

**ROYAL BOROUGH OF WINDSOR & MAIDENHEAD
PLANNING COMMITTEE**

MAIDENHEAD DEVELOPMENT CONTROL PANEL

8 June 2016

Item: 1

Application No.:	15/03284/OUT
Location:	Land Rear of 105 To 119 Whyteladyes Lane Cookham Maidenhead
Proposal:	Outline application with all matters reserved for the erection of 7 affordable houses
Applicant:	Mr Copas
Agent:	Mr Jake Collinge - JCPC Ltd
Parish/Ward:	Cookham Parish
If you have a question about this report, please contact: Antonia Liu on 01628 796697 or at antonia.liu@rbwm.gov.uk	

1. SUMMARY

- 1.1 The planning application is for outline consent with all matters reserved for the development of 7 affordable houses to land to the rear of 105-119 Whyteladyes Lane, Cookham.
- 1.2 Significant weight is given in favour of the proposal due to the need for housing and affordable housing; however the proposal for 7 affordable houses would cause substantial harm due to its inappropriateness in the Green Belt, the harm caused to openness and to the purposes of including land in the Green Belt. It is not considered that the case of very special circumstances has been demonstrated to outweigh the harm to the Green Belt and any other harm to justify inappropriate development in the Green Belt.
- 1.3 The Ecology Officer comments are still pending and will be reported in an update.

It is recommended the Panel refuses planning permission for the following summarised reasons (the full reasons are identified in Section 10 of this report):

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| 1. | The proposed development represents inappropriate development in the Green Belt, which is by definition harmful to the Green Belt, and very special circumstances have not been demonstrated to justify inappropriate development in the Green Belt. |
| 2. | The proposal would extend the built-up area of Cookham Rise into an important Green Belt gap separating Cookham Dean and Cookham Rise, and the introduction of built development in this location would result in actual loss of openness across the site contrary to the main purposes of the Green Belt. |
| 3. | In the absence of an undertaking to secure the infrastructure in Section 7 of this report that the proposed development would not be accompanied by associated infrastructure improvements. |

2. REASON FOR PANEL DETERMINATION

- The Borough Planning Manager and Lead Member for Planning consider it appropriate that the Panel determines the application.

3. DESCRIPTION OF THE SITE AND ITS SURROUNDINGS

- 3.1 The site is part of an elongated grass field/meadow on the west side of Cookham Rise. The western boundary is marked by a 2.4 metre hawthorn hedge. The adjoining field is farmed for arable crops. The eastern boundary with the houses on Whyteladyes Lane is marked for the most part by a similar hedge 1.8 metre to 2.2 metre high. The site is accessed via a gated entrance between 199 and 121 Whyteladyes Lane.

4. DESCRIPTION OF THE PROPOSAL AND ANY RELEVANT PLANNING HISTORY

Ref.	Description	Decision and Date
13/00834/OUT	Outline application with all matters reserved for the construction of 23 affordable housing units.	Refused - 26.06.2013. Appeal Dismissed - 19.02.2014.

- 4.1 The application is for an outline application with all matters reserved for the construction of 7 affordable houses.

5. MAIN RELEVANT STRATEGIES AND POLICIES RELEVANT TO THE DECISION

- 5.1 National Planning Policy Framework, Section 6, 7, 9 and 14

Royal Borough Local Plan

- 5.2 The main strategic planning considerations applying to the site and the associated policies are:

	Green Belt
Local Plan	GB1, GB2, GB4 and H4

The Council's planning policies in the Local Plan can be viewed at:
http://www.rbwm.gov.uk/web/pp_adopted_local_plan.htm.

6. EXPLANATION OF RECOMMENDATION

- 6.1 The key issues for consideration are:
- i Whether proposed development is inappropriate development within Green Belt and the effect of the proposed development on the purposes of the Green Belt, its openness, its visual amenity and the appearance of the surrounding countryside;
 - ii Other material considerations;
 - iii Planning Balance and the Case of Very Special Circumstances;

Green Belt

Appropriate Development

- 6.2 The fundamental aim of Green Belt policy, as set out in paragraph 79 of the NPPF, is to keep land permanently open. Paragraph 89 of the NPPF indicates that with some exceptions the construction of new buildings is inappropriate development in Green Belt. This includes limited affordable housing for local community needs under policies set out in the Local Plan. Local Plan policy GB1 adopts a broadly similar approach to national policy and sets out the general types of appropriate development in the Green Belt. Policy GB1 only allows for residential development in accordance with policies GB3 to GB5. In this case GB3 is the most relevant and it sets out the limited circumstance when new residential dwellings will be acceptable. This includes affordable housing in rural areas and refers to policy H4. Policy H4 and its supporting text sets out the Council's rural exception policy and states that '*as an exception to normal restraint policies, the Council may be prepared to allow small scale housing schemes within the Recognised Settlements of the Borough in order to promote housing for those whose incomes are insufficient to enable them to acquire accommodation on the open market*'. While comprising of affordable housing for local community needs the site itself is outside of the recognised settlement; it is therefore considered that H4 is not applicable in this case and the proposal is inappropriate development. While it is immediately adjacent to the settlement of Cookham Rise, H4 clearly states that the Council will need to be satisfied that '*the development is not adjacent to an urban settlement but is within the boundary of a recognised settlement*'. The Council is not satisfied in

this instance. By reason of inappropriateness and in accordance with paragraph 88 of the NPPF the weight against the proposed development is substantial.

Purpose, Openness and Character of Green Belt

- 6.3 Paragraph 79 of the NPPF states the fundamental aim of Green Belt is to prevent urban sprawl by keeping land permanently open and the essential characteristics of Greenbelt are their openness and their permanence. Paragraph 80 goes on to list 5 purposes of the Green Belt. In accordance, Local Plan policy GB2 states that permission will not be granted for development if it would have a greater impact on the openness of the Green Belt or purposes of including land in the Green Belt. As inappropriate development in the Green Belt, the proposal is by definition harmful to its openness and would conflict with one of the purposes of the Green Belt, namely 'to assist in safeguarding the countryside from encroachment'. In this location the Green Belt serves to separate the villages of Cookham Rise and Cookham Dean which are settlements excluded from the Green Belt. Should the development be permitted there would still be a significant area of Green Belt between the two villages, however the well-defined edge of the development formed by the housing on Whyteladyes would be breached. The applicant has argued that the existing hedgerow and shape of the appeal site would lend itself to a natural continuation and defensible edge to the settlement. However, the development would still constitute an intrusion/encroachment into the countryside by extending the built-up area of Cookham Rise into the existing gap, contrary to GB2. Furthermore, paragraph 82-86 of the NPPF states that permission for development such as this should only be granted following a review of Green Belt boundaries through the Local Plan preparation or review process. It is therefore considered that the encroachment into the countryside would be substantially harmful to the Green Belt.
- 6.4 In 2013, RBWM carried out an Edge of Settlement (EoS) Analysis. This was undertaken as part of the review of the Borough Local Plan and was published for consultation in January 2014 alongside the RBWM Borough Local Plan Preferred Options Consultation document (BLP Preferred Options document). Land identified as '1B Area west of Whyteladyes Lane, Cookham Rise' which includes the application site formed part of that EoS Analysis, but it is considered that little weight can be attached to the study in the consideration of this application given that this was subject to consultation 2 years ago with an updated study yet to be completed.
- 6.5 In the submitted Design and Access Statement the applicant has argued that as the proposal now involves a reduction in the number of units and the size of the site from the previously refused scheme, therefore the impact on openness has been reduced accordingly. In the Design and Access Statement the impact of the proposal in this respect has been described as 'limited harm'. The reduction in the amount of development also allows for extensive mitigating soft landscaping. However, it is considered that the introduction of built development in this location, which currently comprises an undeveloped grassed field that contributes significantly to the openness of the area and provides views out of the countryside to the north and west, would result in actual loss of openness across the site. The loss of openness is considered to result in substantial harm to the Green Belt. The appeal inspector for 13/00834/OUT also considered that the development would be visible from ground, which gradually rises towards the west, including a number of public footpaths. Whilst the layout and appearance are reserved matters at this stage, the dwellings would inevitably be seen against the backdrop of the housing fronting onto Whyteladyes Lane and their back gardens. The introduction of built development in this location would therefore cause a moderate degree of harm to the open character and visual amenities of the Green Belt conflict with GB2.
- 6.6 Therefore, in accordance with paragraph 88 of the NPPF the encroachment into the countryside and loss of openness should be given substantial weight, while the harm to visual amenity would be given moderate weight against the proposal.

Other Material Considerations

- 6.7 There is local concern over harm to local ecology including slow worms as a result of the development. A preliminary reptile appraisal and precautionary method statement, dated 12 September 2013, has been submitted with the application. Comments from the Council's Ecology Officer are still pending and will be reported in an update.

- 6.8 As this is an outline application with all matters reserved, issues such as highway safety and parking and neighbouring amenity would have to be addressed in detail in a full or reserved matters application. However, in terms of highway safety and parking the principle of 7 units is acceptable, subject to compliance with the current best practices in relation to the access, visibility splays, parking and turning areas, refuse and cycle storage. In terms of neighbouring amenity from the indicative layout there would be a back-to-side distance of approximately 20m from 105 Whyteladyes Lane to proposed house no.1, which is the closest house to the shared boundary with 99-119 Whyteladyes Lane. There is an approximate 34m back-to-back distance between the rear elevations of proposed houses no. 4-7 and existing houses at 99-119 Whyteladyes Lane. Subject to scale, mass and bulk, and location of windows, this is likely to be an acceptable relationship to mitigate visual intrusion, loss of light and privacy.

Planning Balance and the Case of Very special Circumstances

- 6.9 As stated in National Planning Policy and in the Borough Local Plan, planning permission can only be granted for inappropriate development if there is a case of very special circumstances that clearly overcomes the harm to the Green Belt and any other harm. It has been concluded that the development constitutes an inappropriate form of development in respect of Green Belt which is by definition harmful to the Green Belt. There would also be harm caused by the physical reduction in openness across the site. For these reasons, substantial weight is given against the proposal.
- 6.10 The applicant has put forward a case of 'VSC' stating that the proposal would contribute towards housing and affordable housing need within the Borough.
- 6.11 Paragraph 14 of the NPPF set out that there will be a presumption in favour of Sustainable Development, while paragraph 49 states that applications for new homes should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The Borough Council cannot demonstrate a 5 year housing land supply. However, paragraph 14 of the NPPF states that where policies are out of date permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework which indicate development should be restricted. Footnote 9 of the NPPF identifies policies relating to sites designated as Green Belt as an example where development should be restricted. When assessed against specific Green Belt policies of the NPPF the harm as a result of the proposal is considered to be substantial for the reasons outlined in paragraph 6.2, 6.3 and 6.5 of this report. Therefore while the net gain in housing would be a clear and a significant benefit of the scheme, and further weight is given to the lack of alternative sites being identified, the unmet demand for housing is not considered to outweigh the substantial harm to the Green Belt in line with the NPPF and Local Plan policies GB1, GB2 and GB3. This is in line with the Ministerial Statement of 1 July 2013 that makes clear that unmet demand for housing is unlikely to outweigh the harm to the Green Belt and any other harm so as to constitute the very special circumstances justifying inappropriate development.
- 6.12 The proposal is entirely for affordable housing and the applicant has applied a sequential test for sites within the Cookhams with the potential to deliver affordable housing based on the Council's Strategic Housing Land Availability Assessment (SHLAA; 2011 and 2014). The results of the sequential test maintain that affordable housing to meet the needs of the area cannot be achieved on non-Green Belt sites. However, while significant weight is given to the need for affordable housing, as shown in the Council's Housing Need Study (2005), the need is Borough wide and does not necessarily have to be provided within the Cookhams. As such, the sequential test is afforded little weight. In relation to need within the Cookhams the appeal Inspector for 13/00834/OUT concluded that the Cookham Parish Council Affordable Housing Survey (2011) failed to fully quantify need. No further evidence has been put forward by the applicant.
- 6.13 It is not considered that a significant and compelling case for Sustainable Development or VSC has been made by the applicant. The NPPF also requires a balancing exercise of benefits

against harm. The significant benefits of the scheme by reason of additional housing, while outweighing the moderate harm to visual amenity, is not considered to outweigh the substantial harm to the Green Belt in respect of its inappropriateness, openness and purpose.

7. ASSOCIATED INFRASTRUCTURE IMPROVEMENTS

- 7.1 The Community Infrastructure Levy Regulations 2010 (CIL Regulations) which came into force on the 6 April 2015, allows the Council to raise funds from developers undertaking new building projects in the borough to support and fund new infrastructure that the Council and local communities may require. Planning obligations may still be sought to mitigate local impact if they are still necessary to make the development acceptable in planning terms if directly related to the development and if fairly related to the scale and kind of the development. In this case, it is considered that planning obligations of £71,492 would be sought towards Education. The monies would go towards the expansion of existing science labs at Furze Platt Senior School. In the absence of a completed S106 legal agreement it is recommended that application is refused as it would not be accompanied by associated infrastructure improvements.

8. CONSULTATIONS CARRIED OUT

Comments from interested parties

16 neighbours were directly notified and a site notice was posted on site. 303 letters objecting to the proposal were received, which are summarised below:

Comment	Officer Response
Inappropriate development within Green Belt, resulting in erosion contrary to its purpose, loss of gap between Cookham Dean and Cookham Rise, and loss of openness.	Para. 6.2 – 6.6.
Alternative sites available, including brownfield. Would set a precedent for future development within Green Belt.	Para. 6.11, 6.12.
No demand for affordable housing in Cookham, proposed housing mix and type does not meet local need.	Para. 6.12.
Impact on local infrastructure including local roads, schools, medical centre.	Para. 7.1.
Harm to neighbouring amenity through noise and disturbance, loss of privacy, light pollution.	Para. 6.8.
Inadequate access resulting in harm to highway safety.	Para. 6.8.
Inadequate parking leading to increase on off road parking pressure.	Para. 6.8.
Harm to ecology including slow worms and birds.	Para. 6.7.
Out of character in terms of density, pattern of development and streetscene.	Para. 6.8.
Inadequate existing sewer system, increase in flooding to neighbouring houses.	Para. 6.8.

Other Consultees

Comment	Officer Response
PARISH COUNCIL COMMENTS Objects to the proposal on the grounds of inappropriate development within the Green Belt with no very special circumstances to justify harm. There is no viable demand for affordable housing in Cookham. Harm to local ecology. Harm to local infrastructure in particular sewage, gas and medical centre. Harm to highway safety.	Para. 6.2 – 6.6, 6.7, 6.12, 7.1.
BERKSHIRE ARCHAEOLOGY No objections subject to condition.	Noted.
COOKHAM SOCIETY	Para. 6.2 – 6.6, 6.7, 6.12,

Objects to the proposal on the grounds of inappropriate development within the Green Belt with no very special circumstances to justify harm. There is no viable demand for affordable housing in Cookham. Harm to local ecology. Harm to local infrastructure in particular sewage, gas and medical centre. Inadequate access resulting in harm to highway safety.	7.1.
HIGHWAYS It is noted this application is an Outline application with all matters reserved. Therefore specific highway issues have not been assessed. However purely from a highway perspective the principle of some form of development in this location is acceptable, any development will be expected to comply with the current best practice requirements.	Noted.
ENVIRONMENTAL PROTECTION No objection subject to informatives.	Noted.
PLANNING POLICY The proposed development is inappropriate development in the Green Belt (Policy GB1) and it is not considered that a case for VSC has been made relating to housing demand, provision of affordable housing, lack of alternative sites, or limited harm.	Para. 6.2 – 6.6, 6.9 - 6.13.

9. APPENDICES TO THIS REPORT

- Appendix A – Site Location Plan
- Appendix B – Indicative Layout
- Appendix C – Appeal decision for 13/00834

This recommendation is made following careful consideration of all the issues raised through the application process and thorough discussion with the applicants. The Case Officer has sought solutions to these issues where possible to secure a development that improves the economic, social and environmental conditions of the area, in accordance with NPPF.

In this case the issues have not been successfully resolved.

10. REASONS RECOMMENDED FOR REFUSAL IF PERMISSION IS NOT GRANTED

1. The proposal represents inappropriate development in the Green Belt which is by definition harmful to the Green Belt, and the applicant has failed to demonstrate that any very special circumstances exist that clearly outweigh the harm caused by the reason of inappropriateness and the other harm identified in subsequent reasons for refusal. The proposal is therefore contrary to paragraph 87, 88 and 89 of the National Planning Policy Framework (2012) and saved Policies GB1, GB3 and H4 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003).
2. The proposal would extend the built-up area of Cookham Rise into an important Green Belt gap separating Cookham Dean and Cookham Rise, representing an intrusion/encroachment into the countryside which would conflict with one of the main purposes of the Green Belt, and the physical presence would also result in actual loss of openness across the site, contrary to Paragraph 79 and 80 of the National Planning Policy Framework (2012) and saved Policy GB1, GB3 and GB2 (a) of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations adopted June 2003).
3. In the absence of a completed S106 legal agreement the development fails to make provision for necessary education improvements directly related to the development. The proposal therefore fails to comply with saved Policy IMP1 of the Royal Borough of Windsor and Maidenhead Local Plan 1999 (Incorporating Alterations Adopted in June 2003).