager

#### **INTERESTED PERSONS:**

Cllr Tanya Ferguson	Ward Councillor/Rep for Ramsey & Parkeston Parish Council and for various local residents
Cllr Andrew Erskine	County Councillor for this Division
George Elmer	Also for Parish Council & Local resident
Colin Knight	Local resident

### **DOCUMENTS SUBMITTED AT THE HEARING**

1. Updated Signed Statement of Common Ground 31 August 2016
2. Extract form AMEC Reports Stages 1 and 2
3. Photograph taken from Essex Way showing site and Church in distance
4. Proposals Map – Harwich, Dovercourt & Ramsey from adopted Local Plan 2007
5. Emerging Local Plan Preferred Options Consultation Document July 2016 including Proposals Map – North East Tendring

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*End of Documents List*

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