
Appeal Decision

Site visit made on 2 August 2022

by S Leonard BA (Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 August 2022

Appeal Ref: APP/A1720/W/22/3294696

Columbo Nursery, New Road, Swanwick, Southampton SO31 7HE

- 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 David Newell (Landwise Ltd) against the decision of Fareham Borough Council.
 - The application Ref P/21/0982/OA, dated 7 June 2021, was refused by notice dated 10 February 2022.
 - The development proposed is described as “two detached dwellings (custom self-build).”
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The appeal relates to an application for outline planning permission with all matters reserved. The planning application included an Illustrative Site Plan, Ref LW.20.01.03, which I have treated accordingly.

Main Issues

3. The main issues are whether the site is a suitable location for the appeal scheme having regard to:
 - (a) the character and appearance of the area; and
 - (b) the potential for future occupants to access services and facilities through means other than by use of cars.

Reasons

Planning Policy

4. The Council’s strategy for housing delivery in so far as it is relevant to this appeal, is set out in Policies CS2, CS6, and CS14 of the *Fareham Local Development Framework: Core Strategy* (2011) (the Core Strategy) and Policies DSP6 and DSP40 of the *Fareham Borough Local Plan Part 2: Development Sites and Policies Plan* (2015) (the Local Plan). These policies direct new housing towards allocated strategic sites and previously developed land within the designated urban settlement boundaries and seek to restrict new development outside the defined settlements to those which require a countryside location, in order to protect the landscape character, appearance and function of the countryside.

5. The appeal site lies outside the designated Urban Settlement Boundaries (USB), and the proposed housing does not comply with any of the restricted types of development allowed under Core Strategy Policy CS14 in such a countryside location. However, the principle of new housing on the appeal site has potential to be acceptable under Local Plan Policies DSP6 and DSP40, which provide for circumstances in which new residential development may be permitted outside the USBs.
6. The Core Strategy predates the *National Planning Policy Framework*, and so is not based on an up-to date Framework-compliant assessment of housing needs. The housing requirement has not been reviewed within the last 5 years. As such, in respect of locational strategy, Policies CS2 and CS6 cannot be considered to be up-to-date. Also, Policies CS14 and DSP6 are derived from settlement boundaries which are based on an out-of-date housing requirement, and this reduces the weight I can attribute to them.
7. Notwithstanding the above, there is no disagreement between the main parties that the Council cannot currently demonstrate a five-year deliverable supply of housing, and that, as such, Local Plan Policy DSP40 applies. This Policy, subject to meeting additional criteria, allows for additional housing sites outside the urban area boundary, which are of a scale relative to the demonstrated five-year housing land supply shortfall. In this instance, the proposed two dwelling scheme is commensurate with the Council's confirmed shortfall in housing.
8. By seeking to find additional housing sites, and by accepting that development can, in appropriate circumstances, take place outside settlement boundaries, Policy DSP40 is less restrictive than the aforementioned Core Strategy policies, and, having regard to paragraph 6 above, compliance with Policy DSP40 would outweigh conflict with Core Strategy Policies CS2, CS6 and CS14 and Local Plan Policy DSP6.
9. There is a difference of opinion between the main parties as to whether the proposal meets one of the exceptions allowed under Policy DSP6, which relates to schemes for "*one or two new dwellings which infill an existing and continuous built-up residential frontage*". This is a matter to which I later return.
10. The Council's reason for refusal also refers to Core Strategy Policy CS9. I do not find this policy to be directly relevant to the appeal scheme, since it relates to development within the Western Wards and Whiteley settlement boundaries.

Character and appearance

11. Criterion iii) of Local Plan Policy DSP40 requires proposals to be sensitively designed to reflect the character of the neighbouring settlement and to minimise any adverse impact on the countryside.
12. The appeal site comprises a rectangular-shaped area of undeveloped land located on the east side of New Road. It is mainly given over to grass, apart from frontage hedging and a strip of shrubs within the site. It forms part of a larger area of similarly undeveloped grass land which extends further eastwards, linking in with open countryside beyond.
13. New Road is a narrow, unlit, non-metalled, shared surface, no-through road, with no pavements. Grass verges and maturely landscaped frontages and

gardens, together with a low volume of passing traffic, give the road a tranquil rural character. This rustic character increases northwards along the road, which further narrows into an unmade track beyond the existing built development to the north of the appeal site.

14. To the south of the appeal site there are 3 residential properties fronting onto New Road, and another which is located on the corner, fronting Swanwick Road. Opposite these properties, there are 3 houses and a small specialist school on the west side of the road.
15. There is a dwelling to the north of the appeal site, which is subject to an agricultural tie in connection with an adjacent nursery business. Whilst the information before me is that the business has closed and the occupiers are no longer employed in agriculture, there is no evidence before me that the lawful planning status of the premises has altered.
16. This functional connection is reinforced by the site layout of these business properties, whereby the dwelling sits in a perpendicular position in relation to the road, to the side of, and in close proximity to glasshouses and other nursery structures, and sharing joint access with them.
17. The appeal site, and extended field behind, constitute a notable break in built development on the east side of the road, comprising a gap of circa 42m, between the residential frontage on the east side of the road and the commercial enterprises of Colombo nurseries and an adjacent fencing business, which, together, comprise an isolated enclave of buildings north of the appeal site.
18. Directly opposite the site is another roughly rectangular-shaped undeveloped site which extends westwards. This site, together with the appeal site, combine to provide a notable undeveloped break between continuous built development on both sides of the southern end of New Road and more sporadic development to the north, which also includes a single dwelling on the west side of the road.
19. Having regard to the tied use of the dwelling to the north of the appeal site, its juxtaposition and layout in relation to the commercial structures, and the substantial distance between it and the closest dwelling, Oakenshaw, to the south of the appeal site, I do not consider that the appeal site falls within the definition of criterion iii) of Policy DSP6.
20. Whilst the gap between buildings is smaller in the case of the current appeal, this view is consistent with the stance taken by the appeal Inspector in dismissing an appeal¹ (the New Road appeal), in respect of a proposed new dwelling on the undeveloped land directly opposite the appeal site. Notwithstanding that this appeal decision dates back to 2016, it was determined under the same development plan policies, and there is no cogent evidence before me that the physical characteristics of that site, and those of the appeal site, are materially different now, in respect of the interpretation of this aspect of Policy DSP6.
21. Given the proximity of the site to the appeal site and its similar locational characteristics in relation to surrounding built development and the open countryside, I afford weight to this decision. In this respect, I note that the New Road decision acknowledged the school use of the property to the south of

¹ APP/A1720/W/16/3149600

the New Road appeal site, and took account of an earlier relevant appeal decision made at the time the property was in residential use.

22. I have noted the appellant's statement that the front part of the appeal site lies within the garden of the dwelling at Colombo nurseries. However, whilst comprising mown grass, this part of the site has remained undeveloped and shows no obvious signs of domestic paraphernalia or use in connection with the adjacent dwelling. It is separated from the tied dwelling by the nursery access drive, and it has a close physical connection with the adjacent nursery land to its rear, part of which was previously occupied by glasshouses, and which now comprises rough grassland. The rural appearance of the site is also compounded by the two field gate accesses and unmade tracks. As such, whilst the appellant considers that the front of the appeal site comprises garden land, this does not alter my conclusion that the appeal site comprises part of a wider area of rural land at the end of a built-up residential frontage.
23. Moreover, the New Road appeal site has remained undeveloped, and its position directly opposite the current appeal site, means that, taken together, these areas of undeveloped land, mark a clear delineation between the more regular, urban-like built development to the south, which physically links with Swanwick Road, and the more sporadic, isolated rural built development to the north.
24. I have noted planning permissions² for new dwellings, which have been referred to me by the appellant. However, on the basis of the evidence before me, I do not find the location of these dwellings, which lie within the context of frontage built residential development along Swanwick Lane, to be directly comparable with the current appeal site. As such, they do not alter my conclusions in respect of Local Plan Policy DSP6.
25. As such, I find that the appeal site makes a positive contribution to the prevailing semi-rural character of this part of New Road, where surrounding open countryside comprising fields and woodland are broken up by sporadic and restricted built development. The value of the appeal site in this respect is largely due to its open undeveloped nature and its proximity to adjacent undeveloped land to the rear and to the east on the opposite side of the road, both of which flow into the wider open countryside.
26. Notwithstanding the lack of information included with the fully outline planning application, in respect of the detailed scale, massing, appearance and layout of the development, the appeal scheme would, inevitably, involve a significant increase in built development upon the currently grassed site. The proposed new dwellings, together with domestic paraphernalia and ancillary structures associated with the residential use of the site, such as outbuildings, decking, patios, paved parking, access and footpath areas, garden furniture, pergolas, and outdoor lighting, and increased comings and goings associated with the residential occupation of two individual dwellings, would, collectively, urbanise the site, to the detriment of its existing rural character.
27. Moreover, a frontage-facing arrangement of dwellings and garaging, as shown on the Illustrative Site Plan, would compound this harmful urbanising impact, by consolidating the existing two distinctly separate groups of built development on this side of the road.

² P/07/1212/FP and P/15/0755/FP

28. I do not find that these impacts would be satisfactorily mitigated by the proposed retention of the existing frontage hedging, which would not address the harm to the intrinsic landscape character of the locality. Moreover, the subsequent retention of the frontage hedging could not be guaranteed in the future, nor is it appropriate to rely upon sufficiently high landscaping to screen new built development of which is inappropriate within its surroundings.
29. The appellant has drawn my attention to an allowed appeal³ for 4 dwellings elsewhere in the Borough (the September Cottage appeal), where the appeal Inspector found no harm in regard to character and appearance. Whilst that appeal was considered under same relevant development plan policies, and raised similar issues to those of the current appeal, the site location is a considerable distance from the current appeal site, and on the evidence before me, is not directly comparable in respect of specific site circumstances in relation to surrounding built development and open countryside. As such, that decision does not alter my conclusions in respect of the issue of character and appearance.
30. For the above reasons, I therefore conclude that the proposal would have a materially harmful impact on the character and appearance of the area, and that the site would not represent a suitable location for the appeal scheme in this regard. As such, the proposal would be contrary to Core Strategy Policies CS2, CS6, and CS14 and Local Plan Policies DSP6 and DSP40, in so much as these policies seek to strictly control development on land outside defined settlements to protect the countryside from development which would adversely affect its landscape character and appearance.
31. For similar reasons, the proposal would be contrary to Policies of the *National Planning Policy Framework 2021* (the Framework) which seek to achieve well-designed places and the conservation and enhancement of the natural environment, as set out in Chapters 12 and 15 respectively.

Access to services and facilities

32. The second criterion of Local Plan Policy DSP40 is that the proposal should be to be sustainably located adjacent to, and well related to, the existing urban settlement boundaries, and be well integrated with the neighbouring settlement.
33. By the Council's calculations, the appeal site lies circa 682m and 696m from the settlement policy boundaries of Swanwick to the east and Lower Swanwick to the west respectively. Access to the nearest facilities, services and public transport connections within these settlements from the appeal site would be via the narrow lane within which the appeal site is located, which is unlit and has no paved edges, onto Swanwick Lane, which is lined with residential properties and is level, lit, has pavements.
34. The latter provides appropriate conditions for safe pedestrian and cycle travel eastwards and westwards towards the nearest community facilities and public transport connections. However, on the basis of the evidence before me, I find that these are located some distance away from the appeal site.
35. Whilst there are bus stops providing services to a variety of urban areas, the closest to the site are located circa 15mins walk away. These distances,

³ APP/A1720/W/18/3214358

combined with the initial walking conditions along New Road, are not conducive to encouraging occupiers of the appeal scheme to use public transport in preference to the car, particularly during shorter daylight days and inclement weather.

36. Moreover, it appears that it would take at least 18 minutes to walk to the nearest convenience stores/local centres from the site and at least 30 minutes to walk to the nearest primary and secondary schools. The closest railway station and health facilities are also some 23 minutes and 30 minutes walking distance respectively from the appeal site.
37. Both parties have referred to the CIHT document "*Planning for Walking*" (2015). This advises that, whilst most people will only walk if their destination is less than a mile away, and that land-use patterns most conducive to walking are mixed in use resembling patches of "walking neighbourhoods" with a typical catchment of around 10 minutes walking distance (circa 800m).
38. I acknowledge that there is no preferred maximum distance that people are prepared to walk to facilities and services, and that there are bus stops, stores, and a pharmacy within 1 mile of the appeal site. However, I find that it would be reasonable to expect a number of facilities and services to be located within a 10-minute walking zone from the appeal site. In the case of the appeal scheme, apart from a public house and a large employment site located within this radius, all the other facilities and services and public transport connections listed within the appellant's accessibility study lie outside this zone.
39. Notwithstanding that cycling is a viable alternative, the likelihood of this mode of travel decreases during poor weather and outside of daylight hours. Moreover, having regard to the conditions within New Road that are not conducive to walking during hours of darkness, and given the distances involved to the closest public transport alternatives of bus and train travel, which would deter walking during inclement weather, I consider that residents of the appeal scheme are likely to rely upon their cars for the majority of their trips.
40. The appellant has referred to the potential for improved bus services associated with the North Whiteley development. However, there is no cogent evidence before me to demonstrate the certainty of such, or any associated improvement to the accessibility to services and facilities from the appeal site.
41. The appellant has drawn my attention to a number of allowed appeals⁴ in addition to the September Cottage appeal, where the appellant states that the appeal Inspectors found the appeal sites to be accessible in relation to facilities and services.
42. I have had noted the above decisions and the appellant's comparator tables. On the basis of the evidence before me, I find that there are various notable differences between the circumstances in respect of these appeal decisions and those of the current appeal scheme, which means that they are not directly comparable with the current appeal. These include distance from the current appeal site, proximity to their nearest settlement policy boundary, the scale of residential development proposed, the extent of any proposed improvements to facilitate improved walking and cycling facilities within the appeal schemes, and

⁴ APP/A1720/W/21/3275237, APP/A1720/W/21/3272188, APP/A1720/W/21/3279162, APP/A1720/W/21/3271412 and APP/J1725/W/20/3265860

the extent to which accessibility was an issue examined in detail by the appeal Inspector.

43. I have determined the current appeal on the basis of what could reasonably be considered to be accessible to non-car users on the basis of the particular circumstances of the current appeal site, having regard to matters such as convenience, safety, comfort and attractiveness of alternative means of travel in addition to distance from the site. As such, whilst these other appeals are material considerations, they do not alter my conclusions on this matter in respect of the current appeal.
44. For the above reasons, I therefore conclude that the proposal would not represent a suitable location for the appeal scheme, having regard to the potential for future occupants to access services and facilities through means other than by use of cars. It does not adjoin any urban settlement boundaries, nor is it well related to them. As such, the proposal is contrary to Local Plan Policy DSP40 (ii).

Other matters

45. I have noted that the proposal follows a previously refused application⁵ for full planning permission for two dwellings on the appeal site, and that the Council's previous concerns in respect of mass, scale and layout of built development are no longer relevant, and the submission of additional information has addressed previous reasons for refusal in respect of noise impacts from the nearby Borderland Fencing business and mitigation of recreation and nitrates related impacts upon the Solent European Protected Sites. However, this does not alter my findings with respect to the two main issues of relevance to the current appeal.

European Protected Sites

46. The appeal site lies within the Zone of Influence of the Solent and New Forest European Protected Sites (the EPS), where a net increase in housing development is likely to result in impacts to the integrity of these sites, requiring the inclusion of a package of avoidance/mitigation measures to address these effects.
47. These matters do not constitute reasons for refusal. The Council has confirmed that the appellant has provided the appropriate financial contributions to mitigate adverse impacts associated with recreational disturbance in accordance with the *Solent Recreational Mitigation Partnership Strategy* (the SRMP) and the Council's *Interim Mitigation Solution on New Forest Recreational Disturbance*. The appellant has also purchased nitrate mitigation 'credits' from the Hampshire and Isle of Wight Wildlife Trust to offset the adverse impacts arising from increased levels of nutrients from wastewater entering into the Solent water environment in accordance with the *Solent Nutrient Budget Calculator* issued by Natural England. As such, the Council is satisfied that these matters have been dealt with.
48. Notwithstanding this, within the context of the appeal, the responsibility for assessing the effects of the proposal on the EPS falls to me as the competent authority. Had I been minded to allow the appeal, and the circumstances therefore existed in which planning permission could be granted, it would have

⁵ Ref P/20/0756/FP

been necessary for me to examine the above matters further, including seeking further information from both main parties and, potentially, consulting with Natural England, and to undertake an Appropriate Assessment (AA) of the implications of the appeal scheme for the EPS.

49. I would need to be satisfied that any mitigation schemes for addressing the recreation and foul water impacts of the development on the EPS are certain at the time of AA, so that no reasonable scientific doubt remains as to the effects of the development on the internationally designated European sites.
50. However, as there are other clear reasons for dismissing the appeal, the outcome of any such AA would have no bearing on the overall outcome of this appeal. Therefore, I do not need to consider these matters any further as part of my decision.

Planning balance

51. The Council has confirmed that it is unable to demonstrate a five supply of land for housing. It considers that it can demonstrate a Housing Land Supply of 4.95 years and this figure is not disputed by the appellant. Accordingly, Paragraph 11 of the Framework applies, which states that relevant policies for the supply of housing should not be considered up to date where the Housing Delivery Test indicates that the delivery of housing was substantially below the housing requirement over the previous three years. 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.
52. Paragraph 8 of the Framework defines the three dimensions of sustainable development as performing economic, social and environmental objectives. Two additional dwellings would make a modest contribution towards addressing the housing delivery 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 of the new dwellings and economic and social benefits as a result of their future occupation. These considerations weigh in favour of the development, and I afford them moderate weight, having regard to the modest size of the proposed housing development.
53. Moreover, the weight I attach to the new housing is increased by the proposal to provide two self-build or custom house building plots (SCBs), which would be secured as such by means of the appellant's submitted signed and dated Section 106 unilateral undertaking (the UU).
54. There is no explicit requirement for a development plan policy on self-build, and I have not been advised of any specific Core Strategy or Local Plan policies in this regard. However, the housing needs of people wishing to build their own homes is one of the types of housing need which Paragraph 62 of the Framework seeks to address. Moreover, under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections

- 2 and 2A of the Act to have regard to this, and to give enough suitable development permissions to meet the identified demand.
55. The most recent figures before me from the Council indicate that there is a demand for 52 SCBs to be met by 30 October 2022, taking account of Part 1 (42) and Part 2 needs. There is also evidence that there has been a shortfall of such permissions over the previous two years. In addition, notwithstanding the Council's publicity arrangements in respect of the self-build register, it is not unreasonable to consider that the demand for SCB dwellings could be higher than that registered, as a result of general public unawareness of Right to Build Registers.
56. The appeal scheme would make an important contribution to addressing an identified need within the Borough for this type of housing, and I afford this matter a large amount of weight in favour of the proposal.
57. However, the proposal would provide a modest number of SCBs, and make a small contribution to the council's five-year housing supply deficit, albeit that the deficiency is not acute.
58. Moreover, a high standard of design and enhancement of the natural environment are key aspects 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.
59. The proposal also conflicts with the Framework objectives of providing safe, inclusive and accessible places that promote health and well-being, and actively managing patterns of growth to promote walking, cycling and public transport use.
60. Whilst the Framework encourages the effective use of land in meeting the need for homes, including providing a variety of housing types, 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 in respect of the character and appearance of the area and the accessibility of the site.
61. 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.
62. The Council has raised no objection to the appeal scheme in respect of matters including impact on the living conditions of neighbours and future occupiers of the new dwellings, parking and highway safety, biodiversity and flood risk and drainage. In terms of the planning balance, the lack of identified harm is a neutral factor that does not diminish the harm that I have identified.
63. The appellant has drawn my attention to an allowed appeal⁶ within the Borough where the appeal Inspector considered that adverse impacts arising from the accessibility shortcomings of the scheme did not outweigh the benefits of providing housing. I consider that the circumstances of this appeal to be

⁶ APP/A1720/W/21/3273119

materially different to the current appeal proposal, including site location, where the appeal Inspector found no harm to landscape or local character, and scheme details, comprising up to 38 dwellings including a percentage of affordable housing. I have determined the current appeal proposal and the planning balance therein, on its own merits, having regard to specific context of the appeal scheme and site circumstances.

Conclusion

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

S Leonard

INSPECTOR