



Appeal Decision

Site visit made on 15 July 2019

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 July 2019

Appeal Ref: APP/M2270/W/18/3215766

Land at Common Road, Sissinghurst, Cranbrook, Kent TN17 2JR

- 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 Kingacre Estates Ltd against the decision of Tunbridge Wells Borough Council.
 - The application Ref 18/01827/FULL, dated 5 June 2018, was refused by notice dated 7 August 2018.
 - The development proposed is described as 'The construction of two No. 3-bedroom detached houses, one No. 4-bedroom detached house, two No. 4-bedroom semi-detached houses and three No. 3-bedroom terraced affordable houses with associated parking and landscaping'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for the proposed development with reference to the accessibility of services and facilities and policies concerned with the location of housing;
 - The effect of the proposed development on the character and appearance of the area;
 - Whether the proposed development would preserve the setting of Carpenter's Corner¹ and The Crossways, Grade II listed buildings and preserve or enhance the character or appearance of the Sissinghurst Conservation Area;
 - The effect of the proposed development on highway safety, with particular reference to visibility, access and parking
 - The effect of the proposed development on biodiversity.

Reasons

Whether the proposed development would be in a suitable location

3. The appeal site encompasses a parcel of land to the north of Frittenden Road with a frontage on Common Road. It is currently undeveloped and over grown

¹ Also referred to as Carpenter's Cottage

and therefore exhibits a verdant, rural character. It has the appearance of a site in the countryside.

4. The appeal site is located in between the linear hamlet of Cranbrook Common which is strung out along the A229, and village of Sissinghurst, which is focussed on the A262. The latter has several facilities including a church, recreation ground, public house, restaurant, takeaway and shop within its core. To reach the village core, as well as the nearest bus stops and the primary school, future occupants of the appeal scheme would need to negotiate Common Road.
5. Unlike the section of Common Road between the recently constructed housing estate² and the village core, the section between the appeal site and the nearest facilities in the village represents an unsafe and unappealing walking environment due to the apparent speed of the traffic and the absence of a pavement for a major part of the route. For similar reasons cycling from the appeal site to the nearby facilities is unlikely to be desirable and, in any event, it would require a level of confidence, fitness and proficiency that future residents may not possess. It is therefore likely that future occupants would be car dependent, a point acknowledged in the appellant's Transport Assessment.
6. Vehicle trips into the village from the appeal site would be short in duration. They would however, occur frequently due to the absence of safe alternative means of travel. As such, the vehicle trips associated with eight households would soon add up with the associated carbon emissions. Even when allowing for the rural context of the appeal site, where opportunities to maximise sustainable transport will be inherently more limited than in urban areas, the appeal site is not particularly well placed with relatively easy access to services and facilities.
7. This impact would diminish as combustion engines are phased out and replaced by ultra-low emission and electric vehicles. Nevertheless, the houses, if approved, are likely to be constructed in the short term and therefore it is unlikely that the majority of future occupants would use these vehicles. Accordingly, this cannot be relied upon as a means of mitigating the inaccessible location of the site in the short to medium term. In any event, regardless of whatever vehicle is used by future occupants, the challenging accessibility of the appeal site to services and facilities would not promote the social and health benefits conducive with safe and convenient opportunities for walking and cycling.
8. In light of the foregoing, the appeal site is not located within the 'Limits to Built Development' (LBD) identified in the development plan. These have been established in order to protect the countryside and ensure sustainable patterns of development. The Tunbridge Wells Borough Local Plan 2006 (LP) seeks to concentrate new development within existing built up areas by directing it to appropriate locations within the LBD. Policy LBD1 of the LP states that development will only be permitted outside these limits where it would accord with all relevant policies of the plan. Core Policy 14 of the Core Strategy (CS)³ echoes this approach by stating that development will generally be restricted to sites within the LBD.

² Approved under appeal reference APP/M2270/W/15/3006768 – The scheme includes access to a pavement into the village centre which passes the nearby bus stops and links to the primary school

³ Tunbridge Wells Borough Local Development Framework Core Strategy 2010

9. There is no dispute between the Council and the appellant that the appeal site is located outside the LBD of Sissinghurst. The evidence before me does not indicate the appeal scheme has the support of a specific policy within the LP or the CS such as an allocation (pursuant to Core Policies 1 and 6) or other criteria-based policy that permits certain forms of development exceptionally outside the LBD, such as a rural exception site. Thus, the proposal would be poorly related to services and facilities and would be at odds with, and harmfully undermine, the adopted spatial strategy for the location of new development set out in policies concerned with the location of housing.

The effect on the character and appearance of the area

10. The built form of Sissinghurst stretches out from the village core along Common Road and the appeal site is experienced in this context. The presence of nearby dwellings, conifer hedging and the large housing estate immediately to the south of Frittenden Road, provides an edge of village feel and context to the appeal site. Nevertheless, Frittenden Road marks a point of transition where the village tails off with only sporadic development north of this point intermingled with hedgerows and trees.
11. The appeal site is located north of Frittenden Road and has an undeveloped rural appearance, which is seen as a continuation of the valued open wooded countryside to the east, which is reasonably intact historic agricultural landscape with a scenic quality typical of landscape character area LCA7 – Sissinghurst Wooded Farmland, as defined in the Council's Landscape Character Assessment Supplementary Planning Document (LCA). When looking west from Frittenden Road and Spongs Lane the appeal site's spatial and visual relationship with the open countryside is particularly evident. The appellant's Landscape and Visual Impact Assessment acknowledges the presence of views from this direction in a local visual envelope. Moreover, the hedge along the western boundary of the appeal site is a particularly important landscape feature as it affords a rural continuity and character to the section of Common Road north of the crossroads.
12. The proposal is for the erection of eight dwellings arranged as a small cul-de-sac. In this respect, the proposal would not follow the grain of loose and sporadic development north of Frittenden Road and would appear as an enclave of housing disconnected to the village. Accordingly, it would not be a natural extension of the village and would have the appearance of a discordant intrusion into the countryside. The taller houses would be located at the back of the site and these would be visible from Frittenden Road and Spongs Lane, visually intruding into the open countryside to the east of the appeal site.
13. The cul-de-sac form of the development, the engineered access, the turning head, and the garages and driveways would also have a suburban appearance, and this would compound the sense of the development being out of place. The Council's LCA identifies the increasing suburbanisation of the rural landscape as a detractor that should be resisted. This weighs against the appeal scheme.
14. In addition, the requirement for adequate visibility splays means a long section of the existing hedge along Common Road would have to be removed and the remainder cut back. This would disrupt the continuity of the rural character of the lane and expose the houses to a greater extent, albeit mainly to passing motorists.

15. In dismissing an appeal decision in 1991 an Inspector concluded that the loss of vegetation along the site frontage would be seriously damaging to the landscape. The decision was taken some time ago, but the immediate rural context of the appeal site does not appear to have changed to a significant degree and national and local policy still seeks development that is sympathetic to the landscape setting.
16. The appeal scheme is not without merit as some attempt has been made to soften the impact and provide a rural character. The two dwellings at the front of the site would broadly reflect the scale and appearance of traditional cottage architecture found locally. However, this approach would not be followed through to the properties at the rear of the site, which would be taller, with a wider span and generally lacking in the same architectural quality.
17. Landscaping would be used to soften the impact of the development with the frontage hedge replanted, albeit at a splayed angle, and an open area provided along the northern boundary of the appeal site that would include an avenue of trees. Further planting would be provided around the edge of the site. Details submitted with the appeal demonstrate the likely effect of the proposal with this landscape mitigation. Nevertheless, even with this landscaping the site would be dominated by the spine road, parking and houses and therefore a discordant suburban character would prevail. Accordingly, the visual impact, would be major/moderate even with the proposed mitigation.
18. I therefore conclude that the proposal would significantly harm the character and appearance of the area. This would be contrary to Policies EN1 and EN25 of the LP and Core Policies 4, 5 and 14 of the CS. These policies seek to secure development that is respectful of the site context, conserves the rural landscape and avoids unsympathetic change to the character of a rural lane.

Whether the proposed development would preserve the setting of Carpenter's Corner and The Crossways, Grade II listed buildings

19. Carpenter's Corner is a historic building that reflects the local building traditions of the area, particularly in the brick work, plain tiled roof and tile hanging. The structure is a good example of the rural vernacular and is therefore intrinsically linked to the landscape in which it is experienced. The rural context of the building is therefore important to its setting. The appeal site is located in the wider setting of this building, with any visual relationship being interrupted by Pinecroft. For the reasons already set out the appeal scheme would result in a suburban intrusion into the countryside and would have a notable urbanising impact upon Common Road. This would result in some harm to the wider rural setting of Carpenter's Corner.
20. The setting of Carpenter's Corner has been seriously affected by the new residential estate which wraps around its southern and eastern boundaries. This is a suburban intrusion that has eroded the rural setting of the listed building, but not extinguished it. The impact of the appeal scheme must be considered cumulatively and therefore the proposal would result in some limited harm to its setting.
21. The Crossways is of a similar style and age to Carpenter's Corner and its rural setting is likewise important to the way it is experienced. This structure is not flanked by modern housing and has an open aspect to the south over a field.

The harmful impact of the appeal scheme on the rural setting of this building would be greater than limited.

22. The appeal site is on the approach into the Sissinghurst Conservation Area, but it is some distance to the north separated by modern housing estates and other intervening landscape features such as hedges and trees. The development of the appeal site would have a negligible impact on the setting of the conservation area and those features that afford it significance. The impact would not harm the way it is experienced and thus its setting or significance. Accordingly, the proposal would conserve the character and appearance of the conservation area. Nevertheless, the harm I have identified to the setting of the listed buildings contrary to Policy EN1 of the LP and Core Policy 4 of the CS.

The effect of the proposed development on highway safety, with particular reference to visibility, access and parking

23. The drawings submitted with the appeal scheme demonstrate that visibility splays of 120 metres northbound and 160 metres southbound can be achieved from a point 2.4 metres back from the edge of the highway. The standards adhere to technical guidance⁴ and would permit motorists exiting the appeal site to see oncoming vehicles traveling at potentially high speeds. I am satisfied from the evidence before me that the splays would be contained within the appeal site and land in the control of the highway authority. The extent of the splays has been based on vehicle speed surveys that followed the methodology set out in the Department for Transport's technical memorandum TA22/81⁵ and can therefore be considered robust.
24. The speed surveys were undertaken for seven days and is therefore an adequate sample. They took place during the school holidays and at a time when the housing estate to the south of Carpenters Corner was being constructed. These issues may have suppressed the volume of the traffic. However, the development is some distance to the south and there is nothing of substance before me to suggest construction work here would have suppressed the speed of vehicles. On the contrary, the lower volume of traffic caused by the absence of school related traffic could have resulted in faster moving traffic as the route would have been flowing relatively more freely.
25. Larger vehicles, such as refuse lorries, entering or exiting the appeal site with a left turn would encroach into the path of oncoming northbound traffic. However, such a manoeuvre would be infrequent. Forward visibility along Common Road is extensive and therefore motorists travelling along it would be able to see a large vehicle undertaking a manoeuvre in ample time to react. The driver of the large vehicle would also see other motorists approaching and would be unlikely to pull out in front of them. On average two cars pass the site a minute. This would leave plenty of time to undertake a manoeuvre with minimal risk of a collision or sudden.
26. The appeal scheme would include an adequate number of parking spaces when applying the County Council's parking standards⁶. Plots 1, 2 and 3 would have tandem parking, which is not recommended in the guidance because the spaces would not be independently accessible. However, the rear space would

⁴ Design Manual for Roads and Bridges

⁵ Vehicle Speed Measurement on All Purpose Roads

⁶ Interim Guidance Note 3

be an open sided car port and therefore more likely to be used as a vehicle parking space instead of a domestic store. Moreover, the tandem arrangement would reduce the extent to which the parking is arranged in a row, which can result in a car dominated layout. Accordingly, tandem parking would be acceptable in this instance.

27. The parking would be positioned to the rear of Plots 1 and 2 and therefore future residents would have to walk a little way to access their front doors. This may prove to be a slightly inconvenient, but it is unlikely to result in them parking dangerously along Common Road or around the entrance to the development. This is because they would be more likely to use their allocated parking spaces, which would be easier to enter, spacious and not an unreasonable distance from the houses. Moreover, positioning the parking spaces in the way proposed would allow Plots 1 and 2 to positively address Common Road.
28. In conclusion, the proposal would provide adequate visibility splays, access arrangements and parking and therefore it would not present an unacceptable risk to highway safety. Accordingly, the access to the site would be safe and suitable and a conflict with Policy TP4 would not occur.

The effect on biodiversity

29. The appeal scheme is supported by a comprehensive biodiversity survey, but it did not include all the reptile surveys recommended. These have since been completed and a mitigation strategy prepared, as two common lizards were identified. The Council's Landscape and Biodiversity Officer has confirmed that the additional surveys have addressed the Council's concerns in respect of this matter. I have no reason to disagree.
30. Replacement and new hedgerows would replace that proposed for removal by a factor of around 4.5. This should provide additional compensatory habitat for dormice, the presence of which was identified within the appeal site. Nest boxes would also be provided. There are legitimate concerns that parts of the new hedgerow would be in the gardens of the properties, but this could be addressed through a management plan.
31. Paragraph 9.34 of the appellant's statement summarises the biodiversity mitigation and enhancement proposed as part of the scheme. This includes a comprehensive suite of actions with some of the more significant being tree planting, the provision and retention of a wildlife area in the north western corner of the appeal site and bird and bat boxes erected throughout the site. The measures would be enough to ensure there would be no net loss in biodiversity and therefore a conflict with Policies LBD1 and EN1 of the LP or Core Policy 4 of the CS would not occur, as these policies seek to prevent development where there would be a significant adverse effect on nature conservation and no net loss in biodiversity.
32. An empirical means of measuring whether the mitigation listed by the appellant would result in a net gain in biodiversity has not been submitted. Therefore, I cannot be certain the measures would result in a net gain, as required by Paragraph 170 of the National Planning Policy Framework. The submissions include differing expert opinions on this point. This is a material consideration weighing against the appeal scheme even though there would be no conflict with the requirements of the development plan, which are now out of date.

Other Matters

Whether any harm to heritage would be outweighed by public benefits

33. The harm I have identified to the setting of Carpenter's Corner would be limited with the effect on Crossways being slightly greater than this. This impact would be 'less than substantial' within the meaning of the National Planning Policy Framework. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal.
34. The proposal would deliver eight new homes, and this would contribute towards the Council's housing supply at a point in time when it is unable to demonstrate a five-year housing land supply. The appellant has not contested the Council's recent calculation of the supply being 4.69 years. The delivery of eight homes would not be a large contribution to the housing supply but it would still be useful and include a mix that would help address housing needs and choice. Housing delivery attracts moderate weight as a public benefit.
35. Although not required by planning policy⁷, the appellant has offered three of the homes as 'affordable housing'⁸ in an attempt to make the development acceptable when its benefits are weighed against its harm. It would be necessary for the affordable homes to be secured through a planning obligation so the public benefits can be secured and then weighed against the harm. To this end, an obligation has been submitted and therefore the provision of affordable housing is a public benefit of moderate weight that I can take into account.
36. The proposal would result in benefits to the construction industry and future residents may spend locally. However, the contribution to the construction industry would be short lived and I have seen nothing to suggest the 'spend' from eight additional households would have a notable effect on the viability of facilities in the village. Moreover, evidence has not been provided to suggest local facilities are suffering for lack of patronage. As such, the economic benefits carry limited weight.
37. When giving considerable importance and great weight to the special regard I must have to the desirability of preserving the setting of listed buildings⁹, I find that the slightly greater than limited harm to the setting of the listed buildings that would arise from the appeal scheme would be outweighed by its cumulative public benefits. Accordingly, there would not be a conflict with Paragraph 194 of the Framework as the harm to designated heritage assets would have a clear and convincing justification.

Whether the adverse impacts of the proposal would significantly and demonstrably outweigh its benefits.

38. In situations where the Council are unable to demonstrate a five-year housing land supply Paragraph 11d) of the Framework states that planning permission should be granted unless the application of policies within the Framework that protect areas or assets of particular importance provide a clear reason for refusing the development proposed or the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when

⁷ This prevents the Council from seeking affordable housing but not the appellant offering it

⁸ As defined by the Framework

⁹ See Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

assessed against the Framework taken as a whole. Given my assessment above, there are no policies in the Framework that provide a clear reason for refusing the proposed development. I have therefore applied the tilted balance.

39. The appeal scheme would be residential development outside the LBD of Sissinghurst contrary to policies concerned with the location of housing, Policy LBD1 of the LP and Policies 6 and 14 of the CS. However, if these policies are applied rigorously then any attempt to remedy the housing supply deficit would be frustrated. Nevertheless, the location of the proposal would not promote sustainable transport, an aim of the Framework. As such, I afford the conflict with the spatial strategy limited weight.
40. The proposal would result in significant harm to the character and appearance of the area contrary to the development plan. The Framework seeks to recognise the intrinsic character and beauty of the countryside and protect valued landscapes. It also aims to ensure development is sympathetic to local character. The appeal scheme would not achieve this for the reasons already given. The harm would be significant and is therefore of significant weight. Added to this, the proposal would have greater than limited harm to the setting of listed buildings and the appellant has not demonstrated the scheme would result in a net gain for biodiversity. The proposal would preserve highway safety, but the absence of harm is a neutral matter.
41. I have already concluded that the benefits of the proposal would be of moderate weight. Consequently, the significant adverse impacts of the appeal scheme would significantly and demonstrably outweigh its moderate benefits when assessed against the policies in the Framework taken as a whole. This does not suggest the appeal should be determined other than in accordance with the development plan.

Conclusion

42. The proposed development would preserve highway safety, but this would be outweighed by the significant harm that would otherwise occur for the reasons already given. Therefore, the proposal would not accord with the development plan taken as a whole. There are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal should not succeed.

Graham Chamberlain
INSPECTOR