



Appeal Decision

Site visit made on 30 November 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 December 2022

Appeal Ref: APP/K2230/W/21/3282506

Land at Battle Street, Cobham, DA12 3BZ

- 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 William English against the decision of Gravesham Borough Council.
 - The application Ref 20201335, dated 5 November 2020, was refused by notice dated 8 March 2021.
 - The development proposed is erection of a 4 bedroom detached house, including access, landscaping, parking and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. These are:
 - Whether the proposed dwelling would be inappropriate development within the Green Belt and, if so, whether other considerations clearly outweigh the harm to the Green Belt and any other harm, so as to amount to very special circumstances;
 - Whether the proposal would preserve or enhance the character or appearance of the Cobham Conservation Area and the effect on the setting of the adjacent Meadow Cottages; and
 - The effect on the landscape and scenic beauty of the Kent Downs Area of Outstanding Natural Beauty (AONB) and on the Ashenbank and Cobham Parkland Landscape Character Area.

Reasons

Whether inappropriate development

3. The National Planning Policy Framework establishes that the construction of new buildings in the Green Belt should be regarded as inappropriate unless one of the specified exceptions applies. These include limited infilling in villages. The appeal site is outside the designated rural settlement boundary of Cobham on the Core Strategy policies map.
4. However, the judgment in *Julian Wood v SSCLG and Gravesham Borough Council* [2015] EWCA Civ 195 establishes that when considering whether a site is in a village, regard should be had to the situation "on the ground" as well as any relevant policies. In this regard, the supporting text of the Core Strategy

explains that the boundaries of the rural settlements inset from the Green Belt do not define their full extent. Indeed, some village facilities are outside the settlement boundary such as the Meadow Room village hall. Therefore the formal boundary of Cobham was set for a specific purpose and does not determine the “village” when applying paragraph 149 e) of the Framework.

5. The appeal site is situated along Battle Street to the north of The Street. It is a heavily wooded parcel of land. Development along Battle Street is fairly intermittent with some open land although it leads to a suburban cul-de-sac (Sarsens Close). The site is about 120m outside the defined village boundary. A 30mph sign and a village sign are further west and the Meadow Room community facility is a short way to the east. A continuous footway runs along The Street into the village centre from opposite the Battle Street junction. These provide indications as to the location of the site but greater importance should be attached to the layout of buildings and spaces.
6. In this respect, Cobham has a historic core with more dispersed development beyond. The extent of the main nucleus is clear, including tightly-packed buildings along The Street. Outside of it, there is quite an abrupt change with a substantial undeveloped area in front of Meadow House. The Old Parsonage is set in large grounds on the southern side. The village pump marks the transition out of the built-up area. Before reaching the junction with Battle Street, buildings are limited to the Meadow Room with its car park and Meadow Cottages. Whilst close to the heart of Cobham in terms of distance, the site is somewhat physically detached.
7. Furthermore, Battle Street has its own character which is that of a leafy lane with properties within the trees. It gives the impression of a distinct enclave rather than one that is directly connected to Cobham. Therefore the appeal site could not be said to be “in” the village. The density of development often ‘peters out’ gradually on the periphery of a settlement. However, on the western side of Cobham, the change is more dramatic because of the large gaps between buildings. So although the site is on the edge of Cobham, the proposal would not be “in” it but rather part of a separate, outlying area.
8. Cobham Conservation Area is extensive and includes the appeal site. It extends further to the north and west to include Owletts and the surrounding development. However, that boundary is not definitive as it was devised for a specific designation. The Conservation Area Appraisal Supplementary Planning Document also refers to Cobham throughout but that is because it relates to that area. It is not concerned with the application of national Green Belt policy.
9. Reference is made to an appeal decision at School Lane, Higham (Ref: APP/K2230/W/20/3255704). In that case the Inspector found a strong physical connection between the site and the village as it was directly opposite and visible from the built-up area of Higham. That is not so here. My decision at Wrotham Road, Culverstone Green also considered similar issues (Ref: APP/K2230/W/21/3273757). However, that site was immediately adjoined by development and was part of a long-established and continuous built frontage. Those circumstances do not obtain in this appeal which can therefore be distinguished from both of those cases.
10. Whilst there may be functional links to Cobham, the appeal site is physically outside the village. Therefore, irrespective of whether it would be “limited infilling”, the proposal would not take place in a village. As such, it would not

comply with the exception allowed for by paragraph 149 of the Framework and would be inappropriate development in the Green Belt. None of the Green Belt purposes would be offended but openness would be adversely affected because an undeveloped area would be occupied by an extensive building. This would have a greater presence than the existing trees. Whether very special circumstances exist will be dealt with after the other main issues.

Character and appearance of conservation area

11. Cobham Conservation Area has three distinct zones. The appeal site is within the lower western zone along The Street and Battle Street with sporadic, historic development among small fields and open spaces, all surrounded by trees. The Conservation Area Appraisal further divides it into 16 abutting character areas. Battle Street is referred to as consisting largely of dwellings or pairs of dwellings as 'incidents' spread along a rising and falling, tree and hedge lined lane with banks to the sides and natural tree and hedge growth dominant. The quality and spatial importance of much private tree planting is identified as one of the positive features of the conservation area as a whole.
12. The Arboricultural Impact Assessment (AIA) notes that there has been a lack of woodland management over the years. Nevertheless, the trees form a significant feature and are typical of the verdant appearance of Battle Street. The site itself is not identified in the Appraisal but it contributes positively to the general attributes of the area that are highlighted. In particular, it provides a foil to the buildings dotted along Battle Street and those nearby in The Street and complements the other blocks of woodland in the vicinity.
13. The AIA identifies 26 significant trees within the site. Of these, 11 would be removed to ground level as they are of low quality or cannot realistically be retained due to their condition. This would allow the remaining trees to flourish. It is also recommended that semi-mature trees be planted within the open ground made available by removing the compromised trees. The dwelling has been designed to weave between the retained trees by means of a series of interconnected pods. It would also be low level and sit below the canopies.
14. The proposal has been conceived to respect the individual trees but it is inevitable that the natural, bosky character of the site would be significantly diminished by the introduction of a building with such a large footprint. The new dwelling would sit within the trees and would have a restrained palette of external materials. The impact of the new entrance has been minimised. Nevertheless, the house would be of considerable depth and occupy much of the site's width so that the intrinsic undeveloped character of the site would be spoilt. In turn, the proposed dwelling would detract from the significance of the conservation area as a heritage asset.
15. If the site were developed then it is likely that the trees would receive greater attention from the occupiers than they have in the past. As the appellant observes building a new house is one way to ensure that the woodland is better maintained and managed in future. However, that is not to say that it is the only way. Supplementary planting could take place although no detailed scheme has been put forward. Indeed, it is difficult to see where meaningful landscaping could take place given the need for new trees to co-exist with the proposed house. Neither of these points justify the proposal.

16. The design of the dwelling is unashamedly contemporary with mono pitched roofs and large glazed areas. The proposed black timber cladding is nonetheless intended to reflect the local vernacular. There is no overriding objection to modern design within a conservation area. The appellant's stated aim is to provide a bespoke solution that would be worthy of discussion. If it were built the proposal might be intriguing for some.
17. However, the immediate surroundings are marked by buildings of traditional character, including the oast houses on the opposite side of Battle Street. In this context, the proposal would appear brash and jarring as completely different to the structures around it. The expansive areas of glazing would particularly stand out. Furthermore, the house would be visible from The Street across the garden of Meadow Cottages and the Meadow Room car park. Despite the trees that would remain, its rambling form would be intrusive as a marked contrast to the low-density development in the immediate vicinity.
18. The Framework refers to opportunities within conservation areas to enhance or better reveal their significance. The encouragement for new development within such designated assets is therefore caveated in this respect. Whilst the proposal would have some beneficial aspects to it, the overall impact on the qualities of the conservation area would be negative.
19. Meadow Cottages is now one dwelling. It is Grade II listed and is an early example of freestanding, agricultural workers' houses dating from the late eighteenth or early nineteenth century. Although alterations have taken place, the building still retains much of its original charm as a pair of diminutive, red brick properties. The Appraisal also refers to it being "crowded" around by trees and hedges which includes those on the appeal site.
20. Indeed, this sylvan backdrop is a key part of its setting together with the fact that it stands apart from other development. The proposal would be about 20m away. Because of the extent of its floor plan, the new house would have the effect of 'hemming in' the cottage building and would detract from its setting which is otherwise free of significant buildings. The appreciation of this simple building would be seriously marred and neither the retention of the existing trees nor further boundary planting or hedging would overcome this. As such, the setting of this listed building would be harmed.
21. Overall, the proposal would fail to preserve or enhance the character and appearance of Cobham Conservation Area. Rather it would be harmful. There would also be a detrimental impact on the setting of Meadow Cottages. The proposed dwelling would therefore conflict with Policy CS20 of the Core Strategy which is concerned with heritage and the historic environment as well as the development and design principles in Policy CS19. It would also be at odds with saved Policies TC2 and TC3 of the Local Plan First Review.
22. Paragraph 202 of the Framework establishes that where the development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits. This matter will be addressed later in the decision.

AONB

23. The AONB has the highest status of protection in relation to landscape and scenic beauty and great weight should be given to conserving and enhancing it.

Core Strategy Policy CS12 has similar objectives. This policy also refers to the AONB Management Plan.

24. In the Gravesham Landscape Character Assessment the site is within the Ashenbank and Cobham Parkland Landscape Character Area. Here the key characteristics are slightly undulating topography with a strong presence of manmade landform, large parkland trees, two large areas of dense ancient woodland and a traditional village centre. The low level of visibility within the area limits the impact of change to the landscape to moderate.
25. The effect of the proposal on the surroundings has been described previously. However, it would not be seen in long-distance views due to the degree of enclosure. The impact on the wider landscape would therefore be minimal. The purpose of these designations is to conserve, restore and enhance overall landscape character and scenic and natural beauty. As the effects of the proposal would be localised, there would be no adverse consequences in these respects. Therefore the proposal would not harm the AONB or the Landscape Character Area and would accord with Policy CS12.

Other Considerations

26. The Council is unable to demonstrate a deliverable five year housing land supply. The latest figure is 3.27 years. Furthermore, the delivery of housing has been substantially below that required by the Housing Delivery Test (less than 75%). The additional dwelling would therefore be in a Borough where both delivery and supply has fallen well below Government expectations. Moreover, the site is agreed to be suitable for housing given the proximity to services and facilities. There would be economic and social benefits during construction and, on completion, residential expenditure could be expected to increase locally. These considerations weigh heavily in favour of the proposal.
27. The foreword to the appellant's planning statement explains his rationale for the scheme and the ambition to design a very special house. It must be acknowledged that the proposal has been carefully considered over time and that it embodies an inventive approach. However, it is the proposal itself that has to be judged against relevant planning policies. The sentiments behind it and the efforts made to devise it are therefore of limited weight in any balance.

Whether very special circumstances exist

28. The proposal would be inappropriate development within the Green Belt. In accordance with the Framework, substantial weight should be given to any harm to the Green Belt. In addition, openness would be eroded. The proposed dwelling would also fail to preserve or enhance the character and appearance of the conservation area and would harm the setting of a listed building.
29. The provision of a dwelling in an area where there is a shortfall in supply supports the scheme. However, whilst weighty, the other considerations are not of sufficient strength to clearly outweigh the totality of harm. As a result very special circumstances do not exist. The proposal would be incompatible with national policies for protecting the Green Belt and so would be contrary to Core Strategy Policy CS02.

Other Matters

30. The appellant has provided an assessment for the provision of daylight and sunlight as part of the appeal. It concludes that for all rooms under winter (bare branch) tree conditions, the provision of natural daylight would meet or exceed relevant thresholds. As a result these rooms would be well lit and not rely on supplementary lighting. The main living areas would receive direct sunlight throughout the year and adequate sunlight would be received within the surrounding amenity space. These findings have not been challenged.
31. Other concerns have been raised including the potential for future pressure to remove the trees, wildlife and biodiversity, archaeology, flooding and drainage, noise and effect on amenity and parking and traffic. However, none of them add to the objections previously identified.
32. The proposal would have a likely significant effect on the Thames Estuary and Marshes Special Protection Area (SPA) which supports important numbers of wintering and migrating birds. In combination with other development in Gravesham, an additional dwelling within 6km of the SPA would be liable to have a detrimental impact on the birds due to recreational disturbance. The appellant has made a payment towards the Strategic Access Mitigation and Monitoring Strategy. However, as the appeal is to be dismissed, there is no need to undertake an appropriate assessment.

Final Balance

33. The proposed dwelling would be inappropriate development in the Green Belt and there are no very special circumstances to justify it. Whilst there would be no harm to the landscape and scenic beauty of the AONB, the character and appearance of Cobham Conservation Area would not be preserved or enhanced. Given the findings in respect of the Green Belt, there is no need to undertake a separate heritage balance.
34. Because there is no five year supply of deliverable housing sites, footnote 8 of the Framework is relevant. However, as there is a clear reason to refuse the development proposed because of its location within the Green Belt, the presumption in favour of sustainable development set out at paragraph 11 does not apply.
35. The proposal would not accord with the development plan and there are no other material considerations to outweigh this finding.

Conclusion

36. Therefore, for the reasons given, the appeal should not succeed.

David Smith

INSPECTOR