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## Appeal Decision

Site visit made on 15 October 2024

by **S Lo LLB M.SRA**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

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**Appeal Ref: APP/C1570/W/24/3338824**

**Land East of Pear Trees, Brick End, Broxted, Essex, CM6 2BJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr C Carr of Haymalley Ltd against the decision of Uttlesford District Council.
  - The application Ref is UTT/23/2210/OP.
  - The development proposed is the new development of no.3. new dwellings.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. Following the determination of the application by the Council, the National Planning Policy Framework (Framework) was updated in December 2024. The main parties have had the opportunity to comment on any changes arising from this update during the appeal process.
3. The application sought outline planning permission all matters reserved for future consideration. I have therefore assessed the submitted drawings as merely illustrative insofar as they relate to the reserved matters.
4. The proposal relates to works that would affect the setting of nearby listed buildings. Therefore, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), which requires me to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

### Main Issue

5. The main issue is the effect of the proposed development on the special architectural or historic interest of the Grade II listed 'Peartrees'<sup>1</sup> and the Grade II listed 'The Flying Rat'<sup>2</sup>, particularly in terms of how these buildings are experienced within their settings.

### Reasons

6. The appeal site is located in an open corner plot currently free from built form, set in a part of the hamlet characterised by detached dwellings on generous plots and an agricultural landscape of open fields. The site is predominantly grassed,

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<sup>1</sup> List entry number 1322537

<sup>2</sup> List entry number 1112255

featuring trees, bushes, plant beds and a boundary hedge that screens it from the road and pedestrian footway.

7. Adjacent to the appeal site is the Grade II listed Peartrees, described in its listing as a two-storey, timber framed, and plastered house dating back to the late 16<sup>th</sup> or early 17<sup>th</sup> century. Opposite the appeal site is the Grade II listed Walnut Tree Cottage (also known as The Flying Rat), described in its listing as a one-storey, timber framed and plastered house with attics, dating back to the early 17<sup>th</sup> century.
8. The significance of these buildings, with regard to their settings, lies in their preserved layout as detached structures, each situated within generously sized plots. The setting is characterised by green spaces, trees, and mature vegetation, reflecting the wider undulating landscape of agricultural land and dispersed residential development. These elements combine to give the street scene a strong rural character and pastoral feel. Positioned along the road, both buildings are highly visible from public viewpoints. The limited development allows these buildings to maintain an attractive and harmonious connection to the local area. The appeal site, as undeveloped land, positively contributes to the historical setting of the listed buildings by preserving their openness and highlighting the rural surroundings.
9. The proposal relates to the construction of three new dwellings, which submitted plans show would each have on-site parking spaces and double garages. A new access point is also shown from Brick End Lane. The introduction of built form would inevitably affect views of the setting of the listed buildings. Although the outline nature of the application leaves the size, dimensions, and scale of the proposed development unclear, the limited land available would result in a relatively high density of dwellings which would be uncharacteristic of the area. This increased density would introduce a form of development more typical of urban environments, which would detract from the sylvan qualities and the established pattern of wide-open rural spaces. Although shown indicatively on the plans, the introduction of a footway along the boundary with Peartrees and the construction of a new vehicular access opposite Walnut Tree Cottage would also impact key views of the setting of these buildings. Additionally, while landscaping could be added to the southern boundary to reinforce the existing trees along the road frontage, it would not effectively screen the vehicular access point from views which affect the setting of the listed buildings, particularly Walnut Tree Cottage.
10. Consequently, the proposed development would erode the open, historic setting of the listed buildings, which is integral to their significance. These changes would have a permanent and adverse impact on the ability to experience and appreciate the listed buildings as rural dwellings. With this context, the proposed development would compromise the significance of the nearby heritage assets.
11. In reaching this view, I have considered that the proposed landscaping and retention of vegetation may be capable of limiting public views into the appeal site, as well as some views between the appeal site and the surrounding listed buildings. However, as this is an outline application with no certainty regarding the dimensions of built form, it has not been satisfactorily demonstrated that the boundary treatment would remain effective. Although the Council has not indicated any significant concerns regarding the design of the dwellings, the increase in density would still detract from the open character of this part of the hamlet. While

some residential development has occurred around the public house, it has brought only limited changes to this part of the hamlet.

12. The appellant has indicated a willingness to accept a planning condition requiring the approval of on-site external lighting details to limit the visual and ecological impact of the proposed development. However, without precise information, I cannot be confident that they would effectively integrate the development into its surroundings. Moreover, this would not address the concerns I have identified regarding the density of the proposed development. Therefore, I am not persuaded that such a condition would be suitably precise or that it would make the development acceptable in planning terms.
13. Drawing the threads of my assessment together in respect of the nearby listed buildings I have found that there would be harm to the setting of Peartrees and Walnut Tree Cottage. I find the harm arising in this case to be less than substantial, such that it should be weighed against the public benefits of the proposal.
14. The development would add three dwellings, modestly increase housing availability in the area, as well as result in an associated economic uplift from the construction process and future spending of occupiers. The appeal site is located in an area where alternatives to private vehicle use are available, and the proposed development would result in a biodiversity net gain. However, even taken together, these benefits would be relatively modest. The Framework advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to its conservation. Any harm to the asset's significance must be clearly and convincingly justified. I find no public benefit sufficient to outweigh the harm it would cause.
15. In conclusion, the proposed development would have a harmful effect on the special historic and architectural interest of the Grade II listed Peartrees and the Grade II listed The Flying Rat, in terms of how the buildings are experienced in their settings. This would fail to satisfy the requirements of the Act and, by adversely affect the setting of a listed building, would also conflict with Policy ENV2 of the LP<sup>3</sup>.

## **Planning Balance**

16. The Council cannot currently demonstrate a five-year supply of deliverable housing sites in accordance with the Framework. As such, paragraph 11 of the Framework states that permission should be granted unless the application of policies in the Framework that protect assets of particular importance provides a strong reason for refusing the development proposed. The relevant footnote states that such policies include those related to designated heritage assets, which includes listed buildings.
17. Accordingly, the harm identified to the character and significance of the listed buildings provides a strong reason for refusing the development proposed as set out at sub-paragraph 11 (d)(i) of the Framework. Therefore, any presumption in favour of granting planning permission as set out under paragraph 11 of the Framework does not apply.

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<sup>3</sup> Uttlesford Local Plan 2005

## **Conclusion**

18. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Therefore, for the reasons set out above, I conclude that the appeal should be dismissed.

*S Lo*

INSPECTOR