
Appeal Decision

Site visit made on 24 June 2019

by Terrence Kemmann-Lane JP DipTP FRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2019

Appeal Ref: APP/H1705/W/19/3222118

Land to south west of 3 Castle Cottages, Harts Lane, Newton Common, RG20 9AR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Mr James Russell against Basingstoke and Deane Borough Council.
 - The application Ref 18/02095/OUT, was dated 19 July 2018.
 - The development proposed is an outline application for the erection of detached chalet bungalow style dwelling, hard and soft landscaping and associated works.
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Decision

1. The appeal is allowed and outline planning permission is granted for the erection of a detached chalet bungalow style dwelling, hard and soft landscaping and associated works on land to south west of 3 Castle Cottages, Harts Lane, Newton Common, RG20 9AR in accordance with the terms of the application, Ref 18/02095/OUT, dated 19 July 2018, subject to the conditions set out in the schedule at the end of this decision.

Preliminary matters

2. The application is in outline, with only access and layout to be considered in this decision.
3. Since the appeal is against the failure to give notice of a decision within the prescribed period, there are no refusal reasons. However, the Council has indicated that, if it were in a position to make a determination, it would have refused outline permission for the following reasons:
 1. The application has failed to demonstrate that it meets the criteria to be considered as an exception to the general policy of restraint for housing in the countryside. There is no justification for departing from the Development Plan Policies or any other material considerations such to establish the principle of development which would be of sufficient weight for the creation of an additional dwelling on this site. The proposal is contrary to the National Planning Policy Framework (2019) and Policies SS1 and SS6 (e) of the Basingstoke and Deane Local Plan 2011-2029.

2. The proposed development would result in an incongruous form of development appearing unacceptably cramped and visually congested which would fail to respect the established pattern and verdant character of the surrounding area. As such, the development would not successfully integrate with the surrounding built form and would be detrimental to the visual amenity and character of the area. This would be contrary to the requirements of Policies EM1 and EM10 of the Basingstoke and Deane Local Plan 2011 - 2029 and the National Planning Policy Framework (July 2018).
4. I will consider the appeal on the basis of the matters raised in these objections by the Council

Main Issues

5. The main issues are i) the appeal site as a location for housing development; and ii) the relationship with the character and appearance of the surrounding area.

Reasons

Development Plan policy

6. The starting point is development plan policy, which in this case is contained in the Basingstoke and Deane Borough Council Local Plan 2011-2029 adopted in May 2016. The site is located outside any Settlement Policy Boundary (SPB) and is designated as countryside by Policy SS1 (Scale and distribution of new housing). Policy SS1 sets out a spatial strategy to meet the full housing need based upon the development of allocated greenfield sites and the redevelopment of land in the towns and villages. Local Plan Policy SS6 (New Housing in the Countryside) states that development in the countryside will only be permitted if the site is (as is relevant to this appeal) on previously developed land (PDL).
7. The National Planning Policy Framework (the Framework) Annex 2 Glossary defines PDL as "*Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.*"

Location of the appeal site

8. The Local Plan's definition of a 'settlement' states that they typically consist of a village, comprised of more than a group of houses or farmstead, including at least one service or facility, such as a village hall, public house or school. This part of Newtown has a village hall (opposite the site), a public house and two places of worship and contains a meaningful collection of dwellings. Whilst it does not have a SPB, I consider that the appeal site is within a settlement. Whether it constitutes a 'built up area' is less clear-cut because the settlement consists of quite a low density, somewhat random scattering of dwellings.

9. The application site is currently used as garden land. The land is bounded by Nos.3 & 4 Castle Cottages to the north, the garden of No.2 Castle Cottages to the east, and by the unnamed access road which serves the local area to the west and south. I note that in July 2010, an application was submitted to the Council for the "Change of use of open space to residential land (retrospective)". The Council granted permission for this development in 2011. It therefore appears that, at that time it was attached to an adjacent dwelling and was used as part of the garden land of that dwelling. The Council's appeal statement refers to the site as being part of the garden of No.3 Castle Cottages, although there is no 'blue' line to indicate such ownership.
10. My assessment of the state of the site in terms of the Local Plan policies is that it is within a settlement but the scattered nature of the development means that it cannot be described as a built up area. The site is therefore PDL. With regard to PDL, the guidance referred to in paragraph 7 above includes the statement with reference to curtilage "*although it should not be assumed that the whole curtilage should be developed*": in this case the site is not overly extensive and it contains a shed-like structure that remains from the use as garden land associated with a dwelling. It therefore comes within the terms of Policy SS6. Additionally, I should mention that, subsequent to the submission of the appeal, the Council has issued a statement that, at the current time, it is unable to demonstrate that it has a 5 years supply of deliverable housing sites. This means that the 'tilted balance' of the Framework comes into consideration. However, in view of my finding that the appeal site is in accord with Policy SS6 it is not necessary to examine the consequences of the tilted balance as the appeal site is in a location suitable for housing development on the scale proposed.

Character and appearance of the surrounding area

11. However, the Council's objection to the proposal, as expressed in the second putative reason for refusal, applying Policies EM1 and EM10, states that the proposed development would result in an incongruous form of development appearing unacceptably cramped, visually congested, and failing to respect the established pattern and verdant character of the surrounding area.
12. The appeal proposal is in outline, with only access and layout to be considered. Therefore the design of the development remains to be settled, and so to that extent it cannot be described as incongruous in terms of design. As to being incongruous in the sense of being out of character, appearing unacceptably cramped, visually congested, and failing to respect the established pattern, I find that none of these descriptions are appropriate to the proposal. I have already described Newtown Common as being a random scattering of dwellings. They do not have any singular character in terms of size of dwelling, relationship to access tracks, size of plot, or of storey height. The appeal dwelling would be set a reasonable distance away from Castle Cottages (many dwellings being much closer) and the plot size is bigger than a number in the immediate vicinity. It cannot be reasonably described as cramped or visually congested. The proposed dwelling is not at variance with the aims of Local Plan Policies EM1 and EM10.

Other matters

13. I am informed that there is a deed that Newtown Parish Council believes contains constraints that would preclude the appeal proposal from succeeding. This is a civil matter that does not come within the ambit of this appeal. In addition it is said that the proposal would lead to noise pollution and inconvenience, overlooking and a loss of privacy to neighbours, pressure for parking on the unmade tracks which provide access to the site and the surrounding dwellings and village hall, and a precedent for similar development in the future. However, these matters are not supported by cogent arguments and none of the concerns raised amount to a significant matter that would warrant the withholding of permission.

Conclusion

14. I have found that the appeal site is in a location suitable for minor residential development and accords with Policies SS1 and SS6. The appeal proposal is also satisfactory in terms of fitting with the character and appearance of the area and meets the requirements of Policies EM1 and EM10. I will therefore allow the appeal, subject to planning conditions that I deal with below.

Conditions

15. A number of conditions have been suggested by the Council. I have considered these in the light of Planning Practice Guidance (PPG). For clarity and to ensure compliance with the PPG I have amended some of the text.
16. The reasons for imposing condition are as follows: condition 4 is to provide certainty as to the development permitted; conditions 5 and 6 are to ensure that the adjoining highways are not obstructed or safety of users put at risk; conditions 7 and 8 are to ensure the protection of trees in order to maintain the character and appearance of the area; condition 9 is to ensure that there is no risk to future occupiers, neighbours, controlled waters and ecological systems from contamination; condition 10 is to protect the living conditions of neighbours during the course of the development; condition 11 is to avoid adverse effects and to deliver net gain in respect of biodiversity; and condition 12 is to ensure that the development achieves an appropriate level of sustainable water use.

Terrence Kemmann-Lane

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan, Site Plan.
- 5) The developer, within one week of the commencement of development, shall ensure that there is provision made for the parking and turning on site of operatives' and construction vehicles, together with storage on site of construction materials. The provision shall be retained and used for the intended purpose for the duration of the construction period and that area shall not be used for any purposes other than the parking and turning of vehicles and storage of construction materials respectively.
- 6) The development hereby permitted shall not be occupied or the use commence, whichever is the sooner, until vehicle parking space has been constructed and surfaced in accordance with the approved details and that area shall not thereafter be used for any purpose other than parking, loading and unloading of vehicles.
- 7) No development other than site clearance and demolition, but excluding any work to the existing trees on site, shall commence on site until a full specification and method statement for the construction of the driveway in proximity to trees have been submitted to and approved in writing by the local planning authority. The specification shall include cross sections to show existing and proposed ground levels along the length of the drive and periodically across its width. The specification and construction methodology shall be designed in accordance with the recommendations made in the arboricultural impact assessment dated September 2018 and shall include a statement prepared by a relevant engineer approving the design and construction methodology. No development or other operations shall take place other than in complete accordance with the approved driveway specification and method statement.
- 8) No development other than site clearance and demolition, but excluding any work to the existing trees on site, shall commence until an Arboricultural Method Statement, prepared in accordance with the BS5837 "Trees in Relation to Design, Demolition and Construction" has been submitted to and approved in writing by the local planning authority. The statement shall outline how trees will be protected during the development and shall include a tree protection plan. No development or other operations shall take place other than in complete accordance with the approved method statement.

- 9) Should any discoloured or odorous soils be encountered during development works or should any hazardous materials or significant quantities of made ground be found, then all development works shall be stopped, the local planning authority contacted and a scheme to investigate the risks and / or the adoption of any required remedial measures be submitted to, agreed and approved in writing by the local planning authority prior to the recommencement of development works. Following the completion of development works and prior to the first occupation of the site, sufficient information must be submitted to demonstrate that any required remedial measures were satisfactorily implemented or confirmation provided that no unexpected contamination was encountered.
- 10) Demolition or construction works and delivery of construction materials and plant and machinery, shall take place only between 07:30 and 18:00 Mondays to Fridays and 08:00 to 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays. No removal of any spoil from the site shall take place outside these hours.
- 11) Development shall be undertaken in strict accordance with the biodiversity mitigation and enhancement measures contained within Chapter 6 Mitigation Recommendations of the Ecology Report by Davidson-Watts Ecology Ltd dated 5 July 2018 and these shall be in place before the development is first occupied.
- 12) No development above ground level shall commence on site until a Construction Statement detailing how the new home shall meet a water efficiency standard of 110 litres or less per person per day has been submitted to and approved in writing by the local planning authority, unless otherwise agreed in writing with the local planning authority through a demonstration that this requirement for sustainable water use cannot be achieved on technical or viability grounds. The development shall be carried out in accordance with the approved details.