
Appeal Decision

Site visit made on 30 September 2022

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 3rd November 2022

Appeal Reference: APP/C1570/W/22/3297223

Land at The Oak House', Bannister Green, Felsted, CM6 3ND

- 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 and Mrs Kershaw against the decision of Uttlesford District Council.
 - The application (reference UTT/21/3641/FUL, dated 8 December 2021) was refused by notice dated 2 February 2022.
 - The development proposed is described in the application form as "*Erection of 1no. detached dwelling, with associated curtilage, vehicular access from public highway, off-street car parking, and landscaping*".
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Decision

1. The appeal is dismissed.

Main issue

2. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the surroundings and, specifically, its impact on the setting of the listed building that is sited on adjoining land.

Reasons

3. The appeal site is situated in a rural part of Essex, where small villages, hamlets and scattered buildings are set in a predominantly agricultural landscape. It lies at the edge of the settlement that has grown up at Bannister Green.
4. An open space provides a focal point to the hamlet, which is more closely built up to the north and east of the green, with fewer buildings to the west and south. The green is irregular in shape and mainly laid to grass, with a children's play area close to Burnstie Road, which marks the south-east edge of the open space. The eastern frontage of Burnstie Road is also largely built up but to the west, opposite the open space (across the road) the land is predominantly agricultural.
5. 'The Three Horseshoes' is located at the junction of Burnstie Road and the main road, opposite the southern corner of the green. It was once a public house

although it has been converted to form an attractive dwellinghouse, set back from the road. It is rendered and painted externally, with a first floor that is mainly contained within a large, tiled roof with dormers on the front elevation. The building dates from the seventeenth century or earlier and is listed (Grade II) as a building of special architectural or historic interest. It is an important feature in the landscape.

6. 'The Oak House' is the next house along Burnstie Road and it has a more modern appearance, although it is traditional in style. It is also rendered and painted externally, under a tiled roof, but the eaves height is higher and the building appears bulkier. It stands on the plot that adjoins 'The Three Horseshoes', but is set to one side of its plot, with a wide side garden that provides a significant degree of separation between the two houses.
7. It is now proposed that a new dwellinghouse should be constructed on the side garden of 'The Oak House', between that house and 'The Three Horseshoes'.
8. Provisions in the Planning (Listed Buildings and Conservation Areas) Act 1990 impose obligations on those considering whether to grant planning permission for development that would affect the setting of a listed building. In such cases, it is necessary to have special regard to the desirability of preserving the setting.
9. Those formal requirements are reinforced by the 'National Planning Policy Framework', especially at Section 16, which draws attention to the importance of conserving and enhancing the historic environment. The 'National Planning Policy Framework' also emphasises the aim of promoting sustainable development and it recognises the intrinsic character and beauty of the countryside, among other things. It also has the more general aim of "achieving well designed places" in the broadest sense.
10. Policies in the Development Plan also reinforce the underlying principles that are established in the primary legislation and in national policies. In particular, Policy ENV2 of the 'Uttlesford Local Plan' (which was adopted in 2005) is concerned with development affecting listed buildings, and it restates the importance of the setting of such buildings. Policy S7 of the 'Uttlesford Local Plan' is intended to protect the countryside more generally.
11. 'Felsted Neighbourhood Plan' (which was adopted more recently, in February 2020) is also part of the statutory Development Plan. It identifies "Village Development Limits" for Bannister Green which appear to exclude the appeal site, although the plan is not entirely clear. In that context, Policy HN5 "resists residential development proposals outside Village Development Limits", while Policy CW1 "protects the countryside for its own sake".
12. I accept that the proposed new house would be located outside the Village Development Limits" for Bannister Green, as shown in the 'Felsted Neighbourhood Plan', but the site lies at the edge of the village, indeed, the defined limits appear to include 'The Oak House' while excluding part of its garden. In my view, it is also necessary to consider the practical impact of the proposal on the setting, as a material consideration in this case.
13. The proposed new house would be smaller than the 'The Oak House' and some space would be retained between the new building and the erstwhile public

house. It has been designed in a traditional style but, nevertheless, it would be a large structure by comparison with the listed building and it would significantly change the setting. Currently, the listed building stands at the southern corner of the village green, with a backdrop that includes a number of trees when viewed from the green and with agricultural land behind and opposite. The new building would strengthen the visual link with the more closely built-up parts of the settlement and thus would undermine the setting of the listed building.

14. In consequence, the project would fall short of the requirement to protect the setting that is set out in both the primary legislation and in planning policies. It would have a harmful impact on important views across the green and on the setting of the listed building.
15. It must be acknowledged that the scheme would create a useful new dwelling and that this consideration weighs in favour of the appeal, especially since the Council have confirmed that a five-year housing land supply has not been achieved in the District. I also accept that the scheme would not have a significantly harmful effect on the wider countryside, outside Bannister Green, and that a scheme of "sensitive infilling" might have been acceptable in principle, notwithstanding the "Village Development Limits". Nevertheless, I am convinced that the impact of the appeal scheme on the setting of the Grade II listed building would be unacceptable in planning terms and that, therefore, the "tilted balance" ought not to be applied in this case.
16. I have concluded, therefore, that the appeal must fail and, although I have considered all the matters that have been raised in the representations, I have found nothing to cause me to alter my decision.

Roger C. Shrimplin

INSPECTOR