



Appeal Decision

Site visit made on 13 October 2020

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th October 2020

Appeal Ref: APP/H1705/W/20/3257015

Land west of Silchester Road, Little London, Tadley RG26 5EX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mr and Mrs D W Snook against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 19/02278/PIP, dated 28 August 2019, was refused by notice dated 16 July 2020.
 - The development proposed is residential development of up to 4 no. dwellings.
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Decision

1. The appeal is allowed and permission in principle is granted for residential development of up to 4 no. dwellings at land west of Silchester Road, Little London, Tadley RG26 5EX, in accordance with the terms of the application, Ref 19/02278/PIP, dated 28 August 2019.

Application for costs

2. An application for costs was made by Mr and Mrs Snook against Basingstoke & Deane Borough Council. This application is the subject of a separate Decision.

Background

3. The appeal proposal is for a Permission in Principle (PIP). In accordance with the Planning Practice Guidance (the Guidance) and the Town and Country Planning (Permission in Principle) (Amendment) Order 2017 (the Order), this is an alternative way of obtaining planning permission for housing-led development, which separates the consideration of matters of principle for the proposed development (first stage) from the technical detail (second stage).
4. Paragraph 012 of the Guidance states that the scope of a PIP application is limited to location, land-use and the amount of development, and that other matters should be considered at the technical details consent stage¹. It confirms that local authorities cannot list the information they require for applications for permission in principle in the same way they can for applications for planning permission.
5. The Guidance also confirms that, following a grant of a PIP, the site must receive a grant of Technical Details Consent (TDC) before development can proceed, and that other statutory requirements may apply at this stage, such as those relating to protected species or listed buildings².

¹ Paragraph: 012 Reference ID: 58-012-20180615 Revision date: 15 06 2018

² Paragraph: 003 Reference ID: 58-003-20190615 Revision date: 15 06 2018

6. For the avoidance of doubt, the appeal proposal is at the first stage. In respect of residential development, an applicant can apply for a PIP for a range of dwellings by expressing a minimum and maximum net number of dwellings as part of the application. In this instance, permission in principle has been sought for up to 4 no. dwellings on the appeal site. I have determined the appeal on that basis, having regard to the requirements of the above referenced Order and the Guidance.

Main Issues

7. The main issues are:

- whether the proposal would comply with development plan policy in respect of housing in the countryside; and
- whether any policy conflict in relation to the above issue would be outweighed by other material considerations, such as to justify a decision other than in accordance with the development plan.

Reasons

Development plan policy

8. The appeal site comprises a roughly square-shaped flat field used for grazing. It is located on the west side of Silchester Road at the southern end of Little London village, and within open countryside outside of any designated Settlement Policy Boundary (SPB). The site is surrounded by grassed land to the north and west which is associated with Berry Court Farm and Berry Court Business Park, and a solar park to the south. There are residential properties on the opposite side of Silchester Road and to the north of the site, beyond the adjacent field.
9. The first step in considering the appeal scheme is the development plan, which comprises the *Basingstoke and Deane Local Plan 2011 – 2029* (BDLP). Section 38(6) of the Act sets out that applications should be determined in accordance with the development plan unless material considerations indicate otherwise. The site lies outside of any designated SPB and is therefore considered to be in the countryside for the purposes of BDLP Policy SS1. This policy sets out a spatial strategy for the location of new housing. As a general rule, it directs new housing to within the designated SPBs and allocated sites, and restricts new residential development in the countryside unless it accords with the exceptional criteria contained with BDLP Policy SS6, under which new housing in the countryside would be appropriate.
10. Given the scale and nature of the appeal scheme, and the characteristics of the appeal site, criterion e) of Policy SS6, which relates to small-scale (4 dwellings or fewer) market housing, is most relevant to the proposal. However, in order to be appropriate, such housing would need to be of a scale and type that would meet a locally agreed need as detailed in the Council's published guidance. This advises that applicants must demonstrate that the development would address a specific and clearly identified unmet local need having regard to number, size, type and tenure of dwellings. I have no cogent evidence before me that such a locally agreed need has been satisfactorily demonstrated. As such, I find that the scheme would be contrary to Policies SS1 and SS6 of the BDLP in respect of housing in countryside.

Other material considerations and planning balance

11. The Council has confirmed that, notwithstanding the addition of a 5% buffer in accordance with the Housing Delivery Test 2019 published in February 2020, it cannot demonstrate a 5 year supply of deliverable housing sites as required by the *National Planning Policy Framework 2019* (the Framework). It has confirmed that following the latest Housing Delivery Test, it is able to demonstrate 4.86 years of deliverable housing land supply. As such, there is an undisputed undersupply of deliverable housing sites within the Borough.
12. Accordingly, BDLP Policies SS1 and SS6, which set out that the required development can be met within the defined SPBs and specific site allocations, and that development in the countryside will only be acceptable in set exceptional circumstances, are out of date. I therefore afford very limited weight to these policies in decision making terms. I also find that they are not entirely consistent with rural housing policy contained within the Framework, which is less restrictive.
13. Paragraph 11 d) of the Framework requires decisions to apply a presumption in favour of sustainable development. It states that, for decision taking, where policies which are most important for determining the application are out-of-date, including where a housing shortfall exists, granting permission unless:
i) the application of policies within the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
14. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance that provide a clear reason for refusing the development. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
15. In determining the application, the Council concluded that at this 'in principle' stage, no harm would result to the significance and setting of Grade II listed buildings at Kingherm Cottage to the north east of the site and Berry Court Farm House (Racketts Farm House) to the west. Based on my site visit, which also included a consideration of the separation distance and amount of screening and built development between the site and the listed buildings, the size and character of the appeal site, and the amount of proposed development, I have no reason to disagree with the Council in respect of this matter. I find that this is a matter of neutral consequence in the overall planning balance, and that the proposal is not, therefore, contrary to paragraph 11 d) i) of the Framework in this respect.
16. I have considered the location of the proposal having regard to paragraphs 78 and 79 of the Framework and the Braintree caselaw³ which concluded that the definition of 'settlement' within the context of paragraph 79 is not defined and that the Framework contains no definitions of a 'community', a 'settlement' or a

³ Braintree DC v SSCLG, Greyread Ltd & Granville Developments Ltd [2018] EWCA Civ 610

'village', so that whether a site is considered 'isolated' or not, will be a matter of fact and planning judgement for the decision-maker.

17. I concur with the view of both main parties that the site does not lie within an isolated countryside location, having regard to its close proximity to the southern end of Little London village, which comprises a ribbon form of development along Silchester Road, and includes a row of dwellings directly opposite the appeal site. The village facilities and services, which include a village hall, public house and several small businesses, are readily accessible from the site by means of transport other than the car and there are bus stops serving routes to Basingstoke and Pamber Heath within easy walking distance of the site. As such, I find no conflict with paragraphs 78 and 79 of the Framework, and that the proposal would comprise a sustainable location where new dwellings would positively contribute to the maintenance of the vitality of the local rural community. Having regard to paragraph 78 of the Framework, this may include giving support to the services in nearby Pamber End.
18. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. Government policy, as expressed in the Framework, is to significantly boost the supply of homes. The appeal scheme would make a small, but measurable, contribution to this objective, having regard to the Framework advice that small sized sites can make an important contribution to meeting the housing requirements of an area, and are often built-out relatively quickly.
19. The appeal scheme would provide some economic benefits through employment at the construction stage and contribution towards the viability of local services through the subsequent occupation of up to 4 dwellings. It would also promote the vitality of the local community.
20. I have had regard to third party concerns in respect of a number of issues. Having regard to the environment, the Council has not raised any objection to the scheme in respect of its impact on the character and appearance of the area. The site does not lie within an area of designated landscape importance. Whilst there would be some localised visual impact on the countryside due to the introduction of built form onto the grassed site, this would not be unduly harmful to the visual amenity of the wider landscape, given the relatively contained nature of the site, and its proximity to the aforementioned surrounding built development, particularly the residential properties on the opposite side of the road, with which the appeal scheme would share a similar density of development. The site is of sufficient size to accommodate up to 4 dwellings whilst retaining the existing trees and mature landscaping and providing scope for additional landscaped planting as part of the proposal.
21. I have no cogent evidence before me of harm arising from the appeal scheme in respect of matters including character and appearance, biodiversity, flooding, highway safety, traffic generation and neighbour living conditions. As this application relates to PIP, I am satisfied that these other matters should be dealt with through the TDC process.
22. In terms of the planning balance, I find that the lack of identified harm in respect of the above matters, including those which are not within the scope of a PIP application, would comprise a neutral factor.

23. I have also considered the previously refused planning applications in respect of the redevelopment of the site with 4 dwellings, the most recent of which was the subject of a dismissed appeal⁴. I do not find these proposals to be directly comparable with the circumstances in respect of the current appeal, since they related to different schemes, and were determined at a time when the Council was able to demonstrate a 5-year supply of housing.
24. My attention has also been drawn to a recently dismissed appeal⁵ and a current undetermined appeal⁶ in respect of schemes for 2 dwellings and a single dwelling respectively on sites at Berry Court Farm. I do not find the circumstances, including the proposals and appeal site locations, to be directly comparable with the current appeal scheme. In any event, I must determine the current appeal on the basis of the appeal site context and the merits of the scheme before me.
25. I have noted that a draft Pamber Neighbourhood Plan (NP) is in the course of preparation. However, I can afford no weight to the policies therein in reaching my decision, since the NP has not yet reached the community consultation stage.
26. Whilst there is some conflict with the BDLP in respect of its strategy for housing delivery, I find that, because of the Council's position in terms of the undersupply of housing, and, when assessing the development against the policies in the Framework taken as a whole, the benefits of the proposed development arising from the contribution made by the provision of up to 4 additional new dwellings, would significantly and demonstrably outweigh any adverse impacts.

Conclusion

27. For the reasons given above, I conclude that the appeal should be allowed.
28. Whilst noting the Council's suggested list of informative notes, no conditions are applicable, since the Guidance makes it clear that it is not possible for conditions to be attached to a grant of permission in principle, whose terms may only include the site location, the type and amount of development.
29. Whilst the Guidance allows for the altering of the 3 years default duration of a PIP, it requires clear justification for doing so. I have acknowledged the Council's suggestion of a one year permission, having regard to the extent of the shortfall in the Council's 5 year housing land supply, and the Council's expectation that the shortfall would be temporary and short-lived. Notwithstanding that the Council has recently returned to a 5% buffer instead of a 20% buffer in accordance with the most recent Housing Delivery Test results, I do not have any cogent evidence before me to enable me to be certain that the Council's housing shortfall will be short term, and on the basis of the information before me, I do not propose to alter the default permission duration for this reason.

S Leonard

INSPECTOR

⁴ APP/H1705/W/18/3195668

⁵ APP/H1705/W/20/3244730

⁶ APP/H1705/W/20/3254750