The Planning Inspectorate

Appeal Decision

Site visit made on 18 October 2016

by Mr J P Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 8 November 2016

Appeal Ref: APP/M1710/W/16/3151088
68-70 Lymington Bottom Road, Four Marks, Alton GU34 5EP

- 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 Mrs Aneta Swierk against the decision of East Hampshire District Council.
- The application Ref 35561/005, dated 3 February 2016, was refused by notice dated 11 May 2016.
- The development proposed is the demolition of 2 existing detached dwellings and all associated outbuildings, and the erection of 6 dwellings and new access road with a shared turning area.

Procedural matters

1. On the planning application form the Appellant is called Mr Aneta Swierk and also Mrs Aneta Swierk. I have called the Appellant the latter, as that is the name she is generally given elsewhere in the submissions.

2. An application for costs has been made by Mrs Swierk against the Council, and that is the subject of a separate decision.

Decision

3. The appeal is dismissed.

Main Issue

4. The main issue in this case is the effect of the development on the character and appearance of the area.

Reasons

5. For much of its east side from the railway bridge in the south to its junction with Soldridge Road to the north, Lymington Bottom Road is lined by dwellings of individual designs that face onto the highway and stand in large, mature, well-landscaped grounds. This results in the road having a pleasing and established semi-rural character that is dominated by trees, hedges and shrubs. Moreover, when looking at the houses from the fields behind, I anticipate that their long back gardens give the settlement a soft edge that means it is well-integrated into the surrounding rural landscape.

6. A particular characteristic of this part of the road is the limited development in depth, with the houses and bungalows tending to be laid out in a linear ribbon in relation to the carriageway. While a few (such as 54 and 58 Lymington Bottom Road) are set further back they nonetheless tend to reflect the overall pattern by being detached houses of individual designs standing in large plots.

As a result, this slight variation in siting does not conflict with the general character of the road. I acknowledge that at the southern end, in the vicinity of the railway, industrial units and new housing extend back, but to my mind the separation involved means this does not and will not have a demonstrable effect on the overall character of the rest of this length of road.

7. The appeal site comprises the large, deep curtilages of 2 neighbouring dwellings that are enclosed with mature trees and planting. The houses stand back from the road, roughly in line with the buildings to either side. At the rear fields are to the north and east while similar long mature gardens are to the south. Consequently, the site respects the semi-rural nature of this length of road and contributes positively to its overall character.

8. The proposal before me is to replace the existing houses with new ones in roughly the same positions (though sited slightly further south), and to form an access driveway along the north boundary to serve a further 4 houses in what is now the back garden area. The rear houses would be set at right angles to Lymington Bottom Road lining one side of what would be a cul-de-sac.

9. In the *East Hampshire District Council Local Plan: Joint Core Strategy* Policy CP10 advocates that housing should be accommodated within existing settlement policy boundaries in the first instance, while Policies CP19, CP20 and CP29 seek to protect the landscape and ensure development respects the area's characteristics. In the *East Hampshire District Local Plan Second Review (2006)* (the District Plan) the entire site is shown as being within the settlement policy boundary (SPB) of Four Marks, with the SPB running along its northern and eastern sides. As such, under Core Strategy Policy CP10 housing development on the land would be supported in principle.

10. However, this summer after the application before me had been determined, the *Medstead and Four Marks Neighbourhood Plan* was 'made', thereby becoming part of the development plan. As this is more recent than the District Plan, any conflict between the 2 must be resolved in its favour.

11. The Neighbourhood Plan now excludes the eastern half of the site from the SPB, so meaning that part is defined as countryside. It states that in the areas outside an SPB the approach of general restraint found in Core Strategy Policies CP6 and CP19 will apply. The development before me is in conflict with those policies as it is not for any of the circumstances they accept. Therefore, I consider that the introduction of housing here would detract from the existing pleasing rural landscape, so diminishing its value.

12. The Appellant was of the view that the Policies Map in the Neighbourhood Plan was flawed because it failed to incorporate the recommended modifications of the Neighbourhood Plan Examiner and she contended that the SPB it shows does not follow logical fence lines as it crosses the site. However, it is not for me to judge whether or not the development plan is flawed. I am also mindful that the Examiner did not identify the District Plan as containing the strategic policies in the development plan framework.

13. Turning to the detail of the scheme, the development would be noticeable from Lymington Bottom Road as much of the front planting would be removed and, although 2 houses would be facing the highway, the relatively wide and formal access road would be apparent and would allude to further development behind. The scheme in general and the houses along the cul-de-sac in

particular could also be seen from the surrounding fields and gardens through the trees that bound the site. In these views the limited separation between the dwellings at the rear means that, given their size and form, they would appear relatively suburban in nature. As a consequence of these factors the scheme would be sharply at odds with the linear character of built development on this part of the road and would be in conflict with the semi-rural nature of the surroundings, representing a suburban intrusion into the landscape. It would therefore be a discordant development that would not reinforce the local distinctiveness of the area and would relate poorly to the general locality.

14. Whilst Neighbourhood Plan Policy 1 has been modified so as not to rule out new housing in residential gardens, it still seeks to resist *'inappropriate development … where* [it] *would harm local character'*. In my opinion this is an example of such development.

15. I have noted too that the Appellant said the site was previously developed land as it formed the curtilage of developed land and, by not being a private garden in a built-up area, it was not excluded from the definition in the *National Planning Policy Framework* (the Framework). However, the Framework adds that on previously developed land it should not be assumed the whole of the curtilage should be developed. As such, defining the site in this way does not necessarily mean that permission should be granted for the scheme.

16. Furthermore, I have taken into account the previous appeal decision on the site from 2008[1] (the 2008 decision). That was for a similar form of development, namely a cul-de-sac running at right angles from the road, and, as with what is now proposed, the rear houses on the cul-de-sac would have been behind houses at the front. However, it was for a greater density of development, as 7 houses were proposed and while No 70 was to be demolished No 68 was to remain, thereby meaning 8 houses would have been on the site now before me. Balanced against this though at that time all the site was within the SPB.

17. As the SPB in the District Plan ran along the bottom of the gardens, that Inspector found that

> *'at least some form of additional development on the appeal site and on other similar plots in the road may be acceptable'.*

However, he came to similar views to me concerning the character of the area and the discordant nature of the development, stating in particular that

> *'the concept of development in depth in the form of an estate style cul-de-sac and at the density proposed cannot possibly meet the requirements of the development plan policies'.*

While this current proposal has a reduced density, the form of the development means this reduction is not sufficient to lead me to a different view.

18. The Appellant also contended that the character of the area had changed since the 2008 decision, and it was now more suburban. While this sat uncomfortably with her view that the site comprised land outside a built-up area, I nonetheless saw little on my visit to support such a contention. Housing has been allowed on either side of the road near to the railway, but as stated that is someway away from this site and has no bearing on its character

[1] Appeal Reference APP/M1710/A/07/2048487 dated 14 April 2008.

or the surroundings, while it is located in areas where there was development in depth in any event. There has been some new building near to No 68 and No 70, most notably immediately to the north. However, the vicinity of the appeal site still displays a semi-rural character with mature gardens running into the adjacent fields that I anticipate has not changed to any material degree from when the 2008 decision was made.

19. I appreciate that the Framework, with its emphasis on promoting sustainable development, post-dates the 2008 decision. However, I have found the scheme would not protect the natural and built environment. I am also aware that in a recent appeal decision (the 2016 decision) an Inspector concluded that land on Lymington Bottom Road a little to the north of this current site at the Telephone Exchange[2] (and outside the SPB) was in an unsustainable location in relation to its proximity to services, and so likely to result in a reliance on the car. To my mind, while the site before me is slightly closer to the centre of Four Marks the distance is sufficient to mean it is still reasonable to assume its residents would also rely on the car to access shops, services, schools and so on. As such it would not meet the definition of sustainable development found in the Framework. While a 2015 appeal decision found land at 20-38 Lymington Bottom Road[3] (the 2015 decision) to be sustainably located, that site is significantly closer to the village centre.

20. Finally, in support of her case the Appellant has said there is not a 5 year supply of deliverable housing sites in the District, a contention with which the Council disagreed. In the 2015 decision, following an Inquiry, the Inspector found such a shortfall to exist, but the 2016 decision, which was determined following the submission of written representations, concluded no such shortfall was present. Given their differing findings and the passage of time, I cannot rely on these decisions to reach a view on this matter, and little substantive evidence has been otherwise offered to assist me. Therefore, I am unable to conclude that there is now such a shortfall to balance against any harm.

21. The Council's second reason for refusal concerned the effect of the works on the protected trees on site[4], which are along the northern boundary and would have the proposed access driveway running beneath their crowns. It was contended that the driveway would damage these trees, thereby again causing harm to the character and appearance of the area.

22. These trees are fine specimens that enhance the surroundings and assist in creating a mature context for the housing and integrating the settlement into the rural landscape beyond. The ones at the front of No 70 already have a drive under their canopies and their high branches mean that vehicles would be able to pass without the need for branches to be removed. Consequently, mindful that a 'no dig' construction would be used, I have insufficient evidence to find they would be harmed by the new driveway.

23. The cul-de-sac would be a new feature in relation to the trees in the rear garden of No 70. Again though they generally have high branches and, with appropriate conditions reflecting the recommendations in BS5837:2012[5], the 'no-dig' construction should safeguard the trees in general and the root

[2] Appeal Reference APP/M1710/W/15/3134150 dated 9 February 2016
[3] Appeal Reference APP/M1710/A/14/2226723 dated 29 June 2015
[4] Subject of the *East Hampshire (68 and 70 Lymington Bottom Road, Medstead) Tree Preservation Order (EH632) 2005*
[5] BS5837:2012: *Trees in relation to design, demolition and construction - Recommendations*

systems in particular. Once more, I therefore have no reason to consider harm would be caused.

24. Accordingly I conclude that the proposal would result in development outside the SPB in the countryside, thereby diminishing the value of the rural landscape, while the introduction of 4 houses along a cul-de-sac behind frontage development at right angles to the road would be of a nature and layout that detracted significantly from the character and appearance of the area. As a result, and in the absence of any material considerations to outweigh this harm, it would conflict unacceptably with Policies CP10, CP19, CP20 and CP29 in the Core Strategy and Neighbourhood Plan Policy 1. Moreover even if the SPB was taken to be that in the District Plan, my concerns relating to the effect of the 4 rear houses would still be strong enough to render the development unacceptable.

Other matters

25. As well as refusing the application for the reasons discussed above, the Council also refused the scheme because of a lack of contributions for off-site highway matters and affordable housing. However, following the recent Court of Appeal judgement of *Secretary of State for Communities and Local Government v West Berkshire District Council and Reading Borough Council* [2016] EWCA Civ 441, these concerns have been withdrawn as the contributions are no longer appropriate. I have no reason to find otherwise.

26. I do not doubt the properties will meet Lifetime Homes Standards but that does not outweigh the harm identified.

27. I am aware that in the 2016 decision the Inspector found the proposal before him would add to the *'significant pressure'* placed on the services in the village because of recent growth. However, I have insufficient evidence before me to consider this scheme would cause harm in that way.

28. Turning to the matter of traffic, I consider sight splays from the 2 new junctions would be adequate. I note the acceptance by the Inspector in the 2008 decision that cars exceed the speed limit, but I have no basis to come to different conclusions to his on the matter of highway safety. While various new housing developments have been approved since then it has not been demonstrated that they would affect highway conditions to a material degree. Specific concern was raised about the suitability of the railway bridge and the A31 junction. However, the straightness of the road when approaching the bridge means that conflicts should be avoided, and in the light of what is before me the traffic associated with this scheme would not have an appreciable impact on movements at that junction.

29. Finally, drainage matters could be suitably addressed through conditions so causing no harm to the surrounding environment or adjacent businesses. Ecological matters could be similarly resolved.

Conclusions

30. For the reasons given above, I conclude the appeal should be dismissed.

J P Sargent

INSPECTOR