
Appeal Decisions

Site visit made on 3 February 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2021

Appeal A: APP/Z1510/W/20/3258207

Nether Hall Farm, Nether Hill, Gestingthorpe CO9 3BD

- 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 Framar Developments against the decision of Braintree District Council.
 - The application Ref 20/0285/FUL, dated 13 February 2020, was refused by notice dated 28 May 2020.
 - The development proposed is conversion and extension of one barn building into 1 no. residential dwelling with associated parking, private amenity space and landscaping.
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Appeal B: APP/Z1510/Y/20/3258209

Nether Hall Farm, Nether Hill, Gestingthorpe CO9 3BD

- 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 Framar Developments against the decision of Braintree District Council.
 - The application Ref 20/0286/LBC, dated 13 February 2020, was refused by notice dated 28 May 2020.
 - The works proposed are conversion and extension of one barn building into 1 no. residential dwelling with associated parking, private amenity space and landscaping.
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Decision

1. Appeals A and B are dismissed.

Procedural Matters

2. The Procedural Guide Planning Appeals – England states that *only the person who made the planning application can make an appeal*. In this case, the appeal was lodged by Mr Frank Ladkin of Framar Developments. While that person may be a representative of the company, the appeal cannot technically be transferred to another person, it must continue in the original name of the applicant. I have therefore considered the appeal on this basis.
3. The two appeals concern the same scheme under different, complementary legislation, where relevant I have therefore dealt with both appeals together in my reasoning. However, the Council's Decision Notice for refusal of listed building consent refers to matters not applicable to this consent regime, namely the nature of the use of a building and marketing for other uses, which are planning considerations to be determined under S78 of the Town and Country Planning Act 1990. I have therefore confined my determination of these matters to Appeal A.

4. The appellant has submitted two amended plans for consideration. These show a larger outdoor space for the proposed development (556.210.03), within the site, and the proposed drawings (556.213.01) have been updated to show the correct position of north and annotations to reflect this. The Council's reason for refusal on Appeal A is relevant to the consideration of this matter, in respect of living conditions. Based on the information before me and with cognisance of the Wheatcroft Principles, the amended plans would not change the nature of the proposed development before me. In accepting the plans, I am therefore satisfied that this would not deprive those that have not had the opportunity of consultation.
5. The main parties have referred to Section 2 of the Publication Draft Local Plan June 2017 (DLP) but I understand that the Examination is not yet complete. Emerging policies and site allocations are not therefore matters that have a significant bearing on my consideration of the merits of this appeal, particularly as there may be unresolved objections to contend with. In accordance with the requirements of Paragraph 48 of the National Planning Policy Framework (the Framework), the policies of the DLP attract only limited weight in my determination of the appeals.
6. I have not found in relation to Policy RLP95 of the Local Plan as the appeal site is not located in or adjacent to a conservation area.
7. The 2020 Housing Delivery Test (HDT) results were published on 19 January 2021. In light of this, the main parties were invited to comment on its implications for the appeal and I have had regard to the responses received.
8. There is another unrelated appeal at the same address for which there would be a separate decision¹.

Main Issues

9. The main issues solely affecting Appeal A are whether the proposal is consistent with planning policies relating to housing in rural areas and heritage assets, with particular regard to the re-use of existing buildings; and whether the proposal would provide suitable living conditions for future occupiers.
10. The main issue affecting both Appeals A and B is whether the proposal would preserve the Grade II listed buildings, known 'Nether Hall barn approximately 50 metres north of Hall' and 'Nether Hall Farm outbuildings adjacent to road and approximately 50 metres northwest of Hall', including any of the features of special architectural or historic interest that they possess, and the effect on their setting and the character and appearance of the surrounding area.

Reasons

Rural housing and the re-use of existing buildings (Appeal A only)

11. The site is some distance from the village envelope of Gestingthorpe, so is situated within the countryside. Policy RLP 2 of the Local Plan² requires new development to be within the envelopes and that outside these areas countryside policies will apply. Policy CS5 of the Core Strategy³ takes a similar approach as development will be strictly controlled to uses appropriate in the

¹ Appeal Ref: APP/Z1510/W/20/3259451.

² Braintree District Council Braintree District Local Plan Review (July 2005).

³ Braintree District Council Local Development Framework Core Strategy (September 2011).

countryside. The supporting text of Policy RLP101 of the Local Plan distinguishes it from the development of non-listed buildings in the countryside, as they do not have the same merits as listed buildings and would effectively amount to the creation of new dwellings in the countryside contrary to countryside protection policies. Policy RLP101 would therefore appear to qualify as a 'countryside policy' and would relate to 'uses appropriate in the countryside', subject to their consideration in relation to the relevant criterion therein. A similar approach is also taken in Policy LPP1 of the DLP.

12. There is some debate between the main parties with respect to accessibility of the site's location, particularly in terms of the availability of safe walking and cycling routes and the shops, facilities and services required to meet the day-to-day needs of future occupiers. However, while Policies RLP38 and RLP101 of the Local Plan refer to the implications of traffic from development they do not stipulate any requirements in relation to accessibility. Such characteristics are also likely to be implicit with many listed agricultural barns or buildings situated outside of villages in the countryside. I do not therefore find the requirements of Policy CS7 of the Core Strategy to be determinative in this appeal.
13. Whilst the appellants' Heritage Statement is informative and more thorough than most, I find that insufficient information has been submitted to determine the suitability or otherwise of alternative uses for the appeal building. Moreover, the appellants have not tested the viability of other alternative uses for the building on the open market, particularly employment or community uses, as required by the development plan. The appellants also accept that commercial uses are generally considered to be the optimum viable use of such buildings, particularly having regard to their historic fabric and character, and that residential conversion would have a greater impact on the building. There is therefore no certainty that an employment or community use would require works and development to the extent proposed, which I address in the next main issue.
14. Parking and the movement of agricultural and other vehicles within farmyards and the surrounding countryside is a direct consequence of their function. While other alternative uses will be likely to result in similar impacts, the lack of association with the prevalent agricultural use of the farmyard could have a more harmful impact on the appreciation of the farmyard setting. However, it strikes me that some activity would not be out of place or indeed harmful and I am mindful of the emphasis in local and national policies on the contribution that businesses can make to the vitality of rural communities. The absence of any testing of the market, does not therefore give me any confidence that this impact would be any more harmful for a small employment or community use than which would be envisaged with the proposed three-bedroom dwelling.
15. The absence of the assessment of the suitability of alternative uses would also undermine the authority of assertions made regarding the road network being too narrow for commercial interest of the building. Furthermore, although I have not been privy to the substance of the case for the unrelated appeal at Nether Hall Farm, I understand it relates to the expansion of the joinery business situated to the north. The proposals are not interrelated, but the desire to expand an existing business does help to demonstrate that commercial uses would not function well in this location.

16. The proposed residential use of the appeal building would be situated beyond the village envelope of Gestingthorpe, the acceptability of which first requires demonstration that suitable employment or community re-use cannot be secured. The evidence before me has failed to demonstrate this point. This also has implications for the consideration of the optimum viable use of the appeal building, which I discuss in the next main issue. In light of these considerations, I conclude that the proposed development would not accord with the Council's spatial strategy, including the approach to the residential use of existing buildings, as expressed in Policies RLP2, RLP38 and RLP101 of the Local Plan, Policy CS5 of the Core Strategy and Policy LPP1 of the DLP.
17. I have not found in relation to Policy LPP42 of the DLP in respect of this main issue, as the conflict referred to above would be with supporting text of that policy. Moreover, that is an additional criterion not referred to in the policy, which could not be said to have the same force as the policy itself.

Site and surroundings, significance, and settings (Appeals A and B)

18. The appeal concerns a former granary building situated in the southeast corner of the historic farmyard of Nether Hall Farm, which is adjacent to and prominent in views from Nether Hill. The farmyard contains two Grade II listed buildings and is surrounded by open, undeveloped fields to the north, east and west and a tall retaining wall separates it from the farmhouse to the south.
19. Section 1(5)(b) of the Planning (Listed Building and Conservation Areas) Act 1990 (the Act) states that any object or structure within the curtilage of the listed building which, although not fixed to the building, forms part of the land and has done so since before 1 July 1948 shall be treated as part of the listed building.
20. The main parties agree that the former granary is one of two buildings that are curtilage listed due to their age and their functional association with the historic development of the farmyard and the listed buildings therein. I have no reason to dispute this approach, so I have determined these appeals on the basis that the former granary is part of the two listed buildings, as set out in the Act.
21. The Grade II listed two-storey range of farm outbuildings situated to the west of the former granary⁴ is of 15th Century origin with a timber frame and dark coloured weather boarded exterior, beneath a gabled roof clad in corrugated iron. At least two of its bays were added at a later date, principally in the 17th Century, when the building was also reroofed. It was originally built to house animals but is now in use for agricultural storage. The appellants' Heritage Assessment suggests that the building was constructed using timbers originally from a 15th Century house. Despite lean-to and flat-roofed additions at the roadside, the significance of the listed building today is derived from its architectural and historic interest, as a prominent 15th Century timber frame and weather boarded range of farm outbuildings, with later additions.
22. The listing description for the Grade II listed barn immediately to the north of the appeal building⁵ is said to be of late 17th or early 18th Century timber frame construction but with later lean-to extensions to the southeast corner of the building and to the left and right of a centrally projecting midstorey on the west façade. The appellants' Heritage Assessment suggests it was likely constructed

⁴ Nether Hall Farm outbuildings adjacent to road and approximately 50 metres northwest of Hall.

⁵ Nether Hall barn approximately 50 metres north of Hall.

- as a threshing barn. Although it is also of 6 bays, it is substantially taller and the roof form more elaborate than the outbuildings to the west. Moreover, the corrugated iron clad roof incorporates half-hips to either end and to the midstrete, with a sizeable gabled vent positioned off-centre to the ridge. Like the other listed building the appellants have suggested it too features reused timbers from a dwelling. Despite its later extension, the significance of the listed building today is derived from its architectural and historic interest, as a notable and substantial late 17th or early 18th Century timber frame and weather boarded barn, with a prominent roof form.
23. The former granary was originally constructed in the mid-19th Century, with three open bays to the east designed as cart and wagon lodges. It is now in use as agricultural storage and kennels. The building is principally of timber-frame construction clad in dark stained weatherboarding, beneath a half hipped slate roof, but the south façade abuts and is partly supported by the retaining wall adjacent to the farmhouse.
 24. The eastern façade remains open fronted but the wagon lodge to the northern end has been foreshortened with a short section of studwork and boarding. A recessed masonry façade has also been inserted back of the timber posts as part of subdivision, which now houses kennels. Due to the sloping land, the north wall is partially a redbrick plinth and diagonally braced studwork is still evident internally to this wall.
 25. The first floor is also subdivided into three bays, formed with inversed knee bracing to the principal posts and binding beams and then separated by further bracing and boarding. These are served by a central walkway formed through the timber framing supporting the clasped purlin roof. Much of the internal boarding of walls appears to have been removed but partly remains to the northern bay. There are accesses to the first floor at either end, with that to the north likely to have been the point grain was deposited into the store. The access to the south is taken off the courtyard serving the farmhouse.
 26. Part of the western façade was removed in the 20th Century and the remainder rendered in cement at ground floor, with the upper timber-framed structure retained and internalised within the lean-to addition. The south façade of the extension is formed of the retaining wall, with the west constructed primarily of blockwork and the north façade partly of brick emanating from an earlier piggery and clad externally in corrugated sheeting.
 27. The former granary may be typical in its form and function and has been altered and increased in size, but the roof construction is of particular historic significance due to its largely unaltered form, which shares characteristics with the barn immediately north, and the clear structural and functional arrangement, which includes the inversed knee bracing to the first floor. The former granary is therefore an attractive, well-proportioned, and detailed building that contributes to the special interest of the principal listed buildings as a group in terms of their architectural and historic interest.
 28. I am also mindful of the definition of 'setting' in the Framework as being the surroundings in which a heritage asset is experienced. Given the close historical and functional association of the buildings within the farmyard, the former granary and the land that surrounds it also provides a rural context which forms an integral part of the historic setting of the listed buildings within the farmyard. This contributes to their understanding and significance as

heritage assets. Due to their close proximity to one another and Nether Hill, the importance of the architectural and historic quality of the farmyard group of buildings extends beyond the farmyard and make a significant positive contribution to the character and appearance of the area.

29. Immediately to the west of the former granary is a long open-fronted storage structure, which appears to have been constructed sometime in the 20th Century for the purposes of storing farm implements. While it helps to illustrate the incremental development of the farmstead, particularly over modern times, given its utilitarian form, layout, and appearance it subdivides and clutters the farmyard so does not contribute positively to the setting of the other curtilage listed and listed buildings therein.

The Proposal (Appeals A and B)

30. The proposal is to demolish the existing lean-to to the west of the building and replace this with a two-storey extension and alter the remaining building to enable residential use. The extension would incorporate a similar roof form and materials to the former granary on the same footprint. The resultant roof form would incorporate a double pile with a central valley. Apart from the external door opening, the part of the extension that joins the former granary would be glazed, as a link.
31. Internally, the extension would be linked at ground floor to the former granary through the existing opening in the west wall but a new opening would be formed at first floor from the stairs within the glazed link. Two rooflights would be inserted in the east roof slope of the former granary to serve Bedrooms 2 and 3, and the doors at either end would be replaced with windows. Existing joinery would also be removed in the roof. At ground floor, the existing recessed wall within the cart and wagon lodges would be removed and replaced with part solid and glazed sections along the same plane.
32. An area of parking would be provided immediately to the west of the proposed extension, on the site of the open-fronted storage building, which would be demolished. To the east, an area of outdoor space would be created and enclosed by hedge planting.

Effect of the proposal on the setting and significance of the listed buildings and the character and appearance of the surroundings area (Appeals A and B)

33. The appeal is supported by a Heritage Statement and Structural Appraisal (SA), which both identify that the former granary needs repair. While the SA covers the whole building, it is now over eighteen months old and lacks sufficient detail and clarity to determine the extent of works that would be required, including those for which recommendations are made. It also refers to a different scheme, which would have involved a more comprehensive scheme of rebuilding.
34. The glazed section of the proposed extension would offset the majority of the proposed footprint from the former granary, as it would serve as circulation space. This would make a clear distinction between the existing and proposed elements. The new access from the proposed staircase into the first floor of the former granary would result in the loss of some historic fabric, but the extent of such works is unclear as the access and circulation space is shown to be adjacent to the eaves of the building, which are low due to the roof form. The

roof structure would also be likely to require significant alteration, as the proposed doorway would appear to align with one of the binding beams and other joinery beneath.

35. The proposed rooflights would also be likely to result in the loss of additional roof structure, particularly that proposed for Bedroom 2, as this appears to be sited to the opposite the new doorway, so could affect the same binding beam. Furthermore, the roof slopes of the building do not currently include any windows and the introduction of the proposed rooflights would result in an overtly domestic appearance that would unsympathetically contrast with the former use of the building as a granary.
36. The SA does not clearly identify which beams, rafters or bracing require replacement or consider whether these could be strengthened or paired up instead of being removed, but it is clear that the timber panel walls with bracing at first floor, annotated in the SA and survey drawing⁶, should be retained to prevent roof spread in the future. However, these would appear to be removed as part of the proposed layout at first floor and new partitions inserted, which would lead to a loss of historic built fabric.
37. Given that the roof structure and the uninterrupted roof slopes of the building are two of its foremost characteristics, the loss of built fabric and introduction of prominent insertions would be harmful to the legibility of its original function, overall appearance and, thereby, its contribution to the significance of the listed buildings. A planning condition requiring a historic building recording would therefore not be a sensible means of mitigating against the lost historic fabric.
38. The application drawings show the existing cart and wagon lodge openings to be retained and partly glazed, which would be an improvement on the existing situation and part reinstate its open character. However, based on the position of the glazing, the proposed floor levels would appear to be altered, which would be increasingly elevated toward the north façade, which would appear ungainly as a result. The use of existing and other previously blocked openings, as well as the removal of modern partitions at ground floor, as a premise, would not be harmful to the historic built fabric of the listed building, but the first floor doorways in the former granary would be replaced by glazing and the doors would not be retained in any form, so the fabric would be lost.
39. Although the SA refers to the presence or otherwise of foundations to the former granary, it does not discuss the suitability of interventions to address the structural requirements associated with strengthening of the building for the proposed use, including the impacts of removing current ground floor surfacing. The supporting structure for the first floor appears to include timber structural columns, one of which is situated within the internal masonry partition to the kennels. The application drawings and other supporting documents do not clarify whether these would be retained or how the first floor would continue to be supported within the proposed open plan layout at ground floor. The SA also does not consider the impact on stud walls, as it appears to suggest that cladding should be removed around the building to assess this. The works required to the building associated with such interventions could therefore result in damage to or loss of historic fabric.

⁶ Drawing Ref: 22010se-01.

40. It is not uncommon for traditional farmsteads to include enclosures around buildings, principally as pens for animals and there is evidence of these having been situated within the farmyard. However, the proposed outdoor space, enclosed by a hedged boundary, would be situated beyond the farmyard. Its physical presence, form and appearance would lead to significant domestication of the area to the east of the building. This would fundamentally alter its agricultural character, thus harming its rural setting and relationship with the neighbouring listed barn. Whilst I accept that suitable conditions could restrict permitted development rights, these would not wholly control the inevitable domestication of the garden.
41. The removal of the existing open-fronted building to the west of the granary and its replacement with parking would improve the setting of the listed and other buildings within the farmyard, as more of the open yard between the buildings would be apparent.
42. The proposed extension would result in a double-pile roof arrangement, which I understand is not uncommon in historic farmyards. The new ridge would be set lower than that of the former granary. Despite these factors and a carefully considered palette of materials, the extension would fail to relate to the scale of the existing building and the character of the existing farmyard group. Moreover, the extensions to the existing farm buildings, including the existing building, do not project above eaves level to the extent proposed. This enables the form of the roofs to continue to be evident and remain one of the dominant features of each building. By contrast, the proposed extension would obscure the existing west roof slope and rival the former granary in scale. It would therefore be unrelated to the more subservient nature of the additions to other buildings arranged around the farmyard. Furthermore, although the glazing to the proposed extension would not be extensive, it would still appear domestic in form given the tall and narrow nature and arrangement of the openings.
43. I note that the Council's Historic Buildings Consultant did not raise concerns in respect of the scale of the extension but, as part of my statutory duties (see below), I have considered the entirety of the proposal, as determined by the Council, afresh in light of the evidence before me. Moreover, despite the size of the existing building and other buildings which would be demolished, the accommodation potentially required by a family member and which would meet Nationally Described Space Standards, the evidence before me does not demonstrate that residential use of the appeal building would require the extent of development and works proposed or justify the magnitude of their impact on the building.
44. Although the views of the proposed development would only be glimpsed through the accesses to the farmyard and farmhouse, it would be more prominent in those views than the existing extension and open-fronted storage buildings. Elements of the proposal would only be visible from the appellants' land. Nevertheless, the lack of visibility of, amongst other things, the proposed rooflights and the garden, would not be a determining factor in considering whether the proposal would preserve the special architectural or historic interest of the listed buildings.
45. The harm associated with the scale and form of the proposal would alter how the farmyard group of buildings is experienced and interpreted in relation to one another and from beyond the site, which would have a significantly

detrimental effect on their settings. Together with the harm to the historic built fabric of the appeal building, this would affect the understanding and significance of the designated heritage assets, and the character and appearance of the surrounding area.

Public benefits and conclusions on the second main issue (Appeals A and B)

46. The statutory duties in Sections 16(2) and 66(1) of the Act are matters of considerable importance and weight. Paragraph 192 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Meanwhile, paragraph 193 of the Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Furthermore, Paragraph 194 of the Framework advises that significance can be harmed or lost through the alteration or destruction of those assets and that this should have a clear and convincing justification.
47. The proposal would be harmful to the special historic interest of the listed buildings, which would have a negative effect on their significance as designated heritage asset. In my view the harm that I have identified would equate to less than substantial harm to the significance of these assets. In such circumstances, paragraph 196 of the Framework identifies that this harm should be weighed against the public benefits of proposals, which includes the securing of optimum viable use of listed buildings.
48. A period in excess of five years has passed since the adoption of the Council's development plan. In such circumstances, the Framework suggests that the housing requirement used in assessing a Council's five-year supply of deliverable housing land will be based on the standard method for determining local housing needs for the local planning authority area. Accordingly, the Council's five-year housing land supply (5YHLS) position 2020-2025 had regard to the 2019 HDT results⁷ (67%) and included a 20 percent buffer. This resulted in 4.52 years supply of deliverable housing land within the District.
49. The 2020 HDT results indicate that delivery in the District over the previous three years is now 85% of the housing required. When applying paragraph 73 of the Framework, an action plan is required and a 5% buffer applies. While the Council has been able to demonstrate increased delivery from 2019, they have suggested their 5YHLS would not equate to anything greater than 4.59 years. Furthermore, they have confirmed this would be likely to drop if the shared Section 1 Strategic Plan is adopted by Council and 5YHLS needs to be calculated on the basis of the housing target within that part of the new Local Plan. The Council's concerns therefore align with the appellant's apprehension in relation to supply.
50. While the most favourable position in terms of the shortfall in 5YHLS referred to above would not be significant, it increases the importance of contributions that could be made by new housing. The appeal scheme would deliver a single private unit of accommodation, which could be occupied by a member of the appellants' family. This would contribute towards the shortfall in supply in

⁷ Issued in February 2020.

Braintree and national housing targets and, in the context of paragraphs 59 and 68 of the Framework, the proposal could be built out relatively quickly.

51. There would be short-term benefits to the local and wider economy from the application of the New Homes Bonus and direct and indirect employment associated with construction works; and future occupants would be likely to support local services through spending and participation, in a similar way to those occupying existing properties found in similar locations beyond the village envelope, including at the farmhouse. These would all constitute benefits in social and economic terms but would be limited in scale and kind due to the magnitude of the proposed development.
52. I also recognise that the proposal could be said to make more efficient use of the site, as the buildings are used infrequently by the appellant, but the Framework is clear that making efficient use of land should include taking into account the desirability of maintaining an area's prevailing character and the importance of securing well-designed, attractive and healthy places.
53. The proposal would also provide some enhancement of the appearance of the farmyard through the removal of the open-fronted structure but there is no substantive evidence before me to suggest that such benefits could not be achieved without the appeal scheme. I am not therefore persuaded that another appropriate solution would not be available to address its negative contribution within the farmyard. There could also be net gains provided for biodiversity, as set out in the Framework, through new planting of hedgerows, but there is no substantive evidence before me of how these have been measured or would be secured. These factors therefore limit the weight that I can attach to these as environmental benefits.
54. The proposed dwelling would also be constructed to high environmental standards, which would form a public benefit in environmental terms.
55. For the reasons outlined in the first main issue, there is no substantive evidence that the proposal would be the optimum viable use of the appeal building.
56. Taking the above together, the public benefits I have outlined would not justify allowing works and development that would fail to preserve the special interest of the listed buildings. Therefore, in accordance with paragraphs 193 and 196 of the Framework, considered together, I conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm that I have identified. The planning conditions suggested by appellant would also not overcome these concerns.
57. I therefore conclude that the proposal would fail to preserve the special historic interest of the Grade II listed buildings, which includes the curtilage listed appeal building. Hence, the proposal would fail to satisfy the requirements of the Act, paragraphs 192 and 193 of the Framework and conflicts with the design and heritage aims of Policies RLP38, RLP90, RLP100 and RLP101 of the Local Plan, Policy CS9 of the Core Strategy, and Policies LLP42, LPP50, LPP60 and SP6 of the DLP.

Living conditions (Appeal A only)

58. The appellants' Planning Statement indicates that the other buildings situated within the farmyard and the farmstead will continue to be in agricultural use,

including for the storage of farm machinery. The Council is concerned that noise, vibration and dust from these operations would impact on future occupants of the proposed dwelling.

59. My role is to consider the evidence before me in the context of relevant planning policies and other material considerations. The appellants have suggested that the number of vehicle movements will be low and likely to be associated with farm machinery of a modest size. However, the application and appeal are not supported by any substantive evidence in respect of the surrounding noise environment, including background noise readings taken within the site, particularly for more sensitive times of the day and week, when disturbance is more likely. It is also unclear whether the machinery in question would be likely to create vibration or dust whilst operating within proximity of the proposed dwelling or its outdoor space, particularly as access from the yard to agricultural fields to the east could be taken adjacent to the building.
60. I appreciate that the proposal could be occupied by a member of the appellants' family, who may have greater knowledge of the farm operations. Nevertheless, based on the evidence before me, a precautionary approach is reasonable and appropriate where living conditions are at issue, particularly as it would not be an unreasonable expectation for residential occupiers to be able to open their windows, particularly in the summer, without being harmed by noise disturbance or dust emanating from the use of the neighbouring farm buildings and yard.
61. The full-height window proposed in the south façade of Bedroom 2 would replace an existing vertically planked door and ventilation slats above, which face into the courtyard north of Nether Hall. The privacy of the future occupants of the proposed dwelling would therefore be likely to be affected to an unacceptable extent. While the appellant is willing for this window to be obscure glazed or altered to a high level to prevent loss of privacy, the knock on effect of this would be that future occupiers would be likely to experience an uncomfortable sense of enclosure and restrained outlook from the bedroom. Moreover, I am not persuaded that this window, in conjunction with the roof window, would offer satisfactory outlook from this room, as it is likely that visibility would be at a high level.
62. The proposed outdoor space for the dwelling would be sited on lower ground and the existing single storey projection north from Nether Hall would be between the space and the higher-level windows in Nether Hall. Given these characteristics, it is likely that there would be only partial views toward the outdoor space. Furthermore, the amended plan, submitted with the appeal, demonstrates that a sufficient amount of outdoor space could be provided within the site for the proposed dwelling, as required by the Essex Design Guide. Therefore, the space would be sufficiently private and sized to serve the future occupants of the proposed dwelling.
63. Despite my findings in relation to the proposed outdoor space, I conclude that the privacy afforded to proposed Bedroom 2 would be inadequate and the evidence relating to the potential for noise, vibration or dust does not demonstrate that the proposed development could be accommodated within the site without causing unacceptable harm to the living conditions of future occupiers. Hence, the proposal would not accord with the aims in respect of

living conditions expressed in Policy RLP90 of the Local Plan, Policy SP6 of the DLP and paragraph 127(f) of the Framework.

Other Matters

64. The appellants have suggested that Nether Hall Farmhouse is a non-designated heritage asset, which engages paragraph 197 of the Framework. Given the scale and physical proximity of the proposal with the farmhouse, it would not have a harmful effect on its significance or setting.

Planning Balance

65. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise, which includes the Framework.
66. The development plan for the area comprises the Local Plan and Core Strategy, both of which predate the current Framework. However, the Framework makes it clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their consistency with the Framework.
67. Given that the Council cannot demonstrate 5YHLS, as required by the Framework, the current development plan policies most important for determining the application are out-of-date, including for the supply of housing. In such circumstances, paragraph 11(d)(ii) of the Framework and Policy SP1 of the DLP would normally apply. However, in light of my findings in relation to heritage matters, paragraph 11d) i) of the Framework would apply. Accordingly, as the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the proposed development, the presumption in favour of sustainable development does not apply.
68. Policy RLP2 should only be afforded limited weight due to its definition of village envelopes based on older housing policies and current housing requirements exceeding what can be delivered from within the existing settlement boundaries and village envelopes. I accept that the stated aim of Policy CS5 to protect and enhance landscape character and biodiversity and the amenity of the countryside is broadly consistent with the aim of the Framework to recognise the intrinsic character and beauty of the countryside. Nevertheless, I also afford limited weight to the conflict with this policy based on the absence of a 5YHLS and the uncertainty surrounding Braintree's future housing delivery.
69. I note that the Framework does not include a requirement for the marketing of rural buildings prior to their re-use, but it also does not exclude such an approach, so Policy RLP38 is not inconsistent with the Framework. Although Policy LPP42 of the DLP is not yet part of the adopted development plan, it does not require marketing. Nevertheless, Policy RLP38 is also consistent with the aims of the Framework to achieve well-designed places and promote sustainable transport. I therefore afford moderate weight to the conflict of the proposal with Policy RLP38.
70. By contrast, the same requirements found in Policy RLP101 would not be dissimilar from the demonstration of an optimum viable use of listed buildings

found within the Framework. Along with Policy RLP100, the policy is also generally consistent with the other aims of the Framework to conserve and enhance the historic environment, so I can afford the conflict with these policies significant weight.

71. The other policies relevant to the consideration of this appeal referred to in the main issues, namely Policy CS9 of the Core Strategy and Policy RLP90 of the Local Plan are generally consistent with the Framework in terms of its aim to achieve well designed places and to conserve or enhance the historic environment. I have therefore afforded significant weight to the conflict of the proposal with these policies.
72. There are some inconsistencies of Policy CS7 of the Core Strategy with the Framework, as it does not distinguish between urban and rural contexts, but I have not found the policy to be determinative in this appeal so there is no conflict with it.
73. I have already identified the benefits of the appeal scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage assets. In terms of harm, the proposed development would not comply with development plan policy in respect of housing in rural areas and heritage assets; the harm to the special historic interest of the Grade II listed buildings, which includes the appeal building as a curtilage listed building; and the living conditions of future occupiers.
74. Overall, I find that the adverse impacts of the proposal are matters of significant and overriding weight against the grant of planning permission. The proposal would also not amount to sustainable development under the terms of the Framework.

Conclusion

75. I have found harm in respect of Appeals A and B in relation to the Grade II listed buildings; and harm in relation to Appeal A in terms of housing in rural areas and heritage assets and the living conditions of future occupiers, and there are no other considerations which would outweigh these findings. Accordingly, for the reasons given, I conclude that the appeals should be dismissed.

Paul Thompson

INSPECTOR