



Appeal Decision

Site visit made on 6 August 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 August 2019

Appeal Ref: APP/X1735/W/19/3224281

Land to the rear of Cranbrook Villa, Copse Lane, Hayling Island, Hampshire PO11 0RJ

- 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 Mr Anthony Griffiths against the decision of Havant Borough Council.
 - The application Ref APP/18/01138, dated 26 October 2018, was refused by notice dated 7 January 2019.
 - The development proposed is the erection of two single storey, three bedroom, bungalows.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the site is suitably located for new housing development, having regard to accessibility and local and national policies, and;
 - The effect of the proposal on the character and appearance of the surrounding area including trees.

Reasons

Location of the site

3. The appeal site is located within a cluster of dwellings near the intersection of Copse Lane and Woodgaston Lane in the hamlet of Tye. The land is to the rear of Cranbrook Villa which is some distance to the north of South Hayling where the principal facilities for Hayling Island are located. However, there are a limited number of facilities including a church, community building, post office and local shop situated under a mile from the appeal site.
4. Policy CS17 of the Havant Borough Core Strategy, March 2011 (CS) and policy AL2 of the Havant Borough Local Plan (Allocations) July 2014 (LP) in combination set out a borough wide spatial strategy that seeks to concentrate residential development to five identified urban areas, one of which is Hayling Island. The explanation for the strategy indicates that this will allow for the use of existing facilities and lessen the impact upon protected bio-diversity designations, many of which are located around the coast.

5. Settlement boundaries are used to distinguish the urban and non-urban areas on Hayling Island with policy CS17 of the CS specifying that new residential development would only be supported in non-urban areas if it is consistent with the countryside policies in the National Planning Policy Framework (the Framework). The appeal site lies outside of, and some distance from, the identified urban areas in Hayling Island, and it is not part of the appellant's case that the proposal would meet with the exceptions listed in paragraph 79 of the Framework. Therefore, the appeal proposal conflicts with the residential development strategy in the development plan.
6. The proposal is for two three-bedroom bungalows which would be likely to have future occupants with a range of travel requirements in order to access facilities, education and employment. Policy CS16(1)(d) requires development to demonstrate that its design is well connected to, and integrates with, the immediate local area and the wider area by linking to existing pedestrian and cycle routes and encouraging people to use public transport where possible.
7. The walking environment to the nearest facilities is for the most part unlit and without a footpath, which is likely to deter pedestrians from using it routinely. Furthermore, given the distance involved, and that some of the route is likely to require walking directly adjacent to the heavily trafficked and noisy A3023, accessing the main facilities in South Hayling by foot would not be an attractive option. Similarly, cyclists would need to be confident road users in these conditions.
8. The Hayling Billy cycle and walking route along a former railway line is located on the western coast of Hayling Island some distance from the appeal site and is more recreational in nature. It would therefore, be unlikely to form part of a customary practice to access facilities, employment or education for future residents of the proposed development.
9. Whilst the appellant refers to the nearest bus stops being approximately 90 metres from the appeal site, I am uncertain as to the route and frequency of the bus services that would serve them. Therefore, whilst bus services may offer a degree of choice, it has not been shown that they are sufficiently frequent such that trips to employment, shops and schools would be particularly convenient and as such, these trips are more likely to be undertaken by private car.
10. In support of the proposal, the appellant points out that the site would be within a reasonably short distance of a range of facilities and within a hamlet. Be this as it may, the development represents a more dispersed approach than is set out in the CS which, having balanced a range of social, environmental and economic factors, seeks to concentrate residential development in specific main urban areas where more extensive existing facilities are present.
11. I am referred to a recently permitted development for 6 dwellings at Yacht Haven¹, 300 metres to the south of the appeal site which is outside of the housing development boundary. Based on the evidence before me, the planning history of the site included a previous outline consent for residential development² and some ambiguity regarding its lawful use, which was an

¹ Application reference APP/13/00317

² Application reference 93/50888/2

important consideration in the overall balance of issues. As such, the case does not represent a direct parallel with the circumstances of the appeal site. Therefore, it attracts limited weight, and in any event, I have determined the appeal proposal on its own merits.

12. I therefore find that the site would not provide a suitable location for housing given that it conflicts with the housing distribution strategy for the borough, the occupants of which would be likely to be largely reliant on the private car in order to access most facilities, education and employment. Consequently, the proposal would be contrary to policies CS9, CS16, CS17 and DM11 of the CS and policy AL2 of the LP which when taken together, amongst other matters, set out the borough wide spatial policy for residential development in locations with better access to facilities and public transport.
13. The Council have included references to policies DM9 and DM12 of the CS within the first refusal reason on the decision notice. Policy DM9 sets out various criteria to assess development in the coastal zone but these do not specifically refer to the distribution or accessibility of housing and accordingly, the proposal would not conflict with this policy in relation to this main issue.
14. Policy DM12 requires new development to mitigate the impact of travel generated by the development. I have not seen evidence to suggest that the development would generate significant travel impacts that would necessitate specific mitigation measures, and its modest scale would indicate otherwise. Accordingly, I do not find conflict with this policy.

Character and appearance

15. The site lies within a hamlet comprising a cluster of mostly two storey detached dwellings set within generous grounds, the prevailing character of which is semi-rural, due to the spaces between buildings, proximity of agricultural fields, mature trees, boundary hedgerows and the informal appearance of Copse Lane.
16. Cranbrook Villa is a detached house within a row of residences fronting onto Copse Lane that have particularly long rear gardens, which contribute positively to the semi-rural character and appearance of the area. The appeal site originally formed part of the grounds at the rear of Cranbrook Villa and at the time of my visit had been generally cleared of vegetation. Nevertheless, due to the absence of built form within the site and established boundary hedgerows it retains an open and semi-rural character.
17. The appeal proposal would introduce two detached bungalows, that would together span the width of the site and introduce a significant area of hardstanding into an area presently devoid of built form. Consequently, this would harmfully erode the existing open semi-rural character of the site due to the encroachment of domestic built form.
18. In addition, the siting of the bungalows behind the existing row of residences along Copse Lane would prevent them from fronting onto the road. This would adversely contrast with the linear layout of the existing dwellings, and their relationship to the lane in the immediate vicinity. Furthermore, the development would result in markedly smaller plots with a greater degree of coverage by built form and hardstanding, which would introduce urban

characteristics out of character with the surrounding established pattern of development. Taking these factors together, the result would be harmful to the character and appearance of the appeal site.

19. The submitted tree report identifies two trees³ of moderate quality. These lie outside the appeal site but near to its boundary. Both trees have an estimated remaining life span of 40 years and contribute positively to the semi-rural character and appearance of the area, and there is no dispute between the parties that they should be retained.
20. Some of the hardstanding as well as the north eastern corner of one of the dwellings would fall within a significant proportion of the root protection area for the Ash tree, which is covered by a Tree Protection Order. The submitted tree report recommends that inspection holes should be dug under appropriate supervision to establish the rooting pattern for the tree, following which an appropriate foundation type would need to be established. Based on the evidence presented, it is not shown whether an appropriate foundation can be secured. Therefore, I am not certain that there would be no unacceptable harmful effects on the protected Ash tree. Given the maturity and remaining lifespan of the Ash tree this would not be outweighed by the potential for additional tree planting at the site.
21. I accept that the single storey nature, existing planting and distance of the dwellings from Copse Lane would limit their prominence, nevertheless glimpses of some of the development would be possible via the access onto Copse Lane, as well as in private views from surrounding buildings.
22. There is reference⁴ to the Council permitting other residential development that might be described as backland development. However, this related to a site within an identified urban area at Waterlooville some considerable distance from the appeal site, the context of which had a considerably different character and appearance to the scheme before me, and as such, is of limited relevance.
23. I am referred to the contemporary design of the bungalows that would incorporate several sustainable building technologies. Be that as it may, this would not overcome the harm to the character and appearance that I have identified. Pre-submission advice from the Council that smaller scale development might be acceptable is by its nature informal, and the evidence does not suggest it was given in relation to a specific scheme. Therefore, this is of limited weight.
24. Accordingly, I find that the proposal would unacceptably harm the character and appearance of the area and fails to demonstrate that it would make sufficient provision to safeguard the continued survival of the adjacent protected Ash tree. Therefore, it would conflict with policies CS9, CS16 and DM9 of the CS which, amongst other matters, seek to ensure a high quality design that takes account of, and respects the character and appearance of the local context. Furthermore, it would conflict with policy DM8 of the CS which, amongst other matters, requires development to incorporate important natural features, such as trees, into the design including measures to ensure their continued survival.

³ Common Ash and Monterey Cypress

⁴ APP/18/00720 98 London Road

25. The Council have also referred to policies CS17, DM11 and DM12 of the CS and policy AL2 of the LP in the second refusal reason on the decision notice. However, these policies, which address various matters such as the housing distribution strategy and transportation impacts, do not expressly refer to the character and appearance of the area. Accordingly, I do not find that the proposal would conflict with them on this basis.

Other Matters

26. The appeal site is located near to the Chichester and Langston Harbours Special Protection Area (SPA) and Chichester and Langstone Harbour Ramsar Site (RAMSAR), habitats recognised under the Conservation of Habitats and Species Regulations 2017 as being of international importance for supporting important numbers of overwintering and breeding bird species.
27. Given the proximity to the SPA and RAMSAR sites, it is reasonable to suppose that future residents of the proposal would potentially visit those areas for recreational purposes and dog-walking. Intensification of such activities would be likely to cause disturbance to the birds and their habitat. There is little to suggest that such visits, in combination with other residential development within the district, would not have a significant effect on the internationally important interest features of the SPA and RAMSAR sites. Neither party has disputed this point.
28. In addition, I am referred to recent caselaw⁵ that has arisen since the Council made its determination and the subsequent position statement by the Council⁶ in relation to the impact of development on the water quality of European Designated Nature Conservation Sites within the borough. Wastewater from Havant Borough drains via wastewater treatment works and is likely to affect Chichester and Langstone Harbour Special Protection Area (SPA), Chichester and Langstone Harbour Ramsar Site, Solent Maritime Special Area of Conservation (SAC) and Solent and Dorset Coast Potential Special Protection Area (pSPA) (collectively referred to as the Solent's European Sites).
29. The proposal would connect to the mains drainage system, and as such it is likely, that together with other development, it would contribute to eutrophication that reduces water quality. I have not seen evidence that the proposal would not have a significant effect on the internationally important interest features of the Solent's European Sites.
30. By way of mitigation, the appellant has submitted a signed and dated Unilateral Undertaking (UU) which purports to provide contributions towards the provision of area wide mitigation outlined in the Solent Recreation Mitigation Strategy. This would not however address issues of additional nutrients affecting water quality. However, as I am dismissing for other reasons it is not necessary for me to consider this matter further.
31. The appellant points out that the appeal proposal would provide good living conditions for future occupiers and would not impact on the living conditions of existing nearby residents. He also refers to the absence of harm in relation to bio-diversity at the site and that appropriate levels of parking for cars and bicycles would be provided to meet the Council's standards. However, the

⁵ Cooperatie Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C293/17 and C294/17)

⁶ Havant Borough Council Position Statement on nutrient neutral development, June 2019

absence of harm in relation to these matters attracts neutral weight, as this would be required, in any event, by other development plan policies.

Planning Balance and Conclusion

32. The main benefit of the proposal would be the provision of two additional dwellings towards the overall housing supply that would make more efficient use of the land and would enhance the mix of smaller housing on offer. Furthermore, some economic benefits would arise from their construction and the economic activity associated with future occupants. However, considering the modest scale of the proposal, such benefits would be limited. Balanced against that, is the harm arising from the conflict with the housing distribution strategy and the adverse impact to the character and appearance of the area.
33. The appellant refers to the 2016 Annual Monitoring Report which indicated that the Council was unable to demonstrate a five year supply of deliverable housing sites, and suggests that this remains the case. He is of the view that paragraph 11(d)(ii) of the Framework should apply, which indicates that where the local planning authority cannot demonstrate a five year supply of deliverable housing sites the presumption in favour of sustainable development means granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework when taken as a whole.
34. However, I am provided with more recent evidence⁷ which suggests a supply of deliverable housing sites of 5.1 years if a 5% buffer is applied. As such, based on the most recent evidence, paragraph 11(d) would not apply as it is not shown that the policies which are most important for determining the application are out-of-date.
35. Planning law requires decisions to be made in accordance with the development plan, unless material considerations indicate otherwise. In this case, I conclude that the proposal would be contrary to the policies of the development plan that relate to the location of new residential development, and policies that seek to protect the character and appearance of the area. The benefits of the proposal do not attract sufficient weight to indicate otherwise. Therefore, even if the appellant had been able to demonstrate that no harm resulted to international designated sites of importance for bio-diversity, this would not have affected the outcome of this balance.
36. Furthermore, even if I were to accept the appellant's assertion that the Council was unable to demonstrate a five year supply of housing land such that the tilted balance in paragraph 11(d) (ii) applied, the adverse impact of the development would significantly and demonstrably outweigh the modest benefits of the provision of two bungalows.
37. Therefore, for the reasons given above I conclude that the appeal should be dismissed.

Helen O'Connor

Inspector

⁷ Havant Borough Council - Five Year Supply Update published January 2019