



Appeal Decision

Site visit made on 2 September 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th September 2019

Appeal Ref: APP/C1570/W/19/3231819

Tower House, St Edmunds Lane, Great Dunmow, Essex CM6 3BA

- 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 Mr & Mrs J Davey against the decision of Uttlesford District Council.
 - The application Ref UTT/18/3161/FUL, dated 13 November 2018, was refused by notice dated 22 May 2018.
 - The development proposed is described as 'erection of new detached one and half storey dwelling with detached garaging and associated landscaping works'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the setting of Tower Windmill and Mill House¹, a Grade II listed building.

Reasons

3. Tower Windmill and Mill House is presently a single dwelling with the two historic elements linked by an extension constructed in the mid-twentieth century. The building was originally two separate structures, the windmill and Mill House. The list description explains that they probably date from 1822. Tower Windmill is a five-storey tower constructed in red brick. It no longer has its sails but its form and appearance clearly portray its original function.
4. Historic mapping demonstrates that the windmill, and its complex of related buildings, including the Mill House, originally stood in a remote rural location, but in a prominent position relative to Great Dunmow. Its height and elevated position above the town results in it being a landmark structure in an agricultural landscape with which it is intrinsically linked. This is part of the way the building is experienced and is therefore integral to its setting.
5. The area of the appeal site in which the proposed dwelling would be sited does not appear to be land which was in the historic curtilage of the mill, as indicated on historic maps. However, the setting of listed buildings can change over time and in this respect the open garden around the mill is currently important to the way the building is experienced, with it being part of a discernible 'buffer zone', necessary to separate it from modern housing.

¹ Referred to as Tower House on the planning application form

6. The isolated rural position of the mill has been eroded overtime, particularly in recent years with the construction of a small housing estate of large dwellings to the immediate south of the appeal site and a larger estate to the north-west, which includes some tall dwellings arranged over three floors.
7. The new estates are evident in views looking towards, and away from, the appeal site. The smaller estate erodes the sense of remoteness due to the scale and proximity of the dwellings and the larger estate appears quite stark, competing with the windmill in long distance views from the Great Dunmow Recreation Ground and the Chelmer Valley. Nevertheless, a buffer has been retained around the listed building comprised of a large open garden area flanked to the east and west by fields. A belt of mature landscaping provides a sense of separation from the small estate to the south. In this respect, the buffer provides some semblance of the listed building's original remoteness, rural context and sense of being a landmark. This buffer also allows the mill to be appreciated from public vantage points, a notable view being that looking north from the entrance into St Edmunds Croft.
8. The proposed dwelling would be located to the south west of the former windmill on the northern side of the belt of landscaping that spatially separates the appeal site from the estate to the south. The dwelling would be forward of the windmill and closer to it than the existing houses to the south, including Plot 1 as shown on Drawing 07. Accordingly, the dwelling would encroach into the physical and visual buffer currently evident around the listed building. This would significantly erode the vestiges of the listed building's remoteness and thus the way it is experienced. The proposed dwelling would also seriously interrupt views of the windmill looking north along St Edmunds Lane. As such, the proposal would significantly harm the setting of the listed building.
9. Historic mapping and photographs demonstrate that several buildings used to be located close to the listed building as part of the mill complex. However, these were probably functionally associated with the windmill's operation and have since been demolished. The historic presence of such buildings does not justify the appeal scheme, which would be functionally separate from the listed building and of a differing design and siting to the original buildings.
10. The proposed dwelling would amount to infilling and would have a pleasant design with aspects which would reflect the vernacular, including the overall form and scale. Nevertheless, even when accounting for this, the very presence of the building close to, and forward of, the listed building would harm its setting for the reasons already given. Similarly, even with the retention and provision of new landscaping, the proposal would be prominent in views from the listed building and from outside the site. Accordingly, this would not mitigate the harmful impacts I have identified.
11. I therefore conclude that the proposal would fail to preserve the setting of the listed building. The proposal is therefore in conflict with Policy ENV2 of the Uttlesford Local Plan 2005² (LP) and Policy LSC-A of the Great Dunmow Neighbourhood Plan, which seek to protect heritage assets and preserve the setting of listed buildings. These policies are broadly consistent with Paragraph 184 of the National Planning Policy Framework (the 'Framework').

² The Council have also referred to Policy S3 but it is not readily apparent to me what the alleged conflict with this policy is that the Council are suggesting.

Other Matters

Whether any harm to heritage is outweighed by public benefits

12. The harm I have identified, whilst significant, would not result in a complete loss of the listed building's setting and is therefore 'less than substantial' within the meaning of the Framework. In such instances, Paragraph 196 of the Framework, as a material consideration, requires such harm to be weighed against the public benefits of the proposal.
13. The proposal would provide only one new home in an edge of town location, but this would still be a modest public benefit, rather than being inconsequential, because the Council is currently unable to demonstrate a five-year housing land supply³ and the means of remedying this deficit is unclear.
14. The proposal would result in benefits to the construction industry and future residents may spend locally. However, the contribution to the construction industry would be short lived and I have seen nothing to suggest the 'spend' from one additional household would have a notable effect on the viability of local facilities. Moreover, evidence has not been provided to suggest local facilities are suffering for lack of patronage. As such, the support to the local economy and community, as a public benefit, would carry modest weight.
15. Thus, when giving considerable importance and weight to the special regard I must have to the desirability of preserving the setting of listed buildings⁴ and the great weight the Framework requires me to give to the conservation of a designated heritage asset, I find that the significant harm that would arise from the appeal scheme would not be outweighed by its modest public benefits. Accordingly, there would be a conflict with Paragraph 194 of the Framework, as harm to a designated heritage asset would not have a clear and convincing justification.

Paragraph 11 of the Framework

16. Paragraph 11 of the Framework states that in situations where the Council is unable to demonstrate a five-year supply of deliverable housing sites, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons for refusing the development proposed.
17. In this instance, the public benefits of the proposal would not outweigh the harm to the setting of the listed building. Thus, the policies in the Framework provide a clear reason for refusing the appeal scheme. It is therefore unnecessary to consider whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Consistency of decision making

18. The appellants have referred to an appeal decision at Adare⁵. The listed building in that case is in an established street frontage and therefore a sense of isolation is not an important component of its setting. Accordingly, the Inspector found no harm to its setting from the proximity of the development

³ The appellants have indicated that the supply is between 3.7 and 4.2 years, a point undisputed by the Council

⁴ See Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

⁵ APP/C1570/W/18/3205544

proposed. This is a materially different set of circumstances to the appeal currently before me.

19. In respect of the Ware Farm appeal decision⁶, the Inspector found no harm to the setting of the listed farmstead because it is already a 'book-end' feature of the settlement of High Roding. This is not the case in respect of the appeal scheme before me, which has a discernible buffer of undeveloped garden around it.
20. In approving a dwelling at Ruskin⁷ the Council found that the public benefits of the proposal would outweigh the less than substantial harm identified, described as being less than significant. They were entitled to do so exercising planning judgment in the context of the specific circumstances. In respect of the appeal before me, there would be significant harm and therefore the scheme at Ruskins is not directly comparable.
21. Accordingly, the decisions referred to by the appellants are not material consideration of determinative weight in favour of the proposal.

Conclusion

22. The proposed development would be contrary to the development plan. There are no other considerations, including the Framework, that lead me to conclude the proposal should be determined other than in accordance with the development plan. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR

⁶ APP/C1570/W/18/3202193

⁷ UTT/16/1402/FUL