



Appeal Decision

Site visit made on 13 December 2022

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 January 2023

Appeal Ref: APP/C3620/W/22/3298118

Clockhouse Copse, Horsham Road, Capel, Surrey RH5 5JJ

- 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 Fred Batt against the decision of Mole Valley District Council.
 - The application Ref MO/2020/0560PLA, dated 23 March 2020, was refused by notice dated 5 November 2021.
 - The development proposed is for 7 new 2 storey family dwellings with associated vehicle and pedestrian access in land adjacent to Horsham Road.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are a) whether the site is a suitable location for residential development having regard to the Council's housing strategy; and b) the effect of the proposed development on the setting of a nearby listed building.

Reasons

Location

3. The appeal site comprises a copse that is bound to the west by the A24 (Horsham Road) and has a scattering of existing dwellings close to its other boundaries. The former clockhouse brickworks sits slightly further to the east of the site. Gaps between buildings together with their positioning and scale allows for views between and over them, through to the open countryside. The area has a predominantly rural and open countryside character, to which the appeal site positively contributes.
4. Policy CS1 of the Mole Valley Local Development Framework Core Strategy 2009 (Core Strategy) seeks to focus new development towards previously developed land (PDL) within specified built-up areas. More specifically for villages, development and infilling on PDL is supported in larger rural villages. For smaller rural villages only infilling on PDL is supported. Within the countryside, development is considered in the light of other Core Strategy policies.
5. Policy ENV3 of the Mole Valley Local Plan 2000 (Local Plan) establishes that development in the countryside but outside of the Green Belt, will be protected for its own sake, and development adversely affecting its open character will not be permitted. Certain developments, such as those meeting the reasonable

needs of agriculture and forestry or essential facilities for outdoor sport and outdoor recreation are specifically supported.

6. These policies are broadly consistent with the National Planning Policy Framework (the Framework), both in terms of its aims of promoting sustainable development in rural areas and by seeking to conserve and enhance the natural environment. Therefore, given that the site is located within the open countryside and taking all of the above into account, development of the appeal site is contrary to these overall objectives.
7. However, in support of the proposal, the site's location is said to form part of the curtilage to the Clockhouse and thus constitute PDL. It is further suggested that the site should be considered as being within a settlement and that the proposal would therefore constitute infilling and thus be acceptable.
8. I acknowledge that a 'settlement' is not necessarily defined by a settlement policy boundary. Similarly, the term 'infilling' is not defined in local or national policy. Therefore, it will essentially be a question of fact and judgement, having regard to such matters as the nature and size of the development itself, the relationship between buildings, as well as the site's relationship to other, existing development and land adjoining and adjacent to it.
9. The Clockhouse is a large building standing in sizable grounds. The grassed garden area immediately to the building's rear is bound by a large pond with the copse (the appeal site) beyond. There is a vehicular access from the A24 which provides an area for parking. From this there is an informal footpath that traverses through part of the copse and provides access to the grassed rear garden area of the Clockhouse.
10. Having regard to the judgement in *Herbert Hiley v SSLUHC & Anor* [2022] EWHC 1289 (Admin), I am satisfied that the copse is sufficiently intimately associated with the Clockhouse that it could be considered to form 'part and parcel' of the existing building and thus part of its curtilage. On this basis the site could be considered to be PDL.
11. Aside from the Clockhouse and the adjacent barn, which has permission for conversion to residential use, there is a two-storey dwelling adjacent to the south-western corner of the site (Clockhouse Lodge). A small terrace of houses is located a short distance to the south of Clockhouse Lodge, close to the entrance to the brickworks. A pair of semi-detached dwellings are to the north of the site (Clockhouse Paddock) with a small group of dwellings to the north of these houses, positioned along the northern access to the Clockhouse.
12. On the opposite side of the A24 is a loose-knit ribbon of sporadic development in the form of individual properties that are mainly set back from their site frontages and screened by boundary planting. Most of these buildings appear to be dwellings although there is a car dealership opposite the appeal site whose building and forecourt are more prominent than others in the vicinity.
13. The pattern of development generally follows that of the A24, with buildings framed by the surrounding countryside. Thus, the character of the area is very much that of a low-density, rural area with extensive areas of space around and between buildings. Within this context the site is an undeveloped, verdant gap in a loose-knit ribbon of sporadic development and so is important to the existing rural character of the area.

14. I therefore do not find that the site to be amongst or next to buildings that could collectively be characterised as a settlement. Furthermore, given the loose arrangement of these buildings, the site could not in my opinion be considered to be a space into which the development would obviously and seamlessly fit.
15. I have also had regard to the Framework's advice regarding patterns of growth and its support for sustainable transport and the opportunities to maximise such solutions. The site is some 1.3km to the south of the village of Capel. Although there is a dedicated footpath along the site frontage which follows the A24 and then more minor roads to Capel, it is directly adjacent to the A24 for much of the route, is narrow in places and unlit. Therefore, walking to Capel, let alone a round trip, is unlikely to be an attractive proposition on a regular basis for many residents, especially during poor weather or hours of darkness. Similarly, cycling along the A24 to Capel is unlikely to be a route all but the most confident and proficient of cyclists would be prepared to undertake.
16. There are bus stops on either side of the A24, very close to the site, but I have not been provided with any details as to the level or regularity of any services. The nearest railway station has not been identified. I passed signs on the A24 to Ockley Station which appeared to be a similar distance from the site as Capel but on the other side of the A24. It therefore appears to me that most future residents would be likely to need the use of a car to access the station.
17. The appeal site is on an A Road with good access by car to neighbouring towns and villages but appears to offer little, if any, opportunity for more sustainable forms of transport. Consequently, future occupiers are likely to be reliant on private motor vehicles to meet the majority of their day-to-day needs such as when they require access to employment, shops, education, health services and other such facilities. This does not weigh in support of the scheme.
18. Overall, I find that the site is not within an area where residential development is encouraged by development plan policies or the Framework. Therefore, on this main issue, the dwellings would not comply with the Council's strategy and locational objectives for residential development in the District.
19. The proposal would therefore be contrary to Policy CS1 of the Core Strategy and Policy ENV3 of the Local Plan. These policies, amongst other things, set out the Council's approach in relation to the settlement hierarchy, including when infill development is appropriate, ensure that new developments are situated in sustainable locations and so represent a sustainable pattern of development that also protects the countryside's intrinsic character.

Heritage

20. The proposal involves development of Clockhouse Copse, which I have concluded could be considered to be part of the curtilage of the Clockhouse, a Grade II listed building. I have a statutory duty to have special regard to the desirability of preserving the setting of a listed building. The Framework requires heritage assets to be conserved in a manner appropriate to their significance and both Policy CS14 of the Core Strategy and Policy ENV42 of the Local Plan are broadly reflective of this approach.
21. The Clockhouse is a 15th century timber framed farmhouse that has been subject to later alterations and additions which are most evident at the rear of

the building. Whilst the proportions and windows on the front elevation point towards the building's origins and construction, the rear gable features and the 6x6 sash windows on the southern elevation clearly present as a newer elevation, of contrasting appearance to the front. The extensive chimney stacks, which probably have their origins in the 17th century, are a further notable feature of the building's evolution over time.

22. Although the primary special interest of the building is expressed in its architecture, it also includes the evidential, aesthetic and historic value as an example of a vernacular domestic building that has been altered over time. The result of this is a mix of several historic layers.
23. The building also derives intrinsic historic and evidential value from being experienced in a rural setting. There is the large barn next to the listed building, which was rebuilt in the early part of the 20th century and now has permission to be converted to a residential use. However, other dwellings are more distant and set apart from one another and the listed building itself. The sparsity of other domestic properties near to the listed building, reinforces its history as a farmhouse and sense of independence. The building's setting therefore contributes positively to its significance.
24. The proposal would introduce three detached and four semi-detached dwellings onto the appeal site. All the dwellings would be large, two storey structures. Although designed to exhibit an appearance that would reflect that of the Clockhouse, they would nevertheless have a modern, domestic and somewhat uniform appearance due to the fenestration, consistent heights, and the composition of the elevations.
25. Their residential character would also be evident in the large domestic curtilages, parked vehicles and associated activity. In addition, the proposed houses would be laid out in relatively close proximity to one another, around the new vehicular access. As such, the development would have a more suburban character than is evident within the area.
26. I acknowledge that the intention is to retain as much planting within the appeal site as possible and that additional indigenous species, trees and shrubs/hedgerows will be planted around the edges of the site to reduce views in/out of the site. Nevertheless, the new residential curtilages will contain less planting and tree coverage than at present and take on a more managed and domesticated appearance, which are unlikely to be completely screened.
27. Even if permitted development rights were removed to prevent additional outbuildings being erected, it is reasonable to expect future occupiers to introduce some garden paraphernalia and activities given the size of the gardens and that the houses provide family accommodation. This would further erode the rural character of the area which contributes to the setting of the Clockhouse.
28. Thus, when looking out from the Clockhouse and its environs, it would be possible to see and experience the new housing on the other side of the pond that is unrelated to the listed building. Consequently, and notwithstanding any proposed planting, the rural character and experience of the site would be eroded, and the setting of the listed building would be meaningfully diminished.

29. In conclusion, given that the houses would be set across the pond from the listed building and there would be trees/planting to the site's boundary, the proposal would result in a modest level of residual harm to the setting and significance of the listed building. Nevertheless, it would fail to preserve the setting of the listed building. This harmful impact would be contrary to Policy CS14 of the Core Strategy and Policy ENV42 of the Local Plan which, amongst other things, seek to prevent development where a listed building or its setting is harmed. The proposal would also be contrary to a key heritage objective of the Framework, namely sustaining and enhancing the significance of heritage assets.
30. In terms of the Framework, the harm I have identified would be less than substantial. Nevertheless, the totality of harm to designated heritage assets is a matter to which I should give considerable weight and importance in the overall planning balance.

Public Benefits and Heritage Balance

31. Paragraph 202 of the Framework requires that where 'less than substantial harm' occurs it should be weighed against the public benefits of the proposal.
32. The proposal would accord with the Framework's support for windfall sites and wider objective to significantly boost the supply of housing. The development would also make efficient use of PDL, in line with the Framework's objectives. The provision of seven new dwellings would make only a limited numerical contribution towards housing supply. However, the extent of the under-delivery in the area's housing supply and apparent lack of progress in arresting the under provision (the Council's 2021 Housing Delivery Target result was 70%) puts added emphasis on all new housing developments, of whatever scale. In these circumstances I attribute considerable weight to the proposal.
33. There would be associated economic benefits from the construction phase, albeit temporary, and in the longer-term future occupiers may make a more general economic contribution towards supporting services in the surrounding and wider areas. However, given the scale of the development the amount of that expenditure is unlikely to be high.
34. As the proposed development would not be within a settlement and there would be few, if any, opportunities for sustainable modes of transport, the claimed advantages in terms of the site's location would not occur.
35. Whilst there are no specific environmental or heritage designations on the site, this does not mean that no harm will arise as a result of the site's development. The absence of designations may reduce the potential obstacles to a site's development but does not, of itself, weigh in favour of the scheme.
36. The Design and Access Statement gives details of some of the features proposed to ensure a sustainable form of construction thereby reducing the pressures on energy. Although such measures are becoming more common, they nevertheless can be given a small amount of positive weight.
37. I have had special regard to the desirability of preserving the setting of the listed building. I have attached considerable importance and weight to this desirability.

38. Whilst the delivery of 7 houses in an area where housing provision is well below Government expectations would be advantageous, the strength of the heritage objection is greater. Therefore, I conclude that the public benefits would not, either individually or collectively, be sufficient to outweigh the harm to the heritage asset which would result from the development.

Planning Balance

39. The harm to the designated heritage asset provides a clear reason for refusing the development. Therefore, notwithstanding the housing land supply position, there is no need to refer to the test in paragraph 11 d) ii) of the Framework. As a result, the presumption in favour of sustainable development does not apply.

40. Whilst there would be some beneficial aspects of the scheme, I have not found there to be justification for permitting the less than substantial harm to the heritage asset. Furthermore, I have found the proposal to be contrary to the Council's housing strategy.

41. For these reasons, the proposal would conflict with the development plan taken as a whole. There are no other material considerations, including the Framework, which lead me to determine the appeal other than in accordance with the development plan.

Conclusion

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

Stewart Glassar

INSPECTOR