
Appeal Decision

Site Visit made on 3 November 2021

by M Bale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4 February 2022

Appeal Ref: APP/L1765/W/21/3276738

Land opposite Daisy Cottage, Forester Road, Soberton Heath SO32 3QG

- 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 Andrew Wisniewski against the decision of Winchester City Council.
 - The application Ref 20/02197/OUT, dated 6 October 2020, was refused by notice dated 29 January 2021.
 - The development proposed is the erection of 2 detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 detached dwellings at Land opposite Daisy Cottage, Forester Road, Soberton Heath SO32 3QG in accordance with the terms of the application, Ref 20/02197/OUT, dated 6 October 2020, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The appeal relates to an application for outline planning permission. All matters are reserved for subsequent consideration. Plans have been provided showing a possible layout for the site, which I have treated as illustrative.

Main Issue

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

Reasons

4. Within Soberton Heath, Policy MTRA3 of the Winchester District Local Plan Part 1 – Joint Core Strategy (CS) permits the infilling of a small site within a continuously developed road frontage, provided it is of a form compatible with the character of the village and not involve the loss of important gaps between developed areas.
5. The site is broadly opposite another site known as The Meadows, that an Inspector¹ found did not comply with Policy MTRA3. However, this appeal site, while larger, is distinct from that one on the determinative issue as to whether it is a continuous frontage. While The Meadows is separated from the adjoining dwelling, The Laurels, by a track, and from the closest dwelling on the other side by a wooded area, this appeal site is clearly situated between two dwellings.

¹ Appeal Decision Ref. APP/L1765/W/19/3223792

6. Heading away from the public house at the corner of Forester Road, the development pattern becomes more spacious as one passes the appeal site. The adjoining properties beyond the site have wider plots than most of those between the site and public house and, therefore, there is a greater sense of spaciousness. However, while it is possible to position oneself so that the houses beyond the site cannot be seen in views along the street, appreciation of the settlement's character is not static. Moving past the site, it is clear that there are dwellings either side. A more important gap between developed areas, separating these Forester Road houses those at Newtown, is beyond these dwellings.
7. Policy MTRA3 does not specify that a small site should only be capable of accommodating one dwelling. While the site is deep, it is not wide when compared to other surrounding development. It would comfortably accommodate two dwellings, a small number, in a form compatible with the general ribbon development along this side of Forester Road. I, therefore, find that the proposal would accord with those parts of CS Policy MTRA3 that define appropriate infill sites.
8. In addition, Policy MTRA3 requires development to conserve each settlement's identity, countryside setting, key historic characteristics, and local features, particularly as identified in Village Design Statements (VDS). The VDS for Soberton Heath and Newtown identifies views across the site as a glimpsed view that deserves protection from infill.
9. However, while there are glimpses to the open countryside through the site, I find that these are not defining features of the area's character and appearance. Rather, the distinctly rural character of Forester Road is mainly derived from the wide informal road, spacious arrangement of dwellings and clear presence of open countryside at either end of the road that separates it from other nearby pockets of development. Therefore, the site is not required to be left open to conserve identity or the countryside setting.
10. The VDS is now of some age and the Council's Landscape Officer explicitly states that they do not disagree with the appellant's analysis of the current situation. This includes that the site is partly enclosed by surrounding vegetation, is influenced by existing built form on three sides and has a limited association with the wider countryside. While a barn to the rear is more part of the wider rural scene than the housing and does not have a strong influence on the road frontage, this analysis also accords with my own observations.
11. The protection of important features set out in a VDS is enshrined in policy, but the situation now is that the site makes very little contribution to the character and appearance of the area. Therefore, I find that the proposal would be compatible with the character of the village and not involve the loss of an important gap. Accordingly, the proposal has the support of CS Policy MTRA3.

Other Matters

12. Some additional traffic would arise from the development. However, this would be small in volume and there is no substantive evidence that there is a particular safety problem in the locality. Nor do I see any reason that adequate visibility at the access could not be provided.

13. There is an existing access at the site that would need to be slightly widened. Such would result in a small loss in hedgerow and associated habitat. Enhancement of the remaining hedgerows could be secured through the approval of landscaping at reserved matters stage such that there was no net loss in hedgerow at the site.
14. No blackthorn was identified within the hedgerows in pre-application surveys of the site. However, it has been identified in the roadside boundary hedgerows by local residents. Blackthorn can support Brown Hairstreak Butterfly, which are known to be present in the area. The appellant has explained how potential effects could be mitigated through removing hedgerow in the winter, inspecting Blackthorn branches for eggs and, if necessary, translocating the plants into the remaining hedgerow. Additional blackthorn could also be planted as part of the site landscaping.
15. Post development, the hedgerow would cease to be protected under the Hedgerow Regulations 1997. However, as only a small amount of hedgerow needs to be removed, a planning condition to agree a method for hedgerow works and ongoing management could be imposed. On this basis, I have no reason to conclude that the Brown Hairstreak Butterfly or other hedgerow dependent species would be harmed.
16. There are known barn owl populations in the area and the previous management of the site could have provided some foraging and commuting habitat. However, the site is a relatively small parcel of land in an otherwise rural location where similar habitat is likely to be abundant. The Council have noted the generally poor condition of the site for barn owl habitat and have raised no concerns in respect of effects on this species. I have no reason to disagree with that position.

Appropriate assessment

17. Foul water discharge from the development has the potential to cause additional nutrients to enter the Solent Special Protection Areas and Ramsar Site. Such additional nutrient loading has the potential to cause eutrophication and damage to the features of interest for which these Habitats Sites are protected.
18. Natural England are satisfied that the effect on the Habitats Sites can be mitigated by ensuring that the development is 'nitrogen neutral'. The appellant has secured an allocation within an off-setting scheme and a copy of an allocation agreement has been provided. The amount of off-setting required is based upon predicted water consumption/consequential discharge, and the proposed package treatment plant (PTP) functioning at a certain standard.
19. Nutrient modelling for the development has been based upon a PTP that and has been shown in tests to produce the required nitrogen discharge. Having sought the views of Natural England, I, therefore, find that nitrogen neutrality can be achieved. A condition can ensure that a PTP achieving these standards, and systems designed to achieve the required water consumption are installed.
20. It appears that the allocation agreement is worded so as to reserve the required amount of mitigation for a period of time after signing, with a further requirement for the developer to pay a commuted sum to actually secure it. Therefore, although the off-setting is in place and available, a condition is still

required to ensure that it is fully complied with prior to the occupation of development.

21. With regard to the above, following appropriate assessment under the Conservation of Habitats and Species Regulations 2017, I am satisfied that adverse impacts on the integrity of the Habitats Sites will be avoided.

Conditions

22. To ensure nutrient neutrality, a condition is required to secure the off-setting scheme, details of the PTP, and proposals to secure the required water consumption measures. To ensure that there is no harm to other biodiversity interests, a mitigation and enhancement scheme, including hedgerow protection must be secured.
23. To ensure that there is no increase in flood risk, a scheme for the disposal of surface water should be submitted and approved. In accordance with CP Policy CP11, a condition is required to secure high energy performance.
24. The Council has suggested various conditions relating to landscaping, building design, including the need for obscure glazing, and site layout. However, these relate to the reserved matters. As does the scale of development and any need that there may be to provide 2 or 3 bedroom homes in accordance with CS Policy CP2. I have, however, imposed a condition to protect trees, which is necessary in the interests of the character and appearance of the area.
25. I have made some revisions to the suggested conditions in the interests of clarity, to avoid cross-over with other conditions, and to ensure compliance with Planning Practice Guidance. I have also removed references to specific legislation, generic guidance, or methods of mitigation from the conditions so that the parties can agree the best method of compliance based on best practice at the time of discharging the conditions.

Conclusion

26. For the reasons given, I conclude that the appeal should be allowed.

M Bale

INSPECTOR

Schedule

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall not be occupied until:
 - a) A water efficiency calculation which demonstrates that no more than 110 litres of water per person per day shall be consumed within the development has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details.
 - b) Details of the Package Treatment Plant to provide a Total Nitrogen efficiency rating of at least 80.6%, together with long-term monitoring and maintenance strategy shall be submitted to and approved in writing by the Local Planning Authority. The Package Treatment Plant shall be installed, monitored, and maintained in accordance with the approved details.
 - c) The off-site mitigation to off-set the increase in nutrient discharge shall be fully secured for the lifetime of the development and details confirming such shall be submitted to and approved in writing by the Local Planning Authority.
- 5) Prior to the commencement of the development hereby permitted, full details of the means of disposal of surface water shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented prior to the occupation of the dwelling to which it relates and shall thereafter be maintained as such.
- 6) Prior to the commencement of the development protective fencing shall be installed on site to ensure that there shall be no storage of materials, cement mixing or washing points within the root protection area (RPA) of any trees on or adjacent to the site. The RPAs shall be calculated as 12x the stem diameter measured at 1.5m above ground level unless otherwise agreed in writing by the Local Planning Authority. There shall be no access into the protected area and the protective fencing shall be maintained on site throughout the development process.
- 7) Prior to the commencement of the development hereby permitted, detailed information demonstrating that all homes meet the equivalent of Code 4 standard of energy and water in the Code for Sustainable Homes shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented prior to the occupation of the dwelling to which they relate and shall thereafter be maintained as such.

- 8) Prior to the occupation of the development hereby permitted, the mitigation and enhancement measures detailed in the Ecological Impact Assessment prepared by Ecosa dated May 2020 shall be carried out as described therein and shall thereafter be maintained as such unless otherwise agreed in writing by the Local Planning Authority.
- 9) Prior to the commencement of the development hereby permitted, all hedgerows shall be protected during construction in accordance with details that shall be submitted to and approved in writing by the Local Planning Authority. Any work to remove hedgerow that may be approved as part of any reserved matters approval shall only be removed in accordance with a methodology that shall first have been submitted to and approved in writing by the Local Planning Authority.
- 10) Prior to the occupation of the dwellings hereby permitted, a hedgerow management and maintenance plan shall be submitted to and approved in writing by the Local Planning Authority and shall thereafter be complied with.