



Appeal Decision

Hearing held on 18 January 2022

Site visit made on 19 January 2022

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 8th February 2022

Appeal Ref: APP/C1570/W/21/3266547

Homely, The Street, High Easter CM1 4QW

- 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 Bright against the decision of Uttlesford District Council.
 - The application Ref UTT/20/1937/FUL, dated 4 August 2020, was refused by notice dated 21 December 2020.
 - The development proposed was originally described as “erection of a new dwelling house with associated parking and landscaping”.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr and Mrs Bright against Uttlesford District Council. This application is the subject of a separate decision.

Procedural Matters

3. The site name is referred to as Walnut Tree Cottage in some documents. However, I have used the name Homely and the address from the application form for clarity.
4. The original description of development shown in the banner heading above only referred to the erection of a new dwelling. The description was amended to “Section 73A Retrospective application for the demolition of existing property and proposed erection of new dwelling” as stated in the decision notice and appeal form. This is due to the location of the site within a conservation area where planning permission is required for the demolition of unlisted buildings. Therefore, I have assessed this appeal as seeking permission for both the executed demolition and the proposed replacement dwelling. The main parties confirmed at the hearing that they were happy to proceed on this basis.

Background and Main Issue

5. The appeal site is located on the western side of The Street on the southern edge of High Easter and within High Easter Conservation Area. The site previously contained a thatched cottage known as Homely that was identified by the Council as a non-designated heritage asset in its Local Heritage List dated October 2018. The site’s planning history includes alterations and additions to the cottage approved between the 1950s and 1970s.

6. Refurbishment and demolition works began soon after the appellants purchased the property in February 2019. A planning application was submitted in March 2019 and refused in August 2019 for the part replacement of the existing dwelling, part single storey infill extension (ref UTT/19/0749/HHF). By August 2019, the front and side part of the cottage nearest to The Street and the northern boundary of the site had been removed.
7. An application to reinstate the original building along with infill and rear extension (ref UTT/19/2154/HHF) was approved in October 2019. The remaining parts of the cottage were to be retained and incorporated into the proposed development. However, these parts were then demolished by the beginning of 2020, removing the possibility of implementing this approval.
8. An application seeking planning permission for the demolition of the cottage and the proposed erection of a new dwelling of a similar size and design to the demolished cottage (ref UTT/20/0149/FUL) was withdrawn in February 2020 after comments from the Council and Essex County Council's heritage adviser.
9. Another application seeking planning permission for the demolition of the cottage and the proposed erection of a new dwelling of a different design (ref UTT/20/1937/FUL) is now the subject of this appeal. It was recommended for approval by Council officers but refused permission at planning committee due to the effect on High Easter Conservation Area.
10. Based on the above, the main issue for this appeal is the effect of the development on the character and appearance of High Easter Conservation Area having regard to:
 - (a) the significance of Homely as a non-designated heritage asset and its contribution to the character and appearance of the conservation area;
 - (b) the design of the replacement building; and
 - (c) the heritage and planning balance.

Reasons

Policy context

11. Paragraph 203 of the National Planning Policy Framework (NPPF) states that in weighing up applications that affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of loss and the significance of the heritage asset. NPPF paragraph 199 states that great weight should be given the conservation of a designated heritage asset irrespective of the harm to significance. NPPF paragraph 200 explains that any harm to significance should require clear and convincing justification.
12. NPPF paragraph 202 requires less than substantial harm to be weighed against the public benefits of a proposal. NPPF paragraph 207 states that the loss of a building which makes a positive contribution to the significance of a conservation area should be treated either as substantial harm or less than substantial harm, taking into account the relative significance of the element affected and its contribution to the significance of the conservation area as a whole.
13. Policy ENV1 of the Uttlesford Local Plan (ULP) 2005 permits development where it preserves or enhances the character and appearance of a conservation

area. It also seeks to prevent the demolition of a structure which positively contributes to the conservation area. While this latter aim is more emphatic than the NPPF which requires a balancing exercise to be struck, there is broad consistency between the policy and the NPPF in seeking to conserve heritage assets. Therefore, the policy as a whole can be afforded considerable weight.

14. Amongst other things, ULP Policy GEN2 requires proposals to be compatible with the scale, form, layout, appearance and materials of surrounding buildings. The policy is generally consistent with the NPPF including paragraph 130 which sets out a number of design criteria for assessing developments, paragraph 132 in terms of the design evolution and engagement, and paragraph 134 which requires significant weight to be given to development that reflects local design policies and government guidance on design.

Significance

15. High Easter Conservation Area covers the historic core of the village radiating east and south from the parish church along The Street. It contains a number of historic buildings including those statutorily listed and those considered to make an important architectural or historic contribution to the conservation area. Building styles and materials vary, but properties are typically 1.5 to 2 storeys tall, with clay tile roofs and brick chimneys and mostly either red brick or rendered external walls. According to the conservation area appraisal¹ (CAA), thatch was once more common but at the time of writing could only be found on two properties in the conservation area (Homely and the Grade II listed The Cottage on School Lane).
16. The richness and variety of architectural detailing, along with the concentration of historic buildings, form important components of the conservation area's character and appearance as well as its significance. These components can be experienced travelling south along The Street through the historic core between the church and the appeal site. Older buildings are initially sited close to the pavement before the street scene opens out at the appeal site with gardens and greenery in front of older and newer properties. Homely had space for landscaping and parking at the front although the garden was to the south.
17. Homely was identified in the CAA as a building that makes an important architectural or historic contribution to the conservation area. Paragraph 1.80 of the CAA and the Local Heritage List entry for Homely both describe the building as a circa 18th century (possibly earlier) traditional artisan cottage, with a dominant thatched roof, rendered walls and distinctive bay windows. The description notes that it appeared the building once had a simple form which had become more complicated by various extensions.
18. In architectural terms, Homely was a rare surviving example of a thatched roof property in the conservation area. The older parts of the building were timber framed with wattle and daub panels, while the chimney breast and stack were red brick. Later 20th century additions to the building utilised modern materials and appeared to be less sympathetic in form and detail than the older parts. Nevertheless, these additions were to the side and rear of the building and so did not undermine the prominence of the thatched roof from the road or diminish the quaint vernacular architecture of the building.

¹ High Easter Conservation Area Appraisal and Management Proposals (May 2013)

19. In historical terms, the building features on the earliest available map from 1848 (the Essex tithe map) and subsequent historic maps. There is relatively little other documentary evidence, but it would appear that the building may have been occupied by agricultural labourers in the 1840s and later on as the workshop for the village carpenter and as the home for the local undertaker.
20. Homely was not added to statutory list as a building of special architectural or historic interest even with a re-survey of High Easter in the 1980s. However, that does not mean it had no interest. As set out above, it had architectural and historic interest as an attractive thatched cottage with connections to the local history and people of High Easter. Therefore, Homely merited its status as a non-designated heritage asset and its inclusion on the Local Heritage List. Due to its relatively intact character and appearance before demolition, notwithstanding later additions and alterations, I give moderate weight to the significance of Homely as a non-designated heritage asset.
21. Homely also made a positive contribution to the character and appearance of the conservation area as well as its significance for the reasons set out above. Therefore, the demolition of the building has had a harmful effect on the significance of both the non-designated heritage asset and the conservation area. In assessing the weight to be given to the loss and harm, regard should be had to the planning history and circumstances behind the demolition works.
22. The October 2019 permission to reinstate the original building would have resulted in modern materials being used to replicate the demolished front and side parts of the cottage, while there would have been a large open plan extension at the rear. However, a significant part of the historic cottage along the south elevation remained and was to be retained before it was also demolished. Therefore, this permission does not justify the demolition.
23. Photographic evidence from 2019 indicates that the historic part of the building was in a poor condition, with significant movement in the chimneystack for example. However, these photographs appear to have been taken following the initial demolition work in early 2019 and so it is not possible to understand the condition of the building beforehand. I also have not been made aware that the building was declared dangerous by building control or seen any structural reports. Thus, based on the evidence before me, I am not persuaded that the demolition works in 2019 were necessary for reasons of health and safety or that it was impossible to secure repairs or temporary supports to the building to safeguard historic fabric. Therefore, it is not possible to lessen the level of harm to significance on the basis that demolition was unavoidable.
24. As noted above, the significance of Homely as a non-designated heritage asset carries only moderate weight, but it has been demolished. Therefore, I afford significant weight to the scale of the loss of such an asset. While the harm to the conservation area is less than substantial due to the loss of only a single building, it is still of a significant magnitude given that the building made a positive contribution to the conservation area. This weighting will be considered as part of the heritage and planning balance below.

Design of replacement building

25. The proposed replacement building would comprise a 1.5 storey dwelling arranged in an L shape adjacent to the road and northern boundary. It would have a clay tile roof with front dormer windows and white rendered walls with

red facing brickwork on the chimneys and plinth. Doors, windows, the carport and the porch would be of timber. The architectural details and materials would reflect a number of existing buildings along The Street.

26. The proposed building would be situated closer to the road than the demolished Homely and have little space for any landscaping at the front. As a consequence, it would be more prominent from the road than its predecessor, including from the bend to the south. However, the building's height and overall size would be comparable to many of the properties nearby. It would echo the building line of many properties to the north on both sides of The Street. The existing garden to the south would be retained and would ensure that the building would not be cramped within its plot.
27. The blank gable wall of the adjoining modern property at Lime Tree House is rather plain and featureless and is prominent in views heading north along The Street. It does not contribute positively to the character and appearance of the conservation area. The proposed building would partly obscure the gable wall on the approach northwards and represent a small benefit.
28. While the proposed building would utilise high quality materials and would have a sympathetic design that was supported by Council officers and advisers at the pre-application and application stage, there is little before me to indicate that it would be particularly distinctive or innovative. The building would blend into its surroundings in terms of its size, location and detailing rather than stand out.
29. The site is boarded up and vacant, but this is due to an unauthorised demolition of the previous building that contributed positively to the conservation area. Therefore, the proposed building would not represent an enhancement on the current or previous condition of the site. Nevertheless, the design of the building would have an acceptable effect on the character and appearance of the conservation area and would avoid harming its significance. In terms of the design of the replacement building, there would be no conflict with ULP Policy GEN2 or NPPF paragraphs 130, 132 or 134.

Heritage and planning balance

30. NPPF paragraphs 199, 200, 202, 203 and 207 are engaged due to the less than substantial harm to the significance of the conservation area and the total loss of significance of the non-designated heritage asset. This requires balancing the harm and loss against any benefits.
31. The Council is unable to demonstrate a 5 year housing land supply, but the development would simply replace one dwelling for another. The site is previously developed land within an existing settlement boundary but it already has a residential land use and was occupied by a dwelling. There is some local support for the replacement building, but also local objections including from the Parish Council. Thus, all these matters are neutral in the balance.
32. The replacement building would provide more floorspace than the previous cottage and have greater energy efficiency in line with current standards. This can be afforded modest weight. The partial obscuring of the neighbouring gable wall represents a small benefit to the conservation area as part of the overall design approach.

33. The replacement building would have an acceptable effect on the conservation area and comply with ULP Policy GEN2. This policy compliance can be afforded significant weight in line with NPPF paragraph 134. However, the less than substantial harm to the conservation area from the loss of Homely also carries significant weight. Therefore, the public benefits would be insufficient to outweigh this harm or provide the clear and convincing justification, mindful of the great weight that should be given to the conservation of this designated heritage asset. In terms of the non-designated heritage asset, the weight I have given to its loss would not be outweighed in the overall balance either.
34. NPPF paragraph 11(d) is engaged due to the lack of 5 year housing land supply. However, the application of NPPF policies that protect designated heritage assets like conservation areas provides a clear reason for refusing the development. Thus, the presumption in favour of sustainable development does not point towards the grant of planning permission in this case.
35. In conclusion, the development taken as a whole has an unacceptable effect on the character and appearance of High Easter Conservation Area, having regard to the significance of Homely and its contribution to the conservation area, the design of the replacement building, and the heritage and planning balance. Therefore, the development conflicts with ULP Policy ENV1 and NPPF paragraphs 199, 200, 202, 203 and 207 and would not preserve or enhance the character or appearance of the conservation area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
36. While the development does not conflict with ULP Policy GEN2 and NPPF paragraphs 130, 132 and 134, this does not outweigh the negative effect of the development or the overall conflict with the development plan and the aforementioned statutory duty.

Other Matters

37. Interested parties have raised concerns regarding the parking and highway safety effects of the replacement building. However, given my findings on the main issue, it has not been necessary to consider this in any detail.

Conclusion

38. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mark Harris	Freeths LLP
Julian Williams	BB Partnership Ltd
Joe Bright	Appellants' son

FOR THE LOCAL PLANNING AUTHORITY:

Henrietta Ashun	Uttlesford District Council
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INTERESTED PARTIES WHO SPOKE AT HEARING:

Mike Parnell	Local resident
Councillor Neil Reeve	High Easter Parish Council
Councillor Paul Sutton	High Easter Parish Council

DOCUMENTS SUBMITTED AT HEARING

1. Heritage Statement dated September 2019 submitted with application UTT/19/2154/HHF
2. Mike Parnell's written statement read out at the hearing
3. Uttlesford Local Heritage List October 2018 (both the original version and the version with Homely removed following its demolition)