



Appeal Decision

Site visit made on 20 September 2021

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th September 2021

Appeal Ref: APP/N1730/W/21/3275486

Chapel Bungalow Site, Totters Lane, Potbridge, Odiham, Hook RG29 1JW

- 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 Mr Christopher Ball against the decision of Hart District Council.
 - The application Ref 19/02221/OUT, dated 2 October 2019, was refused by notice dated 20 November 2020.
 - The development proposed is the removal of existing dwellings, shed, caravan, lean-to extension and re-development of the site for 5 self or custom build dwellings and all ancillary development.
-

Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by Mr Christopher Ball against Hart District Council. This application is the subject of a separate decision.

Preliminary Matters

3. The application is made in outline with all matters reserved for later approval. A site plan has been provided showing a possible layout of five dwellings, drives and parking spaces. This is for indicative purposes only and I have had regard to it in that context.
4. Notwithstanding the second reason for refusal, the Council has now indicated that issues relating to residential amenity arising from ground contamination, foul and surface water drainage, and biodiversity and ecological effects on the site and adjoining land¹ are matters that could be addressed through conditions. They therefore no longer form issues to be considered as part of this appeal.
5. Although not referenced in the reasons for refusal, the Council has raised two further issues of concern in its statement of case. These relate to the effect of the development on the setting of the grade II listed dwelling at Valley End, Potbridge Road, and on the Thames Basin Heaths Special Protection Area. I address these additional concerns under the main issues and other matters respectively.
6. In its statement of case the Council makes reference to a number of policies from the Winchfield Neighbourhood Development Plan 2015-2032. However, none of these policies are included in the reasons for refusal on the Council's

¹ Which includes the Odiham Common with Bagwell Green and Shaw Site of Special Scientific Interest

decision notice, nor have I been provided with copies of them. I have therefore not taken them into account in this appeal.

7. The application was submitted to the Council before adoption of the Hart Local Plan 2032 but determined after adoption. I am required to determine the appeal on the basis of the development plan in force at the time of my decision. I have therefore given the policies in the Hart Local Plan 2032 full weight.

Main Issues

8. The main issues are:

- whether the site would be a suitable location for development having regard to local spatial strategy and accessibility;
- the effect on the landscape;
- development on common land;
- the effect on highway safety;
- the effect on the setting of the grade II listed dwelling at Valley End, Potbridge Road.

Reasons

Location of development

9. Policy SS1 of the Hart Local Plan 2032 sets out the Council's spatial strategy, which is that development will be focused within defined settlements, on previously developed land in sustainable locations, and on allocated sites as shown on the Policies Map. For development in the countryside Policy NBE1 of the Hart Local Plan 2032 adopts a restrictive approach and only supports new development where it meets one or more listed criteria. Those criteria relevant to the appeal proposal are g) providing either a replacement dwelling, an extension to an existing dwelling or the subdivision of an existing residential dwelling, and j) located on suitable previously developed land appropriate for the proposed use. Criteria h) and i) referred to by the appellant relate to conversion of existing buildings or replacement with non-residential buildings, neither of which are proposed as part of the appeal.
10. The site lies outside any defined settlement and is not allocated for development on the Policies Map. It does however constitute previously developed land, a certificate of lawful use or development² having been granted for the use of the site for two residential properties, the storage and sorting of scrap metals, the parking and storage of vehicles and the stationing of a mobile home for residential use, all within specified areas within the site. From the limited information before me there is uncertainty as to whether the scrap metal and vehicle storage uses can now be carried out on the site because the part of the site associated with those uses is registered as common land. Nevertheless, these are established use rights in planning terms. The Council has suggested that due to the degree of dilapidation of the buildings, some of these uses may have been abandoned, but provides no

² 00/00370/LDCEX

further evidence or analysis to underpin that assertion. I therefore give it limited weight.

11. The site is some distance from the nearest settlements at Odiham and Hook. Other than for a short stretch in front of Potbridge House, Totters Lane does not have any footways and is unlit. Contrary to what is said in the appellant's statement, local representations confirm that there is no bus service to Potbridge. I could see no evidence of a bus service on my site visit and an extract from a Local Plan site assessment document³ records the nearest bus stop as being 2.4km away. It is therefore likely that in order to access facilities and services occupants of the site would have to use motor vehicles for most journeys. I do not therefore consider the site to be a sustainable one in terms of accessibility.
12. While the site is previously developed land it is not in a sustainable location. Furthermore, the proposal exceeds just a simple replacement for the dwellings on the site. I conclude that the proposed development would therefore conflict with Policies SS1 and NBE1 of the Hart Local Plan 2032 and Policy GEN1 of the Hart District Local Plan 1996-2006. However, the existing uses on the site would in themselves generate a level of traffic. Even if the scrap metal and storage of vehicle uses are curtailed because of the designation of that part of the site as common land, there remains the residential dwellings and mobile home use, which have the potential to generate traffic. The harm that would be caused by the unsustainable nature of the location would therefore be limited because the amount of additional traffic that the proposed development would generate would be relatively small when compared to the existing residential uses on the site.

Landscape

13. The appeal site forms part of a small cluster of loosely knit dwellings around Totters Lane and Potbridge Road. The cluster of dwellings is otherwise surrounded by open countryside, interspersed with occasional farmsteads. The land is mainly laid to grass, with fields separated by hedgerows, field trees and small copses. There is an extensive area of woodland to the south on Odiham Common. The M3 motorway runs to the north west of the site crossing over Totters Lane by bridge. Notwithstanding the visual and audible presence of the motorway, the area retains a rural character.
14. Development on the site would replace a number of existing dilapidated buildings. These are single storey in height and modest in size. At the time of my site visit the remainder of the site had been largely cleared, with only a few building materials, a container and a mobile home on the land.
15. Development of the site with 5 dwellings and ancillary development would significantly increase the amount of built development on the site. The plot sizes would also be notably smaller than those of neighbouring dwellings. While existing trees and shrubs around the perimeter of the site could be retained, the plots sizes would be too small to accommodate landscaping or allow trees to grow to the size of those found in neighbouring gardens. The scale of the proposal would inevitably result in a more dense, suburban form of development that would appear cramped when compared to the spacious settings enjoyed by neighbouring dwellings, and out of place in the rural

³ Adams Hendry Consulting Ltd, Local Plan Site Assessment, May 2016

landscape. I reach this view notwithstanding the comments made by the Council in its pre-application advice.

16. I conclude that a residential development of the size and scale proposed would have a greater impact on the landscape character of the surrounding countryside than the existing buildings and uses on the site. It would as a result conflict with Policies NBE1 and NBE2 of the Hart Local Plan 2032, which require development to respect and wherever possible enhance the special characteristics, value or visual amenity of the District's landscapes.

Common land

17. Over half the site is registered as common land, forming part of Odiham Common. The historic scrap metal and vehicle storage uses on this area of the site appear to have been carried on in contravention of the commons bylaws.
18. The County Countryside Service advises that constructing dwellings on the common land as proposed in the appeal scheme would be an offence under the Commons Act 2006 and Law of Property Act 1925⁴. It would also permanently deny public access to the common land.
19. The appellant has suggested that the land in question should not have been registered as common land in the first place, but such a claim is not one that can be resolved through this appeal. If the appellant wishes to challenge registration of common land, or seek to de-register it, those would be separate matters to take up with Hampshire County Council in the first instance as the Commons Registration Authority for the area.
20. Common land is a scarce resource of historical interest. Even if previously used for other purposes, as here, it has potential to provide public open space and a haven for flora and fauna, as is found on the wider Odiham Common to the south. To develop the site in the manner proposed would deny the public these historical and statutory rights. I conclude that the proposed development would harm the historic and informal recreational value of the registered common land and deny public access to the land in question.

Highway safety

21. The Highway Authority has raised concerns about the detailed design of the proposed access point and the internal layout of the site, including turning and parking space. Concern has also been raised at the potential conflict with users of the public footpath that runs along the north western boundary of the site and which joins the proposed access at its junction with Totters Lane.
22. The application has been made in outline with all matters reserved, including that of access. It is therefore necessary to consider whether the details sought are ones that could be required by condition for later approval.
23. The proposed access point is clearly shown on the submitted plans and reuses and expands an existing access point to the site. I understand that a right of access over this land may be disputed but that is a legal matter separate from this appeal. The Highway Authority is satisfied that there is adequate visibility from the access point in both directions along Totters Lane and has no objection in terms of trip generation. The County Countryside Service has no

⁴ Hampshire County Council Countryside Service, C Cuss - written statement on countryside access and rights of way

objection in principle to surfacing of the footpath for vehicular traffic, subject to a separate footway being provided for pedestrians.

24. Having regard to these consultation responses and my own observations of the site I am satisfied that a safe access could be created at the point shown on the submitted plans to serve the development. I am also satisfied that there is sufficient space to enable separation of the public footpath from the site access, so as to avoid any conflict between pedestrians and vehicles. I note the concerns of the Highway Authority on the layout of internal driveways and parking spaces, but as this layout is for indicative purposes only these are matters than could addressed at the reserved matters stage. There is sufficient space within the site to enable changes to the layout to overcome the deficiencies highlighted by the Highway Authority on the indicative scheme.
25. I conclude that a development of the type and scale proposed and accessed from the point shown on the submitted plans could be carried out without causing a loss of highway safety to future occupants of the site, users of Totters Lane or the footpath running adjacent to the site. Details of the access and internal layout are matters that could be addressed at the reserved matters stage. Consequently, the development would not conflict with Policy INF3 of the Hart Local Plan 2032 or Policy CON23 of the Hart District Local Plan 1996-2006 which require, amongst other criteria, that development provides safe, suitable and convenient access for all potential users, and protects and where possible enhances access to public rights of way.

Setting of listed building

26. Valley End, Potbridge Road is a grade II listed building set in a large garden to the north of the site. Its significance derives from its historic value as an example of a local vernacular dwelling dating from the 17th century with later alterations. The listed building is set some way north of the appeal site and is separated from it by the public footpath. It is also well screened by trees and shrubbery along the boundary.
27. The Council is concerned that suburbanisation of the appeal site would be harmful to the setting of the listed building. While I have concluded that residential development of the size and scale proposed would have a harmful impact on the wider landscape character of the surrounding countryside, I do not consider that it would cause harm to the setting of the listed building, which is self-contained within its garden. There would be no appreciable impact, visually or functionally.
28. I conclude that the development would not harm the setting of the listed building and would not therefore conflict with Policy NBE8 of the Hart Local Plan 2032 or Policy GEN 1 of the Hart District Local Plan 1996-2006, which seek to protect heritage assets. In relation to the statutory duty in relation to designated heritage assets⁵, I am also satisfied that the development would preserve the setting and historic interest of Valley End.

Other Matters

29. The site lies within the zone of influence of the Thames Basin Heaths Special Protection Area. This would normally require me to carry out an appropriate assessment to determine if the development, individually or in combination

⁵ Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990

with other residential development in the area, could potentially cause a significant adverse effect on the integrity of the Special Protection Area, and if so whether there are any measures that could be taken that would mitigate that adverse effect. I would also need to see the views of Natural England, who have not been consulted on the scheme. However, given my conclusions on the main issues there is no need for me to carry out such an assessment as the scheme is unacceptable for other reasons.

30. The appellant refers to a previous assessment of the site carried out on behalf of the Council⁶. This is a high level site assessment which appears to form part of a strategic housing land availability assessment exercise. Inclusion of the site in the assessment does not indicate that development on it is acceptable in principle, that decision being one for a later stage in the local plan process. The Hart Local Plan 2032 does not allocate this site for development. The site assessment therefore carries little weight in this appeal.
31. A large part of the appellant's appeal statement focuses on differences between the Council's pre-application advice, its decision on the application, and the Council's statement of case in the appeal. Whatever the appellant's views on these aspects of the process, I must determine the appeal based on the planning issues in dispute, and my conclusions on them, which is what I have done.

Conclusion

32. I have concluded that the development would conflict with the spatial strategy of the Council for the location of new development, but only to a limited extent because of the previously developed nature of the site. More importantly, the size and scale of development proposed would harm the landscape character of the area and would conflict with designation of part of the site as common land. Although I have found that the development would not cause harm to highway safety or the setting of Valley End as a grade II listed building, I conclude that the proposed development would conflict with the development plan when taken as a whole.
33. There would be benefits arising from the proposal. It would provide additional housing, and of a better standard than that currently found on site. It would also tidy up the site by the removal of the existing dilapidated structures and uses. I have been given no evidence of demand for self-build or custom housebuilding in the area, so the weight I give to this form of development is limited, but nevertheless it is supported in principle by national planning policy and therefore also of some benefit.
34. Taking all of these considerations into account, I conclude that the conflict with the development plan, in particular the harm caused to the landscape character of the area and development on common land, would outweigh the more limited benefits of the scheme.
35. I therefore conclude that the appeal should be dismissed.

Guy Davies

INSPECTOR

⁶ Adams Hendry Consulting Ltd, Local Plan Site Assessment, May 2016