



Appeal Decision

Site visit made on 16 May 2023

by Graham Chamberlain BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th May 2023

Appeal Ref: APP/K2230/W/22/3294958

Holly Cottage, Wrotham Road, Meopham, Kent DA13 0AH

- 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 Gordon McQuade against the decision of Gravesham Borough Council.
 - The application Ref 20211118, dated 10 September 2021, was refused by notice dated 24 November 2021.
 - The development proposed is described as 'Demolition of existing Holly Cottage, creation of new shared access route, and the re-building of a replacement 4 bedroom chalet-bungalow with detached double garage on the site frontage and erection of 7no new 4 bedroom houses with integral double garages in gated development to the rear of the new Holly Cottage, and part rear garden of Willow Tree Farm'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are:
 - The effect of the proposed development on the setting of the George Inn Public House, which is a Grade II listed building;
 - Whether the proposed development would make adequate provision for affordable housing;
 - The effect of the proposed development on biodiversity;
 - Whether the proposal would be inappropriate development in the Green Belt;
 - The effect of the proposed development on the setting of The Street Meopham Conservation Area and the character and appearance of the landscape; and
 - Whether the proposal would provide safe and suitable access.

Reasons

The effect on the setting of the George Inn Public House

3. The George Inn is a very attractive building located in a prominent location at a historic crossroads. The external façade probably dates largely to the 18th Century and includes details typical of this era such as sash windows. The interior may be older. A 19th Century extension appears to have been added to

the south elevation and there is a period outbuilding. Overall, it is an interesting example of a traditional inn with evidential, aesthetic, historic and communal value. The building therefore has a high degree of significance.

4. The relationship of the public house to the A227 is important to its significance, as the building was probably sited here due to the passing trade offered by this route. The Inn probably also had a more rural setting and landmark role as evidenced by historic maps, aerial photographs and the spacious layout of the adjoining Conservation Area. The ability to experience the building with a semblance of its historic surroundings is important to its significance.
5. In particular, when standing in the pub garden or vantage points along the A227, it is possible to see the listed building with a largely undeveloped and open backdrop generally unfettered by modern development. This allows the architectural quality and landmark status of the building to be experienced and enjoyed. It also gives an impression of how the building once sat in a small hamlet before the expansion of Meopham Green. The setting of the building is therefore important to its significance.
6. The appeal scheme would result in eight homes being constructed within the setting of the listed building. Plots 2-5 would be close to the boundary of the public house and would enclose its southern boundary. These buildings would be visible from within the pub garden and along the A227. The hedging would provide some softening, but the presence of the homes would be apparent nonetheless. Accordingly, the proposal would harm the undeveloped backdrop of the listed building and erode the openness and breathing space around it.
7. The harmful impact would be compounded by the awkward contemporary form and detailing of the houses, which would jar with, and overpower, the listed building. Reconstructing a larger version of Holly Cottage closer to the Inn would be a further aggravating factor. The proposal would therefore harm the significance of the public house by eroding the ability to appreciate its aesthetic and historic value.
8. It is unclear whether the Council's findings were informed by a Conservation Officer, as the comments from Kent County Council seem to focus more on the effect of the proposal on archaeology. Nevertheless, I have arrived at my own findings for the reasons given. Plots 6-8 would be sufficiently distant from the listed building not to detract from its setting. Nevertheless, the lack of harm in this respect does not outweigh the harm I have identified.
9. In conclusion, the proposal overall would moderately harm the setting and thus significance of the listed building. Accordingly, the proposal would be at odds with Policy CS20 of the Gravesham Local Plan Core Strategy (CS), which seeks to secure development that preserves the significance of the Borough's heritage assets, including their setting.

Whether the proposal would make adequate provision for affordable housing

10. Policy CS16 of the CS states that developments of three homes or more in rural areas are required to provide 35% of the total number of homes as affordable housing. Paragraph 64 of the National Planning Policy Framework (the Framework) states that affordable housing should not be sought unless a scheme is a major development, other than in designated rural areas where a lower threshold of five homes or fewer can be applied.

11. Designated rural areas are defined in the glossary to the Framework as including an area designated as rural under Section 157 of the Housing Act 1985. The Council have mentioned that the parish of Meopham is designated as rural under The Housing (Right to Acquire or Enfranchise) (Designated Rural Areas) Order 1999. However, the Council's submissions do not clarify whether this is a designation under Section 157 of the Housing Act 1985. As a result, it would seem that the appeal site is not within a designated rural area.
12. As a result, there is a tension between the CS and the Framework, as the latter has a higher threshold for affordable housing. The Framework sets out government policy and is therefore a material consideration of significant weight. Nevertheless, the Council have stated that there is a particularly high need for affordable housing as evidenced in its Strategic Housing and Economic Needs Assessment. The appellant does not dispute this and has indicated in their statement a willingness to provide affordable housing subject to viability. To this end, no evidence has been submitted to demonstrate that the provision of 35% affordable housing would be unviable. Thus, in the circumstances there is clear justification to depart from national policy.
13. Accordingly, the provision of affordable housing at the level sought by the Council would be necessary to make the development acceptable in planning terms, would be directly related to the development and would be fair and reasonable in scale and kind to it. Given the complexity involved in securing affordable housing, this is best done through a planning obligation. However, the appellant has not submitted a planning obligation.
14. There is limited evidence before me to indicate the Council and appellant have agreed the heads of terms for a planning obligation. Moreover, the circumstances around the absence of a planning obligation are not exceptional. As a result, the imposition of a negatively worded condition as a means of securing the planning obligation, as discussed in the Planning Practice Guide, would not be appropriate in this instance. A positively worded condition would not meet the test of enforceability as there would be nothing to prevent commencement. Consequently, an appropriate mechanism to secure the provision of affordable housing is not before me and therefore the proposal would be contrary to Policy CS16 of the CS.

The effect of the proposed development on biodiversity

15. The appeal site includes areas of ruderal herbs and scrub which could offer good habitat for reptiles. The site also includes piles of brash and a hedgerow provides a corridor to the open fields to the west of the leisure centre. Accordingly, there is a reasonable likelihood of protected species being present and affected by the development, particularly as the scrub and grassland areas would be cleared and built upon. Indeed, this was the finding of the Preliminary Ecological Assessment submitted by the appellant, which recommended that further surveys be undertaken to ascertain the presence or likely absence of reptiles.
16. The appellant has not commissioned any further surveys and therefore the presence or otherwise of reptiles is unclear. If they are present, then the appeal scheme could result in significant harm through destruction of habitat or even direct injury of individual specimens. Mitigation may be required with the Council raising the possibility of translocation to a receptor site. This would all need to be ascertained prior to permission being granted so that the impacts

and necessary mitigation are fully understood as a material consideration that could affect the acceptability or layout of the scheme. The impact would also need to be properly understood so it is clear whether the proposal would provide a net biodiversity enhancement or not. Therefore, Circular 06/2005 states that ecological surveys should only be left to a condition in exceptional circumstances, which are not present in this case.

17. In conclusion, it is necessary to identify the presence or otherwise of protected species before granting planning permission so that any impacts and potential mitigation can be identified and fully understood. Thus, the absence of reptile surveys is a significant omission. Without them, there is an unacceptable risk that the proposal could harm protected species. As such, it is unclear whether the development would protect biodiversity and thus adhere to Policy CS12 of the CS, which seeks to safeguard protected species. Moreover, the proposal would not meet the expectations of Section 40 of the Natural Environment and Rural Communities Act, which is to conserve biodiversity.

Whether the proposal would provide safe and suitable access

18. The A227 is a busy road and therefore it would be unsafe and undesirable for vehicles to reverse out of the site. To this end the Council are concerned that twelve-metre-long refuge lorries would not be able to enter, turn within the site and exit in a forward gear. Adequate tracking has not been provided by the appellant to demonstrate otherwise. The tracking that has been submitted is based on the long out of date Design Bulletin 32 and shows vehicles overhanging private space in any event. Similarly, tracking has not been provided to demonstrate that a vehicle could turn within the curtilage of Holly Cottage and leave in a forward gear. As a result, there is a risk that vehicles could reverse into a busy road with the potential for collisions this would entail.
19. In addition, the garages at Plots 7, 8 and 4 would have doors directly abutting the central turning area. As a result, motorists exiting these garages, especially if reversing, could come into conflict with other motorists or pedestrians. Vehicles exiting the garage at Plot 2 would also have poor visibility to the left. As result, the garages at these properties would not function safely. The Local Highway Authority recommended that the garages be changed to open car ports but revised drawings to this effect are not before me, and such a change would go beyond the scope of something that could be secured through a planning condition.
20. In conclusion, the proposal would not provide safe and suitable access and would therefore have an unacceptable impact on highway safety contrary to Policy CS11 of the CS and Policies T1, T5 and P3 of the Gravesham Local Plan.

Whether the proposal would be inappropriate development

21. The appeal site is located within the Metropolitan Green Belt, the boundary of which is the A227. Policy CS02 of the CS states that development in the Green Belt will be supported where it is compatible with national policies for protecting the Green Belt.
22. The Framework sets out national Green Belt policy and explains that the construction of new buildings is inappropriate development save for several stated exceptions in a closed list. One exception is limited infilling in villages. Neither 'limited', 'infilling' or 'village' is defined.

23. The appeal site is located on the western side of the A227 and therefore outside the defined settlement boundary of Meopham. The settlement boundary is the starting point in ascertaining whether the proposal would be within a village. However, in this instance the appeal site is positioned between a housing estate to the east, a large secondary school and leisure centre to the west and a public house to the north. There is also a library, nursery school and health centre on the western side of the A227 and to the south of the appeal site. Accordingly, the western side of the A227 in the immediate vicinity of the appeal site is not largely undeveloped.
24. As a result, the appeal site is located between housing and important village facilities. There are also pavements and bus stops on both sides of the road linked by a pedestrian crossing. As such, the A227 is not a functional or physical barrier that separates the appeal site from the rest of the village in any meaningful way. Indeed, the appeal site is within the village of Meopham when this is considered on the ground.
25. The Council submit that infilling is the development of a small gap in an otherwise built-up frontage. This is not a definition contained in the development plan but in some circumstances it would be appropriate to apply such an approach when supported by the local pattern of development. The Council has directed me to an appeal decision¹ where such an approach was followed on account of this. However, in this instance the appeal site backs onto a school and associated leisure centre. The local pattern of development is not one of conventional built-up frontages.
26. Indeed, the proposed houses would be located between Willow Tree Farm and The George Inn or Willow Tree Farm and the school and leisure centre complex. The appeal scheme would therefore have the appearance and character of infilling because it would develop and consolidate the space between structures, some of which are very large in the local context. Moreover, the appeal site is broadly surrounded by development and residential gardens and therefore has no physical or visual affinity with the open countryside due to its containment. Thus, an urbanising encroachment of development into the countryside would not occur. As a result, the proposal would amount to infilling.
27. What amounts to 'limited' development will be dictated by the local context. Meopham is a reasonably large village with a sizable post war housing estate directly to the east of the appeal site. To the west is the secondary school, an imposing three-storey structure in a single block form. The leisure centre also has a large footprint and parts of it are quite tall. In this context, the construction of eight homes would be limited development.
28. In conclusion, the proposed development would amount to limited infilling within a village and therefore it would meet an exception in the Framework. Accordingly, there is no need to consider the effect of the proposal on the openness and purposes of the Green Belt. Overall, the proposal would adhere to Policy CS2 because it would be compatible with national policy aimed at protecting the Green Belt.

¹ APP/W0530/A/13/2207789

The effect on the setting of The Street Meopham Conservation Area (CA)

29. The CA encompasses the original historic settlement of Meopham, the built form of which is generally well preserved when compared to the historic maps set out in the Conservation Area Appraisal² (CAA). The CA is broadly centred on the church and is largely characterised by its collection of fine historic buildings, spacious rural settlement pattern, locally distinctive flint walling and verdant overall character. The CA therefore has aesthetic, evidential and historic value and significance as an old settlement.
30. The rolling agricultural landscape that predominantly characterises the historic rural setting of the village is evident to the north, east and west of the CA. The ability to experience the CA in a rural setting is important to its historic and aesthetic value and significance.
31. The village was considerably extended to the south in the 20th Century. The extension was suburban in character and effectively linked Meopham with Meopham Green. A car show room has also been constructed opposite the appeal site and this urbanises the immediate context. I have already discussed the presence of the school and leisure centre. Therefore, to the immediate south of the CA in the locality of the appeal site little remains of the previous rural setting of the CA. As a result, in the area immediately around the appeal site there is no real connection between the A227 corridor and open countryside. Therefore, the appeal scheme would not be an urbanising encroachment that would harm the ability to experience the rural setting of the CA. This is because the rural setting to the immediate south of the CA has already been so heavily compromised.
32. Accordingly, I conclude by finding that the appeal scheme would preserve the rural setting of the CA, which is predominantly to its north, east and west, and therefore in this respect a conflict with Policy CS20 of the CS would not occur.

The effect on the character and appearance of the landscape

33. The appeal site is identified in the Gravesham Landscape Character Assessment as being within the Meopham Downs Landscape Character Area. This area is broadly characterised by a gently undulating topography of arable and pasture farmland, narrow lanes and roads lined by hedges. The Council are concerned that the appeal scheme would erode this characteristic through the introduction of an urbanising cul-de-sac type development, particularly evident in the built form, lighting and the presence of vehicles.
34. However, for the reasons already given, the appeal site is within the village and enclosed by development including a large housing estate and a tall secondary school. Most of the development around it is suburban in character or of a much greater scale. As a result, the appeal scheme would not result in built form, lighting or paraphernalia that would appear out of place in this part of the Meopham Downs landscape or harm its rural character. As a result, there would be no conflict with Policies CS12 and CS19 of the CS, which seek to secure development that conserves landscape character.

² The Street, Meopham Rural Conservation Area Appraisal Supplementary Planning Document

Other Matters

35. Within the delegated report several concerns are raised regarding the design of the scheme. The Framework states that development which is not well designed should be refused. I share the concern that the design of the properties would not integrate well within the immediate context. The layout would also be dominated by parking and garages and lack street trees. The latter being a specific requirement of Paragraph 131 of the Framework. However, the Council has not included a specific reason for refusal relating to the design of the scheme. It is unclear whether this omission is an error. Nevertheless, as the proposal has failed on the main issues this is not something I have considered further or factored into my overall conclusion. Similarly, as the appeal has failed on the main issues, it has been unnecessary to directly address the other concerns of interested parties.

Heritage and Planning Balance

36. The moderate harm that would occur to the significance of the listed building would be 'less than substantial' within the meaning of the Framework. Paragraph 202 of the Framework requires such harm to be weighed against the public benefits of the proposal.
37. The appeal scheme would deliver a net increase of seven homes, which would modestly boost housing land supply. This needs to be viewed in the context that the Council are currently unable to demonstrate a five-year housing land supply. The supply is around 3.27 years and is therefore well below where it needs to be. The Housing Delivery Test measure was also lower than 75% of the housing requirements over the previous three years. Thus, it would seem that the housing land supply difficulties have been persistent of late. In this context, the delivery of housing carries notable weight, especially as it would make efficient use of land in a built-up area. That said, residential garden land within a built up area such as Meopham is excluded from the definition of previously developed land in the Framework.
38. Paragraph 81 of the Framework states that significant weight should be placed on the need to support economic growth and productivity. It is therefore clear that this is an important matter. In this instance the benefits from the provision of five homes would provide modest, time limited support to the construction industry. The subsequent occupation of the properties would also result in more long-term but modest local spending. Accordingly, the economic benefits carry moderate benefit.
39. The Framework states that designated heritage assets are an irreplaceable resource that should be conserved for existing and future generations. Any harm to their significance is therefore a very important matter. Indeed, the Framework states that great weight should be given to an asset's conservation. Conservation in this context means sustaining, and thus not harming, an asset's significance. This echoes the considerable importance and weight I afford the statutory duty under Section 66(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of listed buildings. This does not amount to a direction to refuse a proposal that would harm the setting of a listed building, but it provides a strong weighting in favour of sustaining its significance.

40. The proposal would result in moderate but permanent harm to the setting and significance of a listed building. This matter carries weight of a high order. Against this, the public benefits of the proposal are cumulatively of significant weight. Overall, and on balance, the benefits would not outweigh the less than substantial harm that would occur. Accordingly, there would be a conflict with Paragraph 200 of the Framework as harm to the significance of a designated heritage asset would not have clear and convincing justification.
41. It follows in this instance that the benefits of the appeal scheme would not outweigh the totality of harm I have identified either.
42. Paragraph 11d of the Framework is engaged on account of the Council being unable to demonstrate a five-year housing land supply. This states that permission should be approved unless, in the first instance, the application of policies in the Framework that protect areas or assets of particular importance provide clear reasons to refuse the proposed development. Policies relating to designated heritage assets are such a policy. In this instance, because the public benefits of the proposal would not outweigh the less than substantial harm that would occur, there is a clear reason to refuse the proposal. Thus, the 'tilted balance' in Paragraph 11d)ii is not relevant on this occasion.

Conclusion

43. The appeal scheme would not be inappropriate development in the Green Belt, would preserve the rural setting of the Conservation Area and would not harm the rural character of the Meopham Downs landscape. However, the absence of harm in respect of these matters does not outweigh the harm that would occur to the setting of The George Inn, from the failure to provide affordable housing or biodiversity surveys and to highway safety. As a result, there would be a conflict with the development plan taken as a whole. This would not be outweighed by other considerations, including the Framework. Accordingly, for the reasons given, the appeal has been dismissed.

Graham Chamberlain
INSPECTOR