



Appeal Decision

Site visit made on 9 January 2024

by O S Woodward BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 August 2024

Appeal Ref: APP/C1570/W/23/3320956

Land between Copstones and Little Rands, Bran End, Stebbing

- 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 Craig Huber against the decision of Uttlesford District Council.
 - The application Ref UTT/22/3399/FUL, dated 14 December 2022, was refused by notice dated 14 April 2023.
 - The development proposed is the erection of one dwelling, the creation of new highways access and associated landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development used on the decision notice because this is a more accurate description of the proposal than that used on the planning application form.
3. Towards the end of 2023, a revised version of the National Planning Policy Framework (the Framework) was released. The revisions were not material to this appeal. I have therefore based my Decision on the revised Framework and did not need to go back to the main parties for further comments.
4. Because the appeal relates to works that would affect the setting of listed buildings, I have had special regard to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

5. The main issues are the effect of the proposed development on the:
 - character and appearance of the area; and,
 - special architectural or historic interest of the Grade II listed building, named 'Martin's Hall'¹, in terms of how it is experienced in its setting.

Reasons

Character and appearance

Existing

6. The appeal site sits at the northern end of the village of Stebbing. It is part of a field. There is also an area alongside the B1057 road that comprises a steep

¹ List entry number 1322318

bank, a hedgerow with hedge trees and scrub type land behind. The hedgerow is in a poor condition and many of the trees are in poor health or dying. The appeal site runs near to, but not directly along, the adjacent road, apart from a relatively small section that abuts the road and includes that part of the steep slope and hedgerow. There is a public footpath to the southern boundary of the site which then runs to the road and also into the field and onto the village to the east. To the back of the site, to the east and south, is the remainder of the field, which is open land albeit with further housing to the village backing onto three sides of the field.

7. Although itself a field, the site sits in a row of housing along the south eastern side of the B1057, and immediately to either side of the appeal site are the houses, Little Rands to the north east and Capstones to the south west. There is a further house on the opposite side of the road, namely the listed building. Little Rands is relatively large and is set in a fairly substantial garden. There is a fence along the boundary line but limited planting and there is high inter-visibility between this property, its garden and the appeal site. Capstones has a fairly substantial hedgerow that runs along the boundary with the appeal site. Inter-visibility is therefore limited.
8. Further to the west is Bran End Mill. This is further development but it feels detached from the main part of the village. In addition, although the appeal site sits nearby to existing development, the collection of buildings along the B1057 of which it is a part jut out from the main part of Stebbing village. They are of a different character, set in more spacious plots, than the rest of the village immediately to the north east. The site sits at a critical peripheral point on the margin of the settlement.

Proposed

9. It is proposed to erect a 4-bedroom, detached house on the appeal site. It would be set back from the road frontage, approximately in line with Little Rands. It would be one storey. The materials would be a mixture of red brick, timber weatherboarding and a clay tiled roof. There would be large garden areas around the proposed house, and hedgerows to all boundaries, and further tree planting within the garden. The garden would wrap around the back of the adjacent garden to Capstones and would connect with the public footpath.
10. Vehicular access would be provided directly from the B1057 by the creation of a new junction leading onto a private driveway. This would cut into the existing bank and would involve the loss of several trees along the boundary, including for the creation of visibility splays to either side.

Assessment

11. The proposed house and its domestic garden with likely associated domestic paraphernalia would be of a clearly different character to an open field. This would be seen by the occupants of nearby dwellings, users of the road and the public footpath to the immediate south of the site, which afford views across the currently open site. The proposed access and associated visibility splays would result in the removal of some vegetation, along a part of the road that is currently relatively verdant, despite the relatively poor quality of the trees. This would therefore further urbanise an otherwise rural approach to the village.

12. I acknowledge that the site is seen in the context of dwellings to either side and the village beyond, but its immediate setting to the rear is an open field. As set out above, the appeal site sits at a critical juncture at the edge of the village where a more rural and open character and appearance develops. The consolidation of development at this point would have an urbanising affect which would be harmful in this context.
13. A replacement hedgerow to the boundary with the road would only partially mitigate the visual harm because of the need to create the proposed access and visibility splays, and because of the development itself. Similarly, requiring landscaping within the proposed garden and/or restricting permitted development rights for future extensions to the proposed dwelling would only provide a degree of modest mitigation, because it would remain a domesticated garden and site, rather than open, agricultural land.

Conclusion

14. Overall, therefore, the proposal would harm the character and appearance of the area. It therefore fails to comply with Policy S7 of the Uttlesford Local Plan 2005 (the LP), which seeks to protect the countryside for its own sake and that proposals protect or enhance the character of the countryside. It also fails to comply with Policy STEB1 of the Stebbing Neighbourhood Development Plan 2019-2033 (the NP), which requires development to respect the distinctive character of Stebbing.

Listed building

Significance

15. Martin's Hall is a large 17th Century house with later additions. It is located on the opposite side of the road to the appeal site. Tithe maps demonstrate that the Hall was originally in the same ownership as the appeal site and had a direct relationship with its agricultural setting. The appeal site retains part of the vestiges of the agricultural land form. This association is important to the setting of the building which for centuries has been part of rural landscape, and which will have been integral to the way of life for its occupants. It therefore forms a context for understanding the historic development of this C17th property.
16. The appeal site is no longer under the same ownership as the Hall. However, the appeal site is still of agricultural character and appearance and the lack of singular ownership does not significantly detract from the significance of the building.

Assessment

17. The proposed development with its built form, soft and hard landscaping and domestic use would fundamentally alter the character of the land. It would also introduce light pollution and some, albeit minimal, increase in traffic and movement along the road in proximity to Martin's Hall. This would harm the setting of the listed building by removing an important remnant of its surviving historic agricultural setting.
18. I acknowledge the proposal is limited to a single storey dwelling, there is fairly substantial screening on the boundary with the road within the garden of Martin's Hall and further planting to the appeal site garden could be secured by

condition. However, what is critical here is the setting which the appeal site current affords Martin's Hall. The fact that the appeal site is rising land, so, making the proposed building relatively prominent would exacerbate the harm. The proposed vehicular access would result in the loss of hedgerow and also increase inter-visibility. It would be clearly seen from the upper floor windows of the Hall and be apparent on approach/leaving the listed building. Seeking to screen the proposed dwelling with additional planting would in itself be uncharacteristic and in any event the loss of the currently open, agricultural area would cause harm.

Conclusion

19. The agricultural setting to Martin's Hall is historically important to the significance of the Hall as a building in an agricultural setting. The proposal would erode this in a location very close to the Hall. There would therefore be harm to the special historic interest and heritage significance of Martin's Hall. The proposal therefore fails to comply with Policy ENV2 of the LP and Policy STEB1 of the Stebbing Neighbourhood Plan, which seek to protect the significance of heritage assets. It also fails to comply with and Paragraph 203 of the Framework, which highlights the desirability of sustaining and enhancing the significance of heritage assets.

Other Matters

Capstones

20. Capstones² is also a Grade II listed building. It is a 17th Century house with later additions. Whilst I acknowledge the main parties do not have concern regarding the setting of Capstones, I am mindful that this property dates from a similar period to that of Martin's Hall. As such its agrarian landscape setting is important as is the ability to appreciate both of these historic assets in proximity without the intrusion of the development proposed. I therefore consider there would be harm to the setting of this asset too, with consequent failure to accord with policy and the expectations of the Act.
21. Had the effect on this heritage asset alone been the determining factor I would have provided an opportunity for the parties to comment further. However, as there are other determinative matters, this is not necessary with regard to my Decision.

Biodiversity

22. The appellant has submitted a Bat Survey (February 2023), a Biodiversity Impact Assessment (December 2022 and updated February 2023) and a Preliminary Ecological Assessment (July 2022). Combined, these documents show that the appeal site has a low ecological value, because it is former agricultural land that is now grassland that is regularly managed. There is some greater biodiversity within the hedgerow lining the B1057 but this is relatively limited. There are no protected species on the site.
23. Essex County Council's ecology unit has reviewed the proposal and has no objection, subject to control by conditions to ensure that a biodiversity net gain is achieved, that there is sufficient and suitable replacement planting, that lighting be designed so as to minimise impact on bats, that an access route be

² List entry number 1112773

provided for hedgehogs, bird and bat boxes to be incorporated, and that works to the grasslands be carried out outside of breeding season. All of this could be secured by condition(s) and is indeed mostly already set out on the proposed drawings. The proposal would therefore be acceptable with regard to its effect on biodiversity and would in fact enhance biodiversity through a net gain in hedgerow and general habitat.

Highway safety

24. The B1057 is relatively highly trafficked. A combination of the vegetation and the slope of the road has the potential to make visibility at the proposed junction difficult. However, the road has a 40mph speed limit, so traffic on the road is moving relatively slowly. It is possible that some drivers or riders might break the speed limit, but the road is relatively narrow, there are several driveways, and it has a partly built-up character. These are all factors that naturally reduce the propensity to speed. I have not been provided with any substantiated evidence to the contrary.
25. In addition, relatively few additional journeys would be generated by just one dwelling. Visibility splays could be achieved that would meet the standards of the Highway Authority in both directions, either on land owned by the appellant or highways land. These could be secured by condition. The road is relatively narrow but I observed on my site visit that it is sufficiently wide to enable two HGV's to pass one another in both directions. Off road parking is provided and vehicles could enter and leave in a forward gear, as has been demonstrated by tracking diagrams. This provision could be secured by condition. The appellant has submitted a Transport Note (December 2022) and a Highways Safety Note (January 2023). These demonstrate that there has just been one slight incident within 500m of the appeal site in a five year period from 2017 to 2021.
26. Overall, for the reasons set out above, and because the Highway Authority has reviewed the proposal and has no objection, I am satisfied that there would be no materially adverse effect on highway safety as a result of the proposal.

Accessibility

27. Stebbing village only offers a small range of services and facilities. However, what it does have to offer would be accessible by foot because of the immediately adjacent footpath that runs from the appeal site into Stebbing, despite the B1057 having no footpath in the vicinity of the site. There are also two bus stops nearby to the appeal site on Brick Kiln Lane. Nevertheless, the majority of journeys to and from the proposed dwelling would likely take place by car. However, this is an inevitable outcome for a rural location. Importantly, the footpath and bus routes provide an alternative for some journeys to be taken other than by car. Overall, I find the appeal site to be suitably accessible for a new dwelling in this type of location.

Drainage

28. The appellant has submitted a SUDS Statement (December 2022) that confirms the appeal site is at very low risk of surface water flooding. There are existing ditches where water can be captured. In addition, a mixture of attenuation tanks and an infiltration strategy, which could be secured by condition, are proposed. This would limit the amount of water that would flow from the site, and it has been confirmed that the strategy could accommodate

the water flows from a 1 in 100 yr storm event + 40% allowance for climate change. The proposal would therefore have an acceptable effect on surface water drainage and on highway safety.

Living conditions

29. Because the proposed house would be elevated from the road, there would be some mutual overlooking with the first floor level of Martin's Hall. However, the proposed dwelling would be set back from the road, and there would be intervening planting partially obscuring any overlooking, including as proposed on the appeal site, which could be secured by condition. The level of overlooking would therefore not unacceptably harm privacy to the occupants of Martin's Hall or create unacceptable living conditions for the future occupiers of the proposed dwelling.
30. There would also be some mutual overlooking to the Little Rands property to the north. However, planting is proposed along the intervening boundary, which could be secured by condition, and would help to mitigate this. In addition, only bathroom windows would face onto the Little Rands' boundary. The proposal would therefore have an acceptable effect on the living conditions of neighbouring occupiers.

Human Rights

31. A local objector has claimed that the proposal breaches Protocol 1 Article 1 of The Human Rights Act 1998 (HRA), which relates to the right to peaceful enjoyment of all their possessions, and Article 8, which relates to rights of respect for private and family life. Both are alleged to have been breached due to the proposed overlooking. However, as I set out above, there would be no unacceptable overlooking caused by the proposal. There would, therefore, be a proportionate interference with the rights of adjoining occupiers, were the proposal acceptable in other respects.

Planning Balance

32. I assess the level of harm to the significance of Martin's Hall and Capstones to be less than substantial. In accordance with Paragraph 208 of the Framework, this harm should be weighed against the public benefits of the proposal.
33. The proposed house in a suitably accessible location would contribute towards the housing land supply in the area. This is one of the key objectives of national planning policy. However, only one dwelling is proposed. I therefore place moderate positive weight on this provision. From an economic aspect, the construction of the dwelling would provide employment. The future occupants of the property would also contribute to the local economy through the purchase of goods and services in the area. However, a single dwelling would only create modest economic benefits and I place moderate positive weight on these factors. There would be a biodiversity net gain from the proposal, albeit from a relatively low base level, and I therefore place limited positive weight on this factor.
34. There are therefore meaningful public and other benefits to the proposal. However, those benefits are not sufficient to outweigh the harm that I have identified to the significance of the heritage assets, on which I place great weight.

35. The appellant has confirmed that the Council's housing land supply statement from October 2023, which is more recent than the 2022 statement relied upon by the Council in its Officer's Report, concluded that it can demonstrate a 5.14 year supply of housing land. Although the 2023 statement has not been provided with the appeal, I am confident to rely on the conclusion because it has been directly quoted by the appellant. The appellant's position is that the housing land supply that the Council can demonstrate is marginal, because of the reliance on supply sites that are not deliverable. No specific or robust evidence is provided in support of this position.
36. Importantly, the harm to the heritage assets that I have identified provides a clear reason for refusing the development proposed. Therefore, in accordance with Footnote 7 and Paragraph 11di of the Framework, the 'tilted balance' would be disengaged in any event. I do not, therefore, need to come to a conclusion on the housing land supply position of the Council.
37. The proposal would be in conflict with policies relating to heritage and character and appearance, and therefore the Development Plan as a whole. The matters I outline above, including the Framework, are not sufficient to outweigh that conflict.

Conclusion

38. For the reasons above, the appeal is dismissed.

O S Woodward
INSPECTOR