



Appeal Decision

Site visit made on 25 January 2021

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021

Appeal Ref: APP/L1765/W/20/3260587

Land adjacent to Sunnyside, Durley Street, Durley SO32 2AA

- 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 Mr Freemantle (Mapledean Projects Limited) against the decision of Winchester City Council.
 - The application Ref 20/00784/FUL, dated 14 April 2020, was refused by notice dated 21 July 2020.
 - The development proposed is construction of six dwellings, access, parking, landscaping and associated works.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

3. The appeal site forms part of a larger grassed paddock, which rises up from the road frontage and is bordered to the rear by a conifer plantation woodland. It lies within a transitional area located between Durley Street to the north-east and Durley to the south, which is primarily characterised by linear development. The ribbon of development along the south-eastern side of Durley Street tends to be more concentrated than on the opposite side of the road. That said, fields such as the appeal site create visual breaks to the road frontage and thus make an important contribution to the rural character and appearance of the locality and the surrounding countryside.
4. Policy MTRA3 of the Winchester District Local Plan Part 1 – Joint Core Strategy¹ (LPP1) identifies Durley and Durley Street as settlements, which have no clearly defined settlement boundary. In these locations, the infilling of a small site within a continuously developed road frontage may be supported, provided that it would be of a form compatible with the character of the village and not involve the loss of important gaps between developed areas.
5. The wording of Policy MTRA3 does not provide a definition of what constitutes the infilling of a small site, and I have not been referred to any information providing any further clarification within the supporting text to this Policy. The appellant regards the proposal as small infilling due to the fact that the number

¹ Adopted March 2013.

of dwellings proposed falls below the threshold of major development (as set out within the Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended), and defined in Annex 2 to the National Planning Policy Framework (the Framework)). I note that the phrase 'small site' is used in various documents produced by the Council, including the LPP1. However, the site's frontage cannot be described as small simply because the number of units would not exceed a threshold established at national level for specific purposes, and which are not designed to provide an interpretation of a particular development plan policy.

6. It is a matter of judgment for the decision-maker, taking into consideration the circumstances of each case, to establish what constitutes small infilling. As there are existing properties either side of the site, the appeal scheme would form part of a continuously developed road frontage. However, the width of the site relative to the frontage it is part of, but also its wider context, is considerable, and I therefore find that the proposed development cannot be described as the infilling of a small site.
7. The appeal scheme would constitute a significant intensification of development on the site not only in terms of the number of dwellings proposed, but also the extensive areas of hardstanding which would be created for the provision of access and parking. Despite the retention of a large part of the existing hedge along the road frontage, the proposed dwellings would appear widely prominent within the street scene, and would also be visible from the adjacent public right of way. They would unduly stand out as a significant intrusion of built development in this area of rural character, which would erode the contribution that the site presently makes to the locality.
8. The harm resulting from the proposal would be exacerbated by the sprawling nature of the car parking area which would be created to the rear of the proposed dwellings and would as a result restrict the depth of the plots considerably. Although the plots may be of a similar density to others in the locality, the proposed layout would lead to an urbanisation of the site, but also appear out of kilter with the prevailing pattern of development and detract from the character and appearance of the area. The use of planting and a muted palette of hard landscaping materials would not overcome the harm which I have identified.
9. My attention has been drawn to an appeal decision², where the Inspector felt that the site did not appear as a functioning gap between clusters of development, and found the proposal to be in compliance with the overall approach of Policy MTRA3. However, I do not have full details of this scheme and cannot therefore be certain that the circumstances of this appeal represent a direct parallel to the proposal before me, notably in respect of scale, location and context.
10. The appellant has also referred to a number of applications along Durley Street where the principle of infill development was considered acceptable. Some of these schemes have been approved and implemented. A proposal for the construction of three detached houses with garages on the appeal site has also been previously subject to an appeal³. Limited information is before me

² APP/L1765/W/17/3172584.

³ T/APP/L1765/A/00/1035914/P7.

regarding these various schemes. Nevertheless, I understand that these were assessed in the context of a different local plan.

11. The policy approach in respect of infill developments has evolved over time and adapted to changing circumstances at local and national level, notably with the publication of the Framework. And whilst mindful of the local context and how the road frontage may have evolved over time, I am nevertheless required to assess the proposal before me in accordance with the development plan, having regard to the particular circumstances of the case.
12. In my view, the fact that a number of small infill sites have been developed in the last 15 or 20 years along that road frontage makes the contribution presently made by the appeal site to the character and appearance of the area all the more important.
13. For the foregoing reasons, the appeal scheme would not represent the infilling of a small site within a continuously developed road frontage, and would unacceptably harm the rural character and appearance of the area. It would therefore conflict with Policies MTRA3 and CP13 of the LPP1, and Policies DM16 and DM23 of the Winchester District Local Plan Part 2 – Development Management and Site Allocations⁴. Amongst other things, these seek to ensure that development proposals meet the highest standards of design and respond positively to the character and appearance of the local environment.

Other Matters

14. The appeal scheme would make a modest contribution towards housing supply and choice, and it is argued that there is a particularly great need for the type of dwellings proposed, which the appellant says would also be relatively affordable. However, in the absence of a specific mechanism, such as a planning obligation, there is no certainty that the new dwellings would constitute affordable housing as per the definition provided by the Framework. This limits the weight which can be ascribed to this consideration.
15. The appeal site lies within proximity to the Solent and Southampton Water Special Protection Areas (SPA). These areas are recognised under the Habitats Regulations as being of international importance for supporting significant numbers of overwintering waders and wildfowl. 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. Residential development proposals are therefore required to make a financial contribution towards mitigation measures.
16. Furthermore, the Council and Natural England have raised concerns in respect of the high levels of nitrogen and phosphorous entering the Solent catchment, which may be caused by increased waste water from additional residential development. This could also have a likely significant effect on the protected sites. To address this issue, the Council has adopted a Position Statement, which sets out a mechanism to ensure that appropriate mitigation is secured prior to occupation of the development.

⁴ Adopted April 2017.

17. 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 been required to undertake an Appropriate Assessment, to ensure the proposal's compliance with Habitats Regulations.

Planning Balance and Conclusion

18. The appeal scheme would make a contribution towards housing supply and choice, and support the economy. The appellant has also highlighted the highway safety improvements, which would be derived from the development. However, the benefits associated with the proposal would not outweigh the harm that has been identified and thus the conflict with the development plan. There are no considerations which indicate that the appeal should be determined other than in accordance with the development plan.
19. For the reasons detailed above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

S Edwards

INSPECTOR