



Appeal Decision

Site visit made on 16 April 2025

by K Lancaster BA (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2025

Appeal Ref: APP/C1570/W/24/3351366

Highwood Farm, Stortford Road, Great Dunmow, Essex CM6 1SJ

- 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 Millen Land Group Limited against the decision of Uttlesford District Council.
 - The application Ref is UTT/23/2964/OP.
 - The development proposed is described as 14 self-build plots with access and road improvements.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with only access to be considered at this stage. The remaining matters relating to appearance, landscaping, layout, and scale are therefore reserved for later consideration. I have dealt with the appeal on this basis and treated the submitted plans where relevant as indicative with regards those outstanding matters.
3. The appeal submission includes a revised plan¹ which includes some amendments to the indicative layout of the site with the aim of creating a larger buffer between the proposed development and the nearby listed buildings. There is no change to the indicative number of dwellings proposed or the self-build nature of the proposal.
4. The Procedural Guide states that it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought. I have considered this additional information taking into consideration the principles established by the Courts in *Holborn Studios Ltd*². In this case, these amendments do not represent a fundamental change to the application, in particular as layout is a reserved matter. For this reason, I consider that there would be no prejudice to any party, and I have therefore determined the appeal on the basis of this additional information.
5. A draft Unilateral Undertaking (the UU) pursuant to Section 106 of the Town and Country Planning Act 1990 has been submitted as part of the appeal to secure financial contributions towards affordable housing and to restrict the occupancy of the proposed dwellings to self-build. I will return to this matter later in my decision.

¹ Drawing No: HWF001 Rev O (dated 7 June 2022)

² *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWHC 2823 (Admin)

6. The appeal site is the subject of a recent appeal decision³ which was dismissed in September 2023. The appeal was dismissed on the basis that the proposed development would cause less than substantial harm to the setting of Highwood Farmhouse and did not include a mechanism for securing an affordable housing contribution. This appeal relates to a similar proposal. I have had regard to this appeal decision as a material consideration.

Main Issues

7. The main issues are:

- The effect of the proposed development on the setting of the nearby Grade II Listed Buildings, Highwood Farmhouse and Barn at Highwood Farm; and
- Whether the proposed development makes adequate provision for affordable housing and would provide a suitable mechanism for securing self-build or custom-build housing.

Reasons

Setting of Listed Buildings

8. The appeal site comprises an area of agricultural land which measures approximately 1.3 hectares in size, is situated to the west of Buttley's Lane, south of Stortford Road (B1256), and also to the west of Great Dunmow.
9. The appeal site is accessed off Buttley's Lane, which is a narrow, tree-lined rural lane, which also provides access to the Round House. There is a public right of way, the former railway, beyond the site, and provides a tree lined boundary between the appeal site and the nearby A120. The immediate surrounding area is predominantly rural in character.
10. However, my attention has been drawn to a recent approval⁴ for housing development on land immediately to the north of Highwood Farmhouse, between the appeal site and the B1526. The 'Character Context Plan' submitted with the appeal also identifies further development which is expected to take place within the vicinity of the site including a supermarket, and primary and secondary schools. These developments would all be accessed from Stortford Road (B1526).
11. Highwood Farmhouse⁵ is located within the north-east corner of the appeal site. It is a Grade II Listed Building dating from the late C15th, or possibly earlier. To the east of Highwood Farmhouse is the Barn at Highwood Farm⁶ (also known as Brady's Barn) which is also Grade II Listed and believed to date from the C17th.
12. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) states that, in considering whether to grant planning permission for development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving its setting.
13. The significance of Highwood Farmhouse is derived primarily from its historical and architectural interest as an example of a C15th farmhouse, with C16th century and later additions. It showcases timber framing and plastering typical of that

³ Appeal Ref: APP/C1570/W/22/3305483

⁴ Appeal Ref: APP/C1570/W/21/3270615

⁵ List Entry Number 1323789

⁶ List Entry Number 1142502

period. The farmhouse features a red plain tile roof with a half-hipped crosswing to the east, C20th leaded casement windows, and a lean-to porch. The chimney stacks are made of red brick from the C16th and later periods. These elements highlight the farmhouse's architectural evolution and historical significance over several centuries.

14. The significance of the Barn at Highwood Farm is derived from architectural and historical interest as a C17th example of agricultural architecture. It is timber-framed and weatherboarded, showcasing traditional construction techniques. The barn features a red pantile roof, known for its distinctive curved shape that efficiently sheds rainwater. The barn has recently been converted into a dwelling.
15. The immediate setting of Highwood Farmhouse and Barn is arable farmland which contributes to the historic interest of the heritage assets in that there is a functional association with this farmland and the Farmhouse and Barn. This character makes a significant contribution to the way in which the listed building is experienced, particularly when approaching it on the long drive, and as a consequence I consider this to constitute an important part of its setting.
16. The proposed development would take place on land directly to the west and south of the listed buildings and which currently provides a direct link to their historic function and makes a positive contribution to their significance. There is little to visually or physically separate the farmhouse from the remainder of the appeal site.
17. Whilst the form of development, together with layout and landscaping are matters reserved for future consideration the development of the appeal site would result in a considerable change to the way in which the heritage assets are experienced and their setting. As a result, the connection between the heritage assets and the wider rural landscape would be lost and, in this respect, the proposed development would be detrimental to their significance.
18. I accept that the original setting of the heritage assets has evolved over time and recently approved development will further alter its setting. Nonetheless, the Planning Practice Guidance⁷ (the PPG) advises that when assessing any application which may affect the setting of a heritage asset, local planning authorities may need to consider the implications of cumulative change.
19. In this regard, the cumulative impacts of the surrounding developments would be urbanising, changing the rural context of the listed buildings and leading to them being surrounded by built development. This would affect both the understanding and appreciation of the listed buildings as a rural farmstead. Furthermore, the area of land which is proposed to be retained around the farmhouse would have more of the character of a domestic curtilage than an agricultural landscape resulting in the loss of some of its historic significance.
20. Therefore, whilst I recognise that some of the harmful effects could be mitigated to some extent through appropriate design, landscaping buffer and materials at the reserved matters stage, the cumulative impact of the proposals would be harmful to the setting of the listed buildings. Furthermore, whilst I recognise that the surroundings of a heritage asset will change over time, I am not of the view that

⁷ Paragraph: 013 Reference ID: 18a-013-20190723

previous negative changes to the setting of the listed building should be used to justify further harm to its significance.

21. I have had regard to the appellant's position in relation to cumulative impact and the case law examples which have been highlighted. However, for the reasons set out above, the proposed development despite being able to be positioned further away from the listed buildings than other recently approved development, and of a much lesser scale would nonetheless result in harm to the setting of listed building.
22. The proposed development has a materially different relationship to the designated heritage assets in that it would be sited to the front and side of these buildings, in particular Highwood Farmhouse which is orientated towards the proposed development and in relation to how the heritage assets are experienced. Therefore, whilst I acknowledge that other developments have been permitted within the setting of these buildings, further erosion of and harm to the setting of these designated heritage assets is not justified.
23. Consequently, I find that the proposed development would cause less than substantial harm to the setting of the Grade II Listed Buildings.
24. Paragraph 212 of the National Planning Policy Framework (the Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 215 of the Framework advises that less than substantial harm to heritage assets or their settings should be weighed against the public benefits of the proposal. Therefore, even where harm would be at the lower end of less than substantial this harm must be given great weight.
25. The public benefits advanced in favour of the proposal would include the provision of 14 self-build dwellings and economic benefits arising from construction and the future occupation of the proposed dwellings. The proposal also includes provision of a financial contribution towards affordable housing. Overall, I attach moderate weight to these benefits. However, the collective public benefits are insufficient to outweigh the great weight afforded to the preservation of heritage assets.
26. For the reasons given above, and in the absence of any defined significant public benefit, I conclude that, on balance, that the proposed development would fail to preserve the special historic interest and significance of the adjacent listed buildings, with particular regard to their setting. Thus, the proposal would fail to satisfy the requirements of the Act and Paragraph 212 of the Framework. It would also fail to comply with Policy ENV2 of the Uttlesford Local Plan, adopted 2005 (the ULP) which states that a proposal within the setting of a listed building must preserve or enhance its significance.

Affordable Housing & Self Build Housing

27. The proposed development would deliver up to 14 self-build dwellings on a site measuring approximately (3 hectares). For sites of 0.5 hectares or more, Policy H9 of the ULP requires 40% of the new homes to be affordable homes. This would equate to the provision of approximately 4 affordable homes within the appeal site. Policy H9 of the ULP further states that in exceptional circumstances where on-site provision cannot be achieved, off-site provision and/or commuted sum payments in lieu may be supported where this would offer and equivalent or enhanced provision of affordable housing.

28. The appellant submitted a Financial Viability Report, which was independently reviewed by the Council, and it is not disputed that a commuted sum payment of £356,565 could be provided without rendering the scheme unviable.
29. In respect of the self-build element of the proposed development, whilst there is no specific policy within the ULP, the Council acknowledges that there is support for the provision of a mix of housing types, sizes and tenure. Furthermore, Section 1 of the Self Build and Custom Housebuilding Act 2015 sets out that local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under Sections 2 and 2A of that Act to have regard to this and to give enough suitable development permissions to meet the identified demand.
30. There is no dispute that the proposed development is for Self-Build or Custom-Build housing. However, the government's guidance on Self-Build and Custom Housebuilding is clear that there must be some form of control if proposed plots are to qualify as this form of housing. A planning obligation is the most appropriate method of ensuring that the development is self or custom build housing rather than market housing.
31. Notwithstanding the appellant willingness to enter into a legal agreement in respect of an affordable housing payment and to secure the new homes as self or custom-build housing, the unilateral undertaking provided with the appeal is in draft form and unsigned. Thus, it cannot be relied upon and therefore there is no mechanism before me to secure these matters.
32. The Procedural Guide: Planning Appeals – England⁸ requires the appellant, to submit an executed and certified copy of any planning obligation at the time of making their appeal. It explains that the Inspector will not delay the issue of a decision to wait for an obligation to be executed unless there are very exceptional circumstances. I am not aware of any such circumstances in this case.
33. Consequently, the proposed development would not made adequate provision for affordable housing, nor would it provide a suitable mechanism for securing Self-Build or Custom-Build housing. Thus, it would be contrary to Policies H9 and GEN6 of the ULP which require amongst other things, development to make appropriate provision for affordable housing provision and for community facilities, school capacity, public services, transport provision, drainage and other infrastructure that are made necessary by the proposed development.

Planning Balance & Conclusion

34. There is no dispute between the parties that the Council is currently unable to demonstrate a five-year supply of housing sites, the Council states that the figure is approximately 4.5 years. In such circumstances, paragraph 11 d) of the Framework advises that planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
35. The proposed development would deliver up to 14 dwellings and would make a modest contribution to the supply of housing within the area. This would support

⁸ Dated 17 September 2024

the Government's objective to significantly boost the supply of homes. I have had regard to Paragraph 73 of the Framework which recognises that small and medium sites can make an important contribution to meeting the housing requirement of the area and that they are often built out quickly.

36. The proposal also indicates that it would make a contribution towards the provision of affordable housing off-site and deliver self-build or custom-build homes. However, for the reasons set out above, there is no mechanism to secure these benefits and therefore I can only attribute them limited weight.
37. There would be also some modest associated short-term economic benefits from jobs and the supply chain during the construction phase and some longer-term spending by future occupiers, at least some of which would be spent in the local area. Therefore, the benefits stated above would be modest and carry moderate cumulative weight in favour of the proposal.
38. However, the proposed development would fail to preserve the setting of Grade II Listed Buildings, which are designated heritage assets. In this case, the application of policies in the Framework that protect areas or assets of particular importance provides a strong reason for refusing the development. Consequently, the presumption in favour of sustainable development does not apply.
39. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, which would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

K Lancaster

INSPECTOR