



Appeal Decision

Site visit made on 19 November 2024

by Sarah Manchester BSc MSc PhD MEnvSc

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/C1570/W/24/3340687

Barn adjacent The Old Forge, Duton Hill, Dunmow, Essex CM6 2DT

- 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 John Lowe against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/2564/FUL.
 - The development proposed is demolition of stables and former forge building and conversion and extension of barn to form a dwelling - alternative scheme to that approved under planning permission UTT/17/0955/FUL in order to include a two storey extension.
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Decision

1. The appeal is dismissed.

Background and Preliminary Matters

2. The proposal relates to a listed building. Accordingly, I have had special regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
3. Planning permission (ref UTT/17/0955/FUL) and Listed Building Consent (ref UTT/17/0956/LB) were granted in 2017 for demolition of stables and former forge building and conversion and extension of barn to form a dwelling at this site. At that time, the Council considered that the Barn subject of the appeal was curtilage listed by virtue of its relationship with the neighbouring listed building.
4. The appeal relates to the refusal of planning permission, but there is no associated listed building consent application. In this regard, the Council's Officer report states that the evidence demonstrates that the appeal building is not curtilage listed. Its evidence to the appeal does introduce uncertainty as to whether or not the appeal building is curtilage listed, which the appellant disputes. However, the reasons for refusal relate only to harm to the setting of a listed building and not to a curtilage listed building. Therefore, this is the basis upon which I have determined the appeal.

Main Issues

5. Therefore, the main issues are:
 - i) Whether the proposal would preserve a Grade II listed building, "The Old Forge, Duton Hill" (Ref: 1112168) (the LB), and any of the features of special architectural or historic interest that it possesses; and
 - ii) The effect of the proposal on protected species.

Reasons

The Listed Building

6. The Old Forge is a 2-storey dwelling house dating from the early 19th century. It is timber framed and plastered, with a gabled peg tiled roof, red brick chimney stack, and sash windows to either side of a central doorway with a short flight of steps. The appeal building (the Barn) is an unassuming timber-framed building constructed around 1870 as a stable to replace an earlier building. It was part of a range of linked outbuildings dating from the 1800s that surrounded a yard to the side of the LB. The outbuildings and yard belonged to the LB and there was a smithy as well as stables in this location.
7. The historic layout and use persisted into the early 20th century, at which time the LB was a post office. The outbuildings were later demolished or fell into disrepair, and the Barn was stripped of fixtures and fittings and the earlier weatherboarding was replaced. Notwithstanding the changes over time, the Barn remains a long and narrow building, modest in scale and its simple rectangular plan form reflects its rural agricultural origins. Insofar as relevant to the appeal, the Barn and surrounding open land, which comprise the setting of the LB, are indicative of the historic ancillary relationship and contribute to the special interest of the LB as a fine rural vernacular dwelling.
8. The 2017 permission has been implemented and, although the Barn is not yet habitable, the works are well advanced. Therefore, the permission is a valid fallback position. The proposal would differ from the fallback through the addition of a 2-storey side extension. This would be sited close to the front gable end of the Barn and it would protrude towards the LB. It would be roughly 3m wide and 4.73m deep, with a large pitched gable roof set a little below the main ridge line. There would be windows in the extension and a new first floor window in the existing front gable end of the Barn.
9. The proposal would result in a significant increase in the bulk and massing of the Barn. The extension would be a large and prominent feature that would disrupt and obscure the simple form of the Barn. By virtue of its size and design, including windows, the proposal would be an overtly domestic building with the appearance of a new dwelling. In contrast to the fallback, the proposal would not respect and it would erode the historic rural agricultural appearance of the Barn. Irrespective of the vernacular materials and that it would be smaller scale than the LB, it would be urbanising development in close proximity to the LB and it would undermine the visual dominance and primacy of the LB. The proposal would not contribute positively to local distinctiveness and sense of place. Given the above, I find that the proposal would harm the setting and thereby fail to preserve the special interest of the LB.
10. There was historically a building parallel to the road to the front of the Barn, but the proposed extension would not replicate the historic form or layout of outbuildings. Moreover, as the site appears to have been largely cleared of derelict structures, there would apparently be no further enhancement of the setting of the LB over and above that already realised by the fallback.
11. My attention has been drawn to development at Three Elms Cottage¹. In that case, a new 4 bed dwelling in the setting of a listed building was permitted

¹ Ref UTT/22/0086/FUL

contrary to the officer recommendation, against the backdrop of a shortfall in the Council's 5 year supply of deliverable housing sites. It is not directly comparable to the appeal, taking into account the fallback. Irrespective of that decision, paragraph 11(d)(i) of the National Planning Policy Framework (the Framework) is clear that the presumption in favour of sustainable development does not apply where the application of policies in the Framework that protect assets of particular importance, including designated heritage assets, provides a clear reason for refusing the development.

12. The case of Land at Old Hill² relates to a new dwelling between listed buildings. The Council considered that the site was not within the curtilage of the listed buildings and it did not affect their setting. However, curtilage and setting are not necessarily one and the same. The curtilage of a building refers to land and other buildings around and associated with that building, whereas the setting of a heritage asset is the surroundings in which it is experienced. Schemes that do not affect the setting of a listed building do not justify the appeal.
13. Listed building consent³ was granted at Starr House for demolition of redundant garage structures and erection of 2 detached single storey dwellings next to a listed building. The large breeze block garage was a modern building of no historic or architectural interest and it was very close, poorly related to and out of scale with the listed building. The approved plans illustrate heritage benefits by way of a reduction in the scale and bulk of built form and greater separation to the listed building. It is not therefore comparable to the appeal proposal and it does not weigh in its favour.
14. Paragraph 205 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Paragraph 206 advises that significance can be harmed by development in the setting of the asset and any such harm should have a clear and convincing justification. Given the scale and nature of the proposal, I find the harm to be at the lower end of less than substantial but nevertheless of considerable importance and weight in the planning balance of the appeal. Paragraph 208 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
15. The proposal would be a 3 bed dwelling, which is apparently the most popular size of market dwelling in the area. However, I am not aware that there is no demand for 2 bed dwellings, which is the fallback. As the fallback is already being implemented, the proposal would not be the re-use of a derelict building. There would be no visual benefits and the screening of the garden, which would be a private benefit, would not be reliant on new built form. There would be limited economic benefits associated with the construction of the extension. These benefits are not sufficient to outweigh the harm that I have identified.
16. Given the above, I conclude that, on balance, the proposal would fail to preserve the setting and thereby the special historic interest of the Grade II listed building. This would fail to satisfy the requirements of the Act, paragraph 205 of the Framework and conflict with saved policy ENV2 of the Uttlesford Local Plan Adopted January 2005 that seeks, among other things, to ensure that development avoids adverse effects on the setting of listed buildings. As a result, the proposal would not be in accordance with the development plan.

² Ref UTT/19/1625/FUL

³ Ref UTT/23/0607/LB

Protected species

17. The Barn was inspected in 2016 and found to be of low suitability to support roosting bats. As a precaution, the biodiversity report recommended that roof tiles be removed by hand and works should cease if bats were found. This was secured by a planning condition imposed on the planning permission. No bats or bat roosts were affected by the conversion works, but the works are not complete and the proposal would affect the roof of the Barn. In this regard, Natural England guidance advises that surveys should be requested where bat roosts may be affected and it sets out features that increase the likelihood of bats being present. These include where buildings are close to woodland, as in this case, and have cracks, crevices and small openings.
18. The building has been finished internally with insulation and plasterboard and windows and doors have been fitted. Externally, the weatherboard cladding and the roof have been replaced. The evidence indicates that these works comply with current building regulations which require insect mesh to be installed over gaps. On the basis that there are no gaps large enough to allow entry by insects, there would apparently be little opportunity for roosting bats. As such, impacts on bats and bat roosts seem reasonably unlikely.
19. Therefore, I conclude that the proposal would not result in adverse impacts on protected species. Accordingly, there would be no conflict with the relevant aims of saved policy GEN7 of the LP or the Framework.

Conclusion

20. For the reasons set out above, I conclude that the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict.
21. Therefore, I conclude that the appeal should be dismissed.

Sarah Manchester

INSPECTOR