

Appeal Decision

Site Visit made on 6 April 2021

by G Pannell Bsc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th May 2021

Appeal Ref: APP/H1515/W/20/3263309

Fowchers Farm Cottage, 1 Rectory Lane, Herongate, Brentwood, CM13 3PR

- 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 Penkul against the decision of Brentwood Borough Council.
 - The application Ref 20/01006/FUL, dated 14 July 2020, was refused by notice dated 11 September 2020.
 - The development proposed is demolition of existing garage and construction of a two bedroomed dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing garage and construction of a two bedroomed dwelling at Fowchers Farm Cottage, 1 Rectory Lane, Herongate, Brentwood, CM13 3PR in accordance with the terms of the application, Ref 20/01006/FUL, dated 14 July 2020, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issues are the effect of the development on the character and appearance of the Herongate Conservation Area and on the setting of Hop Cottage, a Grade II Listed Building.

Reasons

3. The appeal site is located within the Herongate Conservation Area (CA) and comprises a single storey detached garage, used in connection with Fowchers Farm Cottage. The site is adjacent to the garage of Hop Cottage, a Grade II listed timber framed and thatched cottage.
4. The significance of the CA is largely drawn from the collective group of high quality historic buildings, which are clustered around the road junction and the large pond which contributes to the green character of the area. Hop Cottage's significance is derived from its architectural quality, as well as forming part of the group of historic buildings within Herongate.
5. The outbuildings of both Fowchers Farm Cottage and Hop Cottage are set back from the road frontage and this enables views across the site and a visual separation between the two buildings. This set back of built development enables greater appreciation of the two properties which are experienced as part of the collective grouping of historic properties.
6. The proposed dwelling, as a result of its overall width including the side projection and siting forward of the existing neighbouring garage would result

- in a loss of spacing to Fowchers Farm Cottage, increasing the massing of development within this existing cluster and diminishing the spatial quality of the Conservation Area.
7. In my view, the introduction of an additional dwelling within a narrow plot would contrast with the scale and spacing associated with Hop Cottage and result in a diversion of attention which would result in harm to the significance of Hop Cottage and would encroach upon its setting.
 8. Section 66 (1) of the Planning (Listed Building and Conservation Areas) Act 1990 ('the LBCA Act') requires special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses when dealing with planning applications.
 9. In line with paragraph 193 of the National Planning Policy Framework (the Framework), I afford the harm that would arise to the heritage asset great weight. The proposal would be of a relatively small scale in the context of the Conservation Area but the proposed development would also be harmful to the setting of the listed building, and thereby the significance of the designated heritage assets. Having regard to the scale of development I find the harm to the heritage assets to be less than substantial in this instance and in accordance with paragraph 196 of the Framework, that harm should be weighed against any public benefits of the proposal.
 10. The site would give rise to some economic benefits during the construction phase and I consider that there would be modest social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area.
 11. In conclusion, these modest benefits are not considered to outweigh the identified harm to which I must attach considerable importance and weight. The proposal would, therefore, fail to preserve and enhance the setting, and thereby the significance of, the designated heritage assets. It would fail to accord with the policies of the Framework which seek to conserve and enhance the historic environment.
 12. I conclude that the development proposed would fail to preserve or enhance the character or appearance of the Herongate Conservation Area and the setting of Hop Cottage, a Grade II Listed Building. This would be in conflict with policies CP1, C14 and C16 of the Brentwood Replacement Local Plan 2005 which together seek to ensure that development would not have an unacceptable impact on the character and appearance of the area, would be of a high standard of design and would preserve or enhance Conservation Areas and that development within the vicinity of a listed building will not be permitted where the proposals would detract from its character or setting.

Other considerations

13. The Council accepts that it cannot demonstrate a five-year housing land supply at present. Paragraph 11 of the Framework states that where the policies that are most important for determining the application are out of date, permission should be granted unless the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 6 sets out that these policies

include those relating to designated heritage assets. Given my findings, in relation to the Herongate Conservation Area and setting of Hop Cottage, there is a clear reason for refusing the development proposed and I am not required to apply the tilted balance in this respect.

14. The site has the benefit of an extant planning permission for the removal of the existing double garage and for the construction of a single storey 1 bed dwelling¹. This was approved in September 2020 and includes the construction of a link to the garage of Hop Cottage. It was considered to result in the continuation of ancillary forms, subservient to both Hop Cottage and Fowchers Farm Cottage.
15. However, this proposal results in an unusual design with a single storey building set at an angle and attached to the existing outbuilding. The proposal also results in a reduction in spacing in comparison with the existing position of the outbuildings. The proposal would bring development closer to Fowchers Farm Cottage and as a consequence of its connection with the existing outbuilding diminish the setting of Hop Cottage.
16. Furthermore, something which is not evident in the fallback position is that, the outbuilding ancillary to Hop Cottage would remain as a standalone structure, continuing to provide parking and garaging and providing a degree of separation between the listed building and the proposed development. In addition, the overall scale of the development proposed would result in a similar continuation of ancillary forms which was envisaged by the approved scheme.
17. Therefore, the fallback position offered by the approved development would result in a moderately greater level of less than substantial harm to that which is before me, and I have therefore given this considerable weight.
18. In conclusion, the proposal before me would result in less harm than the fallback position. It would as a consequence lead to a development with a design that was more in keeping with the overall character of the area, whilst retaining a degree of separation to Hop Cottage. This is a material consideration that indicates the application should be determined other than in accordance with the development plan.

Conditions

19. The Council has suggested 15 conditions. I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord. In the interests of the character and appearance of the Conservation Area conditions requiring the submission of samples of the materials and details of the windows, doors, eaves, verges and cills is necessary and reasonable.
20. Given the proximity to other dwellings, I have imposed a condition requiring the submission of a Construction Method Statement to protect the living conditions of the occupiers of such properties.

¹ 20/01011/FUL

21. In order to ensure an appropriate level of on-site parking provision for vehicles and cycles, I have imposed a condition requiring means of access and space to be provided prior to occupation of the dwelling and retained for the life of the development.
22. In the interests of the character and appearance of the area a condition in respect of floor levels is necessary. I consider that a condition to agree a scheme of landscaping, including details of the protection of existing trees would also be necessary in this case given the lack of detail on the submitted plans.
23. I have not found it necessary to impose a condition requiring the submission of a travel pack as I have not been provided with any detailed justification for this requirement and Policy T1 refers only to the requirement for Travel Plans for proposals which are likely to give rise to significant transport implications.
24. I have not imposed a condition removing permitted development rights as the Planning Practice Guidance advises that conditions restricting the future use of permitted development rights "will rarely pass the test of necessity and should only be used in exceptional circumstances". I do not consider it is necessary in this instance as the site is located within the Conservation Area where permitted development is already restricted.

Conclusion

25. The proposal would fail to preserve or enhance the character or appearance of the Herongate Conservation Area and the setting of Hop Cottage, a Grade II Listed Building and would conflict with the development plan taken as a whole. However, there are material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should succeed.

G Pannell

INSPECTOR

-Schedule of Conditions-

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2331/01; 2331/02; 2331/03F; 2331/04D; 2331/05E; 2331/06.
- 3) No development above slab level shall take place until details of the materials to be used in the construction of the dwelling hereby permitted and the surfacing materials of footpaths, driveways and parking areas have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;

- loading and unloading of plant and materials;
- storage of plant and materials used in constructing the development;
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) The building shall not be occupied until the area to be provided for parking of vehicles and cycles has been drained and surfaced in accordance with details that shall first have been submitted to and approved in writing by the local planning authority, and that area shall thereafter be kept available at all times for the parking of vehicles and cycles.
- 6) The building shall not be occupied until a means of access for vehicles/pedestrians/cyclists shall have been constructed in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. The access shall be retained thereafter.
- 7) No development shall commence above slab level until details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
 - means of enclosure and retaining structures;
 - boundary treatments;
 - an implementation programme.The works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.
- 8) No development above slab level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 10) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 11) No development shall take place above slab level until details of the design of new windows, doors, eaves, verges, cills to be used including plans/elevations/drawings at scale 1:20 and 1:1 as appropriate have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

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