
Appeal Decision

Site visit made on 20 March 2017

by Jonathan Hockley BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 April 2017

Appeal Ref: APP/T0355/W/16/3162882

Land at Station Hill, Cookham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Oakford Homes against Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 16/01411, is dated 27 April 2016.
 - The development proposed is the erection of 4 no. dwellings together with associated access works, public open space, car parking and landscaping. The application includes the creation of a dedicated on site parking area for nursery staff and additional parking for the residents of Roman Lea to the western boundary of the site.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. The appeal was made against the failure of the Local Planning Authority to give notice of their decision on the application within the statutory period. Subsequent to the making of the appeal the Council confirmed that they would have refused the application. I have treated the Council's committee report as the decision the Local Planning Authority would have made, had they been empowered to do so.
3. The report states that the Council would have refused the application on three grounds, which can be summarised as the effect of the proposal on the Cookham High Street Conservation Area, including any effect on trees which contribute to the Conservation Area and the loss of open space. Based on all that I have seen and read I have no reason to disagree with this analysis of the key issues.
4. Subsequently I consider the main issue in this case to be whether the proposed development would preserve or enhance the character and appearance of the Cookham High Street Conservation Area.

Reasons

5. The appeal site lies on the edge of, but fully within the Cookham High Street Conservation Area (CHSCA). The CHSCA covers the historic medieval core of the village, located on the south bank of the River Thames and later areas of the village along the Pound dating from around the 17th century. These two distinct areas are separated by substantial green open space around Cookham
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Moor, centred on a crossing of the Fleet Ditch. The CHSCA also covers other areas of open space, including the appeal site and land to the north, as well as land separating Poundfield Lane from Terry's Lane which run northwards from both ends of the Pound.

6. The character and appearance of the CHSCA is enhanced significantly by such areas of open space, which as well as separating the two older sections of the village, also provide relief from the close knit dense development which is located along the High Street to the east and the Pound to the west. Cookham is indelibly associated with Sir Stanley Spencer, who spent much of his life in the village, setting many paintings depicting the settlement and its inhabitants, including areas within the conservation area, such as Poundfield and the setting of Englefield House, a grade II listed building set on Poundfield Lane.
7. The appeal site, as part of a wider expanse of land to the north and north east has an extensive planning history. This has included previous applications refused on highway grounds between 1967 and 1973 and outline applications in 1989 and 1991. These latter applications covering larger areas of land were dismissed by the Secretary of State at that time due to their effect on listed buildings, their settings, and the association of the larger site with Stanley Spencer. The site has further history relating to the proposed inclusion of the wider area within the Green Belt and subsequent quashing of this inclusion by the Court of Appeal. The site was added to the CHSCA by the Council in 2002, after the history detailed above. The Council's cabinet report from this time notes that the site has a role in providing views into the conservation area from the west and acting as an open foreground to Englefield House and its gardens. The report also notes that the land separates the western edge of the CHSCA from the adjacent buildings of Cookham Rise.
8. Section 72(1) of the Planning (Listed Building and Conservation Areas Act) 1990 states that special attention must be paid to the desirability of preserving or enhancing the character or appearance of a conservation area. Paragraph 132 of the National Planning Policy Framework (the Framework) says when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the asset's conservation. Significance can be harmed or lost through alteration or destruction of a heritage asset, or by development within its setting.
9. Policies DG1 and CA2 of the Local Plan¹ together state that the design of new buildings should be compatible with the established street façade, harm should not be caused to the character of the surrounding area through development, and that within conservation areas the Council will require that any development will enhance or preserve the character or appearance of the area.
10. The Cookham Village Design Statement (the VDS) is a supplementary planning document that was adopted in 2013. As such its policies and content informs planning decisions within Cookham. Guidance Points G4.5 and G14.1 of the VDS state that the role of Poundfield [including the appeal site] in providing a green wedge separating the Pound from the Station Hill area should be recognised, that proposals should not compromise this role, and that the views depicted in paintings by Sir Stanley Spencer are part of the villages' cultural heritage and that proposals having an adverse impact especially in relation to

¹ The Royal Borough of Windsor and Maidenhead Local Plan (incorporating Alterations Adopted in June 2003)

the direct visual linkage which is possible between the paintings and present day scenes should not be permitted.

11. The site comprises an open area of paddock land. Historical maps demonstrate that development of the immediate environs of the site has occurred steadily, with a row of housing on Roman Lea to the west dating from the early 20th century, and development to the south of the road occurring between 1925 and 1972. To the immediate south west lies a single storey nursery building, of modern post-war construction. The CHSCA boundary follows the site edge and consequently the Nursery and Roman Lea do not lie within the CHSCA. To the south of the site is the junction of the Pound/Lower Road and Maidenhead Road, which is formed by a mini roundabout. Poundfield Lane lies on the east edge of the site; Anchor Court, a 2½ storey red brick building with car parking to the rear is sited on the corner of the Pound and Maidenhead Road. The site is separated from a larger field to the north by a treed boundary.
12. The Pound is a fairly narrow street, tightly enclosed by boundary walls and buildings along its length. Due to its width it is not always possible for two vehicles to pass when travelling down the road. The enclosed nature of the street has been added to by the construction of Anchor Court, which is taller than buildings to its immediate east. The appeal site forms a welcome relief to this enclosure; when travelling from the east the site opens out views and forms a break before the generally more modern area of the village is reached.
13. From the south the site, whilst not appearing fully as open countryside, along with the open land to the rear it also forms a visual break within the village when approaching along Maidenhead Road. In the evidence there are various photographs showing the southern fence to the land with a wide array of signage located on it, causing clutter and detracting from the character of the area. However, at the time of my visit, clutter was considerably reduced with only the road signs and two small minor banners detracting from the space behind the fence. Whilst the site frontage is not especially large, it clearly visually and physically separates the Pound from Cookham Rise and contributes to the rural setting of the village as part of the network of open spaces in and around the settlement.
14. The proposed development would construct four residential units. A car park for the adjacent nursery is also included, as are a linear row of car parking spaces for Roman Lea. The proposal has been designed with an area of public open space at the front of the site, opposite to the mini-roundabout. This would stretch back to roughly a similar line to the rear building line of Anchor Court. A tarmac drive would be created off the roundabout on the east side of this space; the rear of the space would be bordered by a 3m high feature wall, with a 5 bar gate opening into the site. The open space would be planted with 3 semi-mature cedar of Lebanon trees, establishing a connection with Englefield House and the Spencer paintings. The proposed development would then be constructed in the land behind the wall, and after the proposed nursery parking, and as such would be partially hidden by the boundary wall.
15. However, whilst the open space would partially mitigate the effect of the proposal, the scheme would involve the undeniable development of land which forms an important part of the character of the CHSCA. Views from the south which currently exist of the appeal site rising gently to the land beyond would be affected and the scheme would join up the two areas of the village. The 3m

wall at the rear of the open space would also contribute to this effect, providing a hard boundary to the site edge, despite proposed landscaping proposals. Such an effect would also affect the views from the east when exiting the Pound. The enclosure of the space would also consolidate the built form of the village and join the older area of the village at the Pound, despite the presence of Anchor Court, to the Cookham Rise area of the village in a negative manner, adversely affecting both the character and the appearance of the CHSCA.

16. The scheme has been designed to appear as a farmstead. A large farmhouse type building would stand at the rear of the site, with 'barn' type buildings constructed on the west and southern edges, and a lower garage/cart shed on the right hand side for parking. However, I do not consider that this design would be fully convincing. A traditional farmstead would involve the farmhouse at the front of the yard, with its façade facing away from the yard and the activities therein. Access to and from the yard would be from the rear of the house. The barn style buildings are only marginally lower than the farmhouse and a central gabled feature with multiple windows would not, I consider, appear as a cart entrance style feature, particularly when considering that the reverse feature on the rear elevation would not line up with the front. This design would also cause harm to the appearance of the CHSCA.
17. The Council raise concerns over the impact of the proposal on trees on the site. The appellant's evidence includes an arboricultural survey² of the site to update the previous one, dating from 2013. This new survey identifies that the grouping of trees 'G2' on the eastern side of the site in the vicinity of the proposed cart shed are made up of English elm, ash and hawthorn, with elm dominating the group. The report notes that the elms at the northern end are diseased, which will spread to the remainder of the elms in the group in a few years. The felling of such trees is recommended. This would allow a hedgeline to be planted along the boundary with sufficient spacing between the hedge and cart shed to provide for maintenance.
18. A tree protection order (TPO) dating from 1991 covers elements of the eastern and northern boundaries of the site, described as Hawthorn and Blackthorn on the northern boundary and Elm and Hawthorn on the eastern boundary. The boundaries of the TPO are tightly drawn to the site edges. However, the survey notes that the age of the elms in G2 are such that they are younger than the TPO, and hence are not subject to the TPO. The hawthorns at the southern end of the eastern boundary would not be impacted by the proposal.
19. The Council also makes conflicting comments over the 'G1' grouping of trees in the northern corner of the site stating that there is no objection to the loss of blackthorn in this area, with the 3m screen of retained trees having a good clearance from the proposed buildings, before stating that the proposal to remove G1 is not acceptable. However, it appears to me given the evidence provided that this is an error on the Council's part and the latter reference is meant to refer to grouping G2.
20. Given the proposed movement of the cart shed away from the site boundary and the evidenced condition of the elms along this boundary, subject to conditions concerning tree protection and detailed landscape proposals I do not consider that the proposal itself would have an adverse effect on important

² Arboricultural Statement, James Blake Associates Ltd JBA 13/346 AR03, 13/10/16

trees along the boundary of the site and consequently in this regard would not cause harm to the character and appearance of the CHSCA. In this respect the proposal would comply with policies DG1 and CA2 of the Local Plan, as well as Policy N6 which states that applications for new development should submit a detailed tree survey, allowing wherever practicable for the retention of existing suitable trees, carry out any protection measures considered necessary, and include an appropriate tree planting and landscaping scheme.

21. There are various listed buildings located reasonably close to the site, with Englefield House located on Poundfield Lane, and Haydens Cottage, Old Oak Cottage, and Old Timbers all located on The Pound. All these properties are Grade II listed. However, the three properties located on the Pound are all separated from the appeal site by various other buildings, including the tall Anchor Court. Englefield House is also reasonably divorced from the appeal site through topography and landscaping. The appeal site forms a small part of the wider Poundfield as shown in the VDS and in isolation does not fall within the surroundings in which these heritage assets are experienced. I do not consider therefore that the site falls within the settings of these listed buildings, and the proposal in this regard would comply with Policy LB2 of the Local Plan which states that the Council will have special regard to the preservation of listed buildings and their settings.
22. Above I noted the connection of Sir Stanley Spencer to Cookham. However, the appeal site itself does not appear to be depicted in any of his paintings and hence development of the site would not alter the views within his paintings or detract from his visions. Due to this and when considering the relatively small scale of the site in comparison to the whole CHSCA, I am not convinced therefore that the proposal would reach the high bar of causing substantial harm to the character and appearance of the Conservation Area.
23. However, for the reasons given above, the proposal would neither preserve nor enhance the character or appearance of the conservation area, and would cause less than substantial harm to the significance of the heritage asset. The scheme would be contrary in this respect to Policies CA2 and DG1 of the Local Plan and Guidance Point 4.5 of the VDS. Although the harm caused to the CHSCA would be less than substantial, there would, nevertheless, be real and serious harm which requires clear and convincing justification. Paragraph 134 of the Framework indicates that such harm is to be weighed against the public benefits of the proposal, including securing its optimum viable use.
24. The public benefits that would arise from the scheme would include the provision of 4 homes. Such a number of open market houses would only have limited economic and social benefits, both during construction and through the occupation of the units. I do note however that there is no dispute that the Council are unable to demonstrate a five year supply of deliverable housing sites, and as such I place material weight on the provision of the houses in an area of housing need.
25. Benefits are also outlined in terms of the parking provision for the Nursery, and the residents of Roman Lea, as well as the provision of landscaped open space at the front of the site. A unilateral undertaking has been submitted concerning the provision and management of the open space and nursery parking. However, whilst I can appreciate that the parking would improve availability for the employees of the Nursery and potentially stop them parking

elsewhere, I have limited evidence that such parking is required or necessary to alleviate matters of highway safety. In terms of the open space, this would be fairly small in size, and restricted in size and usability terms by the access drive. I therefore place limited weight on such benefits.

26. In respect of the parking for the residents of Roman Lea I note that the residents have indicated that such space is not needed, and that the appellant has submitted an altered layout removing such spaces if the event that I find the same. It does not appear therefore that the spaces are required and as such they would have little public benefit.
27. Less than substantial harm does not equate to a less than substantial objection; the Framework states that great weight should be given to the conservation of heritage assets, and notes that such assets are irreplaceable. I place considerable importance and weight on the desirability of preserving and enhancing the character and appearance of the CHSCA, and when taken together in the round I do not consider that the proposal provides clear and convincing justification which would outweigh the harm that the proposal would cause.
28. The Framework states that policies for the supply of housing should not be considered up to date when a Council are unable to demonstrate five year supply of deliverable housing land. The same paragraph states that housing applications should be considered in the context of the presumption in favour of sustainable development.
29. Paragraph 14 of the Framework states that where relevant policies in the development plan are out of date, permission should be granted unless specific policies in the Framework indicate development should be restricted. In this context the Framework specifically refers to policies concerning designated heritage assets. I have concluded above that the proposal would be contrary to paragraphs 132 and 134 of the Framework, and as such the proposal would not constitute sustainable development.

Other Matters

30. The Council consider that the proposal would involve the loss of open space with historical significance which is valued by the community and offers an open space enjoyed for its tranquillity in the heart of the settlement, which would be contrary to paragraph 74 of the Framework. Given the volume of public interest in the appeal and the application it is clear that the site is valued by sectors of the local community. However, I am not convinced that this paragraph applies to the appeal site.
31. Paragraph 74, and the preceding paragraph which leads up to it, considers the loss of open space which is used for sports and recreation. The Annex to the Framework states that open space means "all open space of public value, including not just land, but also areas of water...which offer important opportunities for sport and recreation and can act as a visual amenity". To my mind this means that such land needs to offer opportunities for sport and recreation *and* act as a visual amenity. Whilst the site acts as a visual amenity, it is not publically accessible and would not I consider fall within the remit of this definition and paragraph.

32. The appellant raises concern over the conduct of the Council during their consideration of the application, including matters of pre-application advice, design and the Council's decision to employ external Heritage consultants whose opinion differed from the Council's own specialist officers, including the Council's own conservation officer who had no objections to the scheme. I note such comments; however, I have dealt with the appeal on its own merits. Any complaint regarding the Council's conduct should be made in the first instance through their own complaints procedure.

Conclusion

33. To summarise, I conclude that the proposed development would neither preserve nor enhance the character and appearance of the Cookham High Street Conservation Area. Although I have concluded that the proposal would cause less than substantial harm to this heritage asset, I do not consider that the public benefits of the proposal would outweigh the clear harm caused. As such the proposal would conflict with the Framework and Policies DG1 and CA2 of the Local Plan, as well as with Guidance Point G4.5 of the VDS.
34. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission be refused.

Jon Hockley

INSPECTOR