

---

## Appeal Decisions

Site visit made on 26 July 2019

**by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 6<sup>th</sup> September 2019**

---

### **Appeal A Ref: APP/H1515/W/19/3227728**

#### **Kettles, Trueloves Lane, Ingatestone CM4 0NQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Silvermist Properties Ltd, against the decision of Brentwood Borough Council.
  - The application Ref 18/01735/FUL, dated 2 November 2018, was refused by notice dated 8 March 2019.
  - The development proposed is the subdivision of existing dwelling back into 2 semi-detached dwellings.
- 

### **Appeal B Ref: APP/H1515/Y/19/3227726**

#### **Kettles, Trueloves Lane, Ingatestone CM4 0NQ**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by Silvermist Properties Ltd, against the decision of Brentwood Borough Council.
  - The application Ref 18/01736/LBC, dated 2 November 2018, was refused by notice dated 8 March 2019.
  - The works proposed are the subdivision of existing dwelling back into 2 semi-detached dwellings.
- 

## **Decisions**

*Appeal A Ref: APP/H1515/W/19/3227728*

1. The appeal is dismissed.

*Appeal B Ref: APP/H1515/Y/19/3227726*

2. The appeal is dismissed.

## **Preliminary Matter**

3. As the proposal concerns a listed building, I have had special regard to sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

## **Main Issues**

4. The extensions and alterations in the applications the subject of these appeals are largely covered by a planning permission and listed building consent already granted by the Council, when the house was intended to remain as a single dwelling.
-

5. The site lies within the Green Belt. The Council considered that the effect of this proposal for sub-division would not have a greater impact on the openness of the Green Belt than the existing development. The proposal would therefore be an exception to inappropriate development within the Green Belt as set out in paragraph 145 of the National Planning Policy Framework (the Framework) and the development plan. On the evidence before me, I see no reason to disagree. Therefore, the main issues are:
- whether the proposal would preserve the Grade II listed building and any of the features of special architectural or historic interest that it possesses; and,
  - its effect on the living conditions of the occupiers of both houses, with particular regard to privacy.

## **Reasons**

### *The significance of the listed building*

6. This is a rare example of a mid C16, 2-bay house, surviving in remarkably intact form despite being altered to form two cottages in the early C19, and then returned to a single dwelling in the mid C20, after which it was listed as Grade II. Given the consent already granted, in so far as this appeal is concerned, the significance of the building lies in its architectural and historic interest from its development with particular regard to its form, layout and detailing, the archaeological evidence of its timber framing, as well as its appearance in its agricultural setting as a modest, rural dwelling in the Essex countryside.

### *The effect of the proposal on the listed building*

7. The unenclosed frame, the studs of which show the surviving peg holes for the high end bench, is an original feature of the building when the right bay was a hall open to the roof, and the spaces either side of it would have been connected, rather than separated. The compartmentalisation of the ground floor would remove that significant, single occupancy feature of the layout.
8. I appreciate that for around 100 years of its almost 500 years of use, the building was two dwellings, when presumably the central frame was sealed and there was no connection between the bays. Nonetheless, the present configuration demonstrates both the surviving original layout of a single dwelling, which endured for around 300 years, as well as its later subdivision. This is now a significant part of its historic and architectural interest, where the two phases of development are plain to see. While the formation of a party wall might be able to avoid historic fabric loss, and the studs could be retained, it would not diminish the harm from the loss of the special historic and architectural interest of the ground floor as a single occupancy, rather than as two disconnected spaces.
9. The cross wall of the first floor bedroom on one side has its timber framing partly exposed. Given that the same wall, in the bedroom on the opposite side, has been encapsulated, I can see no harm to the significance of the building or its special interest from the concealment of the framing on the exposed side behind a compartment wall.

10. Given that the residential use would continue, albeit more intensively so, I can see no harm to the setting of the building from an open, timber, post-and-rail fence to subdivide the back garden, or from sensitive landscaping to the front to form an access to the second front door, or the small enlargement of the parking area. The Council is concerned about the lack of detail about services integration. However, the work requiring the extension of services appears limited in extent and confined. Without substantive evidence to the contrary, precautionary conditions could secure the historic fabric from the risk of harm.
11. Notwithstanding this, some of the exposed ground floor framing dates from the C16 and there have been alterations around it in succeeding centuries. There is no detail on how the compartment wall at ground floor would be built, and its impact on the surrounding fabric and layout, particularly in relation to the existing framing and the back window jamb. While conditions could seek details of the compartmentation construction and its precise location, there is no reasonable certainty that an acceptable solution can be achieved. Conditions should not be used merely in the hope that they would make the proposal acceptable. A proposal should be sufficiently detailed to enable the decision maker to understand the potential impact of the proposal on the significance of the building and to be certain of its effect when considering it against the statutory test and development plan policy, particularly so where the fabric concerned dates from the C16, and the configuration of the space is complex.
12. I conclude on this issue that the proposal would not preserve the Grade II listed building and its features of special historic and architectural interest described above. It would conflict with policies CP1(viii), C15 and C17 of the Brentwood Replacement Local Plan 2005 (LP) which permit the change of use of a listed building provided its character and its features of special architectural or historic interest are preserved or enhanced, and which require alterations to a listed building not to detract from its character and to be sympathetic in design.

*The effect on the living conditions of occupiers*

13. Because of the lack of a safe footway beside the lane which is narrow, on a bend, and with fast traffic, the likelihood of residents and visitors approaching the smaller house via this route would be low. They would be more likely to use the proposed path which would be close enough to the 2-bed house for the occupiers of the 1-bed house to look into the living room on their way to and from their front door. Were the path shifted further towards the front boundary, and with some sensitive landscaping to define the route, the risk of overlooking would be reduced to an acceptable level.
14. Similarly, at the back, the adjoining terrace areas could be screened by planting of sensitive scale and texture without reducing openness or harming the setting of the listed building. These measures could be secured by a planning condition. I conclude on this issue that, subject to planning conditions for landscaping details, there would be no harm to the living conditions of the occupiers of both houses, with particular regard to privacy. There would be no conflict with LP policy CP1(ii) which protects the amenity of the occupiers of development.

## **Other Matters**

15. I have had special regard to the desirability of preserving the setting of the listed building, Adam and Powis' Farmhouse, across the lane, which the appellant describes as the farmhouse which was probably served at one time by farm workers living in this building. In view of the distance between the sites, and the density of the planting between them, the setting of the farmhouse would be unaffected and therefore preserved.
16. While I note the appellant's point that the Council cannot demonstrate a five year supply of deliverable housing sites, the tilted balance in paragraph 11 of the Framework does not apply where the application of policies in the Framework that protect designated heritage assets provides a clear reason for refusing the development proposed.

## **Conclusion**

17. The proposal would not preserve the special historic and architectural interest of the listed building. Paragraph 194 of the Framework advises that significance can be harmed or lost through the alteration or destruction of those assets, and that any harm to the significance of a designated heritage asset should require clear and convincing justification. Although the degree of harm I have identified would be less than substantial, this does not equate to a less than substantial planning objection, especially where the statutory tests are not met.
18. Under such circumstances, paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal. There is no substantive evidence that two smaller dwellings would better meet the needs of the community than the existing single dwelling. Indeed, the applications the subject of these appeals immediately followed the consents to enlarge the building while retaining it as a single dwelling.
19. The additional dwelling would make a small contribution to housing supply which is a public benefit, attracting modest weight. It does not, however, outweigh the harm identified above to the significance of the listed building to the conservation of which the Framework indicates great weight should be given.
20. I conclude that the proposal would fail to preserve the special historic and architectural interest of the Grade II listed building. It would fail to satisfy the requirements of the Act and the development plan, as well as paragraph 192 of the Framework. For the above reasons, and having regard to all other matters raised, I conclude that the appeals should be dismissed.

*Patrick Whelan*

INSPECTOR