



Appeal Decision

Site visit made on 3 October 2023

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2023

Appeal Ref: APP/P1560/D/23/3318207

High Birch Farmhouse, High Birch Road, Weeley, Essex CO16 9BU

- 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 H Carter against the decision of Tendring District Council.
 - The application Ref 22/01763/FULHH, dated 17 October 2022, was refused by notice dated 19 December 2022.
 - The development proposed is siting of caravan for use as an annexe and home office ancillary to existing dwelling.
-

Decision

1. The appeal is allowed and planning permission is granted for siting of caravan for use as an annexe and home office ancillary to existing dwelling at High Birch Farmhouse, High Birch Road, Weeley, Essex CO16 9BU in accordance with the terms of the application, Ref 22/01763/FULHH, dated 17 October 2022, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: P01 *As Built Layout and Elevations of the Mobile Home for a Home Office and Annexe Ancillary to the Dwelling - Block Plans*; P02b *Block Plans for Listing Information*; P03 *Ordnance Survey [Site Location Plan]*;
 - 2) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as High Birch Farmhouse.

Preliminary Matters

2. It has been put to me that the placing of the caravan does not constitute development, and therefore does not require planning permission. However, since an application has been made, I must determine the proposal on this basis.
3. At the time of my site visit, the caravan was in situ, as indicated on the submitted plans.

Main Issues

4. The main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of High Birch Farmhouse Grade II listed building and its setting;
 - Whether the proposed development would be in a suitable location having regard to the local development strategy and whether the proposed

development would be incidental to the enjoyment of the main dwelling;
and

- The effect of the proposed development on the integrity of the Colne Estuary Special Protection Area and Ramsar.

Reasons

Character and appearance

5. The appeal site is a large, spacious plot comprising a dwelling known as High Birch Farmhouse which is designated as a Grade II Listed Building, and other buildings and structures including a double garage, outbuildings, and a stable block and riding arena. The appeal site is residential in character, comprising the dwellinghouse and landscaped garden areas.
6. High Birch Farmhouse is set back from the highway by a long driveway. The site is well screened by trees and hedgerows around the site boundaries and by walls fencing and vegetation within the gardens. Beyond the rear boundary of the appeal site is a paddock area which is connected to the appeal site and within the appellant's ownership.
7. There are dwellings adjacent to the appeal site, and to the south is a large commercial unit. However, the area surrounding the appeal site has a predominantly rural character comprised of open fields and wooded areas.
8. In considering whether to grant planning permission for development which affects a listed building or its setting, Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA Act) requires that I pay special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
9. High Birch Farmhouse was constructed around the fourteenth or fifteenth century but has later additions, including a glazed conservatory or garden room. Its special interest is derived from its form and appearance, as a heavy timber framed and plastered building with a jettied two-storey cross-wing, and from its architectural features including batten decoration, red plain tiled roofs, red brick chimney stacks, and small paned windows.
10. The caravan fronts onto a patio area within the rear garden of High Birch Farmhouse and is sited approximately 10m from the main dwelling. This close proximity and visual relationship between the caravan and main dwelling leads me to conclude that the caravan is located within the setting of High Birch Farmhouse.
11. The exterior of the caravan is painted to match the main dwelling. However, the caravan has a rectangular form and a low-pitched roof. The white triangular pediment above the white uPVC front door and white bay windows appear prominent along the wide front elevation. The caravan has a well-maintained appearance but is of a design typical of a static caravan which overall appears out of keeping with the form and appearance of High Birch Farmhouse.
12. Due to its siting behind the main dwelling, the caravan is concealed from view from the front of the site including from publicly accessible spaces such as the public highway. Since the site is well-screened, the caravan is of limited

visibility within the wider landscape. Views of the caravan are therefore generally limited to areas within the rear part of the appeal site.

13. The caravan is sited immediately adjacent to the modern stable block and is close to the horse training arena. Therefore, the caravan is viewed within the context of other modern additions to the site, the presence of which lessen the impact of the caravan's effects on the setting of High Birch Farmhouse to some degree.
14. The appellant has expressed a willingness to carry out further tree and hedge planting to reduce the caravan's visual impact. However, the site is already well screened, and the caravan would nonetheless remain within the listed building's setting.
15. The caravan is of limited visual prominence and there is other modern development within the setting of the listed building. Nevertheless, the design, materials, and form of the caravan detract from the character and appearance of the listed building. The proposal would therefore fail to preserve or enhance the character and appearance of the setting of High Birch Farmhouse.
16. The proposal would therefore conflict with Tendring District Local Plan North Essex Authorities' Shared Strategic Section 1 Plan 2021 (LP1) Policy SP7 and Tendring District Local Plan 2022 (LP2) Policy SPL3 which together require development to respond positively to local character and context to preserve and enhance the quality of existing places and their environs, relating well to its site and surroundings particularly in relation to its height, scale, form, design and materials.
17. The proposal would also conflict with LP2 Policy PPL9 which requires proposals for new development affecting a listed building or its setting only be permitted where they will protect its special architectural or historic interest.
18. In addition, the proposal would not satisfy Paragraph 126 of the National Planning Policy Framework (the Framework) which recognises good design as a key aspect of sustainable development.

Whether the proposed development would be in a suitable location

19. The caravan is set back in the site. Access is via the electronic gate and long driveway serving the main dwelling, and through a gate within the brick wall enclosing the rear garden. The caravan does not therefore have an independent access.
20. As indicated above, the caravan is sited between the main dwelling and stable block and facing a patio area within the rear garden of the main dwelling. The appeal site is large and the siting of the caravan close to the main dwelling implies a functional relationship between the main dwelling and caravan.
21. The caravan provides accommodation for a member of the appellant's household who also remains reliant on facilities within the main dwelling. Whilst comments have been made about the health and wellbeing of the intended occupier this is not a consideration to which I have attributed any weight in my findings. The function of the caravan is therefore consistent with that of ancillary accommodation to the main dwellinghouse.

22. The caravan is a prefabricated unit providing a kitchen, bathroom, bedrooms, and lounge. Whilst the caravan has a large footprint and is equipped with amenities, this does not in itself suggest the caravan constitutes a separate dwelling.
23. For these reasons, I consider that the caravan fulfils the function of ancillary accommodation and there is no evidence before me to indicate that the caravan is in use as a separate unit independent of the main dwelling.
24. Due to its size and facilities offered, the caravan would be capable of providing self-contained accommodation for a household. However, use of the caravan only for purposes ancillary to the main dwelling could be controlled through a condition.
25. In the event the caravan were not utilised as proposed, this would likely be apparent to the Council through the registration of an address or collection of council tax, which are both functions of public bodies such as the Council. Consequently, I consider that such a condition would be enforceable by the Council. Furthermore, any material change of use in the future would require a separate grant of planning permission which, if permission were not granted, could also be subject to enforcement action.
26. The base of the caravan is sited on a plinth enclosed by brick skirting. However, I do not consider the extent of the physical attachment to be so substantial so as to render the caravan immovable or permanent. The caravan could feasibly be removed from the site without requiring its demolition. Therefore, if the use of the accommodation were to cease or no longer be required for purposes ancillary to the main dwelling then it could either be removed from the site or planning permission sought for an alternative use.
27. Since it would not result in the formation of a new dwelling, the proposal would be suitably located and would not conflict with the development plan's spatial strategy, namely LP1 Policy SP3, LP2 Policy SPL1 and LP2 Policy SPL2, which together direct growth toward existing settlements in accordance with the settlement hierarchy.

Integrity of European sites

28. The appeal site lies within the Zone of Influence of the Colne Estuary Special Protection Area and Ramsar (the SPA), a European Designated Site afforded protection under the Conservation of Habitats and Species Regulations 2017 as amended (the Habitat Regulations).
29. The SPA's conservation objectives are to ensure that the integrity of the site is maintained or restored as appropriate and ensure that the site contributes to achieving the aims of the Wild Birds Directive. The SPA's qualifying features are its bird species including dark-bellied brent goose, common pochard, hen harrier, ringed plover, common redshank, little tern, and its waterbird assemblage.
30. The Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS) supports sustainable residential growth in Essex while protecting Habitats sites and their wildlife from the increased disturbance from recreation associated with a growth in population. The RAMS identifies that housing and consequent population growth in Essex is likely to increase the number of visitors to sensitive coastal areas, creating the potential for impacts from

increased recreational disturbance of birds and their habitats, unless adequately managed, and sets out a strategic approach to mitigation by several councils across the wider area.

31. However, as set out above, the appeal proposal relates to ancillary accommodation to an existing dwelling. The proposal does not involve the creation of new housing and is not therefore expected to generate population growth. On this basis, the proposal would not have likely significant effects on the integrity of the SPA, either alone or in combination with similar development.
32. The appellant has submitted a Unilateral Undertaking to secure a financial contribution toward the RAMS. However, since the proposal would not have likely significant effects on the integrity of the SPA, such mitigation is not necessary to make the development acceptable in planning terms and therefore does not comply with paragraph 55 of the Framework. Furthermore, the RAMS tariff is levied on new dwellings and therefore would not be applicable to the appeal proposal.
33. Since I have found proposal would not have significant effects on the SPA, the proposal would comply with LP2 Policy PPL4 which protects habitats of international and national importance from the adverse effects of development. The proposed development would therefore satisfy Regulation 63 of the Habitat Regulations which allows permission to be granted only after having ascertained that it will not adversely affect the integrity of the European site.

Planning Balance

34. The caravan is within the setting of a Grade II listed building. The contemporary appearance of the caravan detracts from the character and appearance of the listed building and thus has an adverse impact upon its significance. Noting that the listed building's special interest is derived from its form, appearance, and architectural features, I consider that the proposed development would result in less than substantial harm to the listed building.
35. Paragraph 199 of the Framework states that in considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 202 of the Framework states that such harm should be weighed against any public benefits of the proposal. The proposal would offer private benefit to the appellant and their household through providing additional ancillary accommodation. The scheme would therefore provide no public benefits.
36. Consequently, the identified harm would not be outweighed by public benefits. The proposal would, therefore, fail to preserve the setting of the listed building, and thereby the significance of the designated heritage asset.
37. Section 55(2)(d) of the Town and Country Planning Act 1990 (the TCPA Act) states that the use of any buildings or other land within the curtilage of a dwellinghouse for any purpose incidental to the enjoyment of the dwellinghouse as such, is exempt from the Act's definition of development as set out at Section 55(1) and (1A). As set out above, the caravan provides ancillary accommodation that is incidental to the enjoyment of the main dwelling and would not create a separate dwelling and is thus exempt from the TCPA Act's definition of development.

38. In addition, the caravan satisfies the definition provided by the Caravan Sites and Control of Development Act 1960 (as amended in 1968) (Caravans Act) and therefore is a use of land as opposed to operational development.
39. In this circumstance, both the TCPA Act and Caravans Act provide a fallback position in which the siting of the caravan for purposes incidental to the enjoyment of the dwellinghouse is not development. Therefore, even if I were to refuse the scheme, this use could be carried out without the need for planning permission.
40. This fallback position forms a material consideration to which I attach significant weight since dismissal of the appeal would not prevent the harm to the listed building's setting which I have identified above.

Conditions

41. The development has commenced as the caravan is in situ. Therefore, I have not imposed a time limit for implementation. In the interests of certainty regarding the location of the siting of the caravan, I have included a condition requiring the development adhere to the approved plans.
42. To ensure the caravan is used only as proposed, I have attached a condition limiting use of the static caravan for purposes ancillary to the main dwelling.

Conclusion

43. As set out above, I have identified that the development would result in less than substantial harm to the setting of the listed building and there are no public benefits which outweigh this harm. The proposal would therefore conflict with the development plan taken as a whole.
44. However, I have found the caravan would be ancillary to the main dwelling and therefore could be sited without the need for planning permission within the context of the TCPA Act and Caravans Act.
45. The fallback position provided by legislation therefore carries significant weight in my decision. This relevant material consideration outweighs the conflict with the development plan, and I therefore conclude the appeal should succeed.

E Dade

INSPECTOR