
Appeal Decision

Site visit made on 20 March 2017

by JP Roberts BSc(Hons), LLB(Hons), MRTPI

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

Decision date: 2 June 2017

Appeal Ref: APP/C1760/W/16/3162977

Land at Woodside, Chilworth, Southampton

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Stephen Prince against the decision of Test Valley Borough Council.
 - The application Ref 15/02824/OUTS, dated 17 November 2015, was refused by notice dated 12 May 2016.
 - The development proposed is the erection of two detached two-storey dwellings with garaging and access from Woodside, Chilworth.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The application is made in outline, with appearance and landscaping reserved for subsequent approval.
3. Since the refusal of the application the Council has confirmed that due to changes in local and national policy, it will not defend the reasons for refusal relating to affordable housing, the provision of public open space or the need for highway and transport contributions, the latter two matters now being the subject of a Community Infrastructure Levy Charging Schedule.
4. The appellant submitted further ecological evidence with the appeal, following which the Council has confirmed that, subject to the imposition of conditions, the relevant reason for refusal will not be pursued.
5. The appellant has submitted a unilateral undertaking which offers to make financial contributions to mitigate the effect of the proposal on the Solent and New Forest Special Protection Areas (SPAs), in accordance with the Council's mitigation strategy. I am satisfied that the obligation is necessary and that the mitigation would ensure that there would be no adverse effect on the SPAs. I shall therefore deal with this matter no further.

Main Issues

6. The main issue is whether the site is in a suitable location for residential development, in the light of local and national policies, having regard to the character and appearance of the area, including the effect on trees, and whether occupiers of the proposed dwelling would have satisfactory access to services and facilities.

Reasons

7. The site lies outside of the settlement boundary as defined in the Test Valley Revised Local Plan 2011-2029 (LP), adopted in January 2016. Policy COM2 permits development within defined settlement boundaries, but says that development outside of those boundaries will only be permitted in particular circumstances, none of which applies here. The proposal thus conflicts with an up-to-date development policy.
8. The National Planning Policy Framework (the Framework) says that proposed development that conflicts with an up-to-date local plan should be refused unless material circumstances indicate otherwise. The Courts¹ have also confirmed that where there is such a conflict, the presumption in favour of sustainable development contained in paragraph 14 of the Framework will not apply. There is no suggestion that the Council cannot demonstrate a 5 year supply of housing land, and therefore the relevant housing policies in the plan must be considered to be up-to-date, and paragraph 14 and 49 of the Framework are not engaged.
9. The appellant has argued that the settlement boundary has not been appropriately drawn, referring to the history of the site and its context, which may not have been wholly appreciated at the time that the settlement boundary was devised. I also note that the site was included within the settlement boundary at the time the plan was put out for consultation, but was subsequently changed, although not, apparently, as a result of representations made.
10. I recognise that the decision whether or not to include the site within the settlement boundary may be arguable. However, it is not appropriate for me to question the boundary of a recently adopted plan in the context of an appeal under Section 78 of the Act. There have been no changes in circumstances of substance since the adoption of the plan, and therefore, in order to provide the certainty that is one of the underlying principles of the development plan system, I attach little weight to the appellant's arguments in this regard.
11. The appellant has directed me to an appeal decision in relation to a site at Rownhams (Ref: APP/C1760/W/15/3139021) where the Inspector took a similar line in respect of the application of Policy COM2. Whilst there are distinguishing features between that case and this, the Inspector took a firm line on the way in which the policy should be applied, and I see no reason to take a different stance. In respect of the appeal at 36 Havant Road (Ref: APP/X1735/W/15/3121554), the Inspector found that there was no policy restriction which precluded development in the location of that site, and that development in the countryside was to be determined in accordance with national policy. This case is materially different in that Policy COM2 specifically precludes development of the type proposed in this location.
12. The site lies within the Southampton and Eastleigh Local Gap, which is the subject of LP Policy E3. Policy E3 provides that development within such gaps will be permitted provided that it would not diminish the physical separation and/or visual separation, and it would not individually, or cumulatively with other existing or proposed development compromise, the integrity of the gap.

¹ Ref: East Staffordshire BC v SSCLG and Barwood Strategic Land [2016] EWHC 2973 (Admin)

13. The policy was informed by a Local Gap Topic Paper which discusses the rationale for the gap, specifically referring to the plantation woodland known as The Hut, which abuts the appeal site and adjoining land to the east, and which screens development at Southampton and Eastleigh.
14. I agree with the findings of the appellant's Landscape and Visual Impact Assessment that public views of the dwellings would only be obtained from Woodside. The proposal would have only a small impact on the integrity of this woodland gap, resulting in the removal of trees and the erection of two substantial dwellings. The proposal would diminish the physical separation provided by the gap, and would conflict with the policy, albeit only to a minor extent. It would nibble away at the edge of what is a substantial gap, and, if allowed, it would make it difficult for the Council to resist other small incursions, the cumulative effect of which would be to compromise the integrity of the gap. I therefore find some small harm to the Local Gap, and a conflict with Policy E3.
15. The site forms part of a market garden which backs onto an extensive area of woodland. There are dwellings on either side of the site, but Woodside itself is a rural lane along which there are scattered dwellings, interspersed with open or wooded areas. One such area of woodland lies on the opposite side of the road from the appeal site. The site is screened on the road frontage by a high brick wall, above which trees and vegetation combine to reinforce a rural appearance, complementing that of the land opposite.
16. I consider that Woodside has a distinctive character; sizeable houses in well-vegetated plots, the narrowness of Woodside and its lack of footpaths, together with wooded gaps in the line of development contribute to this sense of place. The intermittent line of development provides a transition from the urban area of Chilworth into the open countryside, which starts not far from the appeal site where the lane changes from a bridleway used by traffic to a footpath.
17. Although there are dwellings on either side of the site, I consider that the gaps between built development contribute to the distinctive semi-rural character to which I have referred. The high brick boundary wall would provide some screening, along with existing and potentially new planting, but the new dwellings would still be visible over the wall and through the access points if ungated or when gates are left open, and they would screen taller trees which lie to the rear of the proposed houses. Any new planting would be insufficient to mitigate the harm that would be caused to the special character of the area.
18. The site is the subject of an area Tree Preservation Order; 8 trees would be required to be felled. Whilst these trees represent a small proportion of the trees and vegetation on the whole site, and individually are not important specimens, they nevertheless contribute to the verdant character of the site. Although their loss would have only a small impact, it would nevertheless contribute to the harm to local character than I have found. I also consider that there would be a realistic prospect that there would be some pressure to carry out works to lop or fell other trees within the site, because of the small size of the rear gardens in relation to the size of the properties proposed, and the closeness of trees to the south, blocking both sunlight and daylight. This too adds to my concerns. I therefore find that the proposal would result in material harm to the area, contrary to LP Policies E1 and E2, both of which aim to protect character, and reflect one of the core principles of the Framework to

take account of the different roles and character of different areas, recognising the intrinsic character and beauty of the countryside.

19. Turning to whether occupiers would have adequate access to services and facilities, the Council accepts that the site is not in an isolated location and that in terms of walking distance, is in a relatively sustainable location in terms of its proximity to the main A27 road (where there are bus services) and village facilities.
20. The Council contends that Woodside, a narrow road, lacking a footway, which in the direction of Chilworth, is inclined and winding, would make it unsuitable for travel on foot. I walked along the road on my visit. Whilst I agree that walking conditions would not be ideal, traffic volumes are likely to be low, as Woodside serves only 20 or so houses. Although there is a bend in the road, visibility is fairly good, and there is some street lighting. The incline is not steep, and occurs over a short distance and there are accesses and verges where a pedestrian could readily take refuge from oncoming traffic. The distance from the appeal site to the junction of the A27 is about 200m, and over such a relatively short distance, I consider that all but the most cautious of pedestrians would be willing to walk along this fairly short stretch of road, despite its limitations. I therefore find that occupiers of the proposed dwellings would have satisfactory access to services and facilities and that there would be no material conflict with LP Policy T1, which deals with managing movement.
21. I have had regard to the appeal decision referred to me by the Council in relation to a site in Houghton Road, Stockbridge²; it is difficult to make clear comparisons between the two cases without knowing the site, but on the basis of the Inspector's description in the Stockbridge case, it can be distinguished from this proposal because the road was referred to as both busy and unlit, whereas in this case the road is quiet and lit. I therefore consider that the occupiers of the proposed dwellings would have satisfactory access to services and facilities.
22. Whilst the occupiers would have satisfactory access to services and facilities, the proposal would conflict with local and national policies, and would result in significant harm to the character and appearance of the area. I therefore conclude on the main issue that the site is not in a suitable location for residential development, in the light of local and national policies, having regard to the character and appearance of the area, including the effect on trees. It would conflict with the policies I have identified above, as well as with LP Policy SD1 which deals with sustainable development.

Other matters

23. I have had regard to the concerns raised by the occupiers of Carlyle House in respect of drainage and overshadowing, but neither of these matters adds to my reasons for dismissing the appeal. Whilst I recognise that the construction of the two dwellings would result in some disturbance and inconvenience for users of Woodside, it would be temporary, and would not be sufficient on its own to lead me to withhold permission.

² Ref: APP/C1760/A/13/2208387

24. I have also taken into account the social benefit that the provision of two additional dwellings would provide in helping to meet the need for housing in the district. However, as the 5 year target is being met, this attracts only small weight. The proposal would also bring with it economic benefits from the construction and occupation of the two dwellings, and this carries modest weight. However, the harm that I have found in respect of character and appearance is significant and is not outweighed by the benefits that the proposal would bring. I therefore find that there are no material considerations of sufficient substance to justify my determining the proposal other than in accordance with the development plan.

Conclusion

25. I conclude that the proposal conflicts with the development plan as a whole, and, for the reasons given above, the appeal should be dismissed.

JP Roberts

INSPECTOR