



Appeal Decision

Site visit made on 12 December 2024

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 January 2025

Appeal Ref: APP/P1560/W/24/3345883

Stonehall Farm Buildings, Stonehall Lane, Great Oakley CO12 5DD

- 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 and Mrs Brown against the decision of Tendring District Council.
 - The application Ref is 24/00036/FUL.
 - The development proposed is described as "the erection of three dwellings (in lieu of Prior Approval for three dwellings, subject of application 21/00788/COUNOT).".
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the determination of the application, a revised National Planning Policy Framework (the Framework) was published on 12 December 2024. Those parts of the Framework most relevant to the appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the Framework, and I am satisfied that no parties interests would be prejudiced by my taking this approach.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area, and
 - if there is any harm, whether this is outweighed by any other considerations, with particular regard to whether there is a fallback position for an alternative development.

Reasons

Character and appearance

4. The appeal site consists of several farm buildings of relatively modest scale and footprint (the appeal buildings). They front onto Stonehall Lane and are utilitarian in appearance, with predominately irregular and modest openings and pronounced roof pitches. The buildings are constructed primarily of brick, tiles and corrugated sheeting. The surrounding landscape is rural in character, comprising largely of open countryside, with fields bounded by hedges.
5. The evidence indicates that the appeal buildings were erected by the appellants in the 1960's and are not designated or non-designated heritage

assets. Nevertheless, their design, materials of construction and modest scale, contribute towards the rural character of the area.

6. The appeal scheme seeks to demolish the appeal buildings and erect a semi-detached, largely uniform, pair of dwellings and a detached property. Several amendments have been made to the appeal scheme, following the Council's consideration of a earlier scheme¹ (the previous planning application). While the Council's committee report in respect of the previous planning application was supportive of the proposed development, including the increased scale for the built form, design and use of weatherboarding, nevertheless, it was refused. The previous planning application therefore carries limited weight in support of the appeal scheme.
7. The proposed development would have a larger footprint and height than the appeal buildings, as evidenced by the submitted volume and height calculations. While the appellants contend the proposed increase in built form is modest, a notable section of the proposed development would be sited closer to Stonehall Lane than the appeal buildings.
8. While this siting would provide a rear garden for the occupants of plots 1 and 2 and includes a reduction in projection for plot 2, the positioning of the appeal scheme, in combination with the increased volume and height, would result in a prominent form of development.
9. Moreover, the proposed development would have a predominately uniform design and regular window and door openings, with a shallow roof pitch included within plot 3. The proposed design would be overly domestic and suburban in character. As such, the appeal scheme would not reflect the simple, modest form and rural appearance of the appeal buildings which it would replace.
10. While black stained timber feather edge weatherboarding is not prevalent in the appeal buildings, the evidence indicates that it is a feature on the neighbouring farmhouse. However, the farmhouse is sited away from the road, partially behind the appeal site, and the extent of weatherboarding on the farmhouse is limited. Therefore, this material is not a prominent feature in the street scene.
11. While noting the use of weatherboarding has been reduced across the appeal scheme, it is proposed for use on all external elevations of plot 3. Given the extent of its proposed use and the positioning of plot 3 adjacent to the road, the proposed weatherboarding would be a prominent and incongruous feature.
12. Overall, the domestic appearance of the appeal scheme, together with the increased size of the built form, its proximity to the road and use of weatherboarding, would result in a prominent and incongruous form of development that would be markedly at odds with the rural character of the area.
13. For these reasons, the proposed development would harm the character and appearance of the area, contrary to SP7 of the Tendring District Local Plan 2013-2033 and Beyond Section 1 and Policy PPL3 of the Tendring District Local Plan 2013-2033 and Beyond Section 2. Collectively, these seek, among other things, to ensure all new development responds positively to local character

¹ Council reference: 22/01138/FUL

and context to preserve and enhance the quality of existing places and their environs and protect the rural landscape.

Other considerations

14. The appellants highlight that the Council has previously confirmed that prior approval was not required for the conversion of the appeal buildings to three dwellings², under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Class Q scheme). The Council have not disputed this.
15. The appellants have submitted the Class Q scheme as a fallback position. I have had regard to the submitted information in respect of this issue, including the case of *Mansell v Tonbridge and Malling BC & others* [2017] EWCA Civ 1314, an appeal decision³ and a Counsel's opinion.
16. There is no dispute between the main parties that there is a real prospect of this fallback position being implemented and, from the information before me, I have no reason to disagree. Consequently, this fallback position is a material consideration in the determination of the appeal scheme. However, for significant weight to be afforded to a fallback position there needs to be not only a greater than theoretical possibility of it taking place, but also it would need to be equally or more harmful than the appeal scheme.
17. The Class Q scheme would introduce three dwellings to the appeal site. The two schemes, insofar as the number of dwellings to be provided, are comparable in this regard. Moreover, the Class Q scheme would provide 10 bedrooms, whereas the appeal scheme includes 8. The appeal scheme would therefore be no more harmful when compared with the Class Q scheme, in respect of the number of dwellings to be provided or activities associated with the development, including the amount of traffic generated.
18. However, the evidence indicates that the Class Q scheme involves the re-use of existing buildings, with the Council raising no concerns in respect of, among other things, design. Therefore, the Class Q scheme would retain the appeal buildings positioning in relation to the road and their rural character. Moreover, it would result in a development with a lower height and smaller footprint than the appeal scheme.
19. There are benefits proposed in respect of the appeal scheme, including ecology enhancements, which carry weight in favour of the proposal. However, having regard to the appeal scheme's scale, prominence, design and proposed materials, it would have a more harmful impact upon the character and appearance of the area than the Class Q scheme. Consequently, I afford the fallback position limited weight in support of the appeal scheme.

Other Matters

20. The appellants assert that the appeal scheme would provide accommodation to meet rural housing needs and would include vehicle charging points and a Klargester Bio Disc package. Moreover, in respect of broadband, the evidence indicates that the site would benefit from the 'standard' speed. Having regard to the amount of development proposed, these benefits carry limited weight.

² Council reference: 21/00788/COUNOT

³ Appeal decision reference: APP/A1530/W/16/3144635

21. An absence of harm in respect of noise, parking and highway matters, in addition to the provision of private amenity areas in accordance with the Council's adopted standards, are neutral factors.
22. The evidence indicates that the appeal site falls within the scope of the Essex Coast Recreational disturbance Avoidance and Mitigation Strategy (RAMS), including the Zones of Influence of Hamford Water Special Protection Area and Ramsar site. The Essex Coast Sites are primarily designated for endangered or vulnerable populations of sea birds, in addition to the wider coastal ecosystems and functions that support these and other populations, including plants and invertebrates.
23. A Unilateral Undertaking has been provided with the appeal documentation to secure a financial contribution in accordance with the RAMS, to mitigate the effect of additional recreational disturbance on protected sites. The Conservation of Species and Habitats Regulations 2017 require the Competent Authority to consider whether the proposal could adversely affect the integrity of protected sites. However, given that I am dismissing this appeal on other grounds, it is not necessary for me to consider the integrity of protected sites any further, nor undertake an appropriate assessment.

Conclusion

24. For the above reasons, I conclude that the proposed development would conflict with the development plan as a whole. There are no material considerations, including the Framework and the fallback position, that indicate I should conclude other than in accordance with it. Therefore, I conclude that the appeal should be dismissed.

S Pearce

INSPECTOR