



Appeal Decision

Site visit made on 6 September 2022

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2022

Appeal Ref: APP/C1570/W/21/3282320

Swan Farm, School Lane, Takeley CM22 6PJ

- 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 S Allan (Stallan Group Ltd) against the decision of Uttlesford District Council.
 - The application Ref UTT/20/3235/FUL, dated 06 December 2020, was refused by notice dated 12 May 2021.
 - The development proposed is erection of 3 detached dwellings with associated curtilages, parking and new vehicular access.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was determined the Government has published the revised National Planning Policy Framework 2021 (the Framework). The appellant has referred to the revised Framework in their appeal submissions and I have had regard to it in this decision.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the setting of nearby listed buildings.
 - The effect of the proposed development on the character and appearance of the surrounding area.
 - The effect of the proposed development on highway safety.
 - Whether the proposed development would provide an appropriate mix of housing.

Reasons

Listed Buildings

4. The appeal site comprises an area of land adjacent to Swan Farmhouse, which is a Grade II listed building. The evidence before me indicates that the site was previously used to grow trees but when I visited the site it comprised a relatively unmanaged area of grassland. The site is surrounded by relatively dense hedgerow and tree planting on three sides. However, it is fairly open in

terms of its relationship with Swan Farmhouse, with only a few sporadic trees planted along the boundary to this side.

5. Further along School Lane to the west, there is a proliferation of relatively recently constructed dwellings and the character at this end of the lane is more urban. To the western end of School Lane there is another Grade II listed building, known as Polley Luray Cottage.
6. Under section 66 (1) and section 16 (2) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am obliged to have special regard to the desirability of preserving the listed buildings, their settings and any features of special architectural or historic interest.
7. Polley Luray Cottage is a 17th Century House which primarily derives its significance from its historical architectural appearance with distinctive features including a thatched roof and red brick chimney stacks. The setting of this building includes the immediately surrounding land, which contributes to the rural character of the building. However, the appeal site does not make any significant contribution to this setting, given the intervening boundary treatments over a relatively long distance along School Lane, which separate the two. As such, the proposed development would not be harmful to the significance of this heritage asset.
8. In contrast, Swan Farmhouse is located adjacent to the appeal site. This 18th Century building partly derives its significance from its architectural appearance, comprising of a timber framed structure with plastered walls and a red plain tile roof. It also derives its significance from the isolated and agricultural setting which immediately surrounds it. Whilst there is a dwelling located to the east of the building, this is largely screened by existing planting. Indeed, the land to the north, south and west (including the appeal site) serves to re-enforce the agricultural context of the building and it therefore contributes positively to the significance of the building.
9. Whilst the site is relatively unmanaged, it is still fairly open and agricultural in appearance. The fact that it may have been in alternative uses does not detract from the effect it has in terms of its appearance at present. Indeed, during my site visit I noted that the appeal site appears to be somewhat synonymous with the Farmhouse, given the limited amount of intervening planting along the boundary. As such, the appeal site does not currently result in a 'negative impingement' upon the Listed Building, as suggested in the appellant's Heritage Statement.
10. The proposed development includes three dwellings which would be orientated around a central courtyard in a farmstead style¹. The building materials would be synonymous with the rural character of the area. Nonetheless, the three dwellings, driveway, courtyard and inevitable residential paraphernalia which would occur as a result of the development, would significantly diminish the open and agricultural setting of Swan Farmhouse, even taking into account the farmstead layout and barn-style appearance proposed. This is compounded by the very close proximity of the appeal site to the listed building.
11. Planting measures would not sufficiently mitigate this harm given that these measures themselves would serve to physically detach the land from the

¹ Which the appellant suggests complies with the guidance within the National Farmstead Character Assessment (Historic England, 2014)

Farmhouse and reduce the agricultural context within which the building is currently perceived. Despite being set back from School Lane and limited to 1.5 storey scale, the dwellings would be visible in conjunction with the Listed Building, particularly when viewed from School Lane. The visual harm caused by the development would also be visible over the proposed access.

12. The Council has referred to the harm to the Listed Building in terms of noise, traffic, parking, nuisance and general disturbance. Whilst the quiet character of the area immediately surrounding the Farmhouse does contribute to its significance, I do not consider that the limited noise and disturbance emanating from three dwellings would result in significant harm in this regard. Particularly given the presence of other nearby residential development, including the neighbouring dwelling to the east. Furthermore, I do not accept that the potential for a precedence of similar development would constitute harm, given that every case should be considered with regard to the relevant site-specific circumstances. Nonetheless, the absence of harm in this regard does not diminish the overall level of harm which the proposed development would cause.
13. For these reasons I conclude that the proposed development would result in less than substantial harm (within the meaning of Framework Paragraph 202) to the setting and thereby the significance of Swan Farmhouse.
14. Framework Paragraph 202 requires that less than substantial harm is weighed against the public benefits of a proposal including, where appropriate, securing the heritage asset's optimum viable use. The proposed development would include social and economic benefits associated with the increase in housing stock as a result of three new dwellings. The weight to be afforded to this benefit is greater than it might otherwise have been given that the evidence before me indicates that the Council could only demonstrate a Housing Land Supply of 3.11 years at the time of their decision².
15. There would also be a small increase in support for local services and facilities and some temporary economic and social benefits through support for construction jobs.
16. The appellant cites the environmental benefits associated with 'low impact' development and the prospect of tree and hedgerow planting. However, there is no substantive evidence before me to indicate that a benefit would be achieved in either regard. These are therefore neutral considerations.
17. Whether the site is in a sustainable location is also a neutral consideration, given that the NPPF seeks to direct all significant residential development to sustainable locations in any event.
18. Even though there would be important social and economic benefits, given the relatively small scale of the development, they can only be attributed moderate weight, even in the context of a housing land supply shortfall. Conversely, the less than substantial harm to the heritage asset should be afforded great weight, in line with the provisions of Framework Paragraph 199. The moderate public benefits of the proposed development would therefore not outweigh the less than substantial harm.

² There is no substantive evidence to indicate whether or how this position has changed since that time.

19. The proposed development would therefore be contrary to the provisions of the Framework as well as Saved Local Plan³ Policy ENV2, which requires in part that development affecting a listed building should be in keeping with its character and surroundings.

Character and Appearance

20. In addition to the harm to the Heritage Asset, the proposal would also be contrary to the spacious and rural character of this part of School Lane. The development in isolation would have a predominantly rural appearance, it would be set back from School Lane and would be limited to 1.5 storeys. However, the provision of three dwellings within a relatively compact site in close proximity to an existing dwelling would harmfully diminish the spacious rural character of the area. Indeed, surrounding development on this part of School Lane is typically linear and sporadic. The appeal site contributes to this character at present given its relatively open nature and its contribution to the spacious character of the Farmhouse. The proliferation of three dwellings, driveway, courtyard and inevitable residential paraphernalia in this location would harmfully erode this prevailing character.
21. As such, the proposed development would be contrary to Saved Local Plan Policies S7 and GEN2 insofar as they require new development to protect and be compatible with local character. I have not been provided with a copy of Saved Local Plan Policy S8, nor a plan showing the location of the Countryside Protection Zone. As such, I have not identified any conflict with it.

Highway Safety

22. The evidence before me indicates that the Highway Authority (HA) was consulted on the planning application. However, I have not been provided with any stand-alone consultation response from the HA and it did not add any specific comments in response to consultation for this appeal. The appellant asserts that the HA comments referred to in the Council's Officer Report are those pertaining to an earlier refused scheme for 8 dwellings on the appeal site⁴.
23. Nonetheless, the Council considers that the proposed development would result in an adverse impact on highway safety due to the alleged propensity of vehicles to meet highway users on the single track (School Lane) resulting in vehicles over running the verge and/or reversing to find a suitable passing place.
24. During my site visit I noted that School Lane is a narrow rural lane with limited passing places. It is likely that this causes a nuisance to local residents as the evidence (representations received) indicates that they may have to reverse or pull over in order to allow vehicles to pass. Despite this, given the proliferation of residential development in the area and the narrow nature of the lane, I consider that vehicular speeds are likely to be very low. In addition, three dwellings would be unlikely to amount to a significant increase in vehicular movements along the lane. For these reasons, whilst I have some sympathy for the inconvenience which might be caused to local residents, the proposed development would not lead to an unacceptable impact on highway safety.

³ Uttlesford Local Plan – Adopted January 2005

⁴ Council Ref: UTT/20/0831/FUL

25. As such, the proposed development would comply with Saved Local Plan Policy GEN1, which requires in part that access to the main road network is capable of carrying the traffic generated by the development safely.
26. The Council has indicated that the development would conflict with the Essex County Council Development Management Policies (2011). However, the Council has not specified which policy would be conflicted with and I have not therefore identified any conflict in this regard.
27. The development would also comply with Framework Paragraph 111, which outlines that Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Housing Mix

28. The proposed development would provide two four-bedroom dwellings and one five-bedroom dwelling. Saved Local Plan Policy H10 states that all developments on sites of 0.1 hectares and above or of 3 or more dwellings will be required to include a significant proportion of market housing comprising small properties. Local Plan Paragraph 6.30 explains that all developments comprising 3 or more homes must include an element of small 2 and 3 bed homes. As such, 'small properties' within this context should be considered to be those which provide 3 or less bedrooms.
29. As a result, the proposed development would conflict with saved Local Plan Policy H10. However, this policy is out-of-date and carries reduced weight for the reasons explained in relation to the 'planning balance'.

Planning Balance

30. At the time that the planning application was determined the Council could only demonstrate a supply of 3.11 years' worth of deliverable housing sites. No substantive evidence has been provided to indicate that this position has improved. Given the shortfall, Framework Paragraph 11d applies.
31. Framework Paragraph 11d(i) states that permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Footnote 7 clarifies that such policies include those relating to designated heritage assets.
32. Given that I have found that the proposed development would result in less than substantial harm to Swan Farmhouse, which would not be outweighed by the public benefits of the scheme, the Framework (Paragraph 202) provides a clear reason for refusing the development. As such, the presumption in favour of sustainable development does not indicate that permission should be granted and the subsequent test at Framework Paragraph 11dii does not apply.
33. In addition to the harm to the Listed Building, the proposed development would also result in harm to the character and appearance of the surrounding area. This harm and the associated conflict with the development plan can be afforded significant weight.
34. The appellant refers to the reduced weight which he considers should be attached to Saved Local Plan Policy S7 in relation to character and appearance.

However, whilst the weight to this policy may be reduced insofar as it relates to the principle of residential development, in this instance it is not the principle of the location which is in contention. Insofar as this policy refers generally to the character and appearance of the area, it can still be afforded significant weight, even in the context of a shortfall. This is because it is generally consistent with Framework Paragraph 130, which requires development to be sympathetic to local character. Policy GEN2 can also be afforded significant weight for the same reason.

35. The proposal would also fail to provide smaller homes and there would be a resultant conflict with Saved Local Plan Policy H10. However, within the context of a HLS shortfall, this policy restricts the amount of residential development coming forwards on smaller sites, given the very low threshold for applying housing mix policy and the resultant impact this has on the provision of larger homes. Indeed, within the current context, in principle, larger homes are better than no homes at all in the absence of other considerations. Furthermore, the policy dates from 2005 and there is no substantive evidence to indicate that it still reflects the needs of prospective households within the district.
36. The appellant refers to the previously emerging Local Plan, which included a more relaxed housing mix policy. Nonetheless, I do not afford this consideration any weight, given the that the emerging Local Plan has now been withdrawn. In any case, for the reasons outlined above, the conflict with Policy H10 is given very limited weight.
37. I have already concluded that the moderate public benefits of the scheme would outweigh the less than substantial harm to the heritage assets. A situation which alone, directs refusal of planning permission. Clearly the additional harm to the character and appearance of the area weighs further against granting planning permission.

Conclusion

38. The proposed development would conflict with the development plan taken as a whole. Having considered the relevant material considerations raised, including the approach advocated at Framework Paragraph 11d, there are no material considerations of sufficient weight which warrant a decision other than in accordance with the development plan. The appeal is therefore dismissed.

Luke Simpson

INSPECTOR