



Appeal Decision

Site visit made on 30 September 2019

by Rachael Pipkin, BA (Hons), MPhil, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th December 2019

Appeal Ref: APP/A1720/W/19/3226088

35 Burridge Road, Burridge, Southampton, SO31 1BY

- 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 Kim Rose against the decision of Fareham Borough Council.
 - The application Ref: P/18/1331/FP dated 19 November 2019, was refused by notice dated 29 January 2019.
 - The development proposed is subterranean house to the rear of 35 Burridge Road, Southampton SO31 1BY.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The existing lawful use of the site is disputed by the main parties. The appellant claims the site forms part of the garden of 35 Burridge Road (No. 35) and should be considered 'previously developed land', and the Council considers that the site remains 'greenfield'. As it is not the purpose of this decision to establish the existing lawful use of the site, I have considered the appeal solely in terms of the development proposed.
3. The Council's fourth reason for refusing the application related to the absence of a planning obligation to make an appropriate contribution towards mitigating the effects of the proposal on the Solent Special Protection Area. However, a completed Unilateral Undertaking (UU) was submitted with the appeal. Although the Council has not formally withdrawn its objection, I have had regard to the UU and will return to this matter later in my decision.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the surrounding area;
 - the effect of the proposed development on highway safety; and
 - whether or not the appeal site is a suitable location for a new dwelling having regard to local and national policy for the delivery of housing.

Reasons

Character and appearance

5. Green Lane is a single track, unmade rural lane accessed off Botley Road. It serves a small number of private residential dwellings and a farm. The lane is semi-rural in character, lined with trees and fields and open land beyond and becomes less developed and more rural heading west away from Botley Road towards the appeal site. Residential development on Burrridge Road is both physically and visually remote from the site. As such these have little bearing on the character of the site as perceived from Green Lane.
6. The appeal site is an undeveloped area of open grassland located beyond the more formal garden area and a tennis court to No. 35. It is largely enclosed by trees separating it from fields, a paddock and an adjacent modestly sized house fronting Green Lane. Similar enclosed areas of grassland occur along Green Lane, and these are interspersed by hedges, trees and woodland, which collectively contribute to the area's rural character.
7. Although there is some low-density housing with gardens along Burrridge Road, the land beyond towards Green Lane is more agricultural in character. The appeal site has the appearance of a field and therefore reads as part of the rural area, rather than the ribbon development on Burrridge Road.
8. The proposed development would be a large, detached, single-storey semi-circular shaped house incorporating a garage set around a sunken courtyard. The ground would be excavated so that the building would sit approximately 1.5m below ground with the excavated ground forming a bank approximately 1m high above ground around the rear wall of the proposed dwelling. The roof of the building would be a part green roof, planted with sedum, to its outer slope and zinc towards the courtyard area. The courtyard elevation would be substantially glazed.
9. Although the proposed dwelling would be set down below ground level and would be only single storey in height with a partial green roof, it would, nevertheless, be readily visible from Green Lane. Its excessive width would make it appear prominent. Furthermore, the substantial areas of glazing, zinc roof and hard surfacing associated with the development would draw attention to it. Consequently, it would have an urbanising impact on the rural character of this part of Green Lane and would appear visually intrusive within the existing landscape as it would introduce built development where there is currently none. The inclusion of planting would not overcome these harms.
10. The building would be of a contemporary style and would incorporate a number of positive design features to maximise the opportunity for energy efficiencies. Its partially submerged siting would reduce its visual impact. However, as the existing landscape is relatively flat and, the dwelling would be separated from No. 35 by about 170m, in my view the building would sit awkwardly within the site, appearing contrived. It would not positively contribute to any transition between the edge of settlement and the open undeveloped countryside.
11. Submissions include reference to large scale developments within the Council area. However, these do not appear to have had any significant bearing on the character, appearance or immediate setting of the appeal site. I have therefore given them very limited weight.

12. I therefore conclude that the proposed development would result in unacceptable harm to the character and appearance of the surrounding area. It would therefore conflict with Policies CS6 and CS14 of the Fareham Local Development Framework, Shaping Fareham's Future, Core Strategy 2011 (the Core Strategy) and Policy DSP6 and DSP40 of the Fareham Local Plan, Shaping Fareham's Future Local Plan Part 2: Development Sites and Policies 2015 (the DSP). These policies together seek development that is well-designed and respects the existing character of the area.

Highway safety

13. Access to the proposed development would be via an unmade track, Green Lane, at the rear of the appeal site. Green Lane is a long, narrow, single-track lane with no pavements and limited passing places other than field entrances or driveways. It provides access to the few dispersed dwellings located along this road including to the appeal site. Part of its route is shared with a public right of way and the track is used by walkers and horse riders.
14. Whilst I accept that Green Lane may have been used for many years without incident, the additional traffic generated by this development which would have space for at least four cars, will increase the number of vehicles using the lane. This would increase the potential for conflict between existing users, walkers and horse riders. Whilst large vehicles may occasionally use the lane to undertake maintenance in the rear garden, such movements cannot be compared with the daily vehicle movements from a house.
15. The highway authority considers that access is inadequate but that with a series of improvements could be made acceptable. The appellant has expressed a willingness to provide this remedial work to Green Lane, including a passing place and hard surfacing at the approach to the junction with Botley Road. However, given its use as a shared route with walkers and horse riders, in my view, these improvements would not overcome the harm arising from the potential conflict with users of Green Lane along its extensive length.
16. I accept that during construction works, access to the site would be possible from Burrridge Road and this could be controlled by condition. However, this does not diminish the harm I have identified from the long-term increase in use and potential conflicts along Green Lane.
17. I therefore conclude the proposed development would adversely affect highway safety. It would therefore conflict with Policy DSP40 of the DSP which amongst other things permits development outside the urban area boundary where it would not have any unacceptable traffic implications. It would also not accord with the objectives of the National Planning Policy Framework (the Framework) for promoting sustainable travel and ensuring safe and suitable access to the site can be achieved for all users.

Suitable location

18. The Council's strategy for managing the location of development is to concentrate development into the existing urban areas and strategic sites. To support this approach, Policy CS2 of the Core Strategy sets out that development in the countryside, outside the settlement boundaries will be strictly controlled to protect the countryside from development which would adversely affect its landscape character, appearance and function. The policy

sets out that acceptable forms of development include that essential for agriculture, forestry, horticulture and required infrastructure. The site is located outside a defined settlement boundary and therefore within the countryside for planning purposes. It would not provide for any of the uses allowed by Policy CS2. It would therefore be contrary to this policy.

19. The proposed development therefore falls to be considered under Policy DSP6 of the DSP. This policy allows for residential developments in the countryside in specific circumstances including where it would meet an essential need for a rural worker; it would involve conversion of an existing non-residential building; or it would infill an existing and continuous built-up residential frontage. The proposed development does not meet any of these circumstances. It would therefore be contrary to Policy DSP6.
20. The Council acknowledges that it cannot demonstrate a five-year housing land supply (5YHLS). As of April 2019, the Council could demonstrate a 4.66 years of housing land supply which represented a shortfall of 186 houses. Policy DSP40 of the DSP sets out that in these circumstances, additional housing sites outside the urban area boundary may be permitted where a scheme meets all of a series of five criteria.
21. A single house would make a minimal contribution to addressing the shortfall in housing supply. Although there are a number of facilities and services within a short distance of the appeal site, to reach them it would be necessary to walk or cycle along Green lane, an unmade, unlit track with no footways even to gain access to public transport services on the main road. This would be neither attractive nor convenient for future residents. I therefore consider the use of the private car is likely to be the only practical means that residents would have to reach the facilities and services they require either within Burridge or further afield. This leads me to conclude that the location is not an accessible one. Due to the site's physical separation from the neighbouring settlement boundary and the distance from the ribbon development fronting Burridge Road, the proposal would neither relate to nor integrate with the existing built up area.
22. The proposal would also fail to meet the requirements of criteria (iii) and (v) in relation to character and traffic impacts, as I have already found. I therefore find that the proposed development would not meet all the criteria required under Policy DSP40.
23. The appellant has drawn my attention to an appeal¹ where the Inspector concluded that the housing requirement set out in Policy CS2 was out-of-date and inconsistent with the Framework. He therefore contends that the need for housing means that sites within the countryside will need to be developed. I return to this in my Planning Balance later on in my decision.
24. I have been made aware of two sites, 21 Burridge Road, Burridge and Eysersdown Farm, Burridge, which are close to the appeal site and have been identified as developable housing sites in the Fareham Local Plan 2036 Strategic Housing Land Availability Assessment (SHLAA) 2017. However, the SHLAA is an evidence base which identifies sites that have the potential for housing development. It does not determine whether planning permission would be granted for housing development on the site.

¹ APP/A1720/W/16/3156344

25. For similar reasons, the Council's recent consultation on its local plan where it is seeking views on development within the area in which the appeal site is located does not, in my view, confirm that the Council considers the area acceptable for development. In any case, any development sites to be allocated would still need to be tested through the local plan process and any site that comes forward through the planning process would be assessed in terms of compliance with the development plan. I therefore give this very limited weight in my decision.
26. The proposed development would be located well outside Whiteley Urban Settlement which is some distance from the site, on the far side of Botley Road. However, given its proximity to another residential property, the development itself would not be isolated in a physical sense. In this regard, paragraph 79 of the Framework, which addresses development of isolated homes in the countryside, does not appear to be applicable.
27. I conclude that the appeal site would not be a suitable location for a new dwelling having regard to local and national policy for the delivery of housing. It would not accord with Policies CS2, CS6 and CS14 of the Core Strategy or Policies DSP6 and DSP40 of the DSP. These policies together restrict development within the countryside and only allow residential development in these locations where it meets a specific need or does not cause any harms. As I have determined the proposed development would not be an isolated home in the countryside, I have found no conflict with paragraph 79 of the Framework which seeks to avoid this type of development.

Other Considerations

a) Exceptional Design

28. Notwithstanding that the proposed house would not be an isolated dwelling in the countryside, the appellant considers it would be of an exceptional design and build specification and would accord with the provisions of paragraph 79(e) of the Framework. This sets out that '*design is of an exceptional quality, in that it: - is truly outstanding or innovative, reflecting the highest standards in architecture, ...and, - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*'
29. The proposal would provide an unusual, partially subterranean house, with a fully glazed front elevation, positioned in order to maximise solar gain. The design itself is relatively simple and seeks to achieve a low carbon footprint and close to zero energy cost in order to gain Passivhaus accreditation. To this end, it would incorporate a range of features and technologies, including thermal collectors, intelligent heating, ventilation and lighting, to support this. The proposal would also include a part green and part zinc roof to allow for both rain water capture but also to blend into the surroundings.
30. However, whilst I appreciate the proposal adopts an environmentally sustainable design approach which is itself a positive aspect of the scheme, it appears to me that such techniques are commonly utilised elsewhere for achieving sustainable construction. For this reason, I do not therefore find them to be truly innovative.
31. Furthermore, for the reasons I have already set out above in my reasoning on character and appearance, the proposal would neither reflect the character of

the countryside location nor would it integrate with the topography of the landscape. As such, it would not significantly enhance its immediate setting, or be sensitive to the defining characteristics of the local area.

32. The appellant has drawn my attention to a development at Headlands, Upper Mill Lane, Prestbury, Cheltenham, GL52 3NF where planning permission was granted for a house that was considered to be of 'exceptional quality' and one that he considers bears a resemblance to the appeal proposal. However, from the information before me, apart from being located within an entirely different location and context, this development appears to have been built to accommodate the topography which is not the case in the scheme before me.
33. I find therefore that the design and proposed energy efficiencies, while of environmental benefit, do not appear to be sufficiently unique or ground-breaking to be considered outstanding or innovative design in terms of the objectives of paragraphs 79(e) or 131 of the Framework.

b) Solent Special Protection Areas

34. The site is within 5.6km of the Solent and Southampton Waters Special Protection Area (SPA) and Ramsar site and Solent Maritime Special Area of Conservation (SAC), collectively known as the Solent SPAs. The Solent SPAs are protected as European Sites of Nature Conservation Importance and are subject to statutory protection under the Conservation of Habitats and Species Regulations 2017.
35. Regulation 63(5) imposes a duty on local planning authorities as the competent authority, to consider whether any proposal may have a significant effect on such protected areas either alone, or in combination with other plans and projects.
36. The Solent SPAs provide an internationally important habitat for thousands of overwintering birds. There is evidence that increased human populations at the coast, leads to an increased level of recreation which results in disturbance to bird species. Furthermore, the Council has identified that there would be likely significant effects of the development on nitrates entering the Solent. Natural England have advised that the likelihood of a significant effect in combination arising from new housing around the Solent cannot be ruled out. I therefore consider an AA would be required.
37. The Council has not undertaken an AA of the effect of the proposed development. However, it considers that appropriate mitigation will be required. The Council has adopted the Solent Recreation Mitigation Strategy which sets out the mitigation in the form of financial contributions towards mitigation projects in the Strategy. The appellant has accepted the need to provide a financial contribution towards the SRMS and has submitted a UU during the course of the appeal. This would appear to comply with the Council's approach, although it has not formally withdrawn its objection.
38. Irrespective of this, the requirement to carry out an AA now falls to me, as the competent authority. However, as I have found that the scheme is unacceptable for other reasons, I do not need to pursue this matter further.

c) Ecology

39. I have had regard to the ecological enhancements being proposed as part of the scheme. These are positive aspects of the scheme that would provide a public benefit. However, it seems to me that these could be undertaken without the new house. I have therefore given them very limited weight in my decision.

Planning Balance

40. The Government is seeking to significantly boost the supply of housing and the Council accepts that it is not able to demonstrate a 5-year supply of deliverable housing sites.
41. A single, detached dwelling would make a minimal contribution to the supply of housing. However, there would be small social and economic benefits associated with its construction and occupation. However, I have found that the proposal would be harmful to the character and appearance of the area, would adversely affect highway safety and that its location, beyond existing settlement boundaries would result in future occupants being over-reliant on a car to access services and facilities. These environmental harms are matters which carry significant weight in the balance.
42. This leads me to conclude that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. The presumption in favour of sustainable development therefore does not apply in this case.

Conclusion

43. I have found the proposal would be contrary to the development plan. There are no other considerations that outweigh that conflict and for this reason, I conclude the appeal should be dismissed.

Rachael Pipkin

INSPECTOR