

Appeal Decision

Site visit made on 3 April 2024

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

an Inspector appointed by the Secretary of State

Decision date: 30.05.2024

Appeal Reference: APP/C1570/W/23/3323661

Land at the rear of 'Marshes', Cherry Street, Duton Hill, Tilty CM6 2EE

- 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 D Carter and Mr B Gardiner against the decision of Uttlesford District Council.
 - The application (reference UTT/21/2922/FUL, dated 20 September 2021) was refused by notice dated 12 April 2023.
 - The development proposed is described in the application form as follows:
"Retrospective application for the retention of agricultural buildings for B8 storage use of the client's own agricultural equipment for use on the land. Pertaining to buildings 4 and 5 on the Land at the rear of the Marshes".
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Decision

1. The appeal is dismissed.

Procedural matter

2. Since the development which is the subject of this appeal has already been carried out, the application is to be treated as one made under Section 73A of the Town and Country Planning Act 1990.

Preliminary points

3. Notwithstanding the description of the application that was given in the application form, and bearing in mind that "retention" is not an act of development, the nature of the proposed development can more clearly be expressed as the construction of two storage buildings. It is intended that these would be used for domestic storage purposes, by the occupants of the dwellinghouse at 'Marshes', Cherry Street, Duton Hill, Tilty.

Main issue

4. The main issue to be determined in this appeal is the effect of the proposed development on the character and appearance of the surroundings, including the setting of nearby heritage assets.

Reasons

5. The appeal site is located in a rural area of Essex, in a mainly agricultural landscape, although there is also some scattered development in the area.

Cherry Street is a country lane, and there is a small group of buildings at or near to a three-way junction with other lanes.

6. 'Marshes' stands near to the road junction, with a frontage on the east side of Cherry Street. It is a substantial dwellinghouse in the style of a converted traditional barn and is listed (Grade II) as a building of special architectural or historic interest. 'Brickhouse Farmhouse', immediately to the south is also listed (Grade II), as is 'Tingates Farmhouse', on the opposite side of the road, adjacent to the junction.
7. Extensive areas of land to the east of Cherry Street are associated with 'Marshes', as shown on the submitted "Location Plan". These include an area of land behind 'Marshes', which is occupied by a long established group of buildings, identified as the application site (which also includes the access drive). Access to the site is by means of a concrete access drive alongside 'Marshes', passing through a gate into the site and crossing an undeveloped area before reaching the main part of the application site, where the building group is located.
8. The land falls away from the road, however, and this combined with the separation created by the open land, makes the building group much less noticeable in the setting of buildings nearer the road and in views more generally.
9. The buildings on the application site vary in size and design. There are two rows of self-storage lock-up units and an associated lavatory block, which are set at different levels on the slope, with access drives to each block and surrounded by significant areas of open space. At the bottom of the hill there is a more extensive parking and turning area that has been described as the previous farmyard. This serves two larger buildings which have wide roof spans and an industrial character and are in use as workshops. A third building appears to be in use as a store. There are also some more minor structures, including a greenhouse and a metal shipping container, for example.
10. In addition to these older buildings, two newer buildings have been built, at the bottom of the application site, close to its south-eastern corner. These are smaller than the workshops but are more modern in construction. "Building 4" is a substantial industrial style building, with metal cladding to the external walls and roof, under a shallow pitched roof. "Building 5" is partially open fronted. It has metal walls but is built against the shipping container referred to above, with a very shallow pitched roof. It is much narrower than "Building 4".
11. Permission is now sought for the retention of "Building 4" and "Building 5" in their current form. The terms of the planning application and appeal express the intention that the proposed use would be limited to use by the occupiers of 'Marshes', which is in the same ownership as the buildings which are the subject of this appeal. The specific nature of the intended use is variously described in the forms as being either "agricultural" (in the planning application) or "domestic" (in the planning appeal). The appeal statement asserts that the buildings are used "for the storage of domestic items and machinery to maintain the surrounding land" and that this use would be continued.

12. The 'National Planning Policy Framework' emphasises the aim of promoting sustainable development and it acknowledges the importance of the natural and local environment, recognising 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 (notably at Section 12), while making effective use of land and encouraging economic activity.
13. The 'National Planning Policy Framework' particularly emphasises the importance of conserving or enhancing the historic environment. It reinforces the obligation that is set out in the primary legislation, to have special regard to the desirability of preserving the setting of a listed building that may be affected by proposed development.
14. The Uttlesford Local Plan was formally adopted as long ago as January 2005 but it underpins the aims of protecting the countryside and the historic heritage. Policies in the Local Plan that have been formally "saved" are relevant to the appeal, including Policy S7 (which is concerned with the countryside) and Policy GEN2 (which deals with design considerations more generally). Policy ENV2 makes it plain that development proposals that would adversely affect the setting of a listed building should not normally be allowed.
15. The current uses of the appeal site as a whole do not appear to be obviously compatible with the rural location but this Decision relates to a specific proposal to retain two buildings on the site, identified as "Building 4" and "Building 5". I am aware that the site has a complex planning history and that there are some uncertainties about the lawfulness of some aspects of the site, for which regularisation has been sought. This appeal does not address those matters, however.
16. The two buildings that are the subject of this appeal are located at the lower edge of the site, beyond the line of other buildings in the group. They are not obviously visible from public viewpoints, although they could be more visible from some neighbouring land, including the curtilages of two nearby listed buildings. Nevertheless, they do not have a material effect on the setting of any of the listed buildings that have been identified.
17. They are significant buildings, however, especially "Building 4", and they add to the amount of built development at the appeal site in a way that could be expected to intensify the use of the site and add to traffic and disturbance in this rural location. I accept that increased activity on the site, as well as increases in traffic to and from it, could harm the rural character of the surrounding area.
18. I am conscious that it has been stated that the proposed use would be very limited in nature. It is argued that the use would be domestic in character (although the machinery stored would also be used on the surrounding non-residential land) and that this use could be defined by the imposition of suitable conditions. Even so, the buildings provide a substantial floor area and it could not reasonably be assured that they would not be severed from 'Marshes' at some time in the future. I have reached the conclusion that, in the circumstances, such restrictive conditions could not be enforced in practice, in the long run, and that they would require an unreasonably intrusive inspection

regime even in the short term, especially bearing in mind the nature of the site as a whole.

19. Moreover, the scale and design of the buildings is such that they would be eminently suited to commercial use rather than to low-key domestic use, as illustrated in some submissions by local residents.
20. I am aware that the immediate curtilage of the listed building at 'Marshes' is somewhat constricted and that a domestic storage building could well be harmful to the setting of the listed building, if placed close by. Nevertheless, it is also clear that other floorspace is available within the same current ownership for the type and scale of domestic storage use that could reasonably be needed. Indeed, it has been submitted that the existing lock-up units at the site could be used for such "domestic" purposes by others.
21. I have concluded that the retention of these two modest buildings would cause some harm to the character and appearance of the surroundings generally, although they do not impinge particularly on the setting of nearby heritage assets. In my view, they do add to and intensify the use of an unsuitable building group in the countryside and they do cause actual harm to the character and appearance of the countryside.
22. In reaching these conclusions I have considered whether the appeal could be allowed but subject to conditions to address the concerns that I have identified. I have formed the opinion, however, that any such condition or set of conditions would be unenforceable in practice and contrary to the criteria that are set out in the 'National Planning Policy Framework'.
23. The availability of new storage buildings provides some benefits but I am convinced that the benefits of the scheme are clearly outweighed by the harm that would be caused and that the project is contrary to national and local planning policies. In short, I am persuaded that the scheme before me ought not to be allowed 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