
Appeal Decision

Site visit made on 14 November 2023

by R Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 February 2024

Appeal Ref: APP/C1570/W/23/3318032

Little Minchins, Ongar Road, Great Dunmow, Essex CM6 1JB

- 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 M Heywood against the decision of Uttlesford District Council.
 - The application Ref: UTT/22/2923/FUL, dated 25 October 2022, was refused by notice dated 1 February 2023.
 - The development proposed is erection of 1 no. 1.5 storey three-bedroom cottage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Following further clarification and discussion on highway matters the Council have withdrawn the third reason for refusal relating to highway safety. On the evidence before me I have no reason to disagree and have determined the appeal on this basis.
3. As the appeal relates to the effect on the setting of Olive's Cottage¹, a Grade II listed building I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
4. On 19 December, the Government published a revised National Planning Policy Framework (the Framework). The revised Framework was accompanied by a written ministerial statement. I gave the parties an opportunity to comment on their significance for the appeal and have determined the appeal accordingly.

Main Issues

5. The main issues in this appeal are:
 - i. Whether the site is a suitable for housing, having regard to the Council's adopted spatial strategy and the effect on the character and appearance of the appeal site and surrounding area.
 - ii. The effect of the proposal on the setting of Olive's Cottage, a Grade II Listed Building.

¹ Name taken from list entry 1087878 but also known as 'Olives Farmhouse'.

Reasons

The appeal site and its surroundings

6. The appeal site is formed by what the appellant refers to as part of a secondary residential garden. It lies to the rear of Olive's Cottage and is part of a larger area of open grassland. I observed the appeal site was partly being used as amenity land with an artificial cricket wicket and on the wider land housed a number of timber structures, fencing and other paraphernalia associated with residential use and the growing of fruit and vegetables and keeping of chickens. The appeal site and other land under ownership to the immediate north and west are notably more open and spacious than smaller areas of garden land immediately to the rear of The Hawthorns and Little Minchins, which contained a greater amount and variety of domestic outbuildings, structures and other domestic paraphernalia.
7. Significant low level rural commercial development exists on land to the west of The Hawthorns, extending some distance back from Ongar Road. On the opposite side of the site and located behind a substantial hedge is an unlisted residential property known as Brockhall Grange and to the northwest of that property lies Shingle Hall, a Grade II listed building set in extensive and open grounds with a number of curtilage buildings.

i. Site Suitability

Location

8. The appeal site lies within the countryside for planning purposes, being outside of any town or village development boundaries. It does not qualify as an appropriate countryside use under the relevant policies of the Uttlesford Local Plan (the LP). The accompanying officer report refers to the site not being in an accessible location and that there would be no footpath along Ongar Road for pedestrians to safely walk to the services and facilities in Great Dunmow.
9. This stretch of Ongar Road has a speed limit of 50mph and is a busy distributor road giving access to Great Dunmow from the Southeastern part of the district. It also has no lighting, narrow grass verges and mature vegetation on both sides. Consequently, any pedestrian or cyclist would not find these modes to be suitable alternatives to a car to access services and facilities in Great Dunmow, especially during the evening and in inclement weather. Most future residents are therefore likely to be heavily reliant on car-based journeys for trips to and from shops, school, work, health, leisure and other day to day services and facilities further afield. It is likely that there would also be additional visitor and delivery trips associated with the occupation and servicing of the proposal.
10. Even in accepting that some reliance on car based travel is inevitable in rural areas and that trips to Great Dunmow would be short, even a small increase in additional vehicle trips would cause environmental harm because such trips would contribute to cumulative harmful greenhouse gas emissions. The proposal would therefore fail to have regard to the adopted spatial strategy and its associated objective of reducing reliance on car-based journeys by seeking to direct development to the most sustainable locations in the district.

Character and appearance

11. The site has a stronger affinity with open land and agrarian countryside to the north than the development located along and set back from Ongar Road providing a transition between that built form and open countryside. The tranquil, open and spacious nature of the site makes a positive contribution to its character and appearance and that of its surroundings.
12. The proposal would result in an intensification of built form on open space that contributes positively to the locally distinctive settlement pattern. Sited centrally on the site and occupying the majority of the width of the plot, it would not be of a simple form containing prominent front and rear gable dormers and would be of a modern and overly domestic appearance.
13. Although it would not be directly visible from Ongar Road, in some views from the rear including some medium and longer range views from Public Right of Way 18 and from within its immediate surroundings, it would be perceived as a harmful intrusion of permanent residential built form both in spatial and visual terms. In combination with the inevitable associated domestic structures, paraphernalia and parked vehicles the proposal would cause some moderate harm to the character and appearance of the appeal site and its surroundings. In such a context it would not be an appropriately high standard of design for this particular site.

Conclusion on suitability

14. For the reasons given above, the site would not be a suitable site for housing having regard to the adopted spatial strategy and the harm to the character and appearance of the appeal site and surroundings. The proposal would therefore conflict with Policies S7 and GEN2 of the LP insofar as they seek to concentrate growth in specific settlements, only allowing development if its appearance protects or enhances the particular character of the part of the countryside which it is set. Although this reason refers to Policy ENV2 this concerns development affecting listed buildings and is therefore of limited relevance to this issue.
15. I acknowledge that Policy S7 predates the Framework which requires the intrinsic character and beauty of the countryside to be recognised but does not require it to be protected for its own sake. Nonetheless, there is still some consistency with the general objective of conserving and enhancing the natural environment. Policy S7 essentially provides a starting point in distinguishing between settlement and countryside until adoption of the emerging local plan and recognises some development, including affordable housing, will need to take place. Even having regard to an associated reduction in weight² to those conflicts, weight is a matter for the decision maker and my view is that the harm and conflict still weighs significantly against the proposal. I return to this matter as necessary in the planning balance below.
16. Although the site is not protected by a specific designation paragraph 180 of the Framework applies. It explains that decisions should contribute to and enhance the natural local environment but in this case the development would fail to recognise the intrinsic character and beauty of the countryside and would conflict with paragraph 180 b).

² Including from an acknowledged lack of 5 year housing land supply.

ii. Setting of Olive's Cottage

17. The application site is located to the immediate rear of Olive's Cottage, an early 19th century two storey dwelling with lean to and with a timber frame and plastered. To the Northeast lies Shingle Hall, a Grade II listed building with several statutory listed outbuildings including a large barn. Given its location and its distance from the appeal site, with the unlisted Brockhall Grange in between. I am satisfied that on the evidence before me the site should not be regarded as forming part of the setting of Shingles Hall and I have not considered its effects on the setting of that asset any further.
18. The special interest of the building, insofar as it relates to this appeal, is the architectural, aesthetic, and historic value derived from the traditional forms and materials used and as a repository of past building traditions and technologies. The building has an intimate cottage garden separated from the appeal site and open land to the rear by a hedge and access track providing access to the rear of Little Minchins. The rear garden contains two outbuildings sited on the rear boundary and there is a cart lodge structure adjacent to the southern boundary of the appeal site serving Little Minchins.
19. Nonetheless, the appeal site's open and spacious character and appearance forms an integral part of the setting of the designated heritage asset allowing an understanding and appreciation of its significance within its immediate surroundings. The proposal would be perceived as being within a much tighter group of buildings and it would visually compete with the listed building. In combination with existing built form and in such proximity the ability to experience and understand its significance would be further and permanently eroded by the introduction of an overly intensive and intrusive form of residential development.
20. Additional landscaping could potentially reduce the harm but would also introduce landscaping into an open site where previously none existed, and which has an open character and appearance. Further, it would be unlikely to mature for some time and, in any event, should not be relied upon to hide development from view that would otherwise be harmful, particularly in a sensitive heritage context such as the site.
21. For these reasons, the proposal would be a discordant form of development that would cause harm to the significance of the listed building, in terms of its setting. It would therefore conflict with Policy ENV2 of the LP insofar as it would adversely affect the setting of a listed building and that such development should be in keeping with its scale, character and surroundings. In Framework terms the harm to the significance of the designated heritage asset would be less than substantial but nonetheless must be given considerable importance and weight.

Other Matters

22. My attention has been drawn to a recent decision by the Council³ at Brands View, Ongar Road. Consistency in decision making is important but whilst some general similarities can no doubt be drawn with such cases I do not have the full details before me. Further, that proposal was for three dwellings and as is the case here, required bespoke site specific considerations and judgments to

³ 3.33 to 3.37 of appellant's statement.

be made. I do not find that grant of planning permission by the Council to be directly comparable to the appeal before me and it does not alter my view in relation to that main issues and harm I have identified in this appeal.

23. I acknowledge the appellant's frustrations with the Council's handling of the application, including the nature and clarity of the advice given at pre-application stage and the consistency of its decision-making. However, in reaching my decision I have been concerned only with the individual merits of the appeal scheme in relation to the relevant policies and evidence before me.

Planning balance and conclusion

24. The harm and conflicts I have identified are such that the proposal should be regarded as being in conflict with the development plan, as a whole. It is therefore necessary to consider whether there are material considerations which indicate that permission should be granted, notwithstanding this conflict. The Framework is one such consideration and Paragraph 11 d) ii of the Framework is engaged by virtue of Footnote 8. However, because less than substantial harm has been identified to the significance of a designated heritage asset an unweighted balancing exercise is required first, in accordance with paragraph 208 of the Framework.
25. Public benefits may include anything that delivers economic, social or environmental objectives. The evidence before me refers to a housing land supply of 3.52 years⁴ that has been subsequently updated in April 2022 by the Council to 4.89 years. However, on the evidence before me in this appeal I am unable to reach a definitive conclusion.
26. The description of development refers to a self-build dwelling for the appellant's son and that a self-build company⁵ has been instructed. Whilst I have had regard to the Inspector's conclusions in the Gamlingay appeal⁶ that also appears to have been for a materially different proposal with differing effects to be weighed in the balance. This included a completed legal agreement to limit the development to self-build housing.
27. In this case, there is no evidence of the instruction before me and no mechanism to ensure that a self-build proposal would be constructed. Even in preferring the appellant's supply figure and acknowledging that there is little information before me on the approach to self builds in this authority, the provision of such a single dwelling would make a small contribution to which I give moderate weight.
28. There would be some economic benefits during construction and from future occupants spending in the local economy as well as supporting of services and facilities. Future occupation could assist in maintaining the vitality of rural communities although there is little substantive evidence to qualify or quantify this benefit. These benefits therefore attract a small amount of weight in favour of the proposal, and this is limited given the scale of the proposal. Compliance with other development management considerations such as biodiversity, flood risk, contamination and air quality are absences of harm and do not weigh in favour as a public benefit.

⁴ Council's delegated officer report.

⁵ Paragraph 1.5 of appellant's statement.

⁶ APP/W0530/W/19/3230103.

29. Overall, the public benefits do not outweigh the considerable importance and weight I must give to the less than substantial harm I have identified to the significance of a designated heritage asset, in terms of its setting. The application of policies in the Framework that protect areas of particular importance therefore provides a clear reason for refusing the development proposed. Consequently, the presumption in favour of sustainable development set out within paragraph 11 d) ii is disapplied by 11 d) i. The proposal would not therefore be sustainable development.
30. In conclusion, the proposal would conflict with the development plan, when read as a whole. Material considerations, including the Framework do not indicate that a decision should be made other than in accordance with the development plan.
31. Having considered all other matters raised, I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR