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# Appeal Decision

Site visit made on 24 September 2024

**by E Grierson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 October 2024**

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**Appeal Ref: APP/Z1510/W/23/3335954**

**Hunts Farm, Cabin Cottage, Hulls Lane, Shalford, Essex CM7 5HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr Gary Power against the decision of Braintree District Council.
- The application Ref is 23/01989/FUL.
- The development proposed is the replacement and relocation of existing residential unit.

## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues are:
  - the effect of the proposed development on the character and appearance of the site and the surrounding area;
  - whether the proposed development would be in a suitable location for housing with regard to the local development strategy and accessibility to services and facilities;
  - whether the proposed development would provide satisfactory living conditions to the future occupiers; and
  - whether the proposed development would provide adequate waste facilities.

## Reasons

### *Character and Appearance*

3. The appeal site is located on Hunts Farm within a rural area. It is located behind two large agricultural buildings and is currently covered by hardstanding but unoccupied by any permanent buildings. Hunts Farm is occupied by a number of buildings of various scales, designs and uses, including both residential and agricultural. The proposed development would introduce a residential dwelling to this plot of land, as a replacement for an existing structure in another location on Hunts Farm.
4. The proposed dwelling would be a very long and narrow structure, with vertical timber cladding intended to assimilate into the rural and agricultural surrounds. However, purpose built residential buildings in the surrounding area are generally conventional in design, with traditional, farmhouse style appearances. Due to its form and the use of materials, the design of the proposed dwelling would be more akin to an ancillary outbuilding rather than a

standalone dwelling. It would also not relate well to the adjacent agricultural buildings which have an industrial appearance and are significantly larger than the proposal, thereby appearing somewhat lost in its location behind them. As such, the proposed dwelling would therefore appear at odds with the other buildings on the farm and would not reflect the distinctive character of either the existing residential buildings or the adjacent agricultural barns.

5. The proposal would have limited visibility from the public realm or within the wider landscape, due to its remote location and the existing and proposed hedging and trees on the boundaries. However, it would still be visible from within the farm and, therefore, its incongruous appearance would be detrimental to the character and appearance of both the appeal site and surrounding area's countryside setting.
6. It has been highlighted that there is a grade II listed building known as 'Cartlodge approximately 30 metres north west of Hunt's Farmhouse' located in close proximity to the appeal site within Hunts Farm. Limited information has been submitted regarding this building. However, it appears that its significance is derived, at least in part, from its historic nature and from its status as a well-preserved example of its age and type. Its relationship with the adjacent buildings and the rural surrounds contributes to how this asset is appreciated and this setting makes a positive contribution to the significance of this listed building.
7. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the decision maker, in considering whether to grant planning permission for the development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest. The Council have not raised any concerns in relation to the impact of the proposed development on this listed building. Whilst the appeal site is in close proximity to this listed building and its surrounds, the two are visually separate and well screened from each other by other buildings on the farm. As such, the proposed development would have a neutral impact on the setting and significance of this listed building.
8. However, for the reasons above, the proposed development would harm the character and appearance of the surrounding area and conflict with Policies SP7, LPP35 and LPP52 of the Braintree District Local Plan 2013-2033 (the LP) 2022. These policies collectively seek to ensure that the scale, layout, height and massing of new development reflects the area's local distinctiveness and responds positively to local character and context to preserve and enhance the quality of existing places and their environs. The proposal would also conflict with the general design objectives of the National Planning Policy Framework.

#### *Location*

9. The appeal site is an area of land to the north of the existing cluster of buildings within Hunts Farm in a remote location outside of any defined settlement boundaries. Policy SP3 of the LP states that existing settlements will be the principle focus for additional growth across the North Essex Authorities area within the Local Plan period. However, Policy LPP37 of the LP makes provision for proposals which replace an existing habitable, permanent dwelling of conventional construction in the countryside, with a single new dwelling, subject to a number of stipulations.

10. Criterion (a) of the policy relates to a building of architectural or historical value, which makes a positive contribution to the locality. This is not relevant to the existing building. Criterion (b) relates to the impact of the replacement dwelling and any outbuildings on the landscape, countryside setting and the setting of any heritage assets. Whilst the proposal would not impact the setting of any heritage assets or the wider landscape, as detailed above, it would have a detrimental impact on its countryside setting. Therefore, the proposal would not accord with criterion (b) of policy LPP37.
11. Criterion (c) states that any new replacement dwelling should be positioned on or close to the footprint of the existing dwelling, unless design, landscape, highway safety, residential amenity or other environmental grounds indicate that a more appropriate location on the plot can be justified. Whilst also within the parameters of Hunts Farm, the proposed dwelling is some distance from the footprint of the existing building. This is to improve residential amenity, including a larger outdoor amenity space, improve internal daylight and designated parking spaces. Therefore, a more appropriate location in this instance can be justified.
12. Lastly, criterion (d) states that the size of the replacement dwelling should not be significantly larger than the original dwelling, irrespective of any outbuildings demolished on the site and should be appropriate to the countryside setting. No specific measurements of the existing building have been provided, however from my observations during the site visit, the proposed dwelling is clearly significantly larger than the building it is to replace, in both floorspace and volume partly due to the proposed pitched roof and attached car port. Whilst the appellant considers that the developed nature of the site and the proximity to adjacent buildings would mitigate this increase in size, this is irrelevant to this part of the policy which relates solely to scale. As such, the proposal would not accord with criterion (d) of Policy LPP37.
13. The existing structure to be replaced by the proposed dwelling does not benefit from planning permission. However, the appellant contends that as it has been occupied in excess of ten years, it is immune from enforcement action. A 'certificate of lawful existing use or development' has not been obtained from the Council to demonstrate this, however council tax property information records and a tenancy agreement have been provided. Nevertheless, the Council state that it cannot be confirmed that the building is an existing habitable permanent dwelling, as required by Policy LPP37, and therefore this policy does not apply. However, even if the existing building could be considered a habitable permanent dwelling, as the proposal would not meet the necessary criteria, due to its harm to the countryside setting and its significantly larger scale, it would not fall under the provision within Policy LPP37.
14. Policy SP7 of the LP seeks to ensure that all new development should create well-connected places that prioritise the needs of pedestrians, cyclists and public transport services above the use of the private car. LPP42 of the LP also states that sustainable modes of transport should be facilitated through new developments to promote accessibility and integration into the wider community and existing networks.

15. The appeal site is located within a rural location in the countryside, with the closest village of Shalford some distance away. There are limited services and facilities within the surrounding area, therefore the future occupiers of the dwelling would be required to travel elsewhere for most of their day to day needs. There are bus stops within Shalford, however these are unlikely to be accessible by foot from the appeal site due to the distance and lack of footpaths and therefore could not be reliably used by the future occupiers of the dwelling to access all the services and facilities they require. The surrounding roads are also narrow country lanes with no evidence of any dedicated cycle lane, thereby making cycling an unattractive option for day to day needs. As such, the future occupiers of the proposed dwelling would largely be reliant on the use of a private vehicle to access the necessary services and facilities, contrary to the objectives of Policies SP7 and LPP42 outlined above. Furthermore, whilst it is likely that the occupants of the building to be replaced are reliant on the use of a private vehicle, as the proposed dwelling is larger, it could accommodate a larger family who would have a greater need for travel.
16. In conclusion, the necessary services and facilities which would be required by the future occupiers of the proposed dwelling would not be readily accessible and there are extremely limited sustainable transport options. Therefore, the future occupiers would largely be reliant on the use of a car to serve their day to day needs on a regular basis. Consequently, the proposed dwelling would not be located within a socially or environmentally sustainable location and would not be in an appropriate location for new housing.
17. Therefore, for the reasons above, the proposed development would not be in a suitable location for new housing and would conflict with Policies SP3, SP7, LPP37 and LPP42 of the LP as detailed above. It would also be contrary to the relevant sections of the Framework which promote sustainable development in rural areas.

#### *Living Conditions*

18. The proposed dwelling would be located adjacent to an existing agricultural barn on Hunts Farm. The appellant has indicated that this is used for the storage of machinery and I saw that this was the case during my site visit. It is noted that due to the size of the barn and its ventilation, it could not be used to house livestock or a grain dryer, uses which would result in significant levels of noise. However, the storage of large agricultural machinery would still be likely to generate some level of noise when machinery is moved into and out of the barn. For this reason and without evidence to suggest otherwise, any such noise would be likely to result in significant levels of disturbance for the future occupiers of the proposed dwelling, due to the close proximity of the barn and the limited background noise in the surrounding area.
19. A condition to be attached to any grant of planning permission, for sound testing to be carried out, would not be appropriate as any harm identified could not then be mitigated at this stage. Furthermore, it is noted that the proposal would represent a general improvement in the living conditions for the occupiers, compared to the current dwelling which it is intended to replace, including additional outdoor amenity space and improved levels of internal daylight. However, regardless of the shortcomings of the current

location, due to the noise disturbance identified, the proposed location would still not provide satisfactory living conditions to the future occupiers.

20. Therefore, as the proposed development would not provide satisfactory living conditions to the future occupiers, it would conflict with the relevant sections of Policies LPP35, LPP52 and LPP70 of the LP. The relevant parts of these policies seek to ensure that proposal for all new development should prevent unacceptable risks from all emissions and other forms of pollution (including noise pollution), with a high and appropriate standard of residential accommodation and amenity provided for all prospective occupants.

### *Waste and Recycling*

21. The plans provided identify an internal and external bin store on the appeal site for both waste and recycling. A refuse collection point has also been highlighted outside of the site but within the compounds of Hunts Farm and adjacent to the access road for the proposed dwelling. This is an existing refuse collection point where waste is already collected on a weekly basis. Whilst this collection point may be some distance from an adopted road, as it is already in use, I see no reason as to why it would not also be a suitable location for the storage and collection of waste from the appeal property.
22. Policy LPP52 (g) of the LP requires designs to incorporate details of waste storage and collection arrangements, including provision for recycling, within the site to ensure that the impact on amenity and character are considered and recycling is optimised. Therefore, as the waste collection point is outside of the appeal site, the proposed development would not strictly accord with this section of the policy. Nevertheless, for the reasons above, the proposed development would still provide adequate waste facilities.

### **Other Matters**

23. The appellant has outlined that the proposal would be an energy efficient dwelling, making use of renewable energy sources and would provide local jobs during construction. However, due to the scale of the development, these environmental and economic benefits are limited and therefore would not outweigh the harm identified above.

### **Conclusion**

24. Whilst the proposed development would provide adequate waste facilities, it would not be in a suitable location for new housing, would harm the character and appearance of the area and would not provide satisfactory living conditions to its future occupiers. Therefore, for the reasons given above and having had regard to all other matters raised, the proposal would conflict with the development plan taken as a whole and I conclude that the appeal should be dismissed.

*E Grierson*

INSPECTOR