
Appeal Decision

Site visit made on 15 March 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 April 2021

Appeal Ref: APP/C1570/W/20/3261170

Great Greenfields, Gransmore Green, Felsted, Dunmow. Essex CM6 3LA

- 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 Mr and Mrs G Hamilton against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0766/OP, dated 26 March 2020, was refused by notice dated 29 September 2020.
 - The development proposed is described as outline application with all matters reserved except for access for the construction of 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The planning application to which this appeal relates was made in outline with all matters reserved for future consideration, with the exception of access. Although a layout plan has been submitted, this is illustrative and has been treated as such for the purposes of my examination. For the purposes of the above banner heading, the description of development is that cited on the decision notice in the interests of clarity.
3. Although a new Local Plan is being prepared, this has not yet reached a stage where weight can be attributed to it.
4. Since the appeal was lodged the national Housing Delivery Test results have been published. This shows that housing delivery is in excess of the requirement. However, main parties do not dispute that the Council cannot demonstrate a 5 year housing land supply. Consequently paragraph 11(d) of the National Planning Policy Framework (the Framework) is engaged and the appeal is examined on that basis.
5. The appeal site falls within the 22km Zone of Influence (ZOI) for the Blackwater Estuary SPA and Ramsar site. I have a statutory duty as the competent authority to ensure that there are no adverse effects on the integrity of this area. The appellant has submitted a unilateral undertaking as part of their appeal, which is intended to mitigate the effects. I will return to this matter later in my decision.

Main Issue

6. The main issue is the effect of the appeal proposal on the setting of Grade II Listed Great Greenfields.

Reasons

7. The appeal site forms part of the generous grounds of Great Greenfields, a Grade II Listed dwelling. Properties in the area tend to be individually designed, set within their own grounds, including the neighbouring listed cottage known as The Poplars. However, located at the far end of Gransmore Green Lane, there is an increased sporadic pattern of development here in comparison to other parts of the lane.
8. There are open views from the lane onto Great Greenfields and across into the appeal site. More intermittent glimpses of the host building can be snatched from the nearby public right of way as it leads to surrounding agricultural land.
9. The appeal site forms part of the open grassed area located to the side of the host dwelling, beyond existing detached outbuildings. From the submitted evidence, whether or not the appeal site historically formed part of the original garden of the host dwelling is uncertain. Indeed, there was evidence on site of it being used as such, and main parties do not dispute that existing purpose.
10. Nonetheless, these grounds are physically and visually well-defined. This is because of the moated remains and the existing boundary vegetation. As such the wider plot is well-contained from the open countryside. However, these features also serve to convey a strong physical interrelationship between the appeal site and the wider plot.
11. The significance of this moated listed dwelling is both historical and architectural, reflecting its agricultural origins which extend back to the 15th century. The sporadic pattern, generous plot sizes and much lower intensity of development at this part of the lane articulate the rustic origins of the site, its independence and stature as a farmhouse within its wider open countryside context. In turn, these positively contribute to the significance of the host building.
12. The appeal proposal would follow the linear pattern of development along Gransmore Green Lane. However, it would result in the intensification of the built-up presence in this part of the lane. Although sizable plots would remain, the appeal proposal would undermine the important diminishing pattern and density of development here which positively contributes to this dwelling's important setting.
13. Being located to the side of the host dwelling and regardless of the separation distances that could be achieved, the appeal proposal would be read directly with it. From the lane and the nearby public right of way solitary views of the existing host building and its servile outbuildings, in its relatively unfettered setting would be unduly interrupted. The appeal proposal would diminish the important more secluded, rural character and sense of space of this part of the lane which positively contributes to this important setting.
14. The past decisions which have been advanced were the outcome of assessment and balancing of the effects on the setting of different Listed Buildings. Sufficient similarity has not been demonstrated to justify the appeal proposal.

15. Moreover, this important setting would not be preserved or enhanced by reliance on the limited existing physical features which exist between the appeal site and its host. Their further reinforcement would only serve to emphasise the intensification of use through the subdivision and reduction in the size of the wider plot. The separation distances which could be achieved, and integrity of the moat do not justify the proposed change to this particular important setting.
16. The illustrative plans seek to convey that the appeal proposal would be embryonic in form to reflect the development of the farmhouse. By virtue of its position, the appeal scheme would not represent the reinstatement of former buildings or structures that are known to have existed within the site. Rather, such a change would be significant and would not constitute the little intervention advanced.
17. The appeal proposal would cause changes to the setting of Great Greenfields which would neither sustain or enhance. Rather, the appeal proposal would adversely impact upon the way in which this important designated heritage asset would be experienced within its setting, and its significance understood. This would constitute less than substantial harm.
18. It has not been sufficiently demonstrated that an appropriate scale, design, layout and landscaping could be achieved at reserved matters stage that would sufficiently reduce or mitigate the identified harm. This uncertainty could not reasonably be satisfied through the imposition of planning conditions given the sensitivities of this site.
19. Paragraph 194 of the Framework states that a clear and convincing justification is required to be provided for any level of harm that would result, including that arising from development within the setting of a Listed Building. In the context of paragraph 196 of the Framework, this harm should be weighed with public benefits of the scheme.
20. In the absence of a 5 year housing land supply, the appeal proposal would contribute to making up this shortfall. The effect would, because of its limited scale, be slight. Nonetheless, it would represent a significant public benefit in this current housing land supply context.
21. The appeal proposal would also provide support to local services and facilities. This would be a limited public benefit in view of the small scale of the appeal proposal. Furthermore, my assessment has indicated that there would be no heritage benefits.
22. Paragraph 193 of the Framework states that when considering the impact on the significance of a designated heritage asset, great weight should be afforded to the assets conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm.
23. The adverse impact on the significance of the designated heritage asset that would arise commands considerable importance and weight. Consequently, in this case, the public benefits do not out-weigh the identified harm to this designated heritage asset. Therefore, the harm that would be imposed by the appeal proposal is not clearly and convincingly justified.
24. In turn, this assessment indicates that there is a clear reason why this appeal should not succeed. This weighs considerably against the appeal proposal.

25. Consequently, it is unnecessary to proceed to the assessment set out in paragraph 11 d) (ii) of the Framework in this instance.
26. For these reasons, the appeal proposal would cause less than substantial harm to the setting of Grade II Listed Great Greenfields and this is not clearly and convincingly justified.
27. Policy ENV2 of the Uttlesford Local Plan (ULP) states that development affecting a listed building should be in keeping with its scale, character and surroundings and that development proposals which adversely affect the setting of a listed building will not be permitted. Furthermore, Policy FEL/ICH1 of the 'made' Felsted Neighbourhood Plan (FNP) states that development proposals must respect the character and heritage of the Neighbourhood Area and bring enhancements to the character, including maintaining and respecting the visual integrity of the historical settlement patterns and identities within the Parish.
28. These policies are not inconsistent with the aims of the Framework and irrespective of the current housing land supply position these policies continue to attract some weight. Given the identified harm, the appeal proposal would conflict with these policies. This weighs against the appeal proposal.
29. Moreover, in view of the identified harm, the appeal proposal would fail to preserve the setting of this important Listed Building. This would not meet the requirements of section 66(1) of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). This weighs considerably against the appeal proposal as the desirability of preserving the setting of the listed building commands considerable importance and weight.

Other Matter

30. The appellant has submitted a unilateral undertaking to secure mitigation to address the Council's second reason for refusal. Regulation 63(1) of the Conservation of Habitats and Species Regulations (2017) requires an Appropriate Assessment to be carried out where the competent authority is minded to give consent for the development. As I find that the development is unacceptable for the reasons set out above, there is no need for me, as the competent authority, to carry out an Appropriate Assessment.

Conclusion

31. This proposal must be determined in accordance with the development plan unless material considerations indicate otherwise. The starting point is therefore the development plan.
32. The appeal proposal conflicts with the development plan in terms of the harm that would be imposed on the setting of the Grade II Listed dwelling. Policy ENV2 of the ULP and Policy FEL/ICH1 of the FNP which seek to manage such an impact continue to have relevance and weight. This conflict weighs against the appeal proposal.
33. As to whether material considerations indicate that this appeal should be allowed, the Framework is pertinent here. Given the current housing land supply position, those policies that are most important for determining the proposal are to be considered out of date. Along with my findings in relation to consistency, this reduces the weight I attach to the conflict with Policy ENV2 of

the ULP and Policy FEL/ICH1 of the FNP. It also engages paragraph 11(d) of the Framework.

34. However, for the reasons set out earlier, when assessed against paragraph 11 d) (i) of the Framework, the appeal proposal is not clearly and convincingly justified to qualify for the presumption in favour of sustainable development. This indicates that the appeal should not succeed. This weighs considerably against the appeal proposal.
35. Moreover, the appeal proposal would not meet the requirements of section 66(1) of the Act in terms of its heritage impact and this weighs considerably against the appeal proposal.
36. None of the public benefits and other matters weighing in favour of the appeal proposal would out-weigh the conflict with the development plan when taken as a whole.
37. Consequently, for these reasons the appeal should be dismissed.

C Dillon

INSPECTOR