



Appeal Decision

Site visit made on 1 October 2019

by P J Staddon BSc, Dip, MBA (Distinction), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 October 2019

Appeal Ref: APP/B1740/W/19/3223268

Land to the south of The Ingle, Fryern Court Road, Burgate, SP6 1NG

- 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 & Mrs P Ross against the decision of New Forest District Council.
 - The application Ref 18/11567, dated 23 November 2018, was refused by notice dated 17 January 2019.
 - The development proposed is the 'erection of 2 x detached dwellings, associated garages, parking and landscaping'.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of 2 x detached dwellings, associated garages, parking and landscaping on land to the south of *The Ingle*, Fryern Court Road, Burgate, SP6 1NG in accordance with the terms of the application, Ref 18/11567, dated 23 November 2018, and the site plan (drawing no. APG/001) submitted with it, subject to the following conditions:
 - 1) Details of the access, appearance, landscaping, layout, 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) No development shall be carried out until proposals for the mitigation of the impact of the development on the New Forest and Solent Coast European Nature Conservation Sites have been submitted to and approved in writing by the local planning authority, and the local planning authority has confirmed in writing that the provision of the proposed mitigation has been secured. Such proposals must:
 - Provide for mitigation in accordance with the New Forest District Council Mitigation Strategy for European Sites Supplementary

Planning Document (SPD), adopted in June 2014 (or any amendment to or replacement for this document in force at the time), or for mitigation to at least an equivalent effect;

- Provide details of the manner in which the proposed mitigation is to be secured.

The development shall be carried out in accordance with and subject to the approved proposals.

- 5) The installation of fittings and fixed appliances in the dwellings hereby approved shall be designed to limit the consumption of wholesome water to 110 litres per person per day.

Main Issue

2. The main issue is whether the appeal site would provide a suitable location for the proposed dwellings, having regard to the spatial strategy set out in the development plan and the National Planning Policy Framework (the Framework) and any other material considerations.

Reasons

3. The appeal site comprises a rectangular plot of open land on the eastern side of Fryern Court Road, situated on the outskirts of a quite substantial hamlet settlement, a short distance to the north of the town of Fordingbridge.
4. The site currently forms part of the land owned by the appellants and associated with their bungalow, *The Ingle*, which is immediately to the north. To the north of *The Ingle* are two more dwellings, *Oakmoor House* and *Bramble Ridge*, set in relatively large garden plots. Beyond these properties there is open countryside, interspersed with some sporadic residential and other development.
5. To the south of the appeal site is No 7 Fryern Court Road, a bungalow set within a large plot and, running further south, there is an established row of detached and semi-detached dwellings that lead to the main settlement, centred on the area to the north of the junction of Whitsbury Road and Fryern Court Road. The hamlet is mainly residential in land use and character but does include some business premises. A short distance to the south along Whitsbury Road are the outskirts of Fordingbridge, where a new housing estate known as Augustus Park is currently under construction.
6. Policy CS10 of the New Forest District (outside the National Park) Core Strategy (adopted October 2009) (the CS) sets out a spatial strategy to provide for sustainable development to help meet the needs of local communities and the local economy by, amongst other matters, locating new residential development in accordance with the settlement hierarchy, primarily within the district's towns and larger villages.
7. Policy DM20 of the New Forest District (outside the National Park) Local Plan Part 2: Sites and Development Management (adopted April 2014) (the LPP2) addresses residential development in the countryside. It adopts a restrictive, exceptions based, policy approach in such areas with permissible new development limited to home extensions, replacement dwellings, affordable housing for local needs, and agricultural or forestry workers' dwellings.

8. For the purposes of these policies, the appeal site is within the 'countryside' and is not a location where policy CS10 directs new housing and the appeal proposal does not meet any of the exceptions specified under policy DM20.
9. However, the Council accepts that it cannot currently demonstrate a 5 year housing land supply. Under paragraph 11d) of the Framework (and its Footnote 7), this means that the 'most important' policies for determining the proposal are rendered 'out of date' and the so called 'tilted balance' applies to decision making. As a result, policies CS10 and DM20 must be treated as out of date and, in these circumstances, the Framework instructs granting permission for proposals unless one (or both) of two sets of circumstances apply. These are where:
 - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or*
 - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*
10. With regard to 11d(i), a large part of the Council's area is designated as European sites as defined in Article 8 of The Conservation of Habitats and Species Regulations 2017 ('The Habitat Regulations'). The Habitat Regulations Assessment of the Local Plan concluded that likely significant impacts on the integrity of the European sites, namely the increased recreational usage of the sites generated by the planned for increases in the number of houses in the District during the plan period, could not be ruled out unless a satisfactory level of mitigation was provided.
11. The Council has adopted a Mitigation Strategy¹ which allows new residential development to proceed in compliance with the Habitat Regulations. The Council has undertaken an Appropriate Assessment in respect of the appeal proposal and consulted Natural England (NE) which has advised that, subject to mitigation measures, the development should not result in a likely significant effect. This means that, subject to mitigation measures which can be secured by Planning conditions, the Framework's paragraph 11d(i) does not apply in this case.
12. With regard to 11d(ii), this requires a planning judgment on any harms that may arise from the proposal. In terms of location, the appeal site is outside the nearest point of the Fordingbridge settlement boundary as defined in the LPP2 policies map. However, the proposed dwellings would not be isolated and would be reasonably close to a wide range of day to day services and facilities within the nearby town.
13. There are no footways along Fryern Court Road, which is a relatively narrow lane in the vicinity of the site, but my observations indicated that it is lightly trafficked and traffic speeds appear to be low. Indeed, I observed a number of pedestrians using the road to walk south, where they are able to join a footway alongside Whitsbury Road, for the short onward walk to the edge of Fordingbridge. The route would also be an easy and attractive one for cyclists. As a result, I assess that the location is not unsustainable.

¹ New Forest District Council - Mitigation Strategy for European Sites: Recreational Pressure from Residential Development Supplementary Planning Document (2014).

14. The Council contends that the development would result in an unwarranted and harmful urbanisation of this countryside area. However, in my assessment, the appeal site forms a gap within an established row of residential properties on this side of Fryern Court Road, rather than forming a distinct element of the countryside. The development would infill that gap and, subject to a sensitively designed scheme including landscaping proposals, to be defined at the 'reserved matters' stage, I see no reason to suggest that the dwellings would not successfully blend in to the existing linear settlement form and reflect its low density and mature character and appearance, without causing any significant harm to the wider countryside.
15. I conclude that the appeal proposal would entail some conflict with policies CS10 and DM20, in terms of the location of new housing development. However, the Council's absence of a 5 year housing land supply means that these policies are out of date and the weight to be attached to them is lessened. I further conclude that the location of the proposed dwellings would not be unsustainable and that future occupants would have access to a good range of day to day services and facilities at nearby Fordingbridge, which are accessible by walking and cycling. Subject to a suitable design at the reserved matters stage, I consider that the effect of the development on the countryside would be very limited and that the proposal could blend into the existing settlement form. I consider that there are no adverse impacts that significantly and demonstrably outweigh the benefits of the scheme and that it should benefit from the presumption in favour of sustainable development.

Other matters

16. I have noted the Council's submissions that the benefits to the local housing supply would be quite limited, but they would nonetheless be positive and weigh in favour of the proposal.
17. I have also noted submissions concerning the potential for large scale residential development on land to the east of the appeal site, including a draft allocation in an emerging Local Plan review.
18. I have taken into account third party representations in support of, and in opposition to, the proposal including matters concerning traffic, the need for housing in the area, support for infill development, and the location and nature of the site.

Conditions

19. In addition to the standard outline and time limit conditions, I have imposed two further conditions suggested by the Council, although I have edited the wording for clarity.
20. The first condition requires mitigation measures in accordance with the Council's adopted Mitigation Strategy to ensure compliance with the Habitats Regulations.
21. The second condition requires measures to limit water consumption in the new dwellings. Whilst this requirement does duplicate an optional enhanced standard set out in the Building Regulations, it is a necessary Planning requirement in this case to reduce waste water discharge that may adversely affect a Special Area of Conservation.

Conclusion

22. For the above reasons, the appeal is allowed, subject to the conditions set out in paragraph 1 of this decision.

P. Staddon

INSPECTOR