



Appeal Decision

Site visit made on 20 February 2025

by Frances Mahoney MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 10 June 2025

Appeal Ref: APP/Z1510/W/24/3347469

Land South of Foxearth Hall, The Street, Foxearth, SUDBURY, Essex, CO10 7JH

- 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 Maple Developments East Anglia Ltd against the decision of Braintree District Council.
 - The application Ref is 24/00419/FUL.
 - The development proposed is Erection of 1no. self-build dwelling and ancillary outbuilding utilising existing vehicular access (improved).
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Decision

1. The appeal is dismissed.

Reasons

Defining the issues

2. The appeal site lies on the edge of the long-established settlement of Foxearth, much of which forms part of the Foxearth Conservation Area (CA). The origins of the village were undoubtedly, centred on agricultural workers living close to the farms and estates upon which they worked. The surrounding countryside still retains the character and appearance of open pasture with both arable and livestock farming present. The village has grown through infill as well as some edge of settlement additions.
3. The appeal site is an open paddock with an indented gated field access directly onto The Street, the main road which passes through the village. This access is proposed to be utilised as the vehicular entrance to the new dwelling¹. The boundaries are delineated by open post and rail fencing as well mature frontage trees to The Street and a bank of trees on the common boundary with Foxearth Hall.
4. The first reason for refusal highlights that the appeal site lies outside of the defined Foxearth development boundary², and consequently it is considered to be within the countryside where policy³ seeks to protect its intrinsic character and beauty and development is normally restricted to that which supports countryside uses. As with many other third tier villages, the residents of Foxearth are likely to rely on private vehicles to meet their transport needs.

¹ The Highway Authority have raised no objection to this arrangement subject to conditions.

² Foxearth is a third-tier village as defined within the Braintree District Council Local Plan Section 2 (BDLP) at paragraph 3.7.

³ BDLP Policy LPP 1.

5. The second reason for refusal centres on matters related to the conserving and enhancing of the historic environment. The appeal site adjoins, Foxearth Hall, a Grade II* listed building described as having late 13th Century origins with further additions and remodelling carried out over the next 700 years. One of the prevailing features of the Hall is its enclosing bridged Moat, complete in its encircling of the listed building. The appeal site adjoins the Moat and the grounds of the Hall from the south with an intervening bank of mature boundary trees.
6. To the south of the appeal site⁴ is the CA which takes in the historic centre of the village, including the Church and a number of more traditional buildings, some listed. Some cottages are likely to have housed Foxearth Estate workers. Later expansion in more recent times outside of the CA has not generally enhanced its character or appearance. That would include the more modern houses and bungalows adjoining the appeal site to the south.
7. As decision-maker I must consider this appeal in light of the statutory duties placed upon me in Section 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which require that special regard shall be had to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess, and special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.
8. Paragraph 202 of the National Planning Policy Framework (the Framework) sets out that heritage assets are irreplaceable resources to be conserved in a manner appropriate to their significance.
9. Paragraph 212 of the Framework also requires that great weight should be given to the conservation of assets (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
10. I consider the statutory duty set out above to be the principal issue in this case. Consequently, I shall proceed with the consideration of this proposal with these matters at the forefront of my reasoning and weighing of the decision. Therefore, based on the identified duty and the submitted evidence, the overriding main issue which I shall address up front is whether the proposed development would preserve the setting and architectural and historic interest of the listed buildings at Foxearth Hall, and whether it would preserve or enhance the character or appearance of Foxearth Conservation Area particularly in relation to its impact on the significance of these heritage assets.

Consideration of the historic environment

11. In the Appellant's Heritage Impact Statement (HIS), it is accepted that the appeal site lies outside of the Conservation Area, but within the setting of several listed buildings which make up the Foxearth Hall site⁵. It is also identified that the proposal would need to be sympathetic to the heritage assets and to the setting of the village as it would define the entrance to the Conservation Area. These are uncontested points.

⁴ Although not adjoining.

⁵ HIS page 15 Section 5 first paragraph.

12. Just to the north of Foxearth Hall, beyond the encircling Moat, linked to the Hall via bridged access, are a group of barns and farm buildings which are, in the main, listed Grade II and are predominantly contemporary in date with the Hall from the 16th Century. Whilst these once agricultural buildings may be disused from their original purposes, they still retain the character and appearance of their estate function and grouping.
13. The significance of Foxearth Hall is embedded in the physical appreciation of the relationship of this historic house with the ensemble of listed ancillary estate buildings to the north, the encircling Moat⁶, the wider open fields in the landscape, which would have been farmed as part of the estate, and, just as important, the village of Foxearth, which has its origins in housing the estate workers. All of these elements contribute to the setting of these Heritage Assets⁷ which can be appreciated in views⁸ from along The Street approaching the village from the northwest, leaving in the opposite direction and from public footpaths which criss-cross the countryside to the north and east of the village. The readability of the relationship and thereby significance, as well as setting, between the heritage elements through an appreciation of the juxtaposition of the Hall, its associated farm buildings and agricultural land, and the small village once populated by estate workers would likely make sense even to the casual passerby⁹.
14. The HIA suggests that the presence of the encircling Moat, the frontage trees to the Hall, and the bank of trees along the common boundary with the appeal site, in some way, is an expression historically of the poor relations between the farmers and villagers prior to the building of a brewery in the village in 1878. In my experience the separation of a Hall and the estate buildings from the village where the workers lived is not an uncommon arrangement, the workers cottages likely being provided and owned by the family at the Hall. It was an expression of wealth power and a desire for separation accentuated, in this case, by the presence of the Moat¹⁰. Looking at the historic maps in the HIA¹¹, it is clear that the extent of the separation of the Hall from the village has been eroded by the creeping modern edge of settlement sprawl in recent times along The Street. In my view, the maintaining of the separation of the Hall from the built-up nature of the village is a fundamental contributory element to the significance of, not just the Hall, but the other associated heritage assets.
15. The appeal site is now the only open gap left between the Hall and the village along the main road through the settlement.
16. The appeal proposes a single dwelling located centrally to the plot. The proposal is of a quality design reflecting the character of some of the traditional buildings within the village. However, whilst the design of the house could be judged to be sympathetic, the physical presence of the development on the appeal site would erode the separation gap between the Hall and the village which I have identified as being fundamental to significance.

⁶ Moat is mentioned in the listing description and, for the avoidance of doubt, is considered to be within the setting of the LB and integral to its significance.

⁷ Including the CA.

⁸ Which may be glimpsed and vary with seasonal tree cover. Whether heritage assets can be seen in public views or not is not a factor in assessing their significance.

⁹ One of the associated listed barns is also used as a wedding venue with guests able to appreciate the full extent of the Estate buildings, the Moat and the Hall. The venue's setting in the context of the village would also be appreciable.

¹⁰ There is no firm submitted evidence of the age, origins or purposes of the moat.

¹¹ HIA pages 16 and 17.

Heritage harm outcome

17. As already identified when considering the impact of a development on the significance of a designated Heritage Asset, great weight should be given to the asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance¹².
18. It is undeniable that the appeal proposal would represent change in the significance and setting of these designated heritage assets. The proposed development would represent an erosion of the setting and significance of both the listed Estate buildings and Hall and the CA, centring on its discernible relationship and sense of separation between the various associated heritage elements. Great weight is ascribed to the conservation of these assets, particularly as Foxearth Hall being Grade II* listed¹³, along with its Moat and Estate buildings, and its apposition with the village, all work together to increase the importance of these heritage assets as an historic expression of the workings of a rural estate, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.
19. However, there would not be a total loss of significance and so the appeal proposal would lead to less than substantial harm to the significance of designated heritage assets¹⁴. In my judgement this would be on the upper end of a sliding scale of less than substantial heritage harm.
20. The identified harm and the weight ascribed to it should now be weighed against the public benefits of the proposal¹⁵.

Public benefits as promoted by the Appellant

21. The Appellant maintains the proposed new dwelling as a public benefit making a notable contribution to the supply of homes in the District. The Council has claimed a 5.8 year supply of housing land¹⁶. This has not been disputed by the Appellant, and it is accepted that there is not a shortfall currently. However, the supply is suggested by the Appellant as being marginal. The five-year supply is not a ceiling to provision.
22. The appeal proposal is only for a single attractive dwelling on a small site on the edge of the village, but outside of the development boundaries set out in the BDLP¹⁷. There is no suggestion the new house would adversely impact on the intrinsic character and beauty of the countryside.
23. In a national context every new home matters and some weight should be ascribed to the provision of the single home as a public benefit in this case. However, I am conscious that in the planning balance this weight would be diminished by the prima facie conflict of the proposal with the development plan policy to which full weight should be ascribed¹⁸.

¹² Framework paragraph 212.

¹³ An asset of the highest significance - Framework para 213 b).

¹⁴ Framework para 215.

¹⁵ Framework para 215.

¹⁶ Set out in the Five-Year Housing Land Supply Position Statement for 2023-2028 with associated Trajectory.

¹⁷ Within the countryside.

¹⁸ The Council can show a five-year housing land supply and therefore, the policies of the BDLP carry full weight – therefore, the terms of BDLP Policies SP7, LPP1 and LPP42 would bite.

24. The proposal would result in public benefits by the provision of positive but limited scale rural growth. This would include indirect jobs connected with economic activity from the increase in the number of homes in the village locality. There would also be temporary benefits in the construction industry for the duration of works on the development. The future occupants of the proposed dwelling would also contribute to the local economy through the purchase of goods, their employment and involvement in community activities.
25. The description of development on the application form refers to the proposal as being a self-build. The Framework charges local authorities with promoting the development of a good mix of sites, seeking opportunities to support small sites for amongst other things, self-build. Such provision would be weighed into the positive side of the balance, in this instance, as a public benefit. However, no means of securing the promoted self-build element of the proposal has been proffered. Therefore, little weight can be given to this aspect of the proposal as a public benefit.

Heritage balance

26. The public benefits identified by the Appellant vary in weight. They do present cumulatively a goodly positive weight to be added in the heritage balance as set out in Framework paragraph 215.
27. However, great weight and considerable importance should be given to the conservation of assets¹⁹ irrespective of any further identified harm. The infilling of the undeveloped gap between Foxearth Hall, including its estate buildings, and the village, an important and defining element in the significance of these heritage assets, has been identified as causing considerable harm to the significance and setting of the identified heritage assets²⁰.
28. The proposed development of the appeal site would not preserve the setting of the listed buildings, their historic interest, nor would it preserve or enhance the character and appearance of the Foxearth Conservation Area²¹. Whilst constituting less than substantial harm in Framework terms, this would result in an inordinate amount of harm to the significance of heritage assets. The considerable importance and great weight which I ascribe to this identified harm would outweigh the public benefits which would ensue from the development. Therefore, the heritage harm would be enough to reject the proposal on this ground alone.

Planning balance

29. However, it is clear that there is identified conflict with the Development Plan as a whole, resulting in consequential harm to which substantial weight should be ascribed. The proposal has also been assessed against the Framework as a whole and when specifically assessed against paragraph 212, it is found in the balance of the decision that specific policies in the Framework indicate development should be restricted, a finding which similarly weighs significantly against the proposal.

¹⁹ Framework paras 202 & 212.

²⁰ Harms identified above.

²¹ Statutory duties placed upon decision-maker in Section 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The terms of BDLP Policies SP7, Policies LLP 47, LLP 52, LLP 53, LLP 57 would also be offended.

Conclusion

30. The harms identified in respect of the proposal are sufficiently weighty to outweigh its benefits and provides clear reasons for the rejection of the appeal.

31. Consequently, I dismiss the Appeal.

Frances Mahoney

INSPECTOR