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## Appeal Decision

Site visit made on 13 June 2019

**by Sian Griffiths BSc(Hons) DipTP MScRealEst MRTPI MRICS**

**an Inspector appointed by the Secretary of State**

**Decision date: 20 August 2019**

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**Appeal Ref: APP/H1705/W/19/3225668**

**White Cottage, Newtown, Newbury RG20 9AP**

- 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 and Mrs Meiklejohn against the decision of Basingstoke and Deane Council.
  - The application Ref 18/03068/FUL, dated 17 October 2018, was refused by notice dated 20 December 2018.  
The development proposed is described as erection of a detached dwelling with associated access and landscaping.
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### Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached dwelling with associated access and landscaping at White Cottage, Newtown, Newbury RG20 9AP in accordance with the terms of the application, Ref 18/03068/FUL, dated 17 October 2018, subject to the conditions set out in the attached schedule.

### Preliminary Matter

2. The National Planning Policy Framework (the Framework) was revised in February 2019. I have therefore referred to this in the determination of this appeal.
3. I received a request from a neighbouring third party to visit their property at the time of the appeal site visit. I considered the position of the property relative to the appeal site and concluded that as I was able to adequately see the site and deduce the impact on neighbouring properties in character and appearance terms, I felt it unnecessary to additionally see the site from further points, insofar as it would not have made a difference to my final decision.

### Main Issues

4. The main issues are:
  - The effect of the location of the appeal site having regard to national and local policies which seek to promote sustainable patterns of development, and
  - The effect of the proposals on the character and appearance of the area

## Reasons

### *Location of the Appeal Site*

5. White Cottage is a detached two storey dwelling set within a small group of dwellings on the edge of the settlement of Newtown. Newtown is a somewhat dispersed settlement, with some facilities including places of worship, a public house and village hall.
6. The appeal site has been used as garden land by the occupiers of White Cottage and they state that this has been the case for over 34 years. The fact that the site is garden land appears to be common ground between the Council and the appellants, although the length of time it has been in such a use appears to be in dispute. It is not my role to determine the lawfulness of the use of the garden as part of this appeal, but I note that the Council have not taken enforcement action against the appellants in this regard, but claim that a Certificate of Lawfulness would have addressed the matter.
7. The site is largely laid to grass with mature fruit trees, vegetable patches and a timber shed. It is bounded by a timber post and rail fence, together with a substantial hedge along its boundary with Jasmine Cottage. However, the fact that the Council in their evidence repeatedly refer to the appeal site as 'garden land' and 'garden area' demonstrates to me that they consider it as such. I have therefore determined the appeal on that basis.
8. Newtown is not a 'settlement' insofar as it is defined by Policy SS1 (Scale and distribution of new housing) in the Basingstoke and Deane Borough Council Local Plan 2011-2029 (2016) (LP), falling outside of a Settlement Policy Boundary (SPB) where SS1 seeks to focus housing development to allocated sites, together with the redevelopment of land in the towns and villages. The site is therefore in Countryside. Further to this, LP policy SS6 (New Housing in the Countryside) sets out that development in the countryside will only be permitted where it meets a series of exceptional tests. One of these is whether the site constitutes Previously Developed Land (PDL).
9. My attention has been drawn by the appellants to a recent appeal decision (Ref APP/H1705/W/19/3222118). Indeed, the Council submitted the case they made against that appeal proposal as part of their case against this appeal. Their Council consider in both cases that the garden land would form part of the built up area of Newtown. Given the similarities with this case, I consider this appeal decision to have a bearing on my conclusions.
10. At paragraph 10 of that appeal decision, the Inspector makes the assessment that the appeal site 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*'. I consider that the same applies to the appeal site in this case.
11. I therefore consider that the appeal site meets the criteria to be considered as an exception to the general policy of restraint of housing in the countryside, as set out in policies SS1 and SS6 of the LP and would be aligned to Paragraph 11 of the Framework (the presumption in favour of sustainable development).

### *Character and Appearance*

12. The overall character of the area is wooded and verdant, where the trees cover is interspersed with detached dwellings, this gives a sense of enclosure specific

to the appeal site which is reinforced by the presence of several significant deciduous trees around its periphery.

13. The established character of neighbouring dwellings is somewhat mixed, but all have two storeys and are of modest dimensions and mostly traditional domestic designs. The predominant facing materials are white painted render, with some timber and tile detailing, and roofs are plain tile or slate.
14. The proposed dwelling would be located adjacent to the existing hedgerow separating White Cottage, sharing an access drive with it. It would be of a striking contemporary design, set over two storeys with a varied mono-pitched roof structure, forming an L shape. The building would be finished with painted render with slate roof and the addition of vertical timber cladding. This would soften the angular appearance of the dwelling and reflect the timbered feel of the surrounding area. In particular, the west elevation (as seen from the main road) would be more modest in scale and massing.
15. Given the consistency of the proposals with the relevant policies of the development plan, I consider the proposals would, overall, contribute positively to the character and appearance of the area.
16. I therefore do not consider the proposal to conflict with Policies EM1 (Landscape) and EM10 (Delivering High Quality Development) of the LP, which seeks development that is sympathetic to its surroundings and that is design-led. I also do not find conflict with Sections 8 and 9 of the Basingstoke and Deane Design and Sustainability Supplementary Planning Document (2018) (SPD), nor Section 12 of the Framework which also seek to raise design standards in development more generally.

#### *Other Matters*

17. I am aware of the significant interest shown by Third Parties and the Parish Council in this appeal and have carefully considered their representations.
18. In particular, I note the submissions suggesting that the appeal site does not constitute garden land and that there have been recent changes to the curtilage of White Cottage. Given the lack of evidence submitted demonstrating to me that the land has not been in continuous use for 10 years, these representations do not change my position.
19. I also note the concerns relating to loss of privacy; an increased burden on local infrastructure; impact on highways safety; loss of outlook and being in an isolated position. These were not reasons for refusal, and I do not find harm in relation to these matters.
20. Finally, there have been representations which argue that the proposed development will undermine local property values. This is not a planning matter and it has no bearing on my decision.
21. Overall, the additional concerns do not change my view that the appeal should be allowed, for the reasons I have set out above.

#### **Conditions**

22. I have applied standard conditions (1 and 2) in relation to plans and timescales in the interests of proper planning and in order to provide certainty.

23. I have applied conditions (3, 4 and 5) in relation to the approval of materials in the interests of maintaining the character and appearance of the area, and in accordance with Policy EM10 of the LP.
24. Exceptionally, I have applied a pre-commencement condition (6) in respect of a Construction Management Statement and Working Hours (7) in order to ensure certainty and protect the living conditions of neighbouring occupiers. Condition 8 has also been applied for the same reason.
25. Condition 9 has been applied in order to comply with the Council's sustainable water use policy EM9 of the LP.
26. Finally, and exceptionally, conditions 10 and 11 have been applied removing permitted development rights in order to protect the living conditions of neighbouring properties and to prevent the overdevelopment of the site in accordance with policy EM10 of the LP.

### **Conclusions**

27. Having considered all matters raised and subject to the specified conditions, I conclude the appeal is allowed.

*Sian Griffiths*

INSPECTOR

### **Schedule of Conditions**

1. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location and Block Plan (Drawing No.10); Proposed Floor Plans (Drawing No.12); Proposed Elevations (Drawing No.13)
2. The development hereby permitted shall be begun before the expiration of 3 years from the date of this planning permission.

3. No development above damp proof course shall commence on site until a schedule of materials and finishes to be used for the external walls and roof(s) of the proposed building(s) has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the details so approved.
4. No development above damp proof course shall commence on site until details of the materials to be used for hard and paved surfacing have been submitted to and approved in writing by the Local Planning Authority. The approved surfacing shall be completed before the dwelling is first occupied and thereafter maintained.
5. No development above damp proof course shall take place until there has been submitted to and approved in writing by the Local Planning Authority a plan indicating the positions, design, materials, type and finish of screen walls/fences/hedges to be erected. The approved screen walls/fences shall be erected before the use/building(s)/dwelling(s) hereby approved is/are commenced/first occupied and shall subsequently be maintained. Any trees or plants which, within a period of 5 years from the date of planting, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, details of which shall be agreed in writing by the Local Planning Authority before replacement occurs.
6. No development shall take place, including any works of demolition, until a Construction Method Statement, including drawings, that demonstrates safe and coordinated systems of work that eliminates foreseeable risks, or if that is not possible controls the risk through subsequent actions, affecting or likely to affect the public highway and or all motorised and or non-motorised highway users, has been submitted to, and approved in writing by, the Local Planning Authority. The approved statement shall be adhered to throughout the construction period. As a minimum the Statement shall include for:
  - i. means of access (temporary or permanent) to the site from the adjoining maintainable public highway, including the associated traffic management arrangements;
  - ii. the parking and turning of vehicles of site operatives and visitors off carriageway (all to be established within one week of the commencement of development);
  - iii. loading and unloading of plant and materials away from the maintainable public highway;
  - iv. storage of plant and materials used in constructing the development away from the maintainable public highway;
  - v. wheel washing facilities or an explanation why they are not necessary;
  - vi. measures to control the emission of dust and dirt during construction;
  - vii. a scheme for recycling and disposing of waste resulting from construction work;
  - viii. the management and coordination of deliveries of plant and materials and the disposing of waste resulting from construction activities so as to

avoid undue interference with the operation of the public highway, particularly during the Monday to Friday AM peak (08.00 to 09.00) and PM peak (16.30 to 18.00) periods;

- ix. the routes to be used by construction traffic to access and egress the site so as to avoid undue interference with the safety and operation of the public highway and adjacent roads, including construction traffic holding areas both on and off the site as necessary.
7. No work relating to the construction of the development hereby approved, including works of demolition or preparation prior to operations, or fitting out, shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public or bank holidays.
  8. No deliveries of construction materials or plant and machinery and no removal of any spoil from the site shall take place before the hours of 0730 nor after 1800 Monday to Friday, before the hours of 0800 nor after 1300 Saturdays nor on Sundays or recognised public or bank holidays.
  9. Within 3 months of the date of commencement 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 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.
  10. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no additional openings shall be inserted at first floor level or above in the northern side elevations.
  11. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification) no building, structure or other alteration permitted by Class A, B, C, D or E of Part 1 of Schedule 2 of the Order shall be erected on the application site.

### **End of Schedule**