

Appeal Decision

Hearing held on 1 December 2021

Site visits made on 20 September 2021 & 1 December 2021

by Robert Parker BSc (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/L3625/W/20/3257176

1 & 2 Rosebank Cottages, Cockshot Hill, Reigate RH2 8BQ

- 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 Mr Matthew Arnold of The Oakwood Group against the decision of Reigate & Banstead Borough Council.
 - The application Ref 19/02597/F, dated 23 December 2019, was refused by notice dated 1 July 2020.
 - The development proposed is demolition of the two existing dwellings and the erection of ten new semi-detached houses, together with associated car parking, boundary planting and the provision of a vehicular access off Cockshot Hill.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Matthew Arnold of The Oakwood Group against Reigate & Banstead Borough Council. This application is the subject of a separate decision.

Procedural Matters

3. Following the determination of the application, a revised National Planning Policy Framework ('the Framework') was published. The parties have had the opportunity to comment on the implications for the appeal.
4. The Council advises that, subsequent to its consideration of the Arboricultural Impact Assessment, it no longer wishes to maintain an objection to the impact of the proposal on existing trees. I shall return to the matter of trees later.

Main Issues

5. The main issues are:
 - a) the extent to which there would be a loss of heritage significance arising from the demolition of Nos 1 & 2 Rosebank Cottages;
 - b) the effect of the proposal on the character and appearance of the area; and
 - c) whether any harm in respect of these issues is outweighed by housing land supply and other considerations.

Reasons

Heritage significance

6. The appeal site comprises a pair of semi-detached cottages and land within their curtilage on the east side of Cockshot Hill. The site is bounded to the north by Smoke Lane which rises steeply from the main road, and to the south by the rear gardens of dwellings in Hill House Drive. Beyond that lies a major office campus belonging to Surrey County Council, the grounds of which wrap around the site to the east.
7. Nos 1 & 2 Rosebank Cottages ('Rosebank Cottages') have been locally listed on the basis that they fall within a particular age bracket (1840 to 1914) and constitute a building of 'definite quality and character'. The Council further considers the building to be an unusual example of its type. The appellant does not dispute that the cottages should be treated as a non-designated heritage asset but disagrees with the decision to add them to the local list, contending that their level of heritage significance is not sufficient to warrant this.
8. The Council has applied its own selection criteria when considering whether the building should be locally listed. These criteria were adopted prior to publication of Historic England Advice Note 7 (Second Edition)¹. However, this advice note is not intended to be prescriptive. It sets out commonly applied selection criteria but makes clear that local planning authorities are free to develop their own criteria which respond to the local heritage of their area. Although the Council may have been wise to review its local listing criteria against more recent national guidance, this does not invalidate its methodology which was adopted following a process of consultation and then reaffirmed in 2012.
9. The criteria applied by the Council in adding this particular building to the local list are broadly in line with three of those set out in the Historic England document: Age, Architectural and Artistic Interest, and Rarity. The cottages are of some age, with historic maps indicating that they were built in around 1850 as part of the estate of Hill House, a small-scale country house to the south. They have a picturesque quality as a consequence of their strong geometry and symmetry, steep roof pitch and decorative barge boards. These features give the cottages a distinctive character, which is experienced by users of Smoke Lane and passers-by on Cockshot Hill. The elevated position on a greensand ridge draws attention to the building in localised views.
10. At the hearing, the Council explained that it is selective in choosing which properties to add to the local list, with cottages making up a small proportion of the total. The appellant contended that Rosebank Cottages are less cottage orné and more gothic in design, with the latter entering the mainstream at approximately the same time the cottages were built. I have taken account of both parties' arguments, yet the evidence is inconclusive on whether the building typology has rarity value at the local or national level.
11. The evidence does not enable me to place the cottages on a sliding scale of significance relative to other non-designated heritage assets in the Borough. Nonetheless, I am satisfied that Rosebank Cottages hold a sufficient degree of interest, in age and architectural terms, to warrant their inclusion on the local list. Local listing does not provide any statutory protection and I am aware that

¹ 'Local Heritage Listing: Identifying and Conserving Local Heritage' (2021)

prior approval has been granted for demolition of the cottages. This is a relevant consideration to which I have had regard, but the parties agree that the building is a material consideration until such time as it is demolished. This approach is consistent with Framework policy which requires the effect of an application on the significance of a non-designated heritage asset to be taken into account.

12. Policy CS4 of the Reigate and Banstead Local Plan: Core Strategy (2014) (Core Strategy) is consistent with Section 16 of the Framework in seeking to respect, conserve and enhance the historic environment. Policy NHE9 of the Reigate & Banstead Local Plan Development Management Plan (2019) (DMP) reflects paragraph 203 of the Framework. This states that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
13. The loss of Rosebank Cottages would conflict with the objectives of Core Strategy Policy CS4. In accordance with DMP Policy NHE9, the harm should be balanced against the benefits of the replacement scheme, taking into account the quality of that scheme and its impact on the character and appearance of the area.

Character and appearance

14. This particular stretch of Cockshot Hill has a strong verdant character, with trees and vegetation flanking the road for several hundred metres. The site is located within the urban area of Reigate, yet I can understand why the Council described it at the hearing as semi-rural. Rosebank Cottages are the only properties with a frontage onto this part of the hill. They are raised high above the level of the road behind a steeply banked front garden.
15. Planning permission² was granted in 2003 for the construction of a vehicular access to serve a new driveway and parking area for two cars. The parties are agreed that the permission remains extant, although it was clear from my site inspection that the bulk of the works are yet to be carried out. At present, neither property benefits from off-street parking.
16. The proposal is to demolish the existing cottages and to construct a row of ten semi-detached houses running the depth of the site. Most of the houses would face southwards onto an internal access road, but Plot 1 would present its principal elevation towards Cockshot Hill in a similar manner to the existing cottages. The appellant argues that the visual impact of the proposed access and parking would be comparable to that of the extant permission, were this to be fully implemented.
17. The approved driveway and parking area will introduce hard surfacing to the front of the site, where none presently exists. However, the appeal proposal is for a wider entrance onto Cockshot Hill and there would be less scope to retain vegetation around the edges of the hardstanding and in front of the dwellings. Local Highway Authority requirements dictate that the access for the development should be on a gradient no steeper than 1 in 20 for the first 35 metres. This would require the removal of a large volume of material at the front of the site and the need for retaining structures on the boundaries with Smoke Lane and properties on Hill House Drive to the south of the site. This would have major implications for the appearance of the scheme.

² Council Ref P/03/00199/F

18. It was evident from discussions at the hearing that the scheme had not been drawn up with the driveway gradient in mind. The ground floor slab levels for many, if not all, of the plots would need to be substantially lower than shown on the plans. This could give rise to some tall retaining structures along the site boundaries, casting significant doubt over the ability of any developer to retain existing trees along the northern boundary of the site, as shown within the Arboricultural Report. These trees are of mixed quality, but collectively their canopies make a positive contribution to the character of Smoke Lane. The need to reduce site levels also calls into question the feasibility of providing a footpath link onto Smoke Lane – the appellant conceded at the hearing that this would require a set of steps rather than the level access shown on the plans.
19. Based on the information presented, it is impossible for me to have certainty over the appearance of the development. Site levels and boundary treatments are fundamental to the success of the scheme in terms of its relationship to surrounding townscape and to retained trees and proposed planting. It is wholly inappropriate to rely on conditions to control these aspects of the development.
20. The Council contends that the scheme would constitute overdevelopment of the site. There can be no dispute that the plots would be smaller than many of those in nearby residential streets. However, the area contains a variety of different layouts which are mostly defined by their period of construction. In this context, and taking into account the imperative within paragraph 124 of the Framework to make efficient use of land, a higher density on the appeal site would not give rise to material planning harm. The development would create its own distinctive character whilst still providing a good standard of living for residents. The landscaping shown on the plans for individual property frontages would not be materially different to that found within other housing schemes that have been permitted in Reigate.
21. The majority of plots would be identical in appearance, comprising two-storey, semi-detached houses with accommodation in the roof. These units would have a traditional appearance, not dissimilar to dwellings approved on the Reigate Garden Centre site. Plots 1 and 2 would be different in design, with the former presenting a façade onto Cockshot Hill. Although the architecture of Plot 1 is not objectionable per se, it is rather humdrum and does not display the same visual interest as the cottages it would be replacing. Planning conditions could be used to control some of the detail, but nevertheless I do not consider that the architecture would represent an enhancement relative to the current position. This weighs against the scheme.
22. Overall, the application lacks a sufficient level of detail to ensure a high quality development which compensates for the loss of the locally listed cottages and preserves the character and appearance of the area. The hardstanding at the front of the site would combine with large retaining structures to create an overly urban form of development, detracting from the strong verdant character which prevails along this section of Cockshot Hill. There would be inadequate opportunity for soft landscaping to mitigate the harm. This would lead to conflict with Core Strategy Policy CS10 and DMP Policies DES1, DES2 and NHE3. These policies are consistent with paragraph 130 of the Framework in seeking to ensure that developments are visually attractive as a result of good architecture, layout and appropriate and effective landscaping; and sympathetic to local character and history, including the surrounding built environment and landscape setting.

Housing land supply considerations

23. The main parties are far apart in their assessment of the housing land supply position. The Council's 2021 Housing Delivery Monitor document states that the authority can demonstrate an 8.92 year supply of deliverable sites, whereas the appellant calculates the figure to be 2.1 years.
24. Central to the dispute is the matter of the housing requirement. The Council has based its requirement figure on Policy CS13 of the Core Strategy which states that at least 6,900 homes are to be provided between 2012 and 2027, equating to an average annual provision of 460 dwellings per annum (dpa). The appellant, on the other hand, has used a higher figure of 1,136 dpa based on applying the standard method for calculating local housing need as set out in the Framework and the Planning Practice Guidance.
25. Paragraph 74 of the Framework requires local planning authorities to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old. Footnote 39 indicates that it is still possible to rely upon strategic policies that are older than five years, where they have been reviewed and found not to require updating.
26. The Core Strategy was adopted in 2014. However, the Council undertook a review of the document in 2019 and determined that its housing requirement did not need modification. It is not for me to go behind that decision which I note was not challenged in the courts. The Council has a broad discretion for deciding the format of any review. Applying the wording of the Framework, the Council is entitled to use the Core Strategy requirement figure as the basis for determining whether it can demonstrate a five year supply of deliverable housing sites. It is common ground, based on the latest House Delivery Test measurement, that a 5% buffer should be applied.
27. The appellant makes a number of other arguments in relation to the Council's treatment of past oversupply, its allowance for windfalls and the deliverability of a number of sites in the housing trajectory. Although these were explored within the evidence and at the hearing, it is not necessary for me to reach a finding on each individual point. Figure 4 of the appellant's evidence on housing land supply³ provides a useful summary of the situation. It indicates that, even were I to accept the appellant's position on deliverable supply, the land supply position against the Core Strategy housing requirement would be 5.2 years. This is argued to be marginal, but it does not engage the tilted balance set out in paragraph 11 d) (ii) of the Framework.
28. But that is not the end of the matter. There is compelling evidence to indicate a very significant unmet need for new homes in Reigate and Banstead. The Core Strategy Inspector's Report considered the objectively assessed housing need (OAN) to be between 600 and 640 dpa. However, it was accepted that 460 dpa was the most sustainable level of provision that could be achieved having regard to the environmental and other constraints across the Borough. This represented a shortfall of over 2,000 dwellings against the full OAN.

³ Response to additional Housing Land Supply Documents (November 2021)

29. The Council does not contest the appellant's calculation of housing need under the standard method. The figure of 1,136 dpa, which takes account of more recent household projections and worsening affordability, is substantially higher than the range for OAN set out by the Core Strategy Inspector. This is indicative of the scale of housing need having increased considerably. Regardless of which of the parties' supply positions is adopted, the Council would be able to deliver less than half of the local housing need figure over the next five years. This represents a significant housing shortfall.
30. Whether this renders the Core Strategy figure out-of-date for the purposes of applying paragraph 11 d) of the Framework is a moot point. In my opinion, it does not. The Core Strategy figure of 460 dpa is a constraints-led figure which takes account of the significant environmental constraints within the Borough, which include the Metropolitan Green Belt, Surrey Hills Area of Outstanding Natural Beauty and flood plain. There is no substantive evidence before me to demonstrate that circumstances have changed in the interim, since the Core Strategy was adopted and then reviewed, such that a significantly higher figure would be achievable. Establishing this would be a plan-led, borough wide exercise in any event and is outside of the scope of a Section 78 appeal.
31. Policies CS6 and CS13 of the Core Strategy and Policy MLS1 of the DMP include provision for the managed release of allocated sustainable urban extensions, within identified broad areas of search. These mechanisms would come into play if and when it is predicted that a five year housing land supply will not be maintained. However, such pro-active measures are unlikely to address the full level of need and I share the view of the Core Strategy Inspector that all opportunities should be taken to increase housing delivery from within urban areas. The Framework seeks to significantly boost the supply of new homes and consequently I have attached the benefits of delivering housing (a net provision of eight units in this particular case) substantial weight.

Other Matters

32. The first refusal reason indicates that the scheme's acceptability is dependent on evidence being presented to demonstrate that the total loss of Rosebank Cottages cannot be avoided. Such evidence has been provided by the appellant. The Local Highway Authority's gradient requirements for the access road make it impractical to retain the existing building. This does not, in itself, make the proposal acceptable. The outcome of the appeal will require a balanced judgement to be made in line with Policy NHE9 of the DMP and paragraph 203 of the Framework.
33. There have been various objections to the scheme on highway grounds, notably in relation to parking provision and the proposed access onto Cockshot Hill. The design and layout of the scheme has been the subject of considerable discussion with the Local Highway Authority who are content that the scheme could be accommodated without compromising the safety of highway users or pedestrians. There is no technical evidence to lead me to a different view.
34. I have taken account of all other concerns raised in representations, including the impact of the proposal on the living conditions of neighbours, the effects on local infrastructure, land stability issues and disruption to local residents during construction. However, based on the information before me none of these matters would be reasons to dismiss the appeal.

35. The appellant draws my attention to the fact that the site is not covered by any protective designations and further reminds me that the Council is not alleging harm to the living conditions of neighbours. Such matters are neutral in the planning balance.

Planning Balance and Conclusion

36. The site is located inside the built-up area of Reigate and is within walking distance of services and facilities, education and employment opportunities. Its development would accord with the Council's priority to focus housing within existing urban areas. The proposal would make efficient use of the site and it would make a modest but nonetheless important contribution to the supply of housing. Although the Council is able to demonstrate a five year supply of deliverable housing sites, there is a backdrop of significant unmet housing need and therefore the social benefits of housing delivery attract substantial weight. The development would also generate employment during the construction phase and these economic benefits weigh in favour of the development.
37. The proposal would bring parking into the site and thereby eliminate the need for residents to leave their cars on the road. However, there is no evidence to suggest that the current arrangement of parking at the kerbside is detrimental to the safe and efficient operation of the highway. Consequently, this benefit attracts only limited positive weight in the planning balance.
38. Against the benefits I must balance the harm. The existing cottages are non-designated heritage assets and in my opinion the Council had reasonable grounds to add them to the local list. Locally listed buildings do not have the same level of heritage significance as those included on the statutory list, but they do form an important part of the Borough's historic environment and development plan policy affords them protection. The demolition of the building would lead to total loss of significance and this weighs heavily against a grant of planning permission.
39. The quality of any replacement scheme is also a significant factor in the overall planning balance when considering whether to permit the loss of a locally listed building. Although the layout and density are not objectionable, the proposal would fail to respect the character and appearance of Cockshot Hill. The harm would be permanent and irreversible and I have attached it significant weight.
40. Overall, I conclude that the harm to heritage assets and the character and appearance of the area would outweigh the totality of the benefits, including those relating to housing delivery. The proposal would conflict with the development plan taken as a whole and other material considerations are not sufficient to justify a decision otherwise than in accordance with the development plan. My findings on housing land supply mean that the tilted balance within paragraph 11 d) (ii) of the Framework is not engaged. However, even if it were, the adverse impacts would significantly and demonstrably outweigh the benefits, such that the proposal would not constitute a sustainable form of development.
41. For the reasons given above I conclude that the appeal should be dismissed.

Robert Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Simon Randle	Counsel instructed by the Appellant
Matthew Arnold	Director, The Oakwood Group
John Fleetwood	Owner, The Oakwood Group
Laurie Handcock	Director of Heritage and Townscape, Icen Projects
Nick Ireland	Planning Director, Icen Projects
Andrew Gale	Planning Director, Icen Projects
Mark Powers	Technical Director, Waterman Group

FOR THE LOCAL PLANNING AUTHORITY:

Hollie Marshall BA Hons PG Dip TP MRTPI	Senior Planning Officer
Andrew Benson BSc MSc MRTPI	Head of Planning
Petra Skelly	Policy Development Officer
John McNally	Design and Conservation Officer

INTERESTED PARTIES:

Cllr Paul Chandler	Adjoining ward member
Michael Jones	Resident of Hill House Drive
Robert Goddard	Resident of Hill House Drive

DOCUMENTS SUBMITTED AT THE HEARING

- 1) Signed Statement of Common Ground dated 1 December 2021
- 2) Appellant's response to representation from Michael Jones (30 November 2021)
- 3) Annotated version of Drawing no. P-010 from Michael Jones
- 4) Reigate and Banstead Local Distinctiveness Design Guide (2004)