

Appeal Decision

Site visit made on 29 November 2016

by David Cliff BA Hons MSc MRTPI

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

Decision date: 22nd December 2016

Appeal Ref: APP/M1710/W/16/3154870

The Haven, Dinas and Merrow Down, Land west of Boyneswood Road, Medstead, Alton, Hampshire GU34 5DY

- 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 Messrs Barber, Porter and Ide against the decision of East Hampshire District Council.
 - The application Ref 55949/001, dated 9 November 2015, was refused by notice dated 7 April 2016.
 - The development proposed is described in the application form as 'outline planning application to demolish the existing bungalow at 'The Haven' and build 17 no. new two storey dwellings and 1 no. replacement dwelling, with garaging, landscaping and access road.'
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is in outline with details of access to be considered as part of the application whilst details of layout, scale, appearance and landscaping are matters reserved for future consideration. The submitted drawings include layout details and outline elevations. However, other than the details of the proposed access which is to be considered as a detailed matter, I have treated these drawings as being only indicative or illustrative given that layout, scale, appearance and landscaping are matters reserved for future consideration.
3. Notwithstanding the application description, revised indicative details were submitted showing the houses on 'The Haven' part of the site to be single storey. Although such details are indicative, I have taken these revisions into account in my consideration of the appeal.

Main Issues

4. The main issues are:
 - (i) Whether the proposed development would provide a suitable site for housing having regard to the development plan, housing land supply and the principles of sustainable development,
 - (ii) The effect of the proposals upon the character and appearance of the area,
-

- (iii) The effect of the proposals upon the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance,
 - (iv) Whether the scheme makes satisfactory provision for affordable housing and other requirements by means of an obligation.
5. The reasons for refusal in the Council's decision notice also refer to the effects upon surface water flooding and groundwater contamination. However, the Council's statement subsequently confirms that it wishes to withdraw this reason for refusal. I have not therefore considered such matters as main issues.

Reasons

Suitability of site for residential development

6. The majority of the appeal site is located outside the identified settlement boundary. Policy CP19 of the East Hampshire Joint Core Strategy 2014 (JCS) is applicable to development outside of the settlement boundary and generally restricts development in the countryside for its own sake. The proposal is not one of the stated exceptions in the policy. Policy H14 of the East Hampshire District Local Plan: Second Review 2006 (DLP) also restricts development outside of defined settlement boundaries to that with a genuine and proven need.
7. Policy CP10 of the JCS sets out the Council's spatial strategy for housing, generally directing new housing to sites within the settlement boundaries where it is consistent with maintaining and enhancing character and the quality of life. Policy CP10 goes on to say that in addition to allocated sites, housing outside the settlement boundaries will only be permitted in accordance with stated criteria, including where it has been identified in an adopted Neighbourhood Plan or has clear community support.
8. The site is not an allocated site for housing and has not been identified for development in the Medstead and Four Marks Neighbourhood Plan (MFMNP) which was formally made on 12th May 2016. Whereas, recently permitted major developments are included within it, the large majority of the site is outside of the settlement boundary defined in the newly made MFMNP and is not included within the proposed changes to the settlement boundary identified in the East Hampshire District Local Plan Part 2: Housing and Employment Allocations (Site Allocations Plan and Policies Map) 2016 ('LPHEA').
9. The Council is able to demonstrate in excess of a five year housing land supply. It is also able to demonstrate that well in excess of the JCS's minimum target of 175 new homes for Four Marks/South Medstead can be provided. The examining Inspector's report on the LPHEA noted that there is no need to make additional land available for extra housing to provide flexibility in case of slippage. The Council points to there being 79 net completions during 2015/16 in Four Marks/South Medstead. Furthermore, there are 410 outstanding permissions with 37 of these currently under construction. Whilst the appellant casts doubt over the implementation of the 'Friars Oak' proposed development, from the evidence before me it appears likely that the Council will achieve its targets for housing delivery on the basis of existing allocations and permissions.

10. There is also no convincing evidence before me that persuades me that this year's referendum vote for the UK to leave the EU will have a significant impact upon housing delivery rates.
11. Given this background, whilst Part 3 of the Local Plan is not expected to be adopted until October 2019, I am not persuaded at this time that it is certain that the settlement boundaries would be altered to include the part of the site that is not currently within the existing boundary. Whilst the settlement boundary in the DLP dates back to 2006, the recently made MFMNP provides an up to date settlement boundary taking account of current circumstances. Whilst it is possible for more sites to be included within the Local Plan Part 3 boundary, such additional provision would be subject to the making and due process of that plan which is currently at a very early stage.
12. The Council has referred to two previous appeal decisions¹ in which the Inspector for both appeals found harm in terms of the additional pressures upon the settlement, noting the limited provision of services and facilities. The Council has recently adopted the East Hampshire District Council Community Infrastructure Levy (CIL) on 8th April 2016 which helps to fund additional infrastructure to support new development including roads, schools, green spaces and community facilities.
13. Four Marks/Medstead is identified as a small local service centre in the sustainable hierarchy of settlements identified by policy CP2 of the JCS. The population of the settlement is already large for its designation and whilst there are local services available as identified by the appellant, the overall level of services is fairly limited. The development plan strategy seeks to provide for sustainable development, seeking to ensure that land is brought forward for development to meet housing need in a sustainable manner so that it is supported by the necessary infrastructure and provides for protection of the countryside. Given that there are already permissions in place to take new housing well beyond the identified figure, the resulting implications for local infrastructure weighs against the sustainability credentials of the proposal.
14. Although the development is within proximity of local services and the railway station this does not overcome the harm arising from it being contrary to the Council's development strategy for the area, including a substantial amount of development proposed on land outside of the settlement boundary.
15. I also note that the whole of the site has previously been included within the Council's Strategic Housing Land Availability Assessment (SHLAA) and the appellants' representations in this respect. Whilst I understand that the subsequent change would have been frustrating for the appellants, the SHLAA is only one part of the plan making process and provides no guarantee that a particular site would eventually be allocated for development or subsequently receive planning permission. The Framework reiterates that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. I have considered the appeal proposal on its individual merits on this basis, as set out in the entirety of my decision. The relevant development plan documents have been through a full examination process resulting in their adoption. The appellant has expressed concerns regarding the plan making process, including the consultation process and matters concerning participation. However, they are

¹ APP/M1710/W/15/3012061 & APP/M1710/W/15/3134150

matters which if necessary should be raised away from this appeal and I have only given them minimal weight.

16. The proposed development would not amount to sustainable development having regard to the housing need, the location of the majority of the site outside of the settlement boundary and the ability of the settlement to accommodate the proposed housing numbers. It would therefore be contrary to the Council's development strategy sought by policies CP1, CP10 and CP19 of the JCS, policy H14 of the DLP and Policy 1 the MFMNP.

Character and appearance

17. The site comprises part of the rear gardens of existing residential properties along with predominantly open land. The boundaries of the site are mostly marked by trees and hedges. It adjoins other open land to the west, and whilst it is also bordered elsewhere by more urbanised residential development, and noting permissions granted for other residential development in nearby sites, its openness and appearance contribute to the existing semi-rural characteristics of the area in the vicinity of the site.
18. The application is in outline with matters other than access reserved for future consideration. However, layout and elevation drawings are provided which provide an indication of how the site might be developed. Whilst I acknowledge that the appellant has sought to restrict the density of development to be akin to existing and proposed development in the locality of the site, a development of the intensity proposed would result in a substantial amount of development on predominantly open land, including development beyond the existing settlement boundary. The indicative layout proposals would be likely to result in a rather regimented and suburban form of development which would be out of keeping within the existing semi-rural setting.
19. The impact of new built development of the intensity proposed would be detrimental to the pleasant semi-rural character and landscape in the vicinity of the site. Whilst I have treated the submitted drawings as only being illustrative, they have not demonstrated that the development could take place without causing substantial harm to the area.
20. I have taken into consideration the planning permissions granted for residential development in the locality of the site, including 'Friars Oak' and 'Land north of Boyneswood Lane'. I note that these two sites are now included in the settlement boundary in the MFMNP, whereas the majority of the appeal site is outside. Whilst these include development on open land, I have treated the current proposal on its individual merits finding the harm set out above taking account of the provisions of the current development plan. The other infill developments also appear to me to be of a different form of development to the appeal scheme which proposes substantial development on predominantly open land rather than infill.
21. The proposal is therefore contrary to the relevant design, landscaping and countryside protection aims of policies CP19, CP20 and CP29 of the JCS and policy 1 of the MFMNP.

Living conditions

22. The proposed vehicular access would be located adjacent to an existing residential property ('Squirrels Leap') and the access road is shown to extend into the site adjacent to the rear garden of both this property and Highmead. Nevertheless, the drawings provided show that there is some opportunity for screening adjacent to the access road. Whilst some noise would be audible for neighbouring residents from passing vehicles, and from other sources in connection with the intensified residential use of the site, I do not consider from the evidence before me that the resulting noise would be of such magnitude to result in any significant harm to the living conditions of neighbouring residents.
23. In terms of layout, the illustrative drawings generally show that a layout could be designed with spacing to existing properties which is unlikely to result in any significant harm to neighbouring living conditions in terms of privacy, outlook or light. I note that plots 1, 2 and 3 are sited very close to the boundary of the site, but acknowledge that, in addition to the proposed single storey dwellings shown on the indicative plans, alternative siting could alleviate any potential impacts on existing neighbouring properties.
24. I therefore find that the proposal would accord with the amenity aims of policy CP27 of the JCS and the National Planning Policy Framework ("the Framework").

Affordable housing and other requirements

25. As noted above, the Council adopted its CIL on 8th April 2016. Contributions towards open space and community facilities would be included with the CIL for this development. Therefore the Council is now requiring an obligation to cover affordable housing, segregated pedestrian facilities at the nearby railway bridge and highway improvements, along with a s106 administration and monitoring fee.
26. The appellant has expressed a willingness in principle to provide a planning obligation in response to the Council's requirements. Nevertheless, I do not have a completed obligation before me in respect of these matters which, on the basis of the available information, is contrary to the relevant aims of policies CP11, CP13, CP14, CP31 and CP32 of the JCS. The appellant has requested a further extension of time to allow the completion and submission of an obligation. However, I have found significant harm to arise from the proposal as outlined earlier in this decision and I do not consider that the benefits that would arise from the obligations sought would outweigh that harm.
27. I have taken into account the potential substantial benefit that would arise from the provision of affordable housing as proposed in the application. Nevertheless, whilst this benefit would carry significant weight, it would not outweigh the harm I have identified above in relation to the location of the majority of the site outside of the settlement boundary and the effect upon the character and appearance of the area. I have therefore not granted a further extension of time for the submission of an obligation, as to do so would result in the appellants incurring additional unnecessary expense in securing such a completed obligation.

Other matters

28. The appellant has drawn my attention to a recent High Court Judgment regarding the definition of previously developed land and, in particular, relating to residential gardens outside of built-up areas. However, whilst paragraph 111 of the Framework encourages the effective use of previously developed (brownfield) land, this is clearly outweighed in this instance by the harm I have identified.

Conclusion

29. I have concluded that the proposed development, with appropriate design at the reserved matters stage, would not result in unacceptable harm to the living conditions of neighbouring residents. Whilst no obligation has been submitted, the potential benefit of affordable housing would weigh in support of the scheme. However, the majority of the proposed development would be located outside of the defined settlement boundary and such development would not accord with the Council's development strategy for the area. There is no overriding need for additional development outside of the settlement boundaries at this time. The proposed development, on a predominantly open site, would also be likely to be detrimental to the character and appearance of the area.

30. The resulting harm is the prevailing consideration and leads me to the conclusion that the proposed development would not amount to sustainable development as sought by the development plan and the Framework.

31. Therefore, having had regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR