



Appeal Decision

Site visit made on 3 December 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/H1705/W/19/3234647

Land at Glebe Close, Dummer RG25 2AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Antler Homes Plc, Vortal Properties Limited, David Samuel Frankham and Beverley Ann Frankham against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 16/03526/FUL, dated 4 October 2016, was refused by notice dated 12 June 2019.
 - The development proposed is erection of 17 dwellings and associated access and amenity space.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellants have submitted a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (as amended), which was signed in counterpart form and dated 22 November 2019. The copies I have been provided with appear to be identical in all respects, but each has been signed by a different party. The Section 106 agreement (the S106) would secure the provision of affordable housing, which would take effect should planning permission be granted. I shall return to this later in my decision.

Application for costs

3. An application for costs was made by Antler Homes Plc, Vortal Properties Limited, David Samuel Frankham and Beverley Ann Frankham against Basingstoke & Deane Borough Council. This application is the subject of a separate Decision.

Main Issues

4. The main issues are:
 - Whether the proposal would be suitably located, having regard to the requirements of planning policies seeking to manage the location of residential development;
 - The effect of the proposal on the setting of Glebe Cottage, a Grade II Listed Building and the setting of Dummer Conservation Area; and
 - Whether the proposal would make adequate provision for affordable housing.

Reasons

Location

5. Located on the edge of the village of Dummer, the appeal site comprises a field used as a paddock, which is formally enclosed by post and rail fencing. The site is adjacent to properties fronting Glebe Close and within relative proximity to Dummer Golf Club, but lies within an area of rural character, which is largely surrounded by open fields.
6. Policy SS1 of the Basingstoke and Deane Local Plan (2011 to 2029)¹ (LP) outlines the spatial strategy for the distribution of new housing over the plan period. The site lies outside the Settlement Policy Boundary (SPB) for Dummer and is therefore considered, for planning policy purposes, to lie in the countryside. LP Policy SS6 seeks to restrict new housing in the countryside, but sets out a number of exceptions. The supporting text to Policy SS6 explains that the aim of the LP is to direct development to within the identified SPB and specific site allocations. This approach is broadly consistent with the National Planning Policy Framework (the Framework), by seeking to direct residential development towards the most sustainable locations.
7. The appellants consider that the proposal would accord with LP Policy SS6e, which permits small scale residential proposals of a scale and type that meet a locally agreed need in the countryside, subject to a number of criteria. However, footnote 8 of the LP defines small scale residential proposals for the purposes of Policy SS6 as schemes for 'four dwellings or fewer'. The appeal development would result in the creation of 17 dwellinghouses and would therefore significantly exceed this threshold. The appellant refers to paragraph 68 of the Framework, which encourages the development of 'small and medium sized sites', but this is, amongst other things, in the context of sites within existing settlements. The appeal site lies outside the SPB for Dummer, and paragraph 68 of the Framework is therefore considered of limited relevance to the proposal before me.
8. Policy SS6e also requires a locally agreed need to be established and to that effect, the appellants submitted a Housing Needs Assessment² (HNA) for the Parish of Dummer in support of the application. A Household Survey was carried out as part of the HNA to demonstrate the existence of a locally agreed need for further residential development within the parish, but I find that the results have to be treated with caution by reason of the low level of response (e.g.19% of households), which may therefore not constitute a representative sample.
9. Notwithstanding this, whilst the HNA suggests that there may be a desire for additional housing within the parish, or indeed within Dummer, the findings do not establish with certainty that there is a specific need to reside at the proposed location which could not be met elsewhere within the Parish. Furthermore, I find that the Household Survey makes it difficult to ascertain whether there may be a genuine local housing need, or whether it may merely show expressions of interest or desire for moving. On this basis, I am not convinced that the submitted evidence clearly establishes a locally agreed need, as required by Policy SS6e.

¹ Adopted May 2016.

² Dated August 2016.

10. LP Policy SS5 states that a number of sites would have to be identified to deliver at least 10 homes within and adjacent to settlements with defined SPBs. Whilst I note the comments made by the appellants in that regard and the difficulties currently experienced by the Council in respect of housing land supply, there is no substantive evidence before me, which demonstrates that the objectives currently set by Policy SS5 will not be achieved over the nine remaining years of the plan period.
11. My attention has been drawn to the supporting text to LP Policy SS5. As confirmed by the Courts, it is legitimate to refer to supporting text to fully understand planning policies. Paragraph 4.67 refers to residential developments within or adjacent to SPBs, and identifies alternative means to neighbourhood planning for this type of proposals, for example via a planning application. Having regard to the wording of Policy SS5, it is clear that developments are expected to either come forward through Neighbourhood Planning, rural exceptions schemes, or a review of SPBs, which is not the case of the proposal before me. Additionally, the Council have confirmed that this reference to planning applications within the supporting text to Policy SS5 relates to situations where planning permission may be granted on the basis of other LP provisions.
12. The appellants have also referred to LP Policy SS1, which states that SPBs will be reviewed through a future Development Plan Document. I understand that the SPB for Dummer was not reviewed as part of the preparation of the current LP. However, it is not the purpose of this appeal to review the Council's spatial strategy or the extent of the SPBs. Regardless of whether or not it may need to be revisited in the future to facilitate the provision of small housing scale developments in appropriate locations or to address housing land supply issues, I must give due consideration to the fact that, presently, the site falls outside the SPB for Dummer.
13. For the reasons detailed above, I find that the proposal would not be suitably located, having regard to the requirements of planning policies seeking to manage the location of residential development. It would therefore conflict with LP Policies SS1, SS5 and SS6, as well as the Framework.

Setting of designated Heritage Assets

14. Following the determination of the planning application subject to this appeal, a subsequent application³ for a similar residential scheme has been refused by the Council's Planning Committee on 30 October 2019. This is an important consideration for the determination of this appeal. Although the planning application was not formally refused on those grounds, the effect of the proposal on the setting of designated heritage assets was raised as an important consideration within the Council's submissions (including consultation responses from the Conservation Team) and representations made by interested parties. This was also addressed within the appellants' submissions, which include a Heritage Statement prepared by Wessex Archaeology⁴. This was also raised as an issue by Members of the Planning Committee as part of the revised application, which I have referred to above.

³ Local Planning Authority Reference 19/01965/FUL.

⁴ Ref: 114300.01 (September 2016) and Ref: 114302.01 (dated May 2017).

15. The appeal site lies within the setting of Dummer Conservation Area and Glebe Cottage, which is a Grade II Listed Building dating from the 18th century. As noted within Dummer Conservation Area Appraisal (the CAA), the long front elevation of Glebe Cottage is situated at a slight angle to the road, emphasising the building in views from the north over the open green which lies in front of it. With its thatched roof, gable and tall chimney stack, Glebe Cottage appears as a prominent building at the entrance to the village. Having regard to the evidence before me and the listing description, I consider that the significance of this designated heritage asset relates primarily to the age, form and historic fabric of the building, and the specified features of special interest.
16. The significance of the Conservation Area, which to a large extent covers the built up area of Dummer, derives from the linear pattern of development and its attractive collection of buildings (including a number of listed buildings), which reflect the historic character of this settlement within a rural context. The importance of the appeal site in respect of the Conservation Area and Glebe Cottage is most readily apparent when both assets are viewed from the north along Down Street. In framing the rural setting of Glebe Cottage and Dummer Conservation Area, the appeal site contributes to the special interest and thus significance of these designated heritage assets.
17. It provides what the CAA describes as 'the transition from the open countryside immediately to the north into the leafy intimate environment of the village', which is marked by key historic buildings such as Glebe Cottage. The appeal development would however create a prominent and significant addition to the village, which would harm the setting of the Conservation Area and the Grade II Listed Building. The provision of an area of open space along the western boundary of the site would do little to soften the strong visual presence of the dwellings and could therefore not mitigate the harm which would be caused to the setting of the heritage assets. Although the proposal would screen the 1970s properties fronting Glebe Close, this does not provide sufficient justification to outweigh the harm identified.
18. For these reasons, the proposal would result in a form of development which would fail to conserve the setting of Glebe Cottage and the Conservation Area, and adversely affect the contribution that the settings make to their significance. The development would thus be in conflict with paragraph 193 of the Framework. When the significance of these assets is considered as a whole, the harm caused by the appeal development would be less than substantial but still significant, by reason of the contribution of the appeal site to the setting of these assets. That said, less than substantial harm does not equate to a less than substantial objection to the grant of planning permission. Taken together, I therefore give very substantial weight to the identified harm, in the heritage and planning balance.
19. In such circumstances, where a development proposal would cause less than substantial harm to the significance of a designated heritage asset, paragraph 196 of the Framework requires this harm to be weighed against the public benefits of the scheme. The proposal would deliver a number of market and affordable dwellings, as well as an area of open space, although it is not clear, on the basis of the available evidence, whether this would be secured as public open space. The appeal scheme would also deliver some benefits to the local economy during the construction of the properties and through the use of local facilities. Whilst these benefits aggregate significant weight in favour of the

scheme, they do not outweigh the very substantial weight afforded to the harm which the development would cause to the settings of Glebe Cottage and Dummer Conservation Area.

Affordable housing

20. LP Policy CN1 requires the provision of 40% affordable housing as part of development proposals, which should be delivered on-site for schemes for 5 or more net residential units such as the appeal proposal. Policy CN1 adds that the tenure split of affordable homes will be 70% rented and 30% intermediate products. The appellants' submissions, which include letters from three different housing associations, suggest that there is a lack of demand for the provision of this particular type of accommodation in Dummer. This is also exemplified by the limited demand for shared ownership units on the Council's Housing Needs Register and the appellants' separate Housing Need Assessment undertaken in 2016.
21. Accordingly, the scheme as determined by the Council sought to provide approximately 35% affordable housing on site, in the form of 6 units on intermediate tenures at a discounted rate of 80 % market value. This type of residential accommodation falls within the definition of affordable housing included in Annex 2 to the Framework.
22. As detailed within the submitted S106, the number of units to be provided as discounted market sales housing has subsequently been increased to 7, which would represent a provision of 40% affordable housing on-site, thus in accordance with LP Policy CN1. The S106 also includes a mechanism which would ensure the provision of the affordable housing units prior to occupation of 75% of the open market properties.
23. Although the Council is concerned that the provision of discounted market sales housing would not constitute a suitable mechanism to those in need, this is not substantiated by detailed evidence. Having regard to the information before me, I am satisfied with the appeal proposal would make adequate provision for affordable housing and therefore find no conflict with LP Policy CN1, or the Council's Planning Obligations for Infrastructure Supplementary Planning Document (March 2018).

Other Matters

24. Both parties accept that the Council is presently unable to demonstrate a five-year supply of deliverable housing sites. The Council's submissions indicate that they can only demonstrate 4.59 years of housing land supply. However, regardless of the extent of the housing land supply shortfall, and even if I were to find that the policies of the development plan as a whole should be regarded as out-of-date, paragraph 11 of the Framework would not be engaged in this instance, as the policies of the Framework that protect assets of particular importance (e.g. designated heritage assets) provide clear reasons for refusing the proposal. Therefore, the appeal scheme cannot benefit from the presumption in favour of sustainable development.
25. During the course of the appeal, the Council issued a change in position in respect of residential development proposals situated in the wider catchment of the Solent. Natural England have previously advised that the waste water generated by residential development in the catchment of the River Test and

Itchen (as part of the wider catchment to the Solent) could have potential significant effects on Solent and Southampton Water Special Protection Area and Solent Maritime Area of Conservation. However, as the appeal is being dismissed on other substantive grounds, this is not a matter which needs to be considered further here.

Planning Balance and Conclusion

26. The proposal would provide a number of market and affordable dwellings, to which I ascribe significant weight. The provision of open space and biodiversity enhancements carry moderate weight in favour of the proposal. There would also be short-term benefits associated with the construction of the properties. Future occupiers may also use and support local facilities. Whilst I have had regard to other financial benefits identified by the appellants, I am mindful of the Planning Practice Guidance⁵, which states that 'it would not be appropriate to make a decision based on the potential for the development to raise money for a local authority or government body'. Limited weight is afforded to the economic benefits of the proposal.
27. In the overall planning balance, I ascribe very substantial weight to the harm which would be caused by the proposal to the settings of Glebe Cottage and Dummer Conservation Area. The conflict with the policies of the Framework in that particular regard provides a clear reason for refusing the development proposed. Furthermore, the proposal would conflict with the spatial strategy set out within the development plan, for which there is no basis to diminish their full weight or force.
28. The identified harms would therefore significantly outweigh the benefits that would be derived from the appeal scheme. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR

⁵ Paragraph: 011 Reference ID: 21b-011-20140612.