



Appeal Decision

Site visit made on 26 July 2021

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 August 2021.

Appeal Ref: APP/C1570/W/20/3260718

Land north of Sparrows End Cottages, London Road, Newport, Essex CB11 3TU

- 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 T Behrens against the decision of Uttlesford District Council.
 - The application Ref UTT/20/0806/FUL, dated 2 April 2020, was refused by notice dated 30 September 2020.
 - The development proposed is two semi-detached cottages.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposal would preserve or enhance the character or appearance of the Grade II Listed Park (Shortgrove); and the effect on the character and appearance of the countryside.

Reasons

3. The proposal would result in a pair of semi-detached dwellings. The site is situated between the settlements of Newport and Wendens Ambo on the B1383 London Road. Both of these villages have development limits defined by policy S3 of the Uttlesford Local Plan 2005 (LP). The site is outside both of these defined settlements and therefore is considered by LP policy S7 to be in the countryside. The policy imposes strict controls on new buildings. The development is clearly contrary to this policy.
 4. The site is also within the Grade II listed Shortgrove Park. The supporting text to the LP advises that this is one of twelve historic parklands whose character remains relatively intact. Four of these, including Shortgrove Park, are included in the English Heritage Register of Historic Parks and Gardens. LP policy ENV9 advises that development proposals likely to harm historic parks and gardens will not be permitted unless the need for the development outweighs the historic significance of the site.
 5. Paragraph 194 of the National Planning Policy Framework 2021 advises that in determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any
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contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum, the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. The application documents include the description from the register. However, no such assessment has been provided by the appellant in either the application submission or the appeal documents. The appellant has therefore failed to provide information to allow for an understanding of the potential impact of the proposal on the significance of the listed park and garden. The submission falls considerably short of the minimum level of detailed assessment required.

6. Historic England have considered the proposal and provided a comprehensive description and assessment. They advise that although visual impacts are likely to be limited and localised, the proposal will result in the permanent loss of part of the registered park and garden to development, representing a degree of harm to the site's significance. They conclude that the development has the potential to harm the significance of the heritage asset, describing the harm as less than substantial with regard to paragraph 196 of the Framework 2019, (now paragraph 202). They are clear that the proposal includes none of the information normally required in making the case for enabling development but indicate that they would welcome plans for repairing and restoring the estate boundary wall, given its condition. It is also advised that the appellant should demonstrate why alternative, less harmful, options cannot be delivered.
7. The Gardens Trust advise that they consider that the proposal would add to the incremental erosion of the setting of the heritage asset. The Council's Historic Environment Team officer initially advised that the proposal would result in less than substantial harm to the designated park and garden. Following the submission of revised documents, the officer advised that he had no objection to the proposal and did not consider that it would harm the significance of the park and garden. The council overall, concluded that harm would result, as set out by Historic England.
8. Historic England are clear that the proposal would result in less than substantial harm to the listed park and garden. The proposal would clearly result in the permanent loss of an open area of the designated site. The evidence put forward falls short of what is required and the appellant has not provided any evidence or assessments to suggest that a view contrary to Historic England's should be reached. In the absence of any evidence to the contrary, I conclude that the proposal would result in less than substantial harm.
9. With regard to the development plan and policy ENV9, the proposal should not therefore be permitted unless the need for the development outweighs the historic significance of the site. The corresponding policy of the Framework requires that where there is less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use. Although the language differs, LP policy ENV9 is generally consistent with the Framework and can be afforded considerable weight.
10. The need for the development, in relation to policy ENV9, is suggested by the appellant to be two fold. Primarily to fund heritage improvements, but also to

aid the provision of housing. Two houses would make only a very small contribution to the council's housing position and can therefore be afforded only limited weight. The houses would bring other social and economic benefits, but these too would be limited given the small number of dwellings proposed. The proposal therefore benefits from only limited weight in its favour in this regard.

11. The heritage improvements relate to the continued repair of the estate walls. Although little information has been provided, as the works are supported by Historic England, I am satisfied that they would bring benefits that would weigh against the harm identified. I am advised that the appellant has already repaired roughly 30% of the damaged areas of the walls but that considerable work is still required. It is suggested that any uplift arising from this development would see the current timelines for further enhancements to the estate expedited. It is suggested that it is clear from actions both pre and post determination of the application, that the intention is to continue investing in the upkeep, maintenance and enhancement of the estate, including repairs to the 1.8 miles of flint and lime boundary walls.
12. Whilst I have no doubt as to the appellant's intentions, it is necessary to consider what benefit the suggested works would bring in terms of the significance of the listed park and garden; and whether those benefits would outweigh the harm that has been identified to it. I have been provided with no information as to what the uplift in value of the land would be or what proportion of that would be channelled into the proposed works. It is also unclear how much work would be achievable in return for this development. As I have no way of quantifying this benefit, I am unable to conclude that the benefits outweigh the harm. Furthermore, no mechanism has been suggested to ensure that the works would take place.
13. No conditions have been suggested that would ensure that a specified scale of enhancements would be achieved and I am not able to draft such a condition without an appropriate level of information. The details of the likely scale of works and their timetable are extremely vague and in the absence of a management plan or programme and a mechanism to secure both the funding and the implementation, there can be no certainty that the benefits would accrue or that they would outweigh the harm identified. On the basis of the details submitted, without some level of certainty as to what would be achieved and when; and how it would be secured, I cannot afford any weight to these potential benefits. This is a matter that was highlighted by both Historic England and the Gardens Trust but no mechanism to identify the works and the value of those works has been put forward.
14. The appellant has indicated that the new houses would be bounded to the north by a section of flint wall. This would offer some benefit in providing a defined edge to the heritage asset. Given the scale of new housing development proposed, although the new wall would be a positive feature, I am not satisfied it provides significant weight in favour of the proposal or that it goes beyond what would be expected of a new dwelling boundary in this location. Overall, the weight that can be afforded to the increased level of housing provision, the site boundary wall and the unsecured off-site improvements is not sufficient to suggest that the need for the development

outweighs the historic significance of the site. The proposal would therefore conflict with policy ENV9.

15. With regard to the development plan, there is clear conflict with the countryside and heritage protection policies. I accept the appellant's view that very little weight should be afforded to the part of policy S7 that seeks to protect the countryside from development as this part of the policy is relevant to the provision of housing and the council cannot demonstrate a five-year supply of housing land. However, policy ENV9 is sufficiently consistent with the heritage requirements of the Framework to be afforded considerable weight. Overall, I find conflict with the development plan.
16. The Framework is a material consideration that must be taken into account. It is clear that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
17. The site is not too distant from a range of facilities and services. It benefits from a bus service that would provide a link to such facilities. There is also a footpath in both directions that would be beneficial especially during daylight hours. Given the nature and character of the road and the distances involved, whilst walking and cycling would be practical for some, most journeys are likely to be by private car. Distances however, to shops and services, may be relatively short. Whilst not an ideal location for new housing, this is not an inaccessible location and as such, it gains some support from the Framework with regard to increasing the provision of housing where these may enhance or maintain the vitality of rural communities. The building of the houses would also require investment and the new residents would no doubt contribute to the local economy. The proposal therefore gains some support from the social and economic objectives of the Framework.
18. The Framework offers no support however with regard to the harm to the listed park and garden. I have already found that the public benefits of two additional houses to the housing supply position would provide only limited benefits. This would also be the case with regard to the social and economic benefits. In the absence of any enforceable commitment to the suggested enabling development, the public benefits that can be confidently assumed, would not be sufficient to outweigh the harm.
19. The proposal would be contrary to the specific heritage policies of the Framework and at odds with its environmental objectives. I consider that this conflict outweighs the social and economic benefits of providing two new houses in a reasonably accessible location. I therefore find conflict with the Framework overall. The Framework does not therefore offer weight in favour of reaching a decision that would be contrary to the development plan and actually weighs against such an outcome.
20. The Framework is clear at paragraph 11(d) that where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, planning permission should be

granted. It is clear that the Council are unable to identify an appropriate level of housing sites, but I am not satisfied that policy S7 is the most important policy in this case, given the heritage concerns. In any event however, paragraph 11(d)(i) is clear that the requirement to granted permission does not apply if the proposal is contrary to the policies in the Framework that seek to protect heritage assets and they provide a clear reason for refusing the proposal. In this case, the heritage policies of the Framework provide a clear reason for refusing the proposal.

21. The details with regard to the heritage asset and the assessment of its significance forms an inadequate basis for reaching a positive decision. The submissions do not consider whether this is the only or least harmful option available for securing benefits and the lack of a blue line on the plans showing the appellant's land interests make any such assessment more difficult. However, as the benefits offered in support of the scheme, by way of the enabling developments, can neither be quantified nor secured, the benefits of the development overall would not outweigh the harm that would result to the designated park and garden. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR