
Appeal Decisions

Site visit made on 8 January 2018

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 24th January 2018

Appeal A: APP/G2245/W/17/3181660

Land east of Crockham House, Hosey Common Road, Westerham TN16 1PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Irene Beaumont against the decision of Sevenoaks District Council.
 - The application Ref SE/16/03853/FUL, dated 14 December 2016, was refused by notice dated 28 February 2017.
 - The development proposed is described as 'demolition of an existing building comprising of two flats above garages and the erection of a new dwelling with a carport'.
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Appeal B: APP/G2245/Y/17/3181662

Land east of Crockham House, Hosey Common Road, Westerham TN16 1PR

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
 - The appeal is made by Mrs Irene Beaumont against the decision of Sevenoaks District Council.
 - The application Ref SE/16/03854/LBCALT, dated 14 December 2016, was refused by notice dated 8 February 2017.
 - The works proposed are described as 'demolition of an existing building comprising of two flats above garages and the erection of a new dwelling with a carport'.
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Decisions

Appeal A

1. The appeal is dismissed.

Appeal B

2. The appeal is dismissed.

Procedural matter

3. The applicant's name was misspelt on the application form and Decision Notices. This was corrected on the appeal form and confirmed in the appellant's statement and I have used the corrected spelling in my heading above.

Main Issues

4. The site is located in the open countryside, outside any defined settlement boundary, within the Green Belt and the Kent Downs Area of Outstanding Natural Beauty (KDAONB); Crockham House is a Grade II* Listed Building, the

building to be demolished is within the curtilage of Crockham House and is therefore curtilage listed. None of these facts are in dispute between the parties. The main issues are therefore:

- Whether the proposal would be inappropriate development in the Green Belt having regard to the National Planning Policy Framework and any relevant development plan policies;
- Whether the proposal would preserve the Grade II* listed building known as Crockham House or its setting or any features of special architectural interest that it possesses;
- The effect of the proposed development on the character and appearance of the area, including the KDAONB; and
- The effect of the proposed development on ecology and biodiversity.

Reasons

5. The development plan includes the Sevenoaks District Council Local Development Framework Core Strategy DPD, 2011 (Core Strategy) and the Sevenoaks District Council Allocations and Development Management Plan, 2015 (ADMP). The National Planning Policy Framework (the Framework) is a material consideration to which I give significant weight. The Council has also published a number of Supplementary Planning Documents which are material to the matters before me including Development in the Green Belt (GBSPD), and Sevenoaks Countryside Assessment (SCASPD). The Kent Downs AONB Management Plan is also relevant.

Is the proposal inappropriate development in the Green Belt?

6. The Framework advises that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and permanence. The Framework also advises that inappropriate development in the Green Belt is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 89 advises that the construction of new buildings should be regarded as inappropriate in the Green Belt, subject to certain exceptions.
7. Bullet point four of paragraph 89 identifies one such exception as the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces. The Framework does not define what is meant by the terms 'materially larger' or 'the same use'. The existing building is occupied as two flats on the first floor with garages on the ground. The garages are ancillary to the flats. The principal purpose to which the building is put is therefore residential. The proposed development would replace the building with a single dwelling and ancillary car port. The principal purpose to which the new building would be put would therefore be residential. The Council seek to differentiate between the existing use and proposed use with regard to the fact the existing building comprises two self-contained units and garaging. The proposed use however also contains ancillary parking. The contention that two residential units as opposed to one would take the proposal into a different use from the existing is not well founded. They are both for residential purposes and in the context of the wording of the Framework, given a normal reading, they are the same use. The Council also point to policy GB4

in the ADMP to add weight to their contention and suggest that the policy is singular in reference to the replacement of 'an' existing dwelling. This seeks to put an excessively restrictive interpretation on the application of the policy and is not consistent with the Framework. Even if the Council are right in its interpretation of the policy, which I do not accept, this would reduce the weight I afford to conflict with the policy as it would not be consistent with the Framework.

8. The second aspect of the exception relates to materially larger. The ADMP and GBSPD advise that for the purposes of GB4 a replacement dwelling can be up to 50% greater than the floor area of the original dwelling. The original dwelling being that as existing on 1st July 1948, this is consistent with the definition of an original dwelling in the Framework. Policy GB 4 also requires that the volume and design does not materially harm the openness of the Green Belt through excessive scale bulk or visual intrusion. The Council accept that existing dwelling has a floor area of 287 sqm and that the proposed development would have an above ground floor area of 287 sqm, and a total floor area of 368 sqm. On this basis the development would result in a 28% increase in floor area. The Council accept that the proposed development would result in a building which would have an increased footprint of 44.6sqm; according to the applicant existing dwelling covers an area of 161 sqm which with the 44.6sqm additional area would represent an increase of 27%.
9. The Existing building is one structure and comprises two storeys part pitched roof part flat roofed. The proposed development disaggregates the volume of the building into a group of buildings and although the principal building has a greater volume and bulk in the roof, the disaggregated form reduces the overall bulk and mass of the built form. The proposed building would be no higher than the original building and overall I am satisfied that the building would not be materially larger than the existing building and would not have a greater impact on openness. On this basis the proposed development would comply with policy GB4 and bullet point 4 of paragraph 89 of the Framework. On this basis I conclude that the proposed development would not be inappropriate development in the Green Belt.
10. In *Lee Valley Regional Park Authority, R (on the application of) v Epping Forest District Council & Anor (Rev 1) [2016] EWCA Civ 404*, the Court of Appeal endorsed the conclusion of Dove J in the High Court. Where development is found to be 'not inappropriate' applying paragraphs 89 or 90 of the Framework, it should not be regarded as harmful either to the openness of the Green Belt or to the purposes of including land in the Green Belt (see para 17 of judgment).
11. Impact on openness is implicitly taken into account in the exceptions unless there is a specific requirement to consider the actual effect on openness. Therefore, for those exceptions within paragraph 89 where the effect of the development on openness is not expressly stated as a determinative factor in gauging inappropriateness, there is no requirement to assess the impact of the development on the openness of the Green Belt.
12. However, a finding that a development is 'not inappropriate' does not automatically mean that it is acceptable in terms of other planning issues, and I therefore go onto consider those other planning issues, as previously identified, below.

Whether the proposal would preserve the Grade II listed building known as Crockham House or its setting or any features of special architectural interest that it possesses*

13. It is accepted by the parties that the existing building to be demolished is within the curtilage of Crockham House and is therefore curtilage listed. This means that the building shall be treated as part of the listed building. Crockham house is listed Grade II* with the original part of the house having a 15th Century origin. There is no dispute between the parties regarding the nature and importance of Crockham House and indeed both parties agree that the building to be demolished which is a twentieth century addition does not add to the significance or special interest of the main house. The Council confirm that they have no objection in principle to the demolition of the building. I see no reason to disagree with these conclusions and agree that the demolition of the building would not result in material harm to the special interest of the listed building Crockham House.
14. The setting of the listed building however is a different matter and were the principal divergence of opinion between the parties arises. The Heritage statement undertakes an analysis of the site and concludes that whilst the existing building to be demolished sits within the curtilage and setting of the listed building the proposed building is located outside the setting of the listed building. In part this analysis is based in on assessment of the surrounding landscape, layout and views of the site from public locations. I am of the view that the appellant's assessment is somewhat constrained and limits the extent of the setting of the building excessively. The Planning Practice Guidance advises that the contribution that setting makes to the significance of the heritage asset does not depend on their being public rights or an ability to access or experience that setting. This will vary over time and according to circumstance.
15. The Framework advises that the setting of a heritage asset is the surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.
16. In my view the wider setting of the asset includes the rural location and valley floor location and this adds to the understanding of the asset as an early example of an isolated rural farmstead which reflects the development of land in the KDAONB. It provides an evidential and historical example of the nature of built development in the locality. The meadow to the east and within which the proposed development would be located contributes to that setting and in understanding the buildings significance. The introduction of built form in this location, and particularly given the modern design including large glazed elements would harm that setting and the contribution it makes to the special interest of the building. There would be glimpsed views of Crockham house from which the existing tree line, whilst reducing, would not totally obscure views of the property. When added to the domestication of the land as domestic garden land and subdivision of the site to create a new curtilage for the proposed property the cumulative effect would be to diminish the rural setting within which Crockham house is experienced.

17. I accept that the existing building has a negative effect on the setting of Crockham House presently, and that its demolition and removal would result in a positive benefit to the setting of Crockham House. But weighing these two effects on the setting of the listed building against each other I conclude that the harm resultant from the new development would be greater than the improvement resultant from the demolition of the existing building.
18. Overall therefore, on the basis of the above, I conclude that the proposal would not preserve the listed building known as Crockham House or its setting and would result in material harm to that setting and thereby the understanding of the significance of the listed building. Consequently the proposal would conflict with development plan policies SP1 in the Core Strategy and EN4 in the ADMP which seek to conserve or enhance a heritage asset and its setting.

The effect of the proposed development on the character and appearance of the area, including the KDAONB

19. The Framework advises, at paragraph 115, that great weight should be given to conserving landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to landscape and scenic beauty. The development plan through ADMP policies LO8 and EN5 reflect the status of the AONB and the protection afforded to it. The SCASPD identifies the site as lying within the darent valley – Westerham and Brasted which includes in its key characteristics a gentle undulating river valley on gault clay, medium-small scale arable and pastoral fields. The landscape actions in the assessment suggests that the positive impact of the historic built form should be conserved, that vernacular styles are interpreted in new building, and that the isolation of farmsteads should be conserved amongst other matters.
20. Given my conclusions in respect of the effect on the setting of the listed building above, this feeds into my considerations in respect of the effect on the landscape and AONB. The introduction of a cluster of buildings in the proposed location would reduce the isolation of the farmstead and would add additional domestication to the existing landscape. The more sensitive location, in landscape terms, for the new building would contribute to the impact on the wider landscape. Whilst I have accepted that the existing building has a negative contribution to the heritage asset in landscape terms it is more discreetly located and not in such an open location.
21. The modern design approach seeks to interpret vernacular styles and seeks to produce the effect of a collection of rural buildings with the use of materials that reflect materials in the locality with the use of weatherboarding . However the overtly modern approach and large areas of glazing introduce elements that detract from the simplicity of rural buildings and would be somewhat out of keeping.
22. For the reasons given above I conclude that the proposed development would result in material harm to the character and appearance of the area and would not thereby preserve the scenic beauty of the KDAONB, to which I give great weight. Consequently the proposal would conflict with policies LO8 and EN5 of the ADMP which amongst other matters seek to conserve the special character of the landscape and the KDAONB.

The effect of the proposed development on ecology and biodiversity

23. The application was supported by a Phase 1 habitat survey, however the Council were concerned that this was carried out more than two years ago and that in the absence of more up to date information to confirm the findings were still valid were concerned the proposals did not adequately address the potential effect on biodiversity and ecology. The appellant have provided an update extended phase 1 habitat survey report dated august 2017. This has concluded that the site is located at the base of a wooded valley and comprises formal gardens and areas dominated by scattered scrub and trees; the site of the proposed new house being mown semi improved grassland. It is noted that the site and surroundings have not changed since the previous survey that the wider site has the potential to support various protected species but that the proposed construction site does not have any potential for any of the protected species owing to it being mown managed grassland. It also confirms that the existing building is not currently being used by bats. The report has various recommendations to ensure the potential effects of the development are mitigated.
24. The Council have not responded to the additional information and have not provided any further evidence concerning potential adverse effects of the development on biodiversity or ecology.
25. The Framework requires that when determining applications the aim should be to conserve and enhance biodiversity. Given the evidence before me I am satisfied that the proposed development would not result in harm to biodiversity or ecology. With the imposition of suitable conditions securing the recommendations in the update phase 1 habitat survey the biodiversity and ecology of the area would be preserved. Consequently the proposal would not conflict with policy SP11 of the Core Strategy or G12 of the ADMP which seek to preserve the biodiversity of the district.

Overall conclusions

26. I have concluded that the proposal would not be inappropriate development in the Green Belt and would not result in harm to ecology or biodiversity, which would be preserved. I have also concluded that the demolition of the curtilage listed building would not result in harm to the significance of the listed building.
27. I have however concluded that the proposal would result in material harm to the scenic beauty of the KDAONB and the significance of Crockham House, a Grade II* listed building, by an adverse effect on its setting which would not be preserved. The harm to the significance of the designated heritage asset would be less than substantial and therefore paragraph 134 of the Framework requires that I weigh this against the public benefit of the proposal. I have already balanced the removal of the existing building in the context of considering the overall impact on the setting and not found that this would outweigh the harm from the new building. There are no other public benefits that have been put forward in support of the development. Matters were the development would not result in harm are not benefits, there may be limited benefit from the imposition of conditions in terms of biodiversity but these would be limited in scale and there may be some minor economic benefit from the implementation of the development. I do not see the reduction in the number of residential units in the Green Belt as a benefit as the consideration of the impact on the Green Belt relates to maintaining openness and the

permanence of the Green Belt. I have concluded that the development would not be inappropriate and as part of the consideration accepted that the development would not be materially larger. I did not, however, conclude that there would be an improvement to the openness of the Green Belt. In terms of harm to the heritage asset this is not outweighed by the public benefits of the scheme.

28. Overall I therefore conclude that the proposed development would result in material harm to the heritage asset known as Crockham House and the scenic beauty of the KDAONB and that in the context of the planning application the proposal would thereby conflict with the development plan and there are no material considerations that indicate that a decision otherwise than in accordance with the development plan would be appropriate.
29. For the reasons given above I conclude that both the appeals should be dismissed.

Kenneth Stone

INSPECTOR