



Appeal Decision

Site visit made on 25 January 2023

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

an Inspector appointed by the Secretary of State

Decision date: 3 February 2023

Appeal Ref: APP/J1535/W/22/3296030

Land at Greensted Hall, Church Lane, Ongar CM5 9LD

- 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 L Hillier against the decision of Epping Forest District Council.
 - The application Ref EPF/1028/21, dated 12 April 2021, was refused by notice dated 4 November 2021.
 - The development proposed is the demolition of existing buildings and erection of single dwelling, formation of vehicular access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing buildings and erection of single dwelling, formation of vehicular access and landscaping at Land at Greensted Hall, Church Lane, Ongar CM5 9LD in accordance with the terms of the application, Ref EPF/1028/21, dated 12 April 2021, subject to the 17 conditions set out in the schedule below.

Preliminary Matters

2. The description of the proposal on the application form simply reads 'proposed redevelopment'. I have used the Council's description of development in the banner heading and formal decision above. This description also appears on the appeal form.
3. Amended plans were submitted during the application process to remove a dormer window on the front elevation, show two windows on the north side elevation, and alter the external walls from render to timber cladding. It is not clear whether the amended plans were consulted on. However, they involve minor alterations that would not prejudice interested parties. Therefore, I have considered the appeal on the basis of the amended plans.
4. The appeal site is located in the Green Belt but comprises previously developed land by virtue of the existing former agricultural buildings. The appellants and the Council agree that the redevelopment of the site would not have a greater impact on the openness of the Green Belt than the existing development. I have no reason to disagree with these conclusions having regard to paragraph 149(g) of the National Planning Policy Framework (NPPF). Therefore, the proposal would not represent inappropriate development in the Green Belt.
5. The second reason for refusal refers to the absence of a completed Section 106 (S106) agreement that would mitigate against the adverse impact of the proposed development on Epping Forest Special Area of Conservation (SAC). A completed S106 agreement in the form of a unilateral undertaking dated 31 March 2022 was submitted with the appeal and is assessed below.

Main Issues

6. The main issues are the effect of the proposed development on (a) the setting of nearby listed buildings and (b) Epping Forest SAC.

Reasons

Listed buildings

7. The appeal site is located on the northern edge of the small settlement of Greensted. The site comprises redundant agricultural buildings of rudimentary construction and is accessed via a trackway (public footpath) that leads north from Church Lane. The buildings are surrounded by mature trees and other vegetation. Even in midwinter the site appears secluded from the trackway.
8. Greensted contains a number of listed and other historic buildings including the Grade I listed Church of St Andrew, the Grade II* listed Greensted Hall, and the Grade II listed Coach House, Brewhouse and Barn. Hall Farmhouse and its barn are locally listed. A new residential property has been built on land that formerly had redundant buildings between the site and the listed buildings.
9. The church dates back to the Saxon era with its oak log walls, along with a red brick chancel from the Tudor period and a number of features that were restored by the Victorians. The hall is said to have a medieval core and timber frame with extensive rebuilding around 1700. The Grade II buildings date to the 17th century and were once ancillary domestic structures but have now been converted to separate residential dwellings.
10. The listed buildings have considerable architectural and historic interest given their age, functions past and present, and the survival of much historic fabric. There is strong group value too, as the buildings are clustered in a small area to the east of Church Lane and the trackway. Their significance and special interest is also influenced by their setting which is very rural and screened by trees and other vegetation.
11. From the trackway adjacent to the site and from within the site itself, it is difficult to see any of the above listed buildings due to the extent of vegetation and the new property. From the south-east corner of the site and away from the existing redundant buildings, I was able to glimpse the buildings at Greensted Hall but it was not a clear or obvious view.
12. The site forms part of the grounds associated with the hall and was used for agricultural purposes, including probably an orchard, from at least the 18th century according to historic map evidence. However, any productive use ceased many years ago and the existing buildings are dilapidated and of no architectural merit. From visiting the site today, it is hard to associate the site with the hall in either a visual or functional sense. Nevertheless, the site is at the northernmost end of the historic settlement of Greensted and is surrounded by extensive vegetation. Therefore, the site makes a moderate positive contribution to the setting and significance of the listed buildings.
13. The proposed development would be smaller in volume and footprint than the existing buildings. It would have a barn-like design with timber cladding and a steep pitched roof. It is possible to retain the trees within the site apart from a limited number of lower quality specimens that would need to be removed for vehicular access. Thus, the proposed development would not look out of

keeping with the rural surroundings and would be largely screened from the trackway and the listed buildings. While owners of buildings have a duty to maintain them, there is no evidence of deliberate neglect or damage here. Therefore, the removal of the existing buildings would be of benefit.

14. There would be further fragmentation of the historic grounds of Greensted Hall, bearing in mind the construction of the new property and the conversion of listed ancillary buildings to separate dwellings. However, this would not be obvious in any visual or functional way given the nature of the existing site and its surroundings. Therefore, the proposed development would not detract from the setting of the listed buildings or harm their significance or special interest.
15. Concluding on this main issue, the proposed development would have an acceptable effect on the setting of nearby listed buildings. Therefore, it would accord with Policy HC12 of the Epping Forest District Local Plan 1998 which seeks to avoid adverse effects on the setting of listed buildings. It would also accord with Policy DM7 of the emerging Local Plan which seeks to conserve and enhance the historic environment. The development would also accord with Section 16 of the NPPF which requires proposals to identify the significance of heritage assets and ensure that this is sustained and enhanced by avoiding or balancing harm against any public benefits.

Epping Forest SAC

16. Epping Forest SAC contains a range of habitats including beech forests and wet and dry heathland and is important for various species including the stag beetle. Potential adverse effects on the SAC relate to recreational pressure from visitors and to air quality from traffic movements around the SAC. The site is outside the 6.2km zone of influence in terms of recreational pressure but has the potential to result in a net increase in traffic using the roads through the SAC. This increase could result in likely significant effects on the integrity of the SAC in combination with other plans or projects. As such, it is necessary to carry out an appropriate assessment (AA) as part of my decision.
17. As part of the AA, it is necessary to consider whether any potential effects could be addressed through specific measures. The Council has developed an Interim Air Pollution Mitigation Strategy as part of a district-wide approach. The required measures include electric vehicle charging points to reduce vehicle pollution and the provision of high speed broadband to encourage working from home. Both of these measures can be secured by planning conditions. The strategy also requires financial contributions from applicable development proposals to help fund strategic measures such as a clear air zone. For this development, a contribution of £335 is sought. This would be secured by the S106 agreement. Natural England is supportive of the Council's strategy.
18. I am satisfied that the S106 agreement has been executed properly and that the planning obligations it contains would be necessary to make the development acceptable in planning terms as well as being directly related to the development and fairly and reasonably related in scale and kind. Therefore, I can take the planning obligations into account as part of my decision.
19. Based on the above mitigation measures, the proposed development would not result in a significant effect on the SAC. Therefore, it would accord with Policies CP1 and CP6 of the Epping Forest District Local Plan Alterations 2006 which, amongst other things, seek to achieve sustainable development that avoid or

minimises negative effects on the environment. The development would also accord with Policies DM2 and DM22 of the emerging Local Plan which seek to conserve the SAC and address air quality matters. It would comply with NPPF paragraph 180 which seeks to avoid or adequately mitigate significant harm to biodiversity. Finally, it would meet the requirements of the Habitats Regulations 2017 which aims to conserve key habitats and species.

Other Matters

20. Interested parties have raised concerns about the effect of the development on trees and biodiversity. However, the appellant has submitted reports on these matters which demonstrate that it is possible to retain most of the existing trees, while measures can be put in place to protect and enhance biodiversity. Subject to appropriately worded conditions, the development would have an acceptable effect on these matters.

Conditions

21. Conditions 1 and 2 setting a time limit for the commencement of the development and specifying the approved plans are necessary for clarity and compliance. Condition 3 is necessary to address surface water disposal while Condition 4 is necessary in the interests of character and appearance. Condition 5 is necessary to safeguard water resources.
22. Conditions 6 to 8 are needed to protect and enhance the biodiversity of the site. I have removed the tailpiece clause on Condition 8 as any changes to external lighting should follow the proper planning process. Condition 9 on electric vehicle charging points and Condition 10 on superfast broadband are necessary as part of the mitigation of effects on the SAC. I have removed the tailpiece clauses as any changes to the measures would need to be properly considered as part of any further appropriate assessment.
23. Conditions 11 and 12 are necessary to ensure that the construction phase has an acceptable effect on nearby residents and the local road network. I have removed the tailpiece from Condition 11 as it would not be appropriate to amend the hours of working without following the proper planning process. It is necessary in Condition 13 to remove permitted development rights for extensions to the new dwelling given that the exercise of these rights could have a greater effect on the openness of the Green Belt than the existing buildings. I have removed the tailpiece clause to prevent the authorisation of work outside of the proper planning process.
24. Conditions 14 to 16 are necessary to safeguard existing trees and ensure that any landscaping works have an acceptable effect on character and appearance. Condition 14 is pre-commencement condition as it would not be possible to start works before trees are protected. Condition 17 is necessary to address any contaminated land issues.

Conclusion

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

Tom Gilbert-Wooldridge

INSPECTOR

Schedule of Conditions (17)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2164.9 A, 2164.10, 2164.11 A, 2164.12 A, 2164.13 A, and 2164.15.
- 3) The development shall be implemented in accordance with the measures set out in flood risk assessment (Ref 2252/2021, Rev C, March 2021) and drainage strategy (SK01, Rev B). The measures shall be provided on site prior to first occupation and retained for the lifetime of the development.
- 4) Prior to their installation, samples of the type and colours of the external finishes of the development shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved samples. For the purposes of this condition, the samples shall only be made available for inspection by the local planning authority at the site itself.
- 5) Prior to first occupation of the development, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day.
- 6) Prior to first occupation of the development, the recommendations and enhancements set out in the Ecological Impact Assessment (dated April 2021) by Hybrid Ecology Ltd shall be implemented in full and so retained.
- 7) Prior to first occupation of the development, a Biodiversity Enhancement Strategy shall be submitted to and approved in writing by the local planning authority following the recommendations made within the Ecological Impact Assessment (Hybrid Ecology Ltd, April 2021). The content of the Biodiversity Enhancement Strategy shall include the following:
 - a) purpose and conservation objectives for the proposed enhancement measures;
 - b) detailed designs to achieve stated objectives;
 - c) locations of proposed enhancement measures by appropriate maps and plans;
 - d) persons responsible for implementing the enhancement measures; and
 - e) details of initial aftercare and long-term maintenance.

The works shall be implemented in accordance with the approved details and shall be retained in that manner thereafter.
- 8) Prior to first occupation of the development, a lighting design scheme for biodiversity shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those features on site that are particularly sensitive for bats and that are likely to cause disturbance along important routes used for foraging; and show how and where external lighting will be installed (through the provision of appropriate lighting contour plans, isolux drawings and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or

prevent bats using their territory. All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme.

- 9) Prior to any above ground works, details and location of the parking spaces (including garages) equipped with active electric vehicle charging point(s) shall have been submitted to and approved in writing by the local planning authority. The installation of electric vehicle charging points(s) shall be completed in accordance with the approved details and made operational prior to first occupation. The details must include the following:
 - a) location of active charging infrastructure; and
 - b) specification of charging equipment to be used.
- 10) Prior to any above groundworks, a strategy to facilitate super-fast broadband for future occupants of the site shall have been submitted to and approved in writing by the local planning authority. The strategy shall seek to ensure that upon occupation of the dwelling either a landline or ducting to facilitate the provision of a broadband service to that dwelling from a site-wide network is in place and provided as part of the initial highway works and in the construction of frontage thresholds to dwellings that abut the highway, unless evidence is put forward and agreed in writing by the local planning authority that technological advances for the provision of a broadband service for the majority of potential customers will no longer necessitate below ground infrastructure. The development of the site shall be carried out in accordance with the approved strategy.
- 11) No deliveries, external running of plant and equipment, or demolition and construction works, other than internal works not audible outside the site boundary, shall take place on the site other than between the hours of 07:30 to 18:00 on Monday to Friday and 08:00 to 13:00 on Saturday and not at all on Sundays, Public or Bank Holidays.
- 12) Wheel washing or other cleaning facilities for vehicles leaving the site during construction works shall be installed and utilised to clean vehicles immediately before leaving the site. Any mud or other material deposited on nearby roads as a result of the development shall be removed.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any other order revoking and re-enacting that order) no development generally permitted by virtue of Classes A, AA, B & E of Part 1 of Schedule 2 shall be undertaken.
- 14) No development, including works of demolition or site clearance, shall take place until a Tree Protection Plan, Arboricultural Method Statement and site monitoring schedule in accordance with BS:5837:2012 (Trees in relation to design, demolition and construction - Recommendations) has been submitted to and approved in writing by the local planning authority. The development shall be carried out only in accordance with the approved documents.
- 15) If any tree, shrub or hedge shown to be retained in the submitted arboricultural reports is removed, uprooted or destroyed, dies, or becomes severely damaged or diseased during development activities or within 3 years of the completion of the development, another tree, shrub

or hedge of the same size and species shall be planted within 3 months at the same place, unless the local planning authority gives its written consent to any variation. If within a period of five years from the date of planting any replacement tree, shrub or hedge is removed, uprooted or destroyed, or dies or becomes seriously damaged or defective another tree, shrub or hedge of the same species and size as that originally planted shall, within 3 months, be planted at the same place.

- 16) Prior to any above ground works, full details of both hard and soft landscape works (including tree planting) and an implementation programme (linked to the development schedule) shall be submitted to and approved in writing by the local planning authority. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of the building or completion of the development, whichever is the sooner.

The hard landscaping details shall include, as appropriate, and in addition to details of existing features to be retained: proposed finished levels or contours; means of enclosure; car parking layouts; and other minor artefacts and structures, including signs and lighting and functional services above and below ground.

The details of soft landscape works shall include plans for planting or establishment by any means and full written specifications and schedules of plants, including species, plant sizes and proposed numbers /densities where appropriate. If within a period of five years from the date of the planting or establishment of any tree, or shrub or plant, that tree, shrub, or plant or any replacement is removed, uprooted or destroyed or dies or becomes seriously damaged or defective another tree or shrub, or plant of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written consent to any variation.

- 17) (A) No work on any phase of the development (with the exception of demolition works where this is for the reason of making areas of the site available for site investigation), shall commence until an assessment of the risks posed by any contamination within that phase shall have been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of Potentially Contaminated Sites - Code of Practice and the Environment Agency's Guidelines for the Land Contamination: Risk Management (LCRM 2020) (or equivalent if replaced), and shall assess any contamination on the site, whether or not it originates on the site. The development shall only be carried out in accordance with the approved details unless the local planning authority gives its written consent to any variation. The assessment shall include: (1) A survey of the extent, scale and nature of contamination and (2) An assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; groundwater and surface waters; ecological systems; and archaeological sites and ancient monuments.
- (B) If following the risk assessment unacceptable risks are identified from land affected by contamination in that phase, no work on any phase of

the development shall take place until a detailed land remediation scheme has been completed. The scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. (The remediation scheme shall be sufficiently detailed and thorough to ensure that after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990). The development shall only be carried out in accordance with the approved scheme. Following the completion of the remediation works and prior to the first occupation of the development, a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority.