



Appeal Decision

Site visit made on 23 May 2022

by Jonathan Manning BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Monday 13 June 2022

Appeal Ref: APP/H1705/W/21/3289616

Brockwell (Paddock and Stable), Andwell Lane, Andwell, Hook, Hampshire, RG24 7BB

- 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 Adam Komrower of JA Komrower 2016 Paddock Settlement against the decision of Basingstoke and Deane Borough Council.
 - The application Ref 20/01723/FUL, dated 29 June 2020, was refused by notice dated 22 July 2021.
 - The development proposed is 8 new houses with new service road and improved access from the highway.
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Decision

1. The appeal is dismissed.

Main Issues

2. Having regard to the written representations submitted for the appeal, I consider that the main issues are:
 - whether the location of the proposed housing is appropriate having regard to the development plan and national policy;
 - the effect of the proposal on the character and appearance of the area; and
 - whether the scheme provides for an appropriate housing mix.

Reasons

Location

Context

3. Policy SS6 of the Basingstoke and Deane Local Plan, 2016 (the LP) deals with housing in the countryside. It states that development proposals for new housing outside of settlement policy boundaries, which is the case here, will only be permitted where they are: a) on 'previously developed land', provided that: i) they do not result in an isolated form of development; and ii) the site is not of high environmental value; and iii) the proposed use and scale of development is appropriate to the site's context.

Previously developed land?

4. The appeal site is located along Andwell Lane and currently accommodates some stables and related paddock land. There is an area of woodland to the south and east and a mature vegetated boundary to the north. Andwell Lane borders the site to the west and this is where vehicular access would be provided.
5. The stables and an associated paddock was granted permission in 1992. The appellant has confirmed that the land has been in single equestrian use and is, and was, at all times in single occupation. The National Planning Policy Framework, 2021 (NPPF) defines previously developed land (PDL) as: *'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure'*. The exceptions also within the NPPF definition do not rule out equestrian use being considered PDL.
6. I acknowledge that there is a fence/boundary hedging around the stables building. However, it was clear from my site visit that the two are clearly intrinsically linked and the open land around the stables building in its entirety constitutes its curtilage. Consequently, I am of the view that all of the appeal site should be considered PDL and the scheme should be considered as PDL for the purposes of Policy SS6 of the LP.

Isolated homes?

7. The NPPF at Paragraph 80 sets out that planning decisions should avoid the development of isolated homes in the countryside except in certain circumstances, none of which apply here.
8. The parties agree that the Braintree court of appeal judgement¹ is an important factor in reaching a view on whether homes should be considered isolated in the countryside. The judgement sets out that an isolated home in the countryside means a *'dwelling that is physically separate or remote from a settlement'*². Further, it also states that *'Whether a proposed new dwelling is, or is not, 'isolated' in this sense will be a matter of fact and planning judgment for the decision-maker in the particular circumstances of the case in hand'*³ and *'Whether, in a particular case, a group of dwellings constitutes a settlement, or a 'village', for the purposes of the policy will again be a matter of fact and planning judgment for the decision-maker'*⁴.
9. The appeal site is located adjacent to a small cluster of residential dwellings to the south and a brewing company to the west. It is therefore not physically separated from other built development.

¹ Braintree DC v SSCLG [2018] EWCA Civ. 610

² Paragraph 31.

³ Paragraph 31.

⁴ Paragraph 32.

However, the important question in this case, is whether the small cluster of development constitutes a settlement. The Braintree judgement provides more advice on this matter: *'What constitutes a settlement for these purposes is also left undefined in the NPPF. The NPPF contains no definitions of a "community", a "settlement", or a "village". There is no specified minimum number of dwellings, or population. It is not said that a settlement or development boundary must have been fixed in an adopted or emerging local plan, or that only the land and buildings within that settlement or development boundary will constitute the settlement. In my view a settlement would not necessarily exclude a hamlet or a cluster of dwellings, without, for example, a shop or post office of its own, or a school or community hall or a public house nearby, or public transport within easy reach'*⁵.

10. The existing development located adjacent to the appeal site is limited to a brewing company and a small handful of dwellings. These are separated from any larger areas of development by a considerable distance. Further, I observed that to both the north and south of the appeal site Andwell Lane is a narrow, unlit countryside lane. This gives the appeal site and the cluster of development a clear sense of remoteness.
11. Whilst the Braintree judgement notes that the lack of services may not 'necessarily' rule out a cluster of dwellings being considered a hamlet, there are no services in this case, or any within close proximity to the appeal site and this is a matter that filters into the overall judgement.
12. The appellant has set out that there is public transport within easy reach (250 metres). However, the bus stops are located on the A30 London Road and as noted in the Council's Officer report these would be accessed via the narrow and largely unlit Andwell Lane. From my own observations, I agree that this would not be attractive to walkers who would have to walk on the unlit highway as there are no footpaths. Further, I am also not convinced such an environment would be appealing to cyclists. There would therefore be a heavy reliance on the use of a private motor vehicle for most if not all day-to-day needs. Whilst I acknowledge the NPPF recognises the opportunities to maximise sustainable transport solutions will vary between urban and rural areas, it is nonetheless another indicator of the remoteness of the appeal site and adjacent small cluster of development.
13. For the reasons above, particularly due to its limited scale, it is my judgement that the small cluster of development adjacent to the appeal site is not a settlement for the purposes of determining whether the appeal site would result in isolated homes in the countryside. Consequently, the scheme would be remote from any settlement, leading to new isolated homes in the countryside, contrary to Paragraph 80 of the NPPF.

⁵ Paragraph 32.

14. The appellant has made comparisons to the appeals allowed at Blackstone Lane⁶ which are relatively close to the appeal site. It is clear that those two sites fall close to a much larger number of existing dwellings than is the case here. Further, the Inspector in both cases stated: *'The site would be located next to several existing dwellings on Blackstock Lane and therefore would not be isolated within the meaning of the National Planning Policy Framework (the Framework)'*. It is therefore not clear to me if the Inspector had been referred to the advice provided in the Braintree judgement by the parties.
15. In relation to other points raised by the appellant, the Inspector of those cases also stated: *'The Council also accepts that the dwellings would be located within reasonable distance of services and facilities in Old Basing and Hook, which could be reached by bus from London Road some 250 metres away, or by bicycle'*. However, such agreement is not the case here and given the common ground between the parties in those cases, I am unclear to the extent to which the Inspector considered the cycling and walking environments to such areas.
16. Given the above, I am not of the view that the Blackstone Lane appeals affect my findings above, which are based on the very specific circumstances of this case.

Conclusion on location

17. In terms of compliance with Policy SS6, I have found that the appeal site does represent PDL. Nonetheless and despite not considering the site to be of high environmental value, I have found that the scheme would result in isolated homes in the countryside. Further, given my findings below in terms of the effect on the character and appearance of the area, I consider the scale of development is not appropriate to the site's context. The scheme, therefore, conflicts with Policy SS6 of the LP.
18. There is common ground that the Council cannot demonstrate a five year housing land supply. Subsequently, in accordance with Paragraph 11 of the NPPF, the most important policies for determining the application are out-of-date and the proposal should be permitted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
19. Policy SS6 is therefore out-of-date. The Council's latest position is that it has a 4.6 year supply. I consider such a shortfall to be relatively small and therefore, I afford the conflict with Policy SS6 moderate weight. It should also be noted that the scheme is at clear odds with Paragraph 80 of the NPPF, as it would result in isolated homes in the countryside. I am therefore of the view that the scheme would not enhance or maintain the vitality of rural communities contrary to Paragraph 79 of the NPPF.

⁶ APP/H1705/W/21/3275067 and APP/H1705/W/21/3284682.

20. Given all of this, I consider that, overall, the inappropriate location of the proposed development significantly weighs against the scheme.

Character and appearance

21. Whilst there is some existing built development to the south / southwest of the appeal site, I observed that Andwell Lane has a largely rural character being narrow and bordered by mature trees and vegetation, often with glimpses of wider open fields and woodland, particularly when approaching from the north.
22. The scheme would result in the construction of 8 dwellings with associated hardstanding, lighting and domestic paraphernalia. This would replace the open and rural nature of the appeal site, having a significant urbanising effect. The proposal would remove one of a number of existing fields that, in my view, make a moderate contribution to the rural character of the area, particularly to the north of the existing built development. This would result in harm to the area's distinctive river valley character, given the presence of the Lyde River to the west which is visible in many places along Andwell Lane close to the appeal site.
23. There are mature boundaries or woodland on all sides of the appeal site and views would be limited from the wider area as a result of this, having a containing effect. This would provide some mitigation. However, the scheme would be clearly evident through the vegetation from Andwell Lane. Further, the buffer to the ancient woodland to the east would do little to mitigate the urbanising effect of the proposal and when viewed from Andwell Lane would be largely obscured by the proposed dwellings.
24. There is a brewing company in close proximity to the appeal site, which has an urbanising effect. Notwithstanding this, the existing small cluster of residential dwellings to the south of the appeal site are all single dwellings set in spacious surroundings, with a clear relationship with Andwell Lane, in a largely linear pattern. The provision of 8 dwellings set along an access road in a cul-de-sac would be in stark contrast to the existing pattern of development and would have an overly urban and domesticated appearance.
25. The appellant is of the view that the existing brewing company has a cul-de-sac arrangement. However, I observed that whilst there are some ancillary buildings to the rear, the main building faces on to and has a clear relationship with Andwell Lane in a similar manner to the existing residential dwellings. The appellant has also referred to a cul-de-sac style development at Canal Reach. However, this is a significant distance away and does not contribute to the character or appearance of the area surrounding the appeal site.

26. I acknowledge the findings of the Inspector in the allowed appeals at Blackstone Lane⁷. However, those are in different locations and are both for much smaller developments. Further, the Inspector found for both developments that the dwellings would '*not form isolated features within the landscape, nor would they appear wholly out of character with the surroundings*' (Paragraphs 18 & 16 respectively), which is not the case here. Consequently, I do not consider the other appeal decisions affect my findings on the merits of this case.
27. Overall, due to its urbanising effect and incongruous layout, I consider that the scheme would cause a moderate level of harm to the character and appearance of the area. The scheme therefore runs contrary to Policies EM1 and EM10 of the LP, which I afford full weight.

Housing mix

28. The scheme makes provision for two 2 bedroom, two 3 bedroom and four 4 bedroom dwellings. Policy CN3 of the LP requires developments containing market housing to contain a range of house types and sizes to address local requirements, with the mix being appropriate to the size, location, density and character of the site and surrounding area. The policy also requires that the mix is supported by evidence to justify it, which should be proportionate to the scale of the scheme.
29. The Council has referred to Principle 3.1 (Market housing types and size mix) of the Housing Supplementary Planning Document (SPD), which notes that development should focus on a mix of two and three bedroom dwellings, with only a limited requirement for homes with four bedrooms or more, which should normally comprise no more than 30% of the market homes in a development.
30. The scheme provides for 50% four bedroom units, which is contrary to the Housing SPD guidance, which I afford significant weight. The appellant is of the view that there is no need to provide justification for a development of this scale. However, I do not consider a proposal of 8 dwellings to be small, given a development of 10 dwellings is classed as major development. Consequently, I consider that some evidence should have been provided to justify the mix.
31. The appellant has offered to swap a 4 bedroom home for a 3 bedroom home to seek to overcome such matters. However, such a change has not been consulted upon and could potentially prejudice other parties who would not be able to consider such a change. It would also not overcome the fact that no evidence has been provided to justify the mix, contrary to the requirements of Policy CN3.
32. Given all of the above, I consider that the scheme runs contrary to Policy CN3 of the LP and the Housing SPD. Nonetheless, given the lack of a

⁷ APP/H1705/W/21/3275067 and APP/H1705/W/21/3284682.

five year housing land supply and that the scheme would help meet housing needs more generally, I afford this conflict limited weight.

Other Matters

33. Interested parties have raised a number of other concerns. However, I am dismissing the appeal for other reasons and consequently, such matters do not affect my overall conclusion.

Planning Balance and Conclusion

34. The scheme would make a contribution towards the Council's housing land supply, which it considers stands at 4.6 years. This has not been challenged by the appellant. I consider such a shortfall to be relatively small and subsequently, the contribution of 8 dwellings (on a small windfall site in NPPF terms) towards housing delivery attracts a moderate level of weight in favour of the scheme. I acknowledge the Inspector of the Blackstone Lane appeals afforded the provision of a smaller number of houses significant weight in the planning balance. However, no reference is made in those decisions to the level of shortfall in the Council's supply, which is an important consideration when attributing weight to such benefits.
35. There would also be some economic benefits during the construction of the scheme and through increased patronage to local services and facilities in the wider area. However, such benefits would be fairly small and attract a minor level of weight. Modest environmental benefits would also arise from the net gain in biodiversity.
36. The appellant has referred to Paragraph 120 criterion c) of the NPPF which notes that decisions should '*give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land*'. However, in this case, the appeal site is located in open countryside and I have found that the surrounding development does not constitute a settlement. Consequently, I am not of the view that this is of relevance.
37. In contrast, I have found that the scheme would result in isolated homes in the countryside and would cause adverse harm to the character and appearance of the area, which attract a significant and moderate level of weight against the scheme respectively. There would also be some minor harm in relation to housing mix. I consider this collective harm significantly and demonstrably outweighs the combined benefits of the scheme.
38. For the reasons given above, the scheme does not comply with the development plan when taken as a whole. Further, I have found that the identified harm would significantly and demonstrably outweigh the benefits of the scheme and as a result, the scheme would not represent sustainable development as described by the NPPF. There are therefore

no material considerations to warrant a decision other than in accordance with the development plan. I therefore conclude that the appeal is dismissed.

Jonathan Manning

INSPECTOR