



Appeal Decision

Site visit made on 15 October 2021

by Kim Langford Tejrar LLB (Hons) BSc (Hons) PGDIP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 November 2021

Appeal Ref: APP/Z1510/W/21/3271935

Cherry Tree Barn, Hall Road, Borley, Essex CO10 7AE

- 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 Bryants Building Services Limited against the decision of Braintree District Council
 - The application Ref 20/01833/FUL, dated 05 November 2020, was refused by notice dated 19 February 2021
 - The development proposed is 'Erection of 1 no. single-storey dwelling, ancillary cart-lodge utilising existing vehicular access and demolition of 3 no. existing barns'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development was amended following submission of the application; I have utilised the amended description.
3. The latest iteration of the National Planning Policy Framework (the Framework) was published on 20 July 2021, after the application which is subject of this appeal was determined. Both main parties have had the opportunity to make comments in respect of the appeal following the publication of the Framework.

Main Issues

4. The main issues are:
 - (i) Whether the principle of residential development is acceptable in this location,
 - (ii) Whether the proposal would have an unacceptable adverse impact on the character and appearance of the surrounding area; and,
 - (iii) Whether the proposal conserves or enhances the significance of nearby heritage assets.

Reasons

Principle of development

5. The Council adopted its Shared Strategic Section 1 Local Plan (SSS1LP) as part of its development plan on 22 February 2021 and in January 2021 it published an updated Housing Delivery Test (HDT). At the time the planning application was determined, the Council could not demonstrate a five-year supply of

deliverable housing land, and as such, the 'tilted balance'¹ applied to the relevant housing policies of the development plan. Following the more recent HDT, the Council can now demonstrate 5.34 year's supply and as such, the 'tilted balance' no longer applies² in respect of the housing policies of the development plan. These policies may be afforded weight in accordance with their consistency with the National Planning Policy Framework (the Framework).

6. Policies SP1, SP3, SP4 and SP7 SSS1LP set out a spatial strategy of planned growth which aims, amongst other things, to direct growth to settlements in accordance with a settlement hierarchy and, beyond settlements, to diversify the rural economy whilst ensuring the conservation and enhancement of the natural environment. These broad aims are consistent with the National Planning Policy Framework (the Framework) aims to enhance or maintain the vitality of rural communities, and to avoid isolated new homes in the countryside except for specific circumstances.
7. Saved policies RLP2 of the Local Plan (LP), adopted in 2005, and CS5 of the Core Strategy (CS), adopted in 2011 set out a spatial strategy of planned growth which aims, amongst other things, to direct growth in accordance with a settlement hierarchy to maintain the vitality and setting of settlements whilst conserving the intrinsic beauty of the countryside. To this extent, these policies are consistent with the Framework.
8. Emerging policy LLP1 of the Shared Strategic Section 2 Local Plan (SSS2LP) will form part of a new spatial strategy which aligns with the existing strategy. This emerging policy is at an advanced stage of preparation and, whilst there is limited information before me in respect of unresolved objections, its aims are consistent with the Framework. This emerging policy is a material consideration, which does not indicate the proposal should be determined other than in accordance with the policies of the development plan identified above.
9. The appeal site is located to the south of Cherry Tree Barn, a Grade II listed building, which lies on the fringe of the built envelope of the settlement of Borley. The appeal site falls outside of the defined settlement of Borley and is within the open countryside. It is isolated from settlements and services further afield than the rural settlement of Borley and it would fail to maintain the intrinsic beauty of the countryside (addressed below).
10. For these reasons, the proposal conflicts with policies SP1 and SP3 of the SSS1LP, saved policy RLP2 of the LP, and policy CS5 of the CS and the aims of the Framework to avoid isolated new homes in the countryside, except for in particular circumstances which do not apply in this case.

Character and appearance

11. The appeal is located within the Stour Valley Project Area. This area is identified as predominantly rural, often having medieval settlement patterns. The appeal site and its surroundings are typical of this character, as Borley has a strong rural character of larger farmhouses, dwellings and agricultural buildings on a loose and irregular settlement pattern, surrounded by open countryside. The appeal site has the built form of a former farmyard, which the

¹ Paragraph 11 (d) National Planning Policy Framework.

² Paragraph 11 (c) National Planning Policy Framework.

heritage statement identifies as having been associated with a rectory nearby, although the former farmyard is self-enclosed.

12. The siting of the proposed dwelling would reflect the loose grain and irregular settlement pattern of Borley. The dwelling would also be of a smaller scale than Cherry Tree Barn. The Landscape and Visual Impact Assessment (LVIA) suggests the proposal would not be prominent in wider public views towards the site by virtue of its modest profile, and the backdrop of the built form of the settlement.
13. However, the proposal would encroach beyond the built envelope of the settlement into the open countryside, which would adversely affect the rural setting and character of the settlement, as well as the intrinsic beauty of the open countryside. This would be exacerbated by the sprawling layout and overall scale of the proposal. Although commendable effort has been made in respect of the materials and detailed design of the proposal, the building would nonetheless have an incongruous residential appearance, and the likely introduction of domestic chattels into the garden would reinforce this.
14. The proposal is also to demolish three former agricultural buildings. The largest building (labelled as 'building 3' on the application plans) has a particularly modern appearance and dominates the southern end of the site by virtue of its scale. The removal of building 3 was secured by a previous planning permission for the residential conversion of Cherry Tree Barn. The removal of the other two buildings would have some positive effect on the rural character of the wider area; though this would be limited by their siting within the farmyard complex, modest scale, and the agricultural character of the buildings.
15. For these reasons, the appeal proposal would fail to respond the character of the site and surrounding area, contrary to saved policy RLP80 of the LP, policies CS5, CS8 and CS9 of the CS, as well as emerging policy LPP55 of the SSS2LP and the Framework. These policies seek, amongst other things, high quality design which integrates well into the character of the surrounding area and landscape and which enhances or maintains the intrinsic beauty of the countryside.

Heritage assets

16. There are several designated heritage assets proximate to the appeal site, including the Grade I listed church, and Grade II listed Borley Place, tithe barn house and an unnamed barn. Cherry Tree Barn within the site is also Grade II listed.
17. The Heritage Statement (HS) concludes that as there would be little or no intervisibility between the heritage assets outside of the appeal site, there would be no impact on their significance. However, the settlement of Borley and its rural surrounds both form part of the setting of those heritage assets and contribute their significance as historic rural buildings. The residential design of the proposed dwelling would not be in keeping with the open countryside character, would erode the settlement edge and would therefore cause less than substantial harm to the rural setting of those listed buildings.
18. The HS also concludes that less than substantial harm would be caused to the significance of Cherry Tree Barn. I concur with this finding; whilst the proposed dwelling would be smaller in scale than Cherry Tree Barn, it would nonetheless

introduce a sprawling dwelling which would permanently intervene in the relationship Cherry Tree Barn has with the open countryside and its agricultural farmyard character; both of which are elements which contribute to its significance.

19. A very limited public benefit would arise the provision of a single dwelling towards local need (which is not unmet). The removal of two modest utilitarian agricultural buildings would also benefit the character of the area; however, such benefit could be achieved without the harm which would result from the proposal, and I therefore attribute very limited weight it. These benefits would not outweigh the harm to the significance of the heritage assets, and other harm identified. Great weight is to be given to the conservation of these assets.
20. For these reasons, the appeal proposal result in less than substantial harm to heritage assets, which is not outweighed by the public benefits of the scheme, contrary to saved policy RLP100 of the LP, policy CS9 of the CS and the Framework. These policies seek, amongst other things, to conserve or enhance the significance of heritage assets.

Other considerations

21. The residential conversion of one of the agricultural buildings could take place under permitted development rights. As prior notification has been made, it is reasonable to conclude this is a realistic 'fallback' position. Such development is excepted as a type of isolated new home to be avoided in the countryside³ and, in any case, would concern a modestly sized existing building which is surrounded by other buildings and is within the settlement boundary. The harm which I have identified as arising from the appeal proposal would therefore be greater than that of the 'fallback' scheme.

Conclusions

22. For the reasons stated above, I find that the appeal proposal is contrary to the relevant policies of the Development Plan, would have an unacceptable adverse effect on the character of the site and surroundings, and would cause less than substantial harm to heritage assets which would not be outweighed by the limited public benefits. This harm is not outweighed by the limited public benefits arising from the proposed development. The appeal is accordingly dismissed.

Kim Langford Tejrar

INSPECTOR

³ National Planning Policy Framework Paragraph 80(c)