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## Appeal Decision

Site visit made on 17 July 2025

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 August 2025

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Appeal Ref: APP/V2255/W/24/3337218

Moat View, Church Lane, Newington ME9 7JU

- 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 Damon Ralph against the decision of Swale Borough Council.
  - The application Ref is 23/503792/FULL.
  - The development proposed is described on the application form as 'the erection of a new build disability accommodation annexe, and minor landscaping works.'
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The proposed development relates to the setting of a listed building and lies within a conservation area. Accordingly, I have had special regard to the desirability of preserving the listed building or its setting or any features of special architectural or historic interest which it may possess, as required under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). I have also paid special attention to the desirability of preserving or enhancing the character or appearance of the conservation area under Section 72(1) of the Act.

### Main Issues

3. The main issues are:
  - the effect of the proposed development on the character and appearance of the surrounding area; and
  - whether the proposed development would preserve the setting of the Grade I listed building, St Mary's Church, and the extent to which the development would preserve or enhance the character and appearance of the Newington Church Conservation Area.

### Reasons

#### *Character and appearance*

4. The appeal site comprises a large parcel of land, positioned between Iwade Road and St Mary's Church. It contains the residential property of Moat View together with garden space and an expanse of open fields used for grazing. The area to the north and east of the site has a distinct rural character, whilst that to the immediate west contains established residential development. Although part of the site forms

garden space, it undoubtedly has a more rural than urban character and positively contributes to the verdant, open countryside beyond.

5. The proposed development seeks the erection of a two-storey dwelling within an open area associated with Moat View. It would introduce built form where this is currently not the case and would be highly visible from Iwade Road, in both directions, but particularly upon approaching the site from the west. In addition, the proposed development would be visible from some private vantage points, and from the grounds of the nearby St Mary's Church. This would have an urbanising effect on the site, harming the transition between Newington and the open countryside beyond.
6. I acknowledge that the proposed development would be of a similar scale to properties that exist to the immediate west, and that some effort has been made to reflect the local vernacular. However, its presence would nevertheless have a detrimental impact on the rural character of this part of Newington and surrounding area. I note paragraph 187 of the National Planning Policy Framework (Framework) speaks of recognising the intrinsic character and beauty of the countryside. I also note the existence of mature landscaping along the site boundary. However, such landscaping, whether current or proposed, cannot be relied on in perpetuity to provide the same level of screening at any given time.
7. Overall, I conclude that the proposed development would harm the character and appearance of the surrounding area, contrary to the relevant provisions of policies ST1, ST3 and DM24 of the Bearing Fruits 2031 – The Swale Borough Local Plan (2017). These policies, in summary, seek to ensure high quality design in development and the preservation and enhancement of the natural environment.

*Heritage assets – special interest and significance*

Listed building

8. The Church of St Mary is a Grade I listed building. It is a parish church that dates back to around 1190, having evolved over time, with additions and restoration. The church is set within an historic graveyard, enclosed by walls and fences, with mature trees throughout. Based on the evidence before me, the special interest and significance of the listed building is largely derived from its historic and architectural interest. Important contributors in these regards are its age, its dominant presence within its grounds, its surviving historic fabric and its historic and continued use as a place of religious congregation.
9. Pertinent to this appeal, the building's special interest and significance are also derived, in part, from its setting. The grounds and graveyard of the church have an historic, visual and functional connection with the heritage asset. These grounds are clearly defined by boundary treatments. These grounds provide a tranquil space which form the asset's immediate setting. It is from here that the asset is best appreciated, surrounded by verdant and rural surroundings. This immediate setting contributes considerably to the asset's special interest and significance.
10. Beyond this, the surrounding area is made up of modest residential development to the west, with verdant and open fields to the north and east. By reason of the elevated position of the church, there is a level of intervisibility between it and the surrounding area. The prominent tower, in particular, is readily visible from several surrounding locations. Whilst the surrounding built form has altered how the asset



is experienced to a degree, the wider undeveloped rural setting nevertheless allows an appreciation of the historic interrelationship between the church and surrounding rural community. This wider setting contributes positively to the asset's special interest and significance.

#### Conservation Area

11. This site lies within the Newington Church Conservation Area (CA).
12. The special interest and significance of the CA is largely derived from the preservation of its rural character, focussed on the historic church and grounds. Consistent building materials of brick and tile dominate the CA, together with flint and ragstone insofar as the church is concerned. The appeal property, although relatively contemporary, is set within verdant grounds. These open grounds contribute positively to the rural character and appearance of the CA and thereby to its significance as a designated heritage asset.

#### *Heritage assets – appeal proposal and effects*

##### Listed building

13. The church currently retains a visual and historic interrelationship with the appeal site, as part of a largely undeveloped plot. This would be markedly compromised as a result of the proposed development.
14. The proposed development would introduce built form of two storeys where this does not currently exist, harmfully eroding the historic and rural setting of the church. Although part of the appeal site is used for domestic purposes at present, the introduction of an additional dwelling would likely come with the associated paraphernalia of a domestic setting, including parked cars, bin stores, boundary treatments and other garden structures. This would all harmfully diminish the ability to appreciate the significance of the asset and weaken the contribution that the wider setting of the church makes to that asset's significance.
15. Overall, I conclude that the proposed development would fail to preserve the setting of Grade I listed building, the Church of St Mary. Consequently, the development would harm the significance of this designated heritage asset. In doing so, it would be contrary to the requirements of Section 66(1) of the Act.

##### Conservation Area

16. Whilst I note that several established buildings exist along Iwade Road, including to the west of the appeal site, the majority of the site remains unadulterated. The proposed development would encroach into an undeveloped part of the site, which currently makes a positive contribution to the character and appearance of the CA. This would result in a harmful, urbanising change to the rural character and appearance of the site, and CA as a whole.
17. Overall, I conclude that the proposed development would fail to preserve the character or appearance of the CA, contrary to the requirements of Section 72(1) of the Act.

#### *Heritage assets – public benefits and balance*

18. With reference to paragraphs 213 and 214 of the Framework, in finding harm to the significance of designated heritage assets, the magnitude of that harm should

be assessed. Given the extent of the works relative to the listed building and CA, I find the harm to be 'less than substantial' in this instance but, nevertheless, of considerable importance and weight. Under such circumstances, paragraph 215 advises that this harm should be weighed against the public benefits of the development, which includes securing the asset's optimum viable use.

19. Economic benefits would be brought about through the construction phase. However, the scale of those benefits is short-term and very limited by the extent and nature of the proposal. The primary outcomes of the proposed works, namely the provision of living accommodation, would be a private benefit to the appellant and their family that does not provide clear and convincing justification for allowing the appeal. I deal with personal circumstances below.
20. Overall, the weight that I ascribe to the public benefits that accrue from the development is not sufficient to outweigh the considerable importance and weight that I attach to the harm I have found. Accordingly, the proposed development would fail to preserve the setting of the Grade I listed building, Church of St Mary, and would fail to preserve or enhance the character or appearance of the CA.
21. Consequently, the proposed development would be contrary to the requirements of sections 66(1) and 72(1) of the Act, and the relevant provisions of the Framework which seek to conserve and enhance the historic environment. The proposed development would also conflict with the relevant provisions of policies CP8, ST6, DM32 and DM33 of the Bearing Fruits 2031 – The Swale Borough Local Plan 2017, which in summary seeks to protect heritage assets.

#### **Other Matters**

##### *Heritage*

22. The appeal site is located within the wider surroundings of Grade II listed building, Oast House (Adjacent to Church Farmhouse). Mindful of the statutory duty set out in section 66(1) of the Act, I have had special regard to the desirability of preserving its setting. The historic built backdrop and surrounding countryside contributes to its significance. Given the location and extent of the proposed development, together with the considerable separation distance and limited intervisibility between the sites, I consider that the proposed development would preserve the setting of this listed building and the contribution it makes to its significance. I note the Council had no concerns in this regard either.

##### *Special Protection Areas*

23. The site lies within the zone of influence of The Swale Special Protection Area, a European designated site. Habitats Regulation 63(1) states that a competent authority, before deciding to give any consent or permission must make an appropriate assessment of the implications of the plan or project for that site. However, given my reasoning in respect of the main issues and that the appeal is dismissed, there is no requirement upon me in that regard, and even were I to find that the proposal was acceptable in this respect, it would be neutral in my determination of the case.

##### *Personal circumstances*

24. The appellant has identified personal circumstances in that the proposed development would provide accommodation for family members who have



disabilities. Accordingly, I have had due regard to the Public Sector Equality Duty (PSED) contained in section 149 of the Equality Act 2010, which sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. From the evidence, my decision has the potential to affect a person with a protected characteristic for the purposes of the PSED. However, it does not follow that the appeal should necessarily succeed.

25. I appreciate that in dismissing the appeal, individuals would be unable to derive the benefits of the dwelling, having the potential to disproportionately affect them. Nevertheless, I have no substantive evidence before me to indicate that the accommodation proposed could not be provided either within the main house on the site, in a smaller or less harmful location within the site, or that no other form of accommodation would be obtainable. For these reasons, I find that this factor is not sufficient to outweigh the harm that I have found.

#### *Housing supply*

26. The evidence before me demonstrates that there is a lack of a five-year housing supply in the district, therefore policies which are most important for determining the proposal are deemed out-of-date. However, bullet (i) of Framework paragraph 11.d clarifies that permission should not be granted if the application of policies in the Framework that protect areas or assets of particular importance, including heritage assets, provide a strong reason for refusing the development. As I have explained, there would be harm to heritage assets which would not be clearly outweighed. Therefore, the proposed development would not benefit from the presumption in favour of sustainable development in this instance.

#### **Conclusion**

27. For the reasons above, having had regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

#### *A Price*

INSPECTOR