

Appeal Decision

Site visit made on 17 November 2020

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2020

Appeal Ref: APP/W1715/W/20/3255037
Wildgrounds, Brook Lane, Botley SO30 2ER

- 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 Mr and Mrs Roy against the decision of Eastleigh Borough Council.
 - The application Ref F/20/87263, dated 27 January 2020, was refused by notice dated 9 June 2020.
 - The development proposed is described as 'the proposal seeks planning permission to replace the existing dwelling of 'Wildgrounds' with 2 dwellings. The proposal additionally seeks to demolish the agricultural barns which are located to the rear of the dwelling'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Although the emerging Eastleigh Borough Local Plan 2016-2036 (eLP) has yet to be found sound, it has nevertheless reached an advanced stage of preparation, and the Inspector has suggested a number of main modifications. Having regard to the available evidence, I have no reason to believe that the Council would instead favour the withdrawal of the eLP. The emerging Policies have therefore been afforded moderate weight.

Main Issues

3. The main issues are:
 - Whether the appeal site constitutes a suitable location for the proposal, having regard to local and national planning policies which seek to restrict housing development in the countryside; and
 - The effect of the proposal on the character and appearance of the area.

Reasons

Location

4. The appeal site comprises a two-storey dwelling and a number of outbuildings set within spacious grounds. The site is located within an area primarily characterised by residential properties of varying sizes and designs, which are set in a linear fashion along the main road. It is of note that development is particularly scarce on the eastern side of Brook Lane. The pattern of development, together with the grass verges, mature trees and hedges,

- surrounding woodland areas and open fields, give the locality a pleasant rural character.
5. The site lies, for planning policy purposes, within the countryside, which the supporting text¹ to Eastleigh Borough Local Plan Review (2001-2011)² (LP) classifies as all land outside the defined urban edge. In accordance with Saved Policy 1.CO, development on land outside the defined urban edge is only permitted in restrictive circumstances. These notably include developments which require a countryside location. The appeal proposal would not meet any of these exceptions and would therefore be contrary to Saved Policy 1.CO.
 6. LP Saved Policy 8.CO permits the redevelopment of an existing dwelling in the countryside provided that, amongst other things, no additional units of accommodation are created. As the appeal scheme seeks to replace the existing property and agricultural buildings with two new dwellings, the proposal would also conflict with Saved Policy 8.CO.
 7. Future occupiers would have to travel further afield to access most everyday services and facilities. The appellants consider that some of these services are available in Botley and within the fringe of Hedge End, which lie within walking distance of the site. However, Brook Lane is relatively narrow and there is no footpath, and walking or cycling are therefore unlikely to represent attractive alternatives to private cars.
 8. The lack of lighting along the nearby public right of way would also discourage walkers in the evenings, especially during winter when daytime hours are limited. Additionally, it remains unclear which services or facilities are available within 500 metres of the appeal site. Furthermore, there is no substantive evidence before me suggesting that the site is well served by public transport. Overall, I therefore consider that, for convenience purposes, there is a greater likelihood that for the large majority of trips, residents would rely on private motor vehicles, which is the least sustainable mode of transport.
 9. For the foregoing reasons, I conclude on this issue 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 not represent a sustainable form of development and would therefore conflict with LP Saved Policies 1.CO and 8.CO. The appeal scheme would also be contrary to eLP Policies S7 and DM28, which restrict new development in the countryside and set out criteria for replacement dwellings in this area. I ascribe moderate weight to the conflicts with these policies.

Character and appearance

10. The proposed construction of two residential properties would represent an intensification of development on the eastern side of Brook Lane. It would require the loss of a number of mature trees, fill in the visual gap between Wildgrounds and Waybeyond, and in doing thus erode the contribution which the site presently makes to the spacious and landscaped character of its rural surroundings. The existing arrangement which, as detailed above, includes a residential property and a number of agricultural buildings, currently appears unobtrusive, because it reflects the pattern of development which is commonly found in rural areas.

¹ Paragraph 1.3.

² Adopted May 2006.

11. Having regard to the size of other dwellings and plots in the locality, the scale of the proposed dwelling on plot 1 in particular would appear excessive. The harm resulting from the development would be exacerbated by the formal subdivision of the site into two distinct plots and the large areas of hardstanding for the provision of parking and turning. In that regard, the appeal scheme would appear at odds with the prevailing pattern of development along Brook Lane.
12. I note that existing hedgerows would be retained, and additional landscaping is proposed. However, additional planting would inevitably take time to mature, and there is no certainty that these landscaping features would be retained for the lifetime of the development. Furthermore, the proposed dwellings would not be entirely screened by soft landscaping, as they would remain visible within the street scene, notably from the access points.
13. For the foregoing reasons, the appeal development would have a detrimental effect on the rural character and appearance of the surrounding area. It would consequently fail to accord with the design aims of LP Saved Policy 59.BE and the requirements of Saved Policy 18.CO. This policy seeks to prevent development proposals which fail to respect or have an adverse impact on the intrinsic character of the landscape. Furthermore, there would be conflict with the general criteria for new development set out by eLP Policy DM1, to which I ascribe moderate weight.

Other Matters

14. The appellants' submissions suggest that the existing barns could be converted to residential accommodation through the prior approval procedure afforded by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). However, at this stage, there is no greater than theoretical possibility that these premises could or would be converted to residential accommodation. Additionally, I am unable to ascertain, having regard to the available evidence, that such a conversion would have a greater adverse impact on the character and appearance of the area than the appeal scheme. This consideration is therefore afforded very limited weight.
15. The appeal site lies within proximity to the Solent and Southampton Water Special Protection Area (SPA), Solent Maritime Special Area of Conservation (SAC) and Solent and Southampton Water Ramsar sites. These areas are recognised under the Conservation of Habitats and Species Regulations 2017 as being of international importance for supporting significant numbers of overwintering birds.
16. The Council and Natural England consider that the proposed development would have a likely significant effect on the integrity of these sensitive areas (either individually or in combination with other plans or projects) notably by reason of additional recreational pressures, unless suitable mitigation is provided. As detailed within the Solent Recreation Mitigation Strategy, residential development proposals are required to make a financial contribution towards mitigation measures, which are normally secured through the completion of a planning obligation.
17. Furthermore, Natural England have raised concerns regarding the high levels of nitrogen and phosphorous entering the Solent catchment, which are believed to be caused by increased waste water from additional residential development.

This could also have a likely significant effect on the designated sites. As detailed within the Council's submissions, this issue may notably be addressed by ensuring that the proposed development achieves nutrient neutrality.

18. As I am dismissing this appeal on other substantive grounds, these are not matters which need to be considered further here. However, had the development been considered acceptable in all other respects, I would have sought to explore the necessity for undertaking an Appropriate Assessment, to ensure the proposal's compliance with Habitats Regulations.

Planning Balance

19. As detailed within their submissions, the Council are able to demonstrate a five-year supply of deliverable housing sites and the Housing Delivery Test indicates that the delivery of housing exceeds the requirement over the previous three years. However, the appellants consider that LP Saved Policy 1.CO is out-of-date due to its inconsistency with the National Planning Policy Framework (the Framework). In such circumstances, the Framework advises that permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. I have had regard to the appeal decisions referred by the main parties, which have notably considered whether or not Policy 1.CO is out-of-date. Policies should not be treated as out-of-date simply because of their age, because the development plan is time expired or because there is an absence of strategic policies in the plan. As detailed within the Framework³, due weight should be given to policies in existing plans, according to their degree of consistency with the Framework. Whether a policy becomes out-of-date is therefore a matter of pure planning judgment. To do so, the Courts have confirmed that the basket of policies from the development plan which constitute those most important for determining the application has to be identified.
21. In this particular instance, the policies which are most important for determining the application are LP Saved Policies 1.CO, 8.CO, 18.CO, 59.BE, 45.ES, 25.NC and 26.NC. The aims of Saved Policy 1.CO are considered to be in general conformity with the Framework, by focusing development to the most sustainable and accessible parts of the Borough, which fall within the defined urban edge, and protecting the intrinsic character and beauty of the countryside. Although the LP seeks to accommodate genuine development needs in the countryside, the approach set out in Saved Policy 1.CO is arguably more restrictive than the Framework. Whilst Saved Policy 1.CO has therefore to be considered out-of-date, I nevertheless ascribe considerable weight to the conflict with this policy for the purposes of this appeal.
22. Saved Policies 8.CO and 18.CO are not considered out-of-date, as they aim to restrict residential development in the countryside to prevent the cumulative detrimental impact that such developments can have on the rural environment and protect its intrinsic landscape character. Furthermore, there is no dispute between the parties that Saved Policies 59.BE, 25.NC, 26.NC and 45.ES are not out-of-date, due to their degree of consistency with the Framework.

³ Paragraph 213.

23. Despite my findings in respect of Saved Policy 1.CO, I find that the basket of the most important policies for the determination of the proposal before me, taken as a whole, is not out-of-date, and the tilted balance as set out in paragraph 11 of the Framework is therefore not engaged in this instance.
24. The proposed development would make a modest contribution to housing supply and choice, and support the local economy. However, as detailed above, there would also be significant harm resulting from the proposal. Accordingly, I find that the benefits associated with the proposal would not outweigh the identified harm, and there are no considerations which indicate that the appeal should be determined, other than in accordance with the development plan.

Conclusion

25. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR