
Appeal Decision

Site visit made on 8 October 2019

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/W1715/W/19/3230599

Steading, Winchester Road, Fair Oak, Eastleigh SO50 7HD

- 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 & Mrs G Wood against the decision of Eastleigh Borough Council.
 - The application Ref F/18/84082, dated 19 September 2018, was refused by notice dated 28 March 2019.
 - The development proposed is described as proposed new dwelling to rear of Steadings.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: a) whether the site is a suitable location for new housing having regard to local and national policies; b) the effect of the development on the character and appearance of the area; and c) whether the proposal makes appropriate provision for bin and cycle storage.

Reasons

Development Plan

3. The starting point for any planning decision is Section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires decisions to be made in accordance with the development plan unless material considerations indicate otherwise. Even though the plan is referred to by the appellants as time expired it remains the development plan in force.
4. There is no dispute between the parties that the site is in the countryside. Policy 1.CO of the Eastleigh Borough Local Plan (2006) (Local Plan) contains a presumption against development in the countryside unless it is necessary for agricultural, forestry or horticultural purposes and a countryside location is required. The purpose of this policy is to protect the countryside for its own sake and to prevent the visual and physical sprawl of towns and villages. No part of the appellants case relates to any of the exceptions as set out in Policy 1.CO; consequently, there is no policy justification for a single open market dwelling in this location.

5. Moreover, the site is located some distance from the nearest settlement as defined in the plan and where occupiers of new dwellings would be reliant on the private car in order to access services and facilities.
6. Consequently, the development would conflict with Policy 1.CO of the Local Plan and to the National Planning Policy Framework (The Framework). These together seek to protect the countryside from residential development other than where there is a proven need for it to be located there.

Character and appearance

7. I found the site to be rural in appearance. Whilst it is existing domestic garden and is adjacent to other much larger gardens the site is very clearly beyond any built up area. The open areas to the south and wooded land to the east emphasise the location of the site in the open countryside. Physical encroachment of buildings on the appeal site would inevitably have a marked impact on its rural character and would significantly and harmfully alter its appearance. Whilst not highly visible from public vantage points it would nevertheless introduce a built form where non presently exists and which would be harmful and out of keeping with its rural character.
8. In reaching this conclusion I have had regard to the attention which has been drawn to developments nearby including reference to a property named 'Waratah'. This was referred to in an appeal from 1984¹ where, in dismissing an appeal, a colleague inspector referred to that site as being 'to some extent contained by existing development'. That description does not apply to this appeal site as it lies to the south of the access track and much further east of 'Waratah' such that the two sites are not directly comparable.
9. Taking all of the above into account, the proposed development would demonstrably harm the character and appearance of the area and be prominent in its countryside location in conflict with Policies 1.CO, and 59.BE of the Local Plan and to the countryside protection aims of the Framework. These seek to protect the character and appearance of the countryside and to control the cumulative impact of development therein.

Bin and Cycle storage

10. The site is sufficiently large that this matter is capable of being effectively dealt with using planning conditions even though would require further details to be submitted. This is a matter upon which the appellants and the Council are agreed, and the Council have drafted conditions in the event that permission were to be granted. In this regard there would be no conflict with Saved Policy 28.ES of the Local Plan.

Other Matters

11. My attention has been drawn to the Councils emerging Local Plan which is subject to examination. Whilst this plan may propose new strategic growth it is by no means clear whether this would affect the status of this site and in any event, it is not at a sufficiently advanced stage of preparation to be given great weight.

¹ APP/W/1715/A/84/020564/P4

12. Other sites where development has been allowed have been referred to as setting the context of decisions and are argued by the appellants to dilute the countryside setting of the local area. However, the appellants rightly acknowledge that the decisions referred to were permitted at a point where the Council did not have a 5-year supply of land for housing. It is not in dispute that the Council can now demonstrate a supply in excess of five years and the provisions of the Framework in paragraph 11, known as the tilted balance do not apply. Therefore, the other decisions referred to do not lead me to a different conclusion.
13. I have had regard to the appellants' comment that the proposal has been designed to reflect the sloping nature of the site and to sit inconspicuously within the plot. Matters of good design are required by the Framework of all development and therefore these points do not set this proposal apart as providing a significant benefit in this regard.
14. The appellants emphasise that this site should be regarded as a windfall single building infill plot, however infill development in a planning sense is the filling of a gap in an otherwise built up frontage and this description does not apply to the appeal site. On the matter of windfall, the Framework reference refers to great weight being given to sites within identified settlements which this site is not. Neither is there any evidence before me that the Council needs to rely on windfall sites in the countryside in order to meet its housing targets. For these reasons the proposed scheme is not justified in this regard as it would undermine the spatial strategy of the development plan where successive incremental harm to the countryside would be harmful.
15. The appellants also argue that there is a presumption in favour of sustainable development. The Framework explains that there are 3 dimensions: economic, social and environmental. In this case there would be a minimal net gain of one unit which would be a positive benefit as well as creating an economic benefit in the short term through construction which would help to sustain local businesses. Nonetheless this is a location where new residential development is restricted to that which meets specific criteria in order to protect the countryside. The appeal proposal would deliver the additional benefit of one dwelling for which there is no exceptional justification, and which would therefore be contrary to the development plan
16. Since the appeal decision the Council raised an additional issue of water quality, a matter which took on importance following a ruling in the European Court of Justice² relating to water quality in Appropriate Assessments. Natural England issued advice to Councils concerning all future development which could affect the water quality of any European Designated Nature Conservation Site; in this case it would be the proximity to the River Itchen SAC and Solent and Southampton Water SPA. Had the proposal been acceptable in all other respect a Habitats Regulations Assessment would have been required however as the appeal is failing for other reasons I need not consider this matter further.

² Cooperative Mobilisation for the Environment UA and College van gedeputeerde staten van Noord-Brabant (Case C-293/17 and C294/17)

Conclusion

17. The circumstances outlined do not indicate a decision other than in accordance with the development plan. For these reasons, and taking all relevant matters in to account, the appeal is dismissed.

Janet Wilson

INSPECTOR