



Appeal Decisions

Site visit made on 4 January 2022

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 February 2022

Appeal A - Ref: APP/C1570/W/21/3281333

Brick House Farm, Cherry Street, Duton Hill, Tilty, Essex, CM6 2EE

- 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 Ms Nudd against the decision of Uttlesford District Council.
 - The application Ref UTT/21/1283/HHF, dated 7 April 2021, was refused by notice dated 14 June 2021.
 - The development proposed is the installation of an in-ground swimming pool and mitigation works.
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Appeal B - Ref: APP/C1570/Y/21/3281329

Brick House Farm, Cherry Street, Duton Hill, Tilty, Essex, CM6 2EE

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Ms Nudd against the decision of Uttlesford District Council.
 - The application Ref UTT/21/1284/LB, dated 7 April 2021, was refused by notice dated 14 June 2021.
 - The works proposed is the installation of an in-ground swimming and mitigation works.
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Decisions

1. Appeal A - The appeal is allowed, and planning permission is granted for the installation of an in-ground swimming pool and mitigation works at Brick House Farm, Cherry Street, Duton Hill, Tilty, Essex CM6 2EE, in accordance with the terms of the application, Ref: UTT/21/1283/HHF, dated 7 April 2021.
2. Appeal B - The appeal is allowed, and listed building consent is granted for the installation of an in-ground swimming and mitigation works at Brick House Farm, Cherry Street, Duton Hill, Tilty, Essex CM6 2EE, in accordance with the terms of the application, Ref: UTT/21/1284/LB, dated 7 April 2021 and the plans submitted with it.

Preliminary Matters

3. I have considered the appeals concurrently, but on their own merits, because there are common matters between them. I observed during my site visit that the swimming pool as shown on the submitted drawings is in place, but the mitigation works have not occurred.
4. Aerial photographic evidence provided by the appellant seems to indicate that the swimming pool has been *in situ* for some time. As a result, it may be immune from enforcement action. That said, within the context of an appeal under Section 78 of the Act¹ it is not within my remit to formally determine

¹ The Town and Country Planning Act 1990

whether the proposed development requires planning permission. If the appellant wishes to ascertain this, then they may make an application under Section 191 or 192 of the Act.

5. Similarly, the swimming pool does not appear to be connected to, or part of, the listed building and therefore it is unclear why listed building consent has been sought and refused. I have, nevertheless, determined this appeal as it has been submitted.

Reasons

6. The main issue in both appeals is whether the proposal would preserve the Grade II listed building known as Brick House Farm² or its setting or any features of special architectural or historic interest it possesses.
7. Brick House Farm was listed in 1967 and probably dates from the late 15th or early 16th Century. The appellant's Heritage Appeal Statement demonstrates that the appeal building used to be a farmhouse with an inter relationship with a range of barns to the north. The historic core is timber framed and the elevations are simple in appearance with plastered walls and a plain tiled roof.
8. The appeal building has been altered over time. It was extended in the 19th Century, subdivided in the mid-20th Century and subsequently extended in the late 1990s. Despite these alterations, the building is still clearly discernible as a post medieval vernacular dwelling. It therefore tells us much about historic construction techniques, the evolution of houses and bygone ways of life. The building also has a simple rural charm. Accordingly, the significance of the listed building, in so far as it relates to these appeals, is its evidential, historic, and aesthetic value.
9. The building's likely origins as a farmhouse within a farmstead is part of its significance. It is still possible to discern this on the ground, albeit with some interpretation provided by historic maps. These maps also demonstrate that the building was intrinsically and closely linked with the surrounding agricultural landscape, with fields directly adjoining it. Vestiges of this agrarian setting can still be experienced to a modest extent and this assists in understanding the significance of the building.
10. That said, the setting of the building has altered considerably over time with the range of barns to the north seemingly truncated and converted to a dwelling. Long domestic curtilages have also been established to the rear and these are bounded by mature planting that provides a buffer with the wider agricultural landscape. As a result, the appeal property is not overtly experienced as forming part of a farmyard closely associated with agricultural fields/land. Instead, the curtilage of the appeal property has a comprehensive domestic character. There is a large lawn and several domestic type structures including timber sheds, a greenhouse, pizza oven, patio, and hot tub. It is in this context and setting that the proposed swimming pool must be considered.
11. I share the Council's view that a swimming pool is a modern domestic feature that in some settings would be inappropriate. For example, if a building/site had an overtly industrial or agricultural character, then obviously domestic features in its setting could appear incongruous. However, in this instance the swimming pool is within the curtilage of a dwelling and forms part of a garden

² Listed as Brickhouse Farmhouse

with a strong and private domestic character due to the features identified in the preceding paragraph. In this context it is not strident or incongruous despite being near the listed building.

12. Even if the swimming pool were removed, the rear of the listed building would still have a domestic setting with little vestige of its former position adjoining agricultural land. Moreover, the swimming pool is a low feature not visible from the front or side of the property and with a subtle presence when viewed in the context of the garden from the rear. As a result, the ability to appreciate the architectural and aesthetic value of the listed building is undiminished. The construction of the swimming pool has therefore preserved the rearward setting of the listed building. Its significance has not been harmed.
13. Moreover, there is nothing of substance before me to suggest that the construction of the swimming pool damaged the listed building or removed any notable features. As a result, the listed building has been preserved.
14. In conclusion, the proposal would preserve³ the significance, value and special interest of the listed building, including its setting. As a result, it would adhere to the expectations set out in The Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act')⁴ and the National Planning Policy Framework⁵. The proposal would also adhere to Policies GEN2 and ENV2 of the Uttlesford Local Plan 2005 in so far as relevant, which seeks to secure good design and proposals that protect the special characteristics of listed buildings.

Conditions

15. I have had regard to the advice in the Planning Practice Guide and the conditions suggested by the Council. As the development has occurred, I share the view of the Council that there is no need for a commencement condition or a condition requiring implementation in accordance with approved drawings. For the reason already given, the swimming pool preserves the listed building and its setting regardless of whether the proposed mitigation measures are implemented. As such, a condition securing them is not required. The appeals are therefore permitted on an unconditional basis.

Conclusions

16. For the reasons given the appeals are allowed.

Graham Chamberlain
INSPECTOR

³ Preserve in this context means to do no harm.

⁴ See s16(2) and s66(1) as relevant

⁵ Paragraphs 189, 190, 195 and 197 in particular