
Appeal Decision

Site visit made on 8 October 2019

by Martin Small, BA (Hons), BPI, DipCM, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2019

Appeal Ref: APP/B1740/W/19/3233529

Barn adjacent to Sandle Lodge, Main Road, Sandleheath, SP6 1PF

- 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 Ms Katharine Somers against the decision of New Forest District Council.
 - The application Ref: 19/10561 dated 29 April 2019, was refused by notice dated 25 June 2019.
 - The development proposed is the demolition of existing barn and replacement with two-storey dwelling and associated infrastructure.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal site lies close to and has the potential to affect the designated New Forest European Site and the Solent Coastal European Site, comprising the New Forest Special Area of Conservation (SAC) / Special Protection Area (SPA) / Ramsar site and the Southampton Water SPA / Ramsar site, Solent and Isle of Wight Lagoons SAC and the Solent Maritime SAC; the River Avon SAC / SPA / Ramsar site; and the Dorset Heathlands SAC / SPA / Ramsar site.
3. The Council has undertaken an Appropriate Assessment which concludes that the proposed development would, in combination with other developments, have an adverse effect due to the recreational impacts associated with the development on the integrity of the European sites.
4. However, during the course of the determination of this appeal, a planning obligation was agreed between the appellant and the Council to secure the payment of a Habitats Mitigation (Access Management and Monitoring) Contribution in accordance with the New Forest District Council Mitigation Strategy for European Sites SPD as mitigation for these impacts.

Background and Main Issue

5. In March 2019 the Council confirmed that it did not require prior approval for the conversion of the barn to a dwelling under Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Council accepts that the barn may therefore be converted to a dwelling under Class Q. Consequently, the principle of a dwelling on this site is established, and I have determined this appeal with that in mind. The main issue is therefore the effect of the proposed development on the character and appearance of the area.

Reasons

6. The appeal site is located on the north side of a field that slopes to the south. Access is provided via a narrow, metalled track that also serves two other dwellings to the north-west of the appeal site and eventually leads to another property at some distance to the south of the site. The track to the north-west of the site is enclosed by hedges and walls bounding residential properties with dwellings, driveways and outbuildings.
7. However, as the track enters the field adjacent to the appeal site the landscape opens up and is thus markedly different in character to the first section of the track. Although there are dwellings to the north, north-east and north-west of the site, those to the north and north-east are screened by existing vegetation. The site therefore relates more to the open field to the south than to this existing development.
8. This change in character is reflected in the line of the built-up area boundary for Sandleheath as shown on Policies Map 14 of the New Forest Local Plan Part 2 Sites and Development Management Development Plan Document 2014 (LPP2). The boundary runs to the north and east of the appeal site and, accordingly, the site is located within the 'countryside' for planning policy purposes. Although Sandleheath is designated a Level 3 – Defined Village in the New Forest Core Strategy 2009 (the Core Strategy) which may be appropriate for limited local development, this should be consistent with maintaining and enhancing their character.
9. Policy DM20 of the LPP2 restricts residential development in the countryside to certain circumstances. These include the replacement of an existing dwelling, but at the time of determining this appeal, the barn has not been converted into a dwelling. None of the other circumstances are applicable to the proposed development.
10. I am not persuaded by the appellant's suggestion that Policy DM20 is of little or no relevance to this appeal. Either the proposed development should be considered as a new dwelling in the countryside or as a replacement dwelling on the basis that the principle of a dwelling on this site has been established. Either way, the proposal would fall to be considered against Policy DM20 and I therefore consider it to be relevant to the determination of this appeal.
11. Policy DM20 requires development to be of an appropriate design, scale, appearance and in keeping with the rural character of the area, and normally restricts the increase in the floor space of replacement dwellings to 30%. The proposed dwelling would be 2-storey and have a total floor space over the two floors of approximately 168 m². Although the appellant has provided evidence that this would be not be overly large compared to other dwellings in Sandleheath, from the evidence before me it would represent an increase over the existing barn (and dwelling if converted in accordance with the Class Q permission) of approximately 68%. This would be significantly in excess of the limit in Policy DM20.
12. In addition, from the evidence before me the proposed dwelling would be approximately 2.8 m higher than the existing building. It would have a flat-roofed single-storey element with a large area of glazing and a glazed balustrade around the roof enclosing a roof terrace, which are not characteristic of rural buildings.

13. The proposal would have a large garden area, with an extensive access / parking area and a car port structure. The building would be positioned away from the existing vegetated northern boundary into the open field. Taking these together, the proposed development would represent an incongruous intrusion into the open landscape. Although the proposal would be hidden from wider public view it would be visible to the occupiers of and visitors to the property to the south of the appeal site when passing along the access track. In this rural context the proposal would be out of character.
14. I explain above that the principle of a dwelling on this site has been established by the Class Q permission. However, the conversion of the barn would result in a substantially smaller dwelling than that proposed, with a smaller associated garden area and no carport. It would therefore have a significantly lesser visual impact than the proposed development and would be less harmful to the character of the area. Accordingly, the Class Q permission does not justify the size or the design of the proposed dwelling.
15. I note the appellant's reference to the nearby new development of a 'similar design style'. I do not have the details of this development but the photographs of Oakfield House and Woodlands House do not show that they have similarly-designed single-storey elements. As such, they are not directly comparable to the appeal proposal.
16. I agree with the findings of the Inspector in the appeal decisions¹ that have been brought to my attention insofar as the architecture in Sandleheath being varied. Whilst noting this, the proposed development would still result in significant harm to the character and appearance of the area for the reasons explained.
17. I therefore conclude that the proposed development would be contrary to Policy DM20 of the LPP2 and Policy CS2 of the Core Strategy which jointly, amongst other things, seek to secure development that is designed to respect the character, identity and context of the area's towns, villages and countryside; contributes positively to local distinctiveness and sense of place; and not to cause unacceptable effects by being, for example, visually intrusive.
18. The guidance in the Council's adopted Residential Design Guide for Rural Areas Supplementary Planning Document is generalised. However, the proposed development would not appear to accord with the aspirations of the document as the roofline of the roof terrace and its glazed balustrade would represent an incongruous feature not sympathetic to the locality.
19. The development would be contrary to paragraph 127 a), b) and c) of the National Planning Policy Framework (the Framework). These require planning decisions to ensure that developments add to the overall quality of the area, are visually attractive and are sympathetic to local character, including the landscape setting.

Other matters

20. It is common ground that the Council cannot demonstrate a 5-year supply of deliverable housing sites. The appellant suggests that the supply is 'circa' 2 years. Although this is not disputed by the Council, in another appeal that I recently determined in New Forest District the Council's evidence was that the

¹ APP/B1740/W/19/3224446 and APP/B1740/W/3224460

figure is 2.6 years². Even if this higher figure is correct, it still represents a substantial shortfall. As a consequence, footnote 7 to paragraph 11 of the Framework is invoked such that the policies which are most important for determining the application are out-of-date. The most important policies for determining this application are Policy DM20 of the LPP2 and Policy CS2 of the Core Strategy.

21. However, this does not mean that these policies carry no weight; they should be accorded weight in accordance with the extent to which they are consistent with the Framework. Whilst Policy DM20 relates to settlement boundaries that in turn reflect out-of-date housing requirements, the aim and approach of the policy of protecting the character and appearance of the countryside whilst allowing development to meet specific needs is consistent with the Framework, and I therefore give it substantial weight in the determination of this appeal. As Policy CS2 of the Core Strategy is consistent with the Framework's policies on achieving well-designed places I give it full weight.
22. I have concluded above that the proposed development would be contrary to Policies DM20 and CS2. Nevertheless, that conflict may be outweighed by material considerations such as the presumption in favour of sustainable development as set out in paragraph 11 of the Framework. Where the policies that are most important for determining the application are out-of-date, the presumption requires planning permission to be granted unless either of two circumstances apply.
23. The first of these circumstances is where the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. These policies are set out in footnote 6 to paragraph 11 and include those relating to habitats sites. However, with the financial contribution that would be secured through the planning obligation provided I am satisfied that the proposal would not result in a significant effect on habitats sites. Accordingly, the application of the policies relating to habitats sites do not provide a clear reason for refusing the development proposed.
24. The appellant has referred to a High Court judgement³ and suggests that this judgement indicates, as the Council has not identified any other policy of the Framework which provides a clear reason for refusing permission, that the 'tilted balance' of paragraph 11 d) ii of the Framework is not engaged. However, in the judgement *Holgate J* confirmed that where the application of policies in the Framework that protect areas or assets of particular importance do not provide a clear reason for refusing the development proposed then the decision-taker should proceed to 11 d) ii and determine the application by applying the tilted balance (and section 38(6) of the Town and Country Planning Act 1990).
25. Paragraph 11 d) ii requires an assessment of whether any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole. The Framework promotes the provision of housing. The development would result in the provision of an additional dwelling, which would contribute to meeting the shortfall in housing supply in the area and is an acknowledged benefit.

² APP/B1740/W/19/3225641

³ *Monkhill Ltd v Secretary of State for Housing, Communities and Local Government* [2019] EWHC 1993 (Admin)

However, that contribution would be very modest and, in any event, the conversion of the barn would also contribute an additional dwelling to the supply of housing.

26. The proposed dwelling would be south-facing allowing passive solar gain, which in turn with its design would reduce energy consumption. This would accord with the Framework's approach to climate change and would be a benefit from the proposed scheme over the Class Q scheme. However, I have no evidence that these benefits could not be achieved by a more modest dwelling of a design more compatible with its rural setting than that proposed. I accept that the proposed development would provide more attractive living conditions than the Class Q scheme, but I have no compelling evidence that the Class Q scheme would result in unacceptable living conditions for future occupiers.
27. The Framework also states that good design is a key aspect of sustainable development. The Framework requires that account be taken of the desirability of maintaining an area's prevailing character and setting. Planning decisions should ensure that developments will add to the overall quality of an area and are sympathetic to local character, including the landscape setting. I have concluded above that the proposed development would be harmful to the character and appearance of the area.
28. I note that objections to the proposed development were made by Sandleheath Parish Council and four local residents, the latter mainly relating to access matters. However, the principle of a dwelling on this site is established as a fallback position and the resultant increase in vehicular movements would be modest. I note that highway impacts do not form part of the reason for refusal. This matter therefore carries neutral weight.

Conclusion

29. The harm I have identified, when assessed against the policies of the Framework as a whole, would significantly and demonstrably outweigh the limited benefits of the proposed development.
30. Accordingly, for the reasons above, and having had regard to all the other matters raised, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR