

Appeal Decision

Hearing held on 20 June 2023

Site visit made on 20 June 2023

by J P Longmuir BA(Hons) DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2023

Appeal Ref: APP/C1570/W/23/3315138

Land East of Drury Cottage, Bilden End, Chrishall, Essex SG8 8RE

- 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 Stuart Wiseman against the decision of Uttlesford District Council.
 - The application Ref UTT/22/2497/FUL, dated 7 September 2022, was refused by notice dated 8 November 2022.
 - The development proposed is demolition of existing concrete garage and growing polytunnel and erection of 1 no. dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Appellant advised at the Hearing that a planning application for a glamping unit of accommodation on the holding is now the subject of a non-determination appeal. I refer to this latterly.

Main Issues

3. The main issues are:
 - the effect of the proposal on the setting of the listed Drury Cottage;
 - the effect of the proposal on the character and appearance of the area; and
 - the principle of a new dwelling in this location including whether there would be a reliance upon the use of private vehicles.

Reasons

The setting of the listed building and effect of the proposal

4. Drury Cottage (the Cottage) is a Grade II listed building (List Entry Number 1112443), which is identified in the Statutory List Description as being 18th century. The main element of the building is small and fronts the Bilden End lane, whilst to the rear are lower and narrower offshoot extensions. There is a

detached garage and a further outbuilding behind to the west side, away from the appeal site.

5. The significance and special interest of the Cottage is derived partly from its architecture. Its pinkish coloured render is eye-catching, which stands out against a thatch roof over the main (frontage) part of the building. I find this thatched roof is particularly notable for its varied line, enveloping the eaves level dormers and forming a pronounced hip on one side. The fenestration is simple with a modest window/wall ratio. A small porch in clay tiles and timber boarding provides a modest central feature.
6. The Cottage derives some of its significance as a designated heritage asset from its landscape setting. Whilst the Cottage is prominent from its road frontage, contrastingly on the approach it is largely hidden by adjacent vegetation until close up where it appears as a surprise. In addition, the building is experienced within the broad sweeping landscape visible from a footpath almost opposite. The setting of the Cottage is therefore extensive.
7. The appeal site has a polytunnel, concrete sectional garage, a disused chiller, and small hardstanding but the majority is an open grass field. The appeal site is partly segregated from the Cottage by a hedge and some trees, but there is inter-visibility at least along parts of this boundary, so is experienced with the listed building and forms part of its setting. The largely open, undeveloped and sloping nature of the appeal site contributes to the countryside setting of the Cottage. Moreover, the appeal site is differential which allows the Cottage to stand out prominently.
8. The countryside setting contributes greatly to the significance of the Cottage. The Cottage is notably on its own within the folds of the surrounding hillsides and the pastoral surroundings empathise with its rustic undulating thatched roofline and simple details.
9. The proposed dwelling would be readily visible from the road frontage through the gap in the vegetation created by the new access and above the frontage hedge. It would also be prominent from the rising opposite footpath and would be evident from within the grounds of the listed building. The new dwelling would attract attention, diverting it away from the Cottage, thereby reducing its prominence. Relatedly the Cottage is currently perceived as a single entity within the landscape and would no longer be wholly associated with the landscape but would be experienced together with an adjacent dwelling.
10. The Appellant points to the rear extensions and outbuildings as denuding the character of this listed building, so suggests that the proposal would be neutral. However, the rear offshoots are subservient, and similarly the outbuildings are small and unobtrusive, so I do not find that these are negative elements. Indeed, the focus of the views is the thatched roof, particularly as the hipped end is on the side facing the appeal site.
11. The removal of the polytunnel would be a benefit to the setting of the listed building but only limited as it is much smaller than the footprint of the proposed dwelling. The removal of the garage would be a benefit to the setting but only slightly due to its small scale and muted materials. The hard standing is unobtrusive, and removal would be a negligible benefit. The cold chiller is against a boundary hedge and not overly conspicuous, so its removal too would be a minimal benefit.

12. Taking all these points together, my conclusion is that the proposal would harm the setting, and thereby the significance, of the listed building, as a designated heritage asset. The workings of section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 mean that I must attach great weight to that harm on the negative side of any planning balance. In that the setting of the listed building would be adversely affected, the proposal falls contrary to Policy ENV2 of the Uttlesford Local Plan. In terms of the scale of the harm to significance that would be caused, I am of the view that it would be, in the terms used in the National Planning Policy Framework, less than substantial. I reach that conclusion because the harm caused would not reach the very high bar necessary for a finding of substantial harm.
13. The proposal would also be contrary to The Essex Design Guide which states: 'It is important that the many opportunities for the enhancement of the historic environment are realised and that adverse impacts associated with development are minimised so as to avoid unnecessary degradation'.

The effect of the proposal on the character and appearance of the area

14. Policy S7 seeks to protect the countryside for its own sake and requires that development protects or enhances the particular character of the countryside.
15. Bilden End is acknowledged by both parties as a hamlet. There is a scatter of houses and farm buildings along a narrow no through lane, to which the appeal site adjoins.
16. The Cottage and appeal site appear nestled in between the fold of hillsides which are seen for a considerable length of the footpath. This footpath appears to be well used judging by its discernibly eroded surface.
17. The nature of the narrow lane, the absence of a through route, woodland and the hillsides suggest a countryside character. The large footprint of the proposed dwelling and its siting on rising land would attract attention, detracting from the open and extensive countryside views and reducing the dominance of the landscape. Whilst this is not a protected landscape, it nonetheless has discernible character.
18. I was advised that at one time a caravan was sited on the appeal site however no evidence was produced demonstrating any domestic use now. As I have found above the removal of the polytunnel, hard standing, chiller and garage would be a benefit but only limited.
19. I therefore find that the proposal would be harmful to the character and appearance of the area. It would be contrary to Policy S7 in so far as it does not protect the countryside. Similarly, it would be contrary to GEN2 in so far as it fails to safeguard the site's features.

The principle of the new dwelling in this location including whether there would be a reliance upon the use of private vehicles

20. Policy S7 allows for infilling, with a cross reference to paragraph 6.13 which limits it to settlements. The appeal site is not within a built up frontage and the proposal is not infilling. In other locations S7 states there is 'strict control on new building'. Policy GEN1 requires developments encourage movement by means other than a car. Policy H12 states new dwellings for agricultural workers may be permitted if both the following criteria are met: it can be

demonstrated that there is an essential need for someone to live permanently on site to provide essential care to animals or processes or property at short notice and the scale of the proposed dwelling relates to the needs of the agricultural enterprise.

21. Both parties confirmed that the nearest shop is 3 miles away. The bus services are very limited in this rural area and the nearest bus stop would involve a significant walk on narrow roads lacking footpaths. Whilst there are school buses, other mainstream everyday facilities would be distanced.
22. Whilst the Appellant suggests that online ordered deliveries are common in today's world, there is no such guarantee of their use, and in any event such delivery vehicles would have to drive to this location. Similarly, whilst an electric charging point is recommended as a condition, there is no guarantee that the occupants would have an electric car. The intended family four bedroom home would also be likely to attract visitors.
23. I therefore find that the occupants of the proposed dwelling would be largely car dependent.
24. The Appellant confirmed at the Hearing that the new dwelling is not proposed to be conditioned as an agricultural worker's dwelling. I note that arable crops are grown on the holding including barley, wheat and peas but there was no firm evidence put forward to the Hearing that there is an essential need to live on site.
25. The Appellant mentioned the early morning overseeing of the loading/unloading of lorries, and whilst it would be convenient to live on site this does not amount to an actual requirement. There was also mention of the potential for thefts and fire risk, but no firm evidence demonstrated this warranted a need to live on site. It was also stated at the Hearing that the Appellant's parents live on the holding, which at least gives a presence.
26. Rather at the Hearing it was made clear that the dwelling is proposed as a personalised occupancy which was suggested would allow the dwelling to be used to develop the adjoining land holding. At the Hearing it was stated that there is an aspiration to diversify the holding including use of the site for glamping. However, no such diversification is in place and there is no guarantee that it would become established.
27. The Appellant points to an appeal at Butts Farm¹, whereby that Inspector allowed a dwelling with an occupancy restriction. However notably that dwelling was justified on the basis that there was an established livery operation which specialised in horses with medical and behaviour conditions requiring attention beyond normal livery.
28. At the present time and based on the evidence before the Hearing I find that there is no essential need for a dwelling on the appeal site.
29. Paragraph 80 of the National Planning Policy Framework (the Framework) states decisions should avoid the development of isolated homes in the countryside. An exception is made where there is an essential need for a rural worker including those taking majority control of a farm building to live

¹ APP/W0530/W/3296588

permanently at or near their place of work in the countryside. I have found above that there is no such need.

30. The Appellant nonetheless advocates the site is not isolated, being within a hamlet which avoids conflict with paragraph 80, making reference to the Court of Appeal decision on the Braintree² case. Nonetheless as I have found above, the occupants would have substantial reliance upon the use of private vehicles and the proposal would be contrary to the principles of minimising carbon generation.
31. Whilst the site has a polytunnel, hardstanding and chiller, the majority is open grassland. No evidence was provided to the Hearing that the site is currently in any other use than agricultural. I therefore find that the site is not tantamount to previously developed land. The Appellant points to several other examples where dwellings have been allowed in the countryside. However, I do not find that the particular characteristics of this site and the surroundings as well as the proposal are directly comparable.
32. The proposal would be contrary to Policies S7 and GEN1 in so far as they resist new dwellings which would be located away from facilities and have car dependency. The proposal also fails the requirements of Policy H12, which only allows for new dwellings where there is a demonstrated necessity to live on site.

Other matters

33. The proposal is put forward as a self-build, which is promoted in paragraph 62 of the Framework. I consider this further in the heritage and planning balances below.
34. The Appellant suggested the appeal site would be hard to maintain without this permission as it is too small to operate machinery particularly sprayers. Whilst intensive agriculture may be challenging, that does not mean the site would necessarily become unsightly, merely overgrown.

Heritage and planning balances

35. Addressing the heritage balance first, I found earlier the proposal would lead to less than substantial harm to the significance of the listed Cottage.
36. Paragraph 202 of the Framework states where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate securing its optimum viable use.
37. There would be social and economic benefits in the provision of a new home, and the opportunity for self-build. However, a single dwelling would not be significant in these respects.
38. I find that the public benefits of the proposal would be very limited and would not outweigh the harm that would be caused to the significance of the designated heritage asset; harm that must be given great weight.

² *Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd* [2017] EWHC 2743 (Admin); [2018] EWCA Civ 610

39. In terms of the planning balance, I note the existing Local Plan is aged and pre-dates the Framework. Nonetheless the strategy in GEN1, H12 and S7 for locating new dwellings in locations accessible to facilities reflects paragraph 8 of the Framework. I therefore consider this strategy is sound and supports the approach to climate change. The proposal would lead to a dwelling in a location largely dependent upon private vehicular transport without being demonstrated to be necessary in planning terms.
40. Similarly, Policy S7 which protects the countryside is compatible with paragraph 174 of the Framework. This highlights decisions should contribute to and enhance the natural beauty of the local environment by recognising the intrinsic character and beauty of the countryside. Paragraph 8 of the Framework also seeks to protect and enhance the natural environment. The strategy in S7 is therefore sound and warrants weight. Similarly, Policy ENV2 seeks to protect listed buildings which reflects the Framework and the 1990 Act above.
41. Whilst there is an inadequate 5 year housing land supply, the situation is improving and only just below at 4.89³ years. I acknowledge that new housing is beneficial, but a single dwelling would not make a significant difference to housing land supply.
42. In terms of the presumption in favour of sustainable development, in the light of a housing land supply shortfall, footnote 7 of the Framework allows for the application of policies that protect areas or assets of particular importance. This is the case here as the proposal effects the setting of a designated heritage asset. Accordingly, paragraph 11(d) i of the Framework is not engaged.
43. The opportunity for a self-build dwelling is supported in paragraph 62 of the Framework and the Planning Practice Guidance⁴, which warrants support but only very limited weight being a single dwelling.
44. The proposal would harm the setting and thereby the significance of the listed building as a designated heritage asset, which must attract great weight as well as harm the character and appearance of the area and would have high car dependency for everyday living. I therefore conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

Conclusion

45. I therefore conclude that the appeal should be dismissed.

John Longmuir

INSPECTOR

³ December 2022 published Statement

⁴ Self-build and custom house building

Appearances

For the Appellant

Mrs Charmain Hawkins	Brighter Planning Ltd
Mr Tom Cross	Architectural Design and Landscape
Mr Stuart Wiseman	Appellant
Ms Becky Howe	Partner to Appellant

For the Council

Mr Avgerinos Vlachos	Senior Planning Officer
Mr Thomas Muston	Built Heritage Consultant

Documents submitted during the hearing

Financial statement by accountant

Appellant closing