
Appeal Decision

Site visit made on 4 February 2020

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

an Inspector appointed by the Secretary of State

Decision date: 26th February 2020

Appeal Ref: APP/L1765/W/19/3239395

Land adjacent to the South West of The Farmers Home, Heathen Street, Durley, SO32 2BT

- 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 Messrs Hamal, Butler and Emmett against the decision of Winchester City Council.
 - The application Ref: 18/02363/OUT dated 28 September 2018, was refused by notice dated 23 April 2019.
 - The development proposed is construction of dwelling.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was made in outline form, with matters of access, layout appearance, landscaping and scale all reserved for future approval. Although the appellants have submitted a site plan showing a layout, floor plans and drawings of the front and side elevation, their Statement of Case confirms that these are intended to be indicative only. I have determined this appeal on this basis.
3. Subsequent to the Council's refusal of planning permission, the appellants submitted a planning obligation in respect of a financial contribution towards mitigation for the effects of the proposed development on the Solent Special Protection Areas (SPAs) which comprise the Chichester and Langstone Harbours SPA, the Portsmouth Harbour SPA and the Solent and Southampton SPA. I return to this matter below.

Main Issue

4. The main issue is whether the appeal site is an appropriate location for development having regard to the provisions of the development plan.

Reasons

5. Durley is a scattered settlement with two main built-up areas; linear development along part of Durley Brook Road, including a primary school, and a more nucleated area a little way to the north-east of The Farmers Home public house, just beyond one end of Heathen Street. As a whole, the village has a mixed character.

6. The Council's first reason for refusal cites Policies MTRA3 and MTRA4 of the Winchester District Local Plan Part 1 - Joint Core Strategy (JCS). Policy MTRA3 identifies Durley as a settlement with no clearly defined settlement boundary. Within such settlements the policy sets out that development that consists of *"infilling of a small site within a continuously developed road frontage.....where this would be of a form compatible with the character of the village and not involve the loss of important gaps between developed areas"* or development proposals *"to reinforce a settlement's role and function, to meet a community need or realise local community aspirations"* may be supported. The latter should be identified through a neighbourhood plan or process which demonstrates clear community support. The policy also sets out a number of considerations for development to be considered acceptable, including that it conserves the settlement's identity.
7. Policy MTRA4 covers development in the countryside, which is defined in the policy as land outside the built-up areas of Winchester, Whiteley and Waterlooville and the settlements covered by Policies MTRA2 and MTRA3. It restricts development in the countryside to four specific forms.
8. To the south-west of The Farmers Home public house, the development along Heathen Street is sporadic, with two small clusters of development separated from each other and from a continuous ribbon of dwellings on the south-east side of the road opposite and to the north-east of the public house by large gaps comprising gardens and agricultural land.
9. The appeal site forms a gap between a single detached dwelling and the public house. Beyond the garden of the public house to the north-east is an open field whilst there is a substantial gap between the detached dwelling to the south-west of the appeal site and a small cluster of dwellings further to the south-west. The public house and detached dwelling are both individual properties and, although not an important gap between developed areas, the appeal site is therefore within a frontage of sporadic development rather than a continuously developed road frontage, even accepting that a continuously developed frontage may only comprise a small number of dwellings.
10. Although partly opposite the end of the ribbon of houses on the opposite side of the road, the majority of the appeal site faces undeveloped land. It therefore relates more closely to the more open character of Heathen Street to the south-west of the public house than to the development to the north-east. Whilst the proposed development would be a dwelling on a large plot as are the other dwellings on the north-western side of Heathen Street, the development would partially consolidate the sporadic development on this side of the road. This partial consolidation, notwithstanding the appellants' contention that the proposed development would accord with and reinforce the existing pattern of development, would be to the detriment of the sporadic character and appearance of this part of Heathen Street.
11. Heathen Street curves slightly by the southern corner of the appeal site such that there is a direct view of and across the site when approaching from the south-west. Although views from Heathen Street across the appeal site to the open countryside to the north-west and south-west are blocked by tall conifers, when approaching the site along Heathen Street from the south-west there is a direct view of the countryside beyond. The openness of the site and this view contributes to the character and appearance of the area.

12. Whilst layout is a matter reserved for future approval and I acknowledge that the proposed dwelling could be designed to reflect the built character of Durley, a dwelling on the appeal site and/or outbuildings in the position indicated on the indicative site plan would intrude into this view, which would also be harmful to the character and appearance of the area.
13. The appellants have drawn my attention to a number of other developments permitted by the Council and, in one case, by the South Downs National Park Authority, as an indication of how infilling of a small site within a continuously developed road frontage under Policy MTRA3 has been interpreted in other settlements. I do not have the full details of these proposals but from the evidence before me, the proposals in Curbridge and Warnford are for small gaps in built-up frontages and there is development opposite the majority of the frontage of the site at Swarraton. These other sites are therefore distinguishable from the proposal before me. Furthermore, it is an established principle that each proposal should be considered on its own merits.
14. The proposed development would therefore fail to satisfy the criteria of Policy MTRA3 in that it would not comprise the infilling of a small site within a continuously developed road frontage and it would be harmful to the character and appearance of the area. Whilst the future occupiers of the proposed dwelling would be likely to provide some support for local facilities and services, including the public house and the primary school, I have no evidence that there is clear community support for the proposal. I therefore conclude that the proposed development would be contrary to Policy MTRA3 of the JCS.
15. Turning then to Policy MTRA4, the appellants dispute that this policy is applicable to the proposed development as Durley is named in Policy MTRA3. Had I found the development to be acceptable under Policy MTRA3 there would have been no need to consider the proposal against Policy MTRA4. This approach is consistent with that of another Inspector in an appeal to which the Council draws my attention¹.
16. The Council also refers to other appeal decisions in which the Inspector has recognised that settlements within Policy MTRA3 are also within the countryside, although it has not provided any details of these decisions. If I was to take the same view, the proposed development would also conflict with Policy MTRA4 as it would not be any of the specified forms of development considered permissible in the countryside under the policy.
17. I therefore conclude that the appeal site is not an appropriate location for development having regard to the provisions of the development plan.

Other Matters

18. The provision of the proposed dwelling would accord with the Government's objective of boosting the supply of housing as set out in the Housing White Paper and the National Planning Policy Framework (the Framework). It would help achieve the economic and social objectives and partially achieve the environmental objective for the planning system as set out in the Framework. It would make use of a small deliverable site.
19. However, the contributions of a single dwelling to the housing supply of the area and of its future occupiers to the local economy would be very modest. I

¹ APP/L1765/W/19/3222006

accept that a landscaping scheme that maintained or enhanced the biodiversity interest of the site could be achieved as a reserved matter. However, due to its effect on the character of that part of Heathen Street in which the appeal site is located, the development would fail to protect and enhance the natural and built environment, which is part of the environmental objective for the planning system. It would therefore not represent sustainable development.

20. Although concerns have been expressed by local residents about highway safety, I consider that a single additional dwelling would be unlikely to give rise to significant additional traffic movements and details of the access to the site are a reserved matter. I note that no objection to the proposed development was raised by the Council's Highways Engineer. I accept that no objections to the proposed development were raised either on heritage grounds. I give these matters neutral weight in my determination of this appeal.
21. I note the support from two local residents for the proposed development. However, this support does not outweigh the conflict with the development plan I have found above.
22. From the evidence before me, the appeal property is within the Solent Disturbance and Mitigation Charge Zone, being within 5.6 km of the Solent Special Protection Areas (SPAs) which comprise the Chichester and Langstone Harbours SPA, the Portsmouth Harbour SPA and the Solent and Southampton Water SPA. The Solent SPAs are coastal and estuarine designations established on the basis of the particular value of their habitats, including mudflats, shingle and saltmarshes, which provide essential winter feeding and roosting grounds for birds.
23. In accordance with advice from Natural England and as detailed in the Solent Recreation Mitigation Strategy (SRMS), a net increase in housing development within 5.6 km of the Solent SPAs is likely to result in impacts to the integrity of these sites through a consequent increase in recreational disturbance. Policy CP16 of the JCS seeks to maintain, protect and enhance biodiversity across the District and requires unavoidable impacts on biodiversity to be appropriately mitigated.
24. Non-compliance with Policy CP16 due to a failure to make appropriate provision for the Solent Disturbance and Mitigation Charge Zone was the Council's second reason for refusal. However, from the evidence before me, the appellants have submitted a unilateral undertaking relating to the payment of a financial contribution in accordance with the SRMS. The Council has confirmed that the obligation overcomes its second reason for refusal but, as I am dismissing this appeal on other substantive grounds, it is not necessary for me to consider this matter in any further detail.
25. In June 2019, subsequent to the determination of the application, Natural England issued advice to local authorities in the Solent region on achieving nutrient neutrality for new development in the region to reduce the impact of additional nutrients, in particular nitrogen, on the Solent water environment². The advice notes that there is uncertainty as to whether new growth will further deteriorate designated sites. Both main parties have referred to this matter in their evidence. However again, as I am dismissing this appeal on

² Advice for LPAs Version 2 June 2019

other substantive grounds, it is not necessary for me to consider this matter in any further detail.

Conclusion

26. The proposed development would conflict with the development plan and there are no material considerations that would outweigh this conflict. Accordingly, for the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

Martin Small

INSPECTOR