



Appeal Decision

Site visit made on 21 January 2020

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2020.

Appeal Ref: APP/B1740/W/19/3237893 70 Eastfield Lane, Ringwood BH24 1UN

- 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 AJ Developments against the decision of New Forest District Council.
 - The application Ref 19/10611, dated 7 May 2019, was refused by notice dated 29 August 2019.
 - The development proposed is to demolish existing garage, sever land and erect 2 no 3 bedroom detached bungalows with parking.
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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 and the effect on European Nature Conservation sites ('European Sites').

Reasons

Character and appearance

3. Eastfield Lane is characterised by generally detached properties of varying design set in fairly large plots. The noticeable presence of trees and hedges in the area gives a generally verdant appearance. There is a strong connection to the surrounding countryside, obtained by glimpsed views between the dwellings on the opposite side of the lane to the appeal site, supported by their long gardens.
4. The dwellings on the side of the road containing the appeal site, tend to have smaller plots, but many are still sizable, which gives the overall area a spacious character. However, glimpsed views between the dwellings on this side tend to include buildings, giving a far greater connection to the urban area. Therefore, whilst the rear gardens and vegetation therein are part of the area's general character, that environment does not make such a strong contribution to the verdant appearance of the area as those on the opposite side.
5. The rear of the site adjoins a number of other sizable residential gardens associated with properties on Cloughs Lane. This area is identified in the Ringwood Local Distinctiveness Supplementary Planning Document (2013) ('SPD') as 'larger garden spaces or groups of tranquil garden space'. The SPD

- seeks to retain such areas as intrusions into them can destroy the integrity of the whole¹.
6. The part of the site closest to those neighbouring gardens is included at the far end of the identified area in the SPD. However, it is also bordered by the higher density development of Eastfield Court and a garage block serving a terrace of dwellings on Cloughs Lane. It does not, therefore, have a particularly tranquil or open character in itself. Moreover, as the gardens to the proposed dwellings would still be continuous with the wider space, and new planting is proposed on the rear boundary, the development would not harm the overall integrity of the adjoining space.
 7. Furthermore, whilst No.70 Eastfield Lane has a large garden, this is not the case for the adjoining No.72, the garden of which is truncated by the garage block to the Cloughs Lane dwellings. As these are the only two dwellings between Cloughs Lane and Eastfield Court, the rear garden area to No.70 does not make a significant contribution to the general spacious character and verdant appearance of Eastfield Lane.
 8. The dwellings would be smaller than many on Eastfield Lane and would be sited close to their boundaries. However, they would have gardens commensurate in size with the proposed dwellings and the plans indicate sufficient space for some additional planting. They would not, therefore, be cramped. Moreover, their positions behind No.70 mean that their proximity to one another would not intrude upon the spacious street scene to the front.
 9. Whilst backland development is not a prevalent feature of the area, given that the site does not make a strong contribution to the character and appearance of the area and other dwellings can be glimpsed between the dwellings on this side of Eastfield Lane, the presence of new development at this site would not be harmful in itself.
 10. The Council has also suggested that the proposals would be unneighbourly given their proximity of the access to No.70 and general increase in activity in the tranquil garden space. However, Council's officer report also indicates that the proximity to No.70 would not be such that any disturbance would warrant the refusal of permission. As such, and as the greater part of the identified tranquil green space in the SPD would be shielded from vehicle movements by the proposed dwellings, I find that the development would not be unneighbourly or that this arrangement would harm the character and appearance of the area.
 11. With regard to the above, I find that no harm would arise in respect of this main issue. There would, therefore, be no conflict with Policy CS2 of the New Forest District outside the National Park Core Strategy 2009 which seeks to ensure that development respects the character, context and identity of the area.

European sites

12. The Council has indicated that significant impacts on the integrity of various European sites² are likely to arise through greater recreational usage of those

¹ SPD p.33

² New Forest European Site comprising the New Forest SAC/SPA/Ramsar sites; Solent and Southampton Water European Site comprising Solent & Isle of Wight Lagoons SAC, Solent Maritime SAC, Solent and Southampton

sites arising from increases in numbers of dwellings in the District. Accordingly, appropriate assessment under the Conservation of Habitats and Species Regulations 2017 ('the Habitats Regulations') is required. This I have conducted on a proportionate basis with regard to the evidence supplied by the Council.

13. The Habitats Regulations Assessment of the Local Plan identified that potentially harmful impacts could arise, in simple terms, from an increased number of residents visiting those parts of the New Forest, the coast, the Avon Valley and the Dorset Heaths which are designated for their nature conservation importance³.
14. The Council has produced a mitigation strategy to deal with the recreational impacts. This includes new areas of open space, enhancements to existing open space and the enhancement of recreational walking routes alongside increased ranger services and access management measures.
15. Natural England have provided a standard response⁴ that indicates that provided that mitigation is secured in accordance with the Council's mitigation strategy then an appropriate assessment can conclude that the proposal should not result in a likely significant effect.
16. Following on from this, the Council has proposed a condition to secure the appropriate mitigation. However, whilst it may be envisaged that such mitigation will be in accordance with the Council's strategy, the condition would leave room for an alternative. The proposed mitigation is not, therefore, certain and may not have been considered by Natural England as Statutory Nature Conservation Body. As competent authority under the Habitats Regulations, I must have certainty over the proposed mitigation and its efficacy before deciding to grant permission.
17. Furthermore, it is not clear how a developer could comply with the condition without entering into some form of planning obligation. Planning Practice Guidance advises that negatively worded conditions requiring the submission of planning obligations would only be appropriate in the case of more complex and strategically important development where there is clear evidence that the delivery of development would otherwise be at serious risk. Whilst I understand that the use of a condition would offer a pragmatic solution that would facilitate the delivery of development, and that such an approach may be particularly beneficial to smaller-scale builders, this proposal is not, by itself, strategically important or complex. Moreover, without knowing the detail of any proposed obligation, as competent authority, I cannot be certain that appropriate mitigation would be secured.
18. In addition to recreational pressures, the Council has also advised that there are high levels of phosphorus in the water environment of the River Avon with evidence of eutrophication affecting protected species and their food supplies. Waste water from housing is one source of nutrient inputs into the water environment and Natural England, along with the Environment Agency, have advised that previously devised mitigation strategies are not sufficiently

Water SPA and Ramsar sites; The River Avon SAC, SPA and Ramsar, and the Dorset Heathlands SAC, SPA and Ramsar.

³ 'An Appropriate Assessment of the implications of a plan or project on European sites in view of those site's conservation objectives' (Council's appeal statement, appendix 1).

⁴ Ibid. - Appendix C

effective. Until a wider solution has been devised, Natural England advises that all new development should be 'phosphate neutral'.

19. There are suggestions within a Memorandum of Understanding⁵ as to how this may be achieved and the Council indicates that various projects would be funded through the Community Infrastructure Levy (CIL). However, the evidence indicates that at the present time, the various mitigation projects are still in development⁶. Although the use of CIL means that funding for the projects would now be secured on a strategic basis rather than through individual applications, without evidence of any clear projects or timetables for their implementation, I cannot conclude with any certainty that the adverse effects of this development would be mitigated.
20. Therefore, as competent authority, and following appropriate assessment, I cannot conclude with any certainty that the development, in combination with other development, would not lead to significant adverse effects on the integrity of the European sites. Therefore, the proposal conflicts with Policy DM3 of the New Forest District outside the National Park Local Plan Part 2: Sites and Development Management which seeks to ensure that development, in combination with other development, avoids adverse effects on the integrity of European Sites.

Other matters

21. I note that there is uncertainty over whether the Council can currently demonstrate sufficient supply of deliverable housing land. However, regardless of that situation, the National Planning Policy Framework (the Framework) indicates at Paragraph 177 that the presumption in favour of sustainable development outlined at Paragraph 11 does not apply if it has not been possible to conclude that the project will not adversely affect the integrity of a European site.
22. That said, there are still benefits to the delivery of additional housing within an area that is generally appropriate for residential development in broad locational terms. If I were to find that there was currently significant under supply of deliverable housing land, this would carry significant weight. However, in accordance with Paragraph 175 of the Framework, my findings in respect of European Sites must still be determinative in this case.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

M Bale

INSPECTOR

⁵ Memorandum of Understanding between the Environment Agency, Natural England, New Forest District Council, New Forest National Park Authority, Wessex Water Services Ltd. And Wiltshire Council (2018). (Appendix C to Council's appeal statement – Appendix 3).

⁶ New Forest District Council: An Appropriate Assessment for residential development in the river Avon catchment area, with regard to the likely impact of increased phosphorous levels (Council's appeal statement – Appendix 3)