
Appeal Decision

Site visit made on 5 April 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/A1720/W/21/3282257

11 Rowe Ash Way, Locks Heath, Southampton SO31 7EY

- 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 Ian Fields (Alpine Homes Ltd) against the decision of Fareham Borough Council.
 - The application Ref P/20/0893/FP, dated 12 August 2020, was refused by notice dated 5 March 2021.
 - The development proposed is erection of 3 dwellings and associated works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development in the heading above is taken from the decision notice and the appeal form. It differs from that on the planning application form, since the proposal was amended during the course of the determination of the planning application, to reduce the number of dwellings from 4 to 3.
3. Since the refusal of the planning application, a revised version of the *National Planning Policy Framework* (the Framework) was published on 20 July 2021. I have taken the revised Framework into account where relevant to my decision.
4. Since the refusal of the planning application, the Council's statement of case confirms that a new issue has arisen in respect of the impact of the proposal on the integrity of the New Forest European Protected Sites (EPS). This is a matter to which I later return.

Main Issues

5. The main issues are:
 - The effect of the proposal on the character and appearance of the area;
 - Whether there is sufficient information to assess the potential impact of the proposal on protected species or habitats and on-site biodiversity;
 - Whether the proposal would provide for adequate on-site car parking provision, having regard to the transport needs of the development, and the effect of any lack of provision on highway safety and the living conditions of the occupiers of neighbouring properties; and
 - The effect of the proposal on the integrity of the Solent and New Forest EPS.

Reasons

Character and appearance

6. The appeal site is located at the southern end of Rowe Ash Way, a residential cul-de-sac forming part of an established suburban residential area within the settlement of Locks Heath. It comprises part of a large garden associated with 11 Rowe Ash Way, a two storey, end-of-terrace dwelling. The site is maturely landscaped, including a large number of trees, and the Council has confirmed that part of the site lies within an area covered by a Woodland Tree Preservation Order. The woodland extends to land to both sides and to the rear of the site.
7. The rear gardens of the appeal site and No.10 on the opposite side of the road, form part of a wider "belt" of undeveloped green land. This runs adjacent to Lockswood Road, and links into "fingers" of other treed/maturely landscaped land which, together, provide a pleasant verdant backdrop to, and undeveloped gap between, a number of built cul-de-sac developments and Lockswood Road. As such, the site forms part of a wider area of sylvan and verdant land that makes a significant positive contribution to the townscape and visual amenities of this part of Locks Heath.
8. Rowe Ash Way is characterised by two storey terraced housing of a uniform traditional design, comprising brick walls under tiled pitched roofs, with integral single garages and driveway parking in front. Each group of houses has a continuous front building line, set behind open plan frontages, and with generous back gardens behind. Front gardens have largely been converted to additional frontage parking.
9. There is a regular, symmetrical rhythm of similar development of these properties along both sides of the road, with terraces facing each other and houses stepping down to follow the decrease in ground levels towards the end of the close and the wooded area beyond. As such, the street has a regular, spacious and open character. Moreover, when entering the road and approaching the head of the cul-de-sac, the appeal site forms part of an undeveloped maturely landscaped and wooded area acting as a verdant focal point at the end of the street.
10. The proposed siting of the new dwellings would be at odds with the existing consistent pattern of frontage development directly fronting the road. The proposed shared frontage parking arrangement with cars parked in parallel to the street and No.11 would not reflect the established pattern of parking that exists within the close. The appeal scheme would be positioned awkwardly in relation to the host property at No.11, given that units 2 and 3 would directly face onto the side of that property.
11. This juxtaposition of buildings, and the proximity of the new houses and their access and parking to No.11, would amount to an unduly cramped, and unbalanced layout of development, which would be out of keeping with the open and regular form of residential development which characterises the road. The narrower and more vertical design emphasis of the proposed dwellings compared to the existing, together with their steeper roofs, would also contribute to the incongruous nature of the proposal in relation to the existing streetscene.

12. The proposed removal of trees and replacement of mature soft landscaping, in the position proposed, would be visually prominent within the street scene in key views towards the end of the street, and would result in a detrimental erosion of the green buffer provided by the protected woodland, and would have a harmful impact on the integrity of the woodland.
13. Moreover, in addition to the loss of trees that would be necessary to accommodate the proposed houses and their gardens, I note that the appellant's supporting "Arboricultural Implications Assessment and Method Statement" dated 6 September 2021 (the Tree Report) acknowledges that the report is not a tree condition survey and recommends a full post development tree inspection to establish that the trees retained pose acceptable levels of risk once the development has been completed.
14. Having regard to the orientation of the appeal site and the position of the proposed private rear gardens of the development in relation to nearby protected trees outside the appeal site, I am not persuaded, on the basis of the information before me, that the proposal would not result in future pressure for the cutting back or removal of neighbouring trees due to overshadowing impacts on the rear gardens of the new dwellings.
15. For the above reasons, I conclude that the proposal would cause significant harm to the character and appearance of the area. It would therefore be contrary to Policies CS4 and CS17 of the *Fareham Local Development Framework Core Strategy* (2011) (the Core Strategy). These policies, amongst other things, seek to ensure that new development is of a high-quality design, responds positively to, and is respectful of, the key characteristics of the area, including landscape, scale, form and spaciousness, provides continuity of built form, and safeguards Green Infrastructure.
16. For similar reasons, the proposal would also be contrary to Policies of the Framework which aim to secure well-designed places as set out in Chapter 12, including paragraph 131 which seeks the retention of existing trees wherever possible.

Protected species and on-site biodiversity

17. The Council's second and third reasons for refusal relate to the failure of the proposal to provide sufficient information to demonstrate that the appeal scheme would not harm protected species, nor that the proposal would compensate for a loss of woodland habitat and ensure net gains for biodiversity.
18. Since the refusal of the planning application, the appellant has submitted an Outline Ecological Mitigation Strategy and Habitat Enhancement Plan (the OEMSHEP), which includes proposed mitigation measures to offset the potential impact on habitats and species associated with the appeal site together with enhancement measures to achieve net biodiversity gain.
19. The Council's view is that the OEMSHEP does not fully address the Council's concerns, in particular, having regard to details of the protected species surveys, location of the proposed habitat compensation area, reptile receptor site and intentions in respect of an on-site badger sett.
20. The appellant, at the final comments stage of the appeal, subsequently submitted additional information in response to these concerns, including

details of the protected species surveys. The information before me is that, subject to receipt of further information from the appellant, the Council's concerns in respect of ecological issues are capable of being satisfactorily addressed. The appellant has requested that a further submission, solely in respect of ecological matters, be allowed to address the outstanding ecological issues.

21. Whilst the delay in submitted the information has been attributed to Covid impacts, and it appears that the second and third reasons for refusal are capable of being satisfactorily resolved, in the interests of timeliness, and having regard to my conclusion in respect of the first main issue, which means that this matter is not determinative to the outcome of the appeal, I have determined the appeal on the basis of the information that is currently before me.
22. For the above reasons, I therefore conclude that sufficient information has not been provided to satisfactorily demonstrate that there would be no unacceptable harm to protected species or habitats, and that there would be a net gain in on-site biodiversity. The proposal would therefore be contrary to Policy DSP13 of the *Fareham Local Plan Part 2: Development Sites and Policies* (2015) (the Local Plan) and Chapter 15 of the Framework, which seek to ensure that new development conserves and enhances biodiversity.
23. This also accords with advice in *Circular 06/05: Biodiversity and Geological Conservation - Statutory Obligations and Their Impact Within the Planning System* (Circular 06/05), which states that it is essential that the presence or otherwise of protected species and the extent that they may be affected by proposed development should be established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

Car parking provision

24. I have noted the third-party concerns in respect of inadequate on-site parking. However, there is no detailed evidence before me, such as parking surveys, of any existing parking issues. Although on-street parking is limited within Rowe Ashe Way, I note that on-site parking is provided within the residential properties in the cul-de-sac, with many having provided additional parking in lieu of a front garden. I did not witness any localised parking problems, parking congestion or impeded access to the highway network during my site visit, which took place on a weekday afternoon. However, I acknowledge that this was only a snapshot during the day, and there may well be more parking pressure within the site vicinity at other times, including the evenings and weekends.
25. Notwithstanding the above, the proposal would provide for 2 allocated on-site parking spaces for the host property at No.11, and 4 un-allocated on-site spaces for the 3 proposed dwellings. This accords with the requirements for allocated and unallocated parking for residential development as set out in the Council's adopted *Residential Car and Cycle Parking Standards Supplementary Planning Document* (2009) (the Parking Standards SPD).
26. There is no demonstrable evidence before me to explain why un-allocated car parking provision for the new houses would not be acceptable in this instance, and the Council has not drawn my attention to any specific policy stipulation for

this. Moreover, the Parking SPD acknowledges the greater degree of flexibility associated with shared parking spaces, and that consequently, this decreases the overall parking demand, so that a reduced number of spaces would be required. I have also had regard to the accessibility of community facilities and services and public transport links at Locks Heath Shopping Centre to the east of Lockswood Road, which are readily accessible by means of transport other than the car from the appeal site.

27. For the above reasons, I conclude that, on the basis of the evidence before me, the proposal would provide for adequate on-site car parking provision, having regard to the transport needs of the development, and the effect of any lack of provision on highway safety and the living conditions of the occupiers of neighbouring properties. The proposal would therefore accord with the objectives of Core Strategy Policy CS17 and the Parking Standards SPD, in so much as they seek to ensure that new development provides appropriate parking for intended uses, taking account of accessibility and context of a development.
28. In coming to this view, I have also been mindful that Paragraph 111 of the Framework advises that "Development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

EPS

29. The Council's fifth and sixth reasons for refusal relate to the failure of the proposal to mitigate against potential harm to the integrity of the Solent and Southampton Water SPA and Ramsar Site, Solent and Dorset Coast SPA, Portsmouth Harbour SPA and Ramsar Site and the Solent Maritime SAC (the EPS), arising from increased levels of nutrients from wastewater entering into the Solent water environment and increased recreational usage associated with new residential developments.
30. The appellant is willing to address the matter of nutrients by means of a Grampian condition requiring a mitigation package to be submitted to, and approved by, the Council prior to the occupation of the development. The appellant also agrees to enter into a Section 106 legal agreement to secure a financial contribution in accordance with the Council's adopted Solent Recreational Mitigation Partnership.
31. In addition to the above impacts, the Council has confirmed that, since the refusal of the planning application, a further issue has been identified in respect of the recreational impacts resulting from new housing developments upon the New Forest Special Protection Area, Special Area of Conservation and Ramsar sites, which would require the appellant to mitigate against this impact by making a financial contribution to improvements to open spaces within Fareham Borough and a contribution to the New Forest National Park Authority.
32. In the context of this appeal, the responsibility for assessing the effects of the proposal on the EPS falls to me as the competent authority. Were I minded to allow the appeal, I would need to carry out an Appropriate Assessment (AA) before considering the proposed mitigation set out by the main parties, since the proposal would be likely to have a significant effect on the EPS. However, as the first main issue provides clear reasons for dismissing the appeal, I have not had cause to pursue undertaking an AA. As such, I do not need to consider

this matter further, since any findings on this issue would not change the appeal outcome.

Other matters and planning balance

33. The Council is unable to demonstrate a five-year supply of deliverable housing sites. It considers that it has a 4.31 year supply. Whilst the appellant considers the figure to be 4.03 years, this was based on the Council's Annual Monitoring Report 2019-2020, and the Council has subsequently provided a more recent update on the position.
34. As such, Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where a five-year housing land supply cannot be demonstrated. Paragraph 11 states that where relevant policies are out of date, permission should be granted unless the application of policies in the Framework that protect areas or assets of particular importance, provides a clear reason for refusing the development proposed, or the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted.
35. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. When judged against some of the core planning principles of the Framework, the appeal proposal would perform well in that it would be in an urban area where access to facilities is likely to be greatest. 3 additional dwellings would make a modest contribution towards addressing the housing supply deficit, and could be built-out relatively quickly, having regard to paragraph 69 of the Framework. There would also be economic benefits as a result of the construction and occupation of the new dwellings.
36. However, a high standard of design is also a key aspect of sustainable development. The harm I have identified to the character and appearance of the area would be significant. As a result, the social objective of sustainable development of fostering well-designed and beautiful places, would not be achieved. Whilst the Framework encourages the effective use of land in meeting the need for homes and requires the Council to approach decisions in a positive and creative way, these matters are not unqualified and would not address or outweigh the aforementioned harm that I have identified to the character and appearance of the area.
37. Therefore, when assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.
38. The appellant has drawn my attention to an allowed appeal¹ within the Borough where the appeal Inspector considered that adverse impacts arising from the scheme did not outweigh the benefits of providing housing. I do not find this decision to be directly comparable with the current appeal, since it related to up to 99 dwellings, including a percentage of affordable housing, and as such,

¹ APP/J1725/W/20/3265860

the contribution to the Borough's housing supply were significantly greater than those which would arise from the current appeal scheme.

39. I acknowledge that the proposal represents an amended scheme from that which was submitted as part of a request for pre-application advice, including a reduction in the proposed number of dwellings, a reduction in the amount of hard surfacing, and a reconfiguration of the parking arrangements. I also note that the scheme was amended during the course of the determination of the planning application, including a reduction from 4 to 3 dwellings, amendments to the scheme layout and the submission of an Ecology Assessment. However, this does not alter my findings with respect to the current proposal, which I must determine on the merits of the current scheme.

Conclusion

40. For the reasons given above, I conclude that the appeal should be dismissed.

S Leonard

INSPECTOR