
Appeal Decision

Site visit made on 29 January 2020

by Stuart Willis BA Hons MSc PGCE MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Appeal Ref: APP/T0355/W/19/3237343

April Dene, Warners Hill, Cookham, Maidenhead SL6 9NU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Kris Collett of Castlemere Developments against the decision of Council of the Royal Borough of Windsor and Maidenhead.
 - The application Ref 19/00241, dated 26 January 2019, was refused by notice dated 22 March 2019.
 - The development proposed is outline application for the erection of 2 x detached houses with access to be considered and all other matters reserved.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Outline planning permission is sought with all matters reserved except for access. I have had regard to the details provided in relation to this matter and have regarded all other elements as illustrative. I have determined the appeal on this basis.
3. The National Planning Policy Framework (Framework) states that the weight given to relevant policies in emerging plans should be according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency of the plan with the Framework.
4. The Royal Borough of Windsor and Maidenhead Local Plan – Incorporating Proposed Changes October 2019 (emerging plan) is yet to be adopted. From the details before me there is potential for further changes to the emerging plan. In addition, I am not aware of any unresolved objections to policies relating to this appeal. Consequently, the emerging plan carries limited weight in my decision.
5. Parties have had an opportunity to comment on the changes made to the emerging plan since the determination of the application. Therefore, it would not prejudice any party were I to take these policies into consideration in my reasoning and I have done so.

6. The appellant has included additional documents and information as part of their appeal¹. While not before the Council at the time of their decision, they were submitted at the outset of the appeal and therefore parties have had the opportunity to comment. The main elements of the scheme have not altered from that originally submitted and upon which consultation took place. Against this backdrop, no injustice would be caused to any appeal party or third party by my taking this information into account. I have considered the appeal on that basis.

Main Issues

7. The main issues of the appeal are:
- Whether the proposal would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect of the proposal on the character and appearance of the area, with particular regard to the Cookham Dean Conservation Area (CA) and the setting of nearby listed buildings;
 - Whether the proposal would provide appropriate living conditions for future occupiers, with particular regard to privacy;
 - The effect of the proposal on biodiversity; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Whether Inappropriate Development

8. The Framework outlines that the construction of new buildings, other than in connection with a small number of exceptions, should be regarded as inappropriate in the Green Belt. One of the exceptions is limited infilling in villages. The Framework does not provide a definition of 'limited', 'infill' or 'villages'. Inappropriate development according to the Framework is harmful to the Green Belt and should not be approved except in very special circumstances.
9. Policies GB1 and GB2 of The Royal Borough of Windsor and Maidenhead Local Plan (LP) sets out the exceptions to inappropriate development and includes certain residential development. This is providing they maintain the openness of, and do not conflict with the purposes of, including land in the Green Belt, along with certain other criteria. Policy GB3 of the LP refers specifically to infill residential development as being within the boundaries of a recognised settlement and closing a small gap in an otherwise built up frontage.

¹ Cultural Heritage Statement, Landscape and Visual Impact Assessment, Arboricultural Impact Assessment, Proposed Mitigation Measures for Residential Development plan, Illustrative site plan, Illustrative elevation and Illustrative section

10. The LP predates the publication of the Framework and the relevant policies are not entirely consistent with the Framework. I give this conflict considerable weight.
11. Policy QP5 of the emerging plan states that proposals will be considered appropriate where they are consistent with the exceptions listed in national planning policy. Limited infilling is said to be appropriate outside identified settlement boundaries where it can be demonstrated that the site can be considered as falling within the village envelope.
12. The scheme would be contrary to Policy GB3 of the LP as the site falls outside any 'settlement' as defined in the LP. However, the emerging plan, and case law acknowledge that other factors are relevant to whether a site is within a village.
13. Having travelled through the area, I see no reason to disagree with the CVDS² where it states that there is no clear pattern to Cookham Dean or areas of intense housing development. The evidence before me suggests that over time development in the cluster of properties near the appeal site has extended outwards from the bottom of the valley. This has mainly been in the form of ribbon development along one side of Warner's Hill and Hill Lane.
14. This cluster is largely surrounded by open fields with limited development opposite or beyond it. The undeveloped gaps around this cluster, along with the topography of the land and winding nature of the roads add to the feel of it as a physically and visually separate group.
15. This group is distinct from the larger clusters of more continuous development, such as those around and leading from the village green near Cookham Dean Village Hall to the south and that further west of the appeal site along Dean Lane. For the same reasons it is also separate from the more densely developed village of Cookham.
16. There are some services and facilities within a reasonable walking distance, and some have the village as a postal address. Nonetheless, while a lack of footways is not uncommon in the area, this does limit the connection between them and the site. Moreover, they are generally located in the larger clusters separate from the group near the appeal site.
17. The appeal site is within the area covered by the Conservation Area Statement Cookham Dean (CAS) and the CVDS. Notwithstanding this, these also cover areas of agricultural land and woodland as part of a wider defined area. For the reasons above, and my experience of travelling through the area, I consider the appeal site does not form part of the village.
18. As a consequence, whether or not the site could be said to be 'limited infilling' is not a determinative factor as, even if this was the case, this would not address the conflict with the exception in relation to the site not being located in a 'village'.
19. Therefore, when judged against the wording of national and local policy the proposal would be inappropriate development in the Green Belt which, according to the Framework is harmful by definition. It would conflict with

² Cookham Village Design Statement Supplementary Planning Document

Policy GB1, GB2 and GB3 of the LP, Policy QP5 of the emerging plan and the Framework.

Effect on the openness of the Green Belt

20. I recognise that the application is outline with matters of landscaping, layout, scale and appearance reserved and any permission could be subject to conditions. Nonetheless, the introduction of 2 dwellings along with parking and domestic paraphernalia would inevitably reduce the openness of the Green Belt in spatial terms.
21. There are mature trees and hedges to much of the site boundaries and it is indicated that these would be retained and reinforced. This would, at least in part, screen the site from certain views. Nevertheless, the proposed development would be visible to some degree through and above the boundary vegetation. This would include from the vehicle access point, within adjacent plots and from other views in the surrounding area, including from near the green along Dean Lane.
22. Therefore, in both spatial and visual terms the proposal would have a greater impact on the openness of the Green Belt than the existing situation. While the harm would be moderate, this would be contrary to the Framework where it states an essential characteristic of Green Belts are their openness. The proposal would not comply with the fundamental aim of Green Belt policy to prevent urban sprawl by keeping land permanently open. Furthermore, it would fail to assist in safeguarding the countryside from encroachment.

Character and Appearance

23. The appeal site is located within the CA. As such I have had regard to the duty to pay special attention to the desirability of preserving or enhancing its character or appearance. From my observations, and the CAS, the significance of the CA lies, in part, in its rural appearance with large areas of agricultural land. Greens and commons are the focus of the many clusters of development, connected by winding country lanes. Many of these clusters have their origins from groups of farmstead buildings. They are often framed by pleasant backdrops of undeveloped agricultural land and mature landscape features.
24. There are a number of listed buildings near the site. Other than Old Beams, the listed buildings³ are located off Dean Lane around what is now the green. As well as their individual characteristics, the significance of these lies, in part, in their setting. This includes the open and agricultural land that dominates the hills to both sides of Dean Lane. This reflects their historic link to the origins of this cluster. Old Beams is located on Warners Hill with properties either side of it. Therefore, it is not viewed in the same context as those at the bottom of the valley.
25. The appeal site is part of the garden of April Dene. Nevertheless, the absence of large scale or residential built form and the presence of mature boundary landscape features give it the appearance of an open and undeveloped field. From my site visit I saw that the rising land either side of Dean Lane, and spaces between properties make the site prominent in views from many public and private vantage points in the area. This includes from near the small green, the properties around it and also in certain longer range views on the

³ Redaways Cottage, The Forge and Forge Cottage

- other side of the valley. The site forms part of the backdrop of the historic core of buildings in the valley bottom.
26. Consequently, I consider that the site positively contributes to the significance of the CA and the setting of the listed buildings.
27. The appeal site would be a continuation of the houses along Warners Hill which already has more residential development than the hillside opposite. Notwithstanding this, the scheme would introduce dwellings and domestic paraphernalia into what is currently an important break in development.
28. It is indicated that the style of the dwellings and palette of materials would be vernacular to the settlement. Moreover, the scheme would re-instate the original rear garden of April Dene. Nonetheless, while the listed buildings would still retain their prominence in many views, the development would remove the visual separation that the site currently creates between these properties and the development along Warner's Hill.
29. The Arboricultural Impact Assessment suggests that there are engineering solutions to ensure that any effect on the retained trees would be avoided. In addition, further planting would provide screening and modify views with the properties cut into the slope. Nonetheless, any new planting would take some time to mature. Moreover, the illustrative details indicate that some works would be close to mature trees within the site and that some would be removed. There is no arboricultural method statement provided and details of the proposed works, including alterations to land levels to create the proposed access are limited. Therefore, while I appreciate matters of landscaping, scale and layout are reserved, from the information before me I cannot be sure that the trees said to be retained could be appropriately protected.
30. In any event, the illustrative details suggest that even with the proposed mitigation the development would still be visible through, over and around the vegetation from several vantage points. Therefore, the scheme would result in the existing openness of this prominent location being eroded, to the visual detriment of the open and agricultural setting of the listed buildings and, in part, the rural appearance of the CA.
31. Views along the road fronting the site are limited and the existing access would be closed up with new planting. However, there would be a lengthy part of the existing hedgerow and bank set back, as well as some removed, to create the access and visibility splays. This would erode the feeling of enclosure that the narrow winding lane bordered by mature vegetation on raised banks currently creates on this side of the road. This would be harmful to the rural character and appearance of this part of the CA.
32. For the purposes of the Framework, the CA and listed buildings are designated heritage assets. Within the overall context, I consider that the proposal would lead to less than substantial harm to the significance of these. The Framework indicates that such harm is to be weighed against the public benefits of a proposal. However, great weight should be given to an asset's conservation.
33. The proposal would contribute towards the housing supply and mix in the area. The Council are currently unable to demonstrate a 5-year supply of housing land and any contribution is worthwhile. Nevertheless, even if I were to agree with the appellant regarding the level of supply, given the size of the

development the contribution and benefits would be minor. Similarly, any benefits associated with the local economy and services from the construction and occupation of the properties would be limited.

34. As such, on the basis of the information before me, in this instance the public benefits would not outweigh the identified material harm to the designated heritage assets. The proposal is therefore contrary to the historic environmental policies contained within the Framework.
35. Consequently, the scheme would fail to preserve or enhance the character or appearance of the CA or the setting of the listed buildings. The proposal would conflict with the landscape, design and conservation aims of Policies GB3, DG1, CA1, CA2, H10, H11, N6 and LB2 of the LP and Policies QP1, QP3, HE1 and NR3 of the emerging plan. It would also fail to meet the requirements of Section 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

Living Conditions

36. There are several ground and first floor windows at April Dene facing the appeal site. While I was not able to enter the property, from the details provided of the previous extension to the dwelling and my observations on site these mostly serve habitable rooms. I appreciate that some of these rooms have other openings that are not orientated towards the appeal site.
37. From the illustrative details, the direct views from these windows would be towards the side of the proposed properties and over the appeal site. Nonetheless, some of these windows are relatively large. As such, there would also be views, particularly from the rear most windows on the side elevation of April Dene, into the rear outdoor space of the proposed dwellings.
38. Boundary treatments and landscaping could be introduced. Notwithstanding this, due to the slope of the site there would be views from the remaining garden areas of April Dene into the appeal site as well. Moreover, at present there is no established boundary vegetation in this position. Therefore, any landscaping would take time to mature and provide screening.
39. Consequently, the proposal would fail to provide appropriate living conditions for future occupiers with regard to privacy. It would fail to accord with the Framework where it requires developments to provide a high standard of amenity for existing and future users.

Biodiversity

40. While only a small number of trees are said to be removed, the information before me is insufficient to demonstrate that other mature trees could be retained and protected. These trees have potential to support protected species.
41. The Planning Practice Guidance indicates that an ecological survey will be necessary in advance of a planning application if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate.
42. Without any survey of the relevant features it is simply not known whether protected species are present and, if there are, whether mitigation measures would be appropriate. There is a further question concerning the

implementation of any such measures. Given this degree of uncertainty, the use of conditions would not be reasonable in this case.

43. The absence of sufficient information means I cannot rule out potentially significant harm to biodiversity. As such, it would be contrary to Policy NR2 of the emerging plan where it, states that protected species will be safeguarded from harm or loss.

Other Considerations

44. The Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. The Green Belt, conservation areas and listed buildings are examples of such an area/asset and the proposal is contrary to the relevant policies of the Framework in regard to these.
45. Nevertheless, the proposal would contribute towards the housing supply and mix in a location within walking distance to some services and facilities. However, being for only 2 dwellings such benefits would be minor and economic benefits associated with the scheme also limited. I therefore give these matters little weight.
46. There are no refusal reasons relating to matters such as living conditions, highway safety or parking provision. Nevertheless, the absence of other harm is a neutral factor.
47. I note comments regarding recent properties at the bottom of the valley. These are said to have been on the site of a former garage and are viewed in a different context to the open sloping land at the appeal site. Therefore, as with the various appeals⁴ referred to by both main parties that relate to different locations and/or scales of development, they are materially different to this appeal scheme. In any event, I have assessed the proposal before me on its own merits and found that harm would arise.

Conclusion

48. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. It would also lead to a moderate loss of openness to the Green Belt, fail to preserve or enhance the character of the CA and setting of nearby listed buildings. In addition, it would fail to provide appropriate living conditions for future occupiers and potentially cause harm to biodiversity. The other considerations in this case do not clearly outweigh the harm that I have identified.
49. Consequently, the very special circumstances necessary to justify the development do not exist. The proposal would be contrary to Policies GB1, GB2, GB3, DG1, CA1, CA2, H10, H11, N6 and LB2 of the LP along with Policies QP1, QP3, HE1, QP5, NR2 and NR3 of the emerging plan and the Framework.

⁴ APP/T0355/W/19/3220424, APP/T0355/W/18/3201716, APP/T0355/W/17/3167166, APP/D3830/W/15/3137838, APP/C3430/W/18/3207145, APP/R0660/W/17/3170279, APP/M3645/W/16/3141780, APP/Y3615/W/12/2184747 and APP/R0660/W/18/3201548

50. Therefore, for the reasons given, and having taken into account all matters raised, I conclude that the appeal is dismissed.

Stuart Willis

INSPECTOR