



Appeal Decision

Site visit made on 14 August 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 September 2019

Appeal Ref: APP/Z3825/W/18/3215968

Badgerswood, Spinney Lane, West Chiltington, RH20 2NX

- 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 R May against the decision of Horsham District Council.
 - The application Ref DC/18/0553, dated 16 March 2018, was refused by notice dated 14 May 2018.
 - The development proposed is construction of detached three bedroom dwelling with detached garage and new access of Spinney Lane.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are
 - the effect on the character and appearance of the area;
 - the suitability of the site for permanent residential development, given the approach to growth in the district reflected in the settlement strategy in the development plan; and
 - The effect on the environmental quality of the area, including the adjacent ancient woodland.

Reasons

Character and appearance

3. Spinney Lane is a narrow road, largely enclosed by hedgerows. The residential properties along it vary in design, with little regularity in the plot sizes. The presence of large mature trees and nearby woodland give the road a verdant character, and the gaps between the road and the buildings contribute to a sense of spaciousness, apparent when walking along the road.
4. Within this context the proposed building would adopt a traditional design with a large area of pitched roof interspersed with dormers and rooflights. The materials would include feather edged weatherboarding, stock brickwork and plain clay tiles. Both the building and the garage would broadly reflect the appearance of other existing buildings along this road.
5. However, the proposed dwelling would sit very close to the road. The gable wall along the north elevation would sit immediately behind the hedge, with the

bulk of the main building close behind. Accordingly, the proposal differs significantly from other residential dwellings along this road, including those of recent construction, which are generally set significantly further back from the road.

6. In consequence, because of its bulk, height and close proximity to the road, the new building would dominate the view up and down this part of Spinney Lane. It would protrude noticeably forward of other comparable buildings, thus detracting from the spacious character and appearance of the area. In consequence, the proposal conflicts with Policies 32 and 33 of the Horsham District Planning Framework (2015) ("HDPF"). These policies require, amongst other things, that the scale and mass of new development relates sympathetically with its built surroundings.

Location

7. The HDPF sets out a spatial strategy which directs growth in accordance with an identified settlement hierarchy reflected in defined settlement boundaries. On the evidence before me the site does not fall within an existing settlement. Policy 2 of the HDPF explains that the purpose of such settlement boundaries is to focus development in and around the key settlement of Horsham, allowing for growth in the rest of the district within the identified settlement hierarchy. It also seeks to manage development around the edges of existing settlements, in order to prevent the merging of settlements, and to protect the rural character and landscape.
8. Policy 4 of the HDPF makes provision for settlement expansion. However, on the evidence before me the site is not allocated for such expansion in the Local Plan or in a Neighbourhood Plan. I therefore regard the site as falling within the countryside, and policy 26 of the HDPF is engaged. This requires that any proposal at the site must be essential to its countryside location. As the proposal involves the creation of a freestanding independent dwelling and associated curtilage, it would not be essential to its countryside location.
9. It is argued that the site has been excluded from the development boundary in error, as much of the surrounding land falls within the settlement boundary. However, the Council do not agree that this is the case. The suggestion that the site was previously owned and used in connection with another residential property and may have historically been intended for use as a building plot, has no bearing on its current planning policy status. These considerations do not justify a departure from the settlement strategy set out in the development plan.
10. In conclusion, the proposal conflicts with the settlement strategy set out in policies 1, 2, 3, 4 and 26 of the HDPF which seeks to direct growth within the district to existing settlements, requiring that development in the countryside is essential to its location. Accordingly, it is not a suitable location for the residential development proposed.

Environmental Quality

11. The Council suggest that the site falls within an area of deciduous woodland, which is UK Priority Habitat. However, it now appears to have been cleared. A preliminary ecological appraisal was submitted in support of the development,

indicating that the site was used as garden space, with a shed and log piles stored within it.

12. The ecological survey suggests that the impacts of developing the site could be offset through the creation and enhancement of new and existing habitats. However, it also recommends further surveys are carried out in respect of great crested newts and dormice. On the basis of this information I am not certain that the development could be carried out without harming the habitats of these species, nor am I certain that mitigation would be possible.
13. The site is also located adjacent to Ancient Woodland. The new house, garage and parking area would be built very close to this area, with the gap being limited to a few metres in places. There would be no significant buffer between the new buildings and the woodland, and consequently there is a risk that the residential development and activity associated with it would interfere with this area of woodland and any wildlife that it supports. It would be likely to breach the recommended 15 metre semi natural buffer zone, recommended by Natural England where development is proposed close to such areas.
14. Whilst the appellant questions the value of this Ancient Woodland, paragraph 175 the National Planning Policy Framework ("the Framework") makes clear that development resulting in the deterioration of such areas should be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. Such circumstances do not apply here. The fact that the woodland is set close to other existing residential development does not justify the proposed development.
15. Accordingly, there would be a risk of harm to the environmental quality of the site and surrounding area, including Ancient Woodland, were this development to occur. This risk of harm could not, on the evidence before me, be managed or mitigated through the use of planning conditions. The proposal therefore conflicts with policy 31 of the HDPF. This requires that, amongst other things, development contributes to the enhancement of existing biodiversity.

Other Matters

16. Both parties cite other planning approvals, including appeal decisions. Of the relevant cases cited by the appellant¹, the approvals of new housing on Spinney Lane and Fir Tree Lane either fall within the settlement boundary or predate the adoption of the policy framework set out in the HDPF. They do not therefore provide a precedent for approving residential development outside of the settlement boundary at this location. In the appeal at Threals Lane² an Inspector approved housing outside of the settlement boundary despite limited conflict with policy 4 of the HDPF, on the basis that it would comprise sustainable development. However, in that case the proposal was found to be acceptable in terms of the other planning issues in the appeal, which would not be the case here. The Council also provide details of other recent appeal decisions, where Inspectors have found that residential development outside settlement boundaries in the District should be restricted.
17. In this case, the site is located on the boundary of a built-up area, close to existing infrastructure and public transport links and is likely to be delivered quickly. It would provide desirable new housing which is likely to meet a

¹ Cited in the design and access statement.

² APP/Z3825/W/16/3150965

demand and would provide work for the building industry, leading to economic benefits. In this respect it would help contribute to a mix of homes, in accordance with the requirements of policies 15 and 16 of the HDPF. The proposal would also potentially lead to a new homes bonus, which is a local finance consideration that weighs in favour of the development. There are also social benefits, in that future occupants could support local services in this rural community.

18. However, there would be harm to the character and appearance of the area and a risk of harm to the environmental quality of the surrounding area, were the development to occur. The possible integration of environmentally friendly measures in to the build would not address these deficiencies in the proposal. I attach significant weight to the harm that would arise in this respect. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits. The proposal conflicts with the development plan and, having regard to the objectives of the National Planning Policy Framework, would not comprise sustainable development. The principle of development is unacceptable, and the proposal could not be made acceptable through the use of planning conditions.
19. There are objections from interested parties, raising other issues to those set out in my reasons above, including concern about potential interference with human rights in the event that the development was permitted. However, as the appeal is clearly failing, it is not necessary to address these.

Conclusion

20. The proposal conflicts with the development plan when considered as a whole and there are no other considerations that outweigh this finding. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR