
Appeal Decision

Site visit made on 11 November 2022

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2023

Appeal Ref: APP/N1730/W/22/3292887

Land at Rose Court, Rye Common Lane, Crondall, Farnham GU10 5DD

- 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 Natta Country Homes Ltd against the decision of Hart District Council.
 - The application Ref 21/02142/FUL, dated 13 August 2021, was refused by notice dated 19 October 2021.
 - The development proposed is erection of 9 dwellings and associated garages, access and landscaping.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A Screening Direction issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) established that the development is not EIA development, and the appeal has been considered accordingly.
3. The site is located within 5km of the Heath Brow and Bourley and Long Valley Site of Special Scientific Interest (SSSI), which forms part of the Thames Basin Heaths Special Protection Area (TBHSPA). Consequently, the proposal has been considered in the context of statutory duties set out within the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
4. The appellant submitted new evidence in the form of a Section 106 Unilateral Undertaking relating to planning obligations pursuant to TBHSPA mitigation. This has been accepted as a potentially legally binding document, and parties will have had an opportunity to comment during the course of the appeal.
5. The appellant submitted new evidence in the form of revised plans relating to pedestrian footways, and reports relating to arboriculture and road safety. The new evidence does not substantially change the nature or extent of development originally applied for and the amount of additional information is modest in extent.
6. In this context, the Council and other interested parties will have had a fair opportunity to comment during the course of the appeal and altogether accepting the new evidence would be consistent with the Wheatcroft Principles and has been accepted accordingly.

Main Issue

7. The main issue is whether the proposal is in an appropriate location for housing.

Reasons

8. The site comprises land to the north of Rose Court, located beyond the settlement boundaries established by Hart Local Plan 2020 (the LP). Policy SS1 of the LP sets out that development will be focused within defined settlements, on previously developed land in sustainable locations. Among other things, Policy NBE1 of the LP sets out that development proposals within the countryside will only be supported where they are located on suitable previously developed land appropriate for the proposed use. Policies within the neighbourhood plans are consistent with LP policies in this regard.
9. Whilst it is not disputed whether the site is beyond settlement boundaries¹, previously developed, isolated or has good road transport links, it is disputed whether the site is in a sustainable location² with sufficient access to services and whether the site is appropriate for the proposed use³ in this context.
10. I am mindful that, among other things, Paragraph 105 of the National Planning Policy Framework (the Framework) relates to significant development. Whilst the proposal in this case might not be significant, the appellant has engaged with some of the provisions under Paragraph 105, including the need to establish a genuine choice of transport modes and how sustainable transport solutions vary between urban and rural areas. Consequently, I have dealt with these matters as part of my assessment.
11. The site is around 70 metres to the west of Mill Lane, adjacent and behind existing dwellings at Itchel Court, the two bungalows fronting Rye Common Lane (Streamside and Zatty) and the Natta complex.
12. Mill Lane is a small settlement with a correspondingly limited set of services⁴ that meet only a small proportion of everyday needs. Indeed, the settlement is identified as a Tier 5: Smaller Village within the development plan, which is the lowest tier and indicative of the limited service provision on offer.
13. Consequently, residents in the locality would need to travel further afield to other settlements in order to fully satisfy their everyday needs, including to Crondall, Odiham, Fleet or Farnham – which are beyond walking and cycling distance⁵.
14. Whilst I note there is more flexibility to work from home, which would reduce trips in this regard, there is no objective evidence in relation to trip generation demonstrating that this would be significant enough to reduce the reliance on the private car.

¹ Or that this should be definitive in and of itself as per arguments advanced by the appellant at 3.10 of their appeal statement.

² Pursuant to Policy SS1 of the LP.

³ Pursuant to Policy NBE1 of the LP and consistent with the thrust of Paragraph 85 of the Framework, which deals with previously developed land and suitable opportunities for development beyond settlements.

⁴ Including a petrol station, shop and limited industrial area among other things.

⁵ Some people may feel comfortable cycling long distances on the highway; however, most people are unlikely to do this in the absence of dedicated cycle lanes.

15. The proposal would require residents to travel around 900 metres to the nearest bus stop on Bowling Alley at Downsland Copse. Notwithstanding distances and accessibility across a busy highway, the bus stop provides a limited school service and would not represent a genuine choice of public transport that enables future occupiers to access settlements for the purposes of their everyday needs.
16. There is another bus stop a few kilometres away also on Bowling Alley close to the junction with Pankridge Street. However, the distance is more significant compared to the bus stop at Downsland Copse, and the service is also limited. Consequently, it is unlikely to represent a genuine choice of public transport that enables future occupiers to access settlements for the purposes of their everyday needs.
17. A conventional bus stop is located near Church Crookham. This would appear to offer a convenient service relative to the rural location, with a timetable based on an hourly frequency. However, it is a very considerable distance away and unlikely to represent a genuine choice of public transport that enables future occupiers to access settlements for the purposes of their everyday needs.
18. The existing pedestrian network is limited to the nearest public rights of way on the opposite side of Farnham Road (A287), approximately 550 metres from the site and there is limited evidence of a direct or convenient route to the conventional bus stop.
19. The appellant suggests bus stops could change to favour of the proposal in the future, however there are no mechanisms presented under the appeal that would give this suggestion any certainty. I have therefore given it limited weight in my assessment.
20. Altogether, the site is significantly constrained in relation to its accessibility to public transport, even in relative terms when accounting for the fact it is outside the settlement boundary and in a more rural location.
21. Whilst I acknowledge that the appellant is proposing improvements to the existing pedestrian network, there is uncertainty about the findings within the Road Safety Audit. Indeed, the Local Highway Authority raises concerns about residual safety impacts not being fully resolved by the evidence as it currently stands.
22. Even if the findings of the Road Safety Audit were acceptable, and there were no residual concerns, it appears the improvements would only provide access to the limited services within Mill Lane. As already established earlier in my decision, these services would not be suitable for meeting the everyday needs of future occupiers.
23. Whilst improvements to the existing pedestrian network attempt to maximise the sustainable transport solutions available⁶, the location of the site is such that future occupiers would still not have a genuine choice of transport modes and would have an almost complete dependency on the private car⁷.

⁶ In accordance with Paragraph 110 of the Framework.

⁷ Which is not a form of sustainable transport as defined in the Framework

24. To be clear, I acknowledge opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and as the appellant points out there would inevitably be a greater reliance on the private car in rural locations.
25. However, even in rural terms access to public transport is significantly constrained in this case. As such, and to reiterate, there would be almost a complete dependency on the private car.
26. Consequently, it cannot be concluded that the site is in a sustainable location or that the previously developed land is appropriate for the proposed use. It follows that the overall benefit of the pedestrian network improvements to existing neighbouring occupiers would also be limited.
27. The appellant makes the point that the site is adjacent to settlement boundaries and other development. However, it is not clear that this changes the application of development plan policy in this particular case, which is predicated on whether the site is inside or outside settlement boundaries and other relevant criteria already assessed.
28. Overall, the proposal would not be in an appropriate location for housing and would conflict with Policies SS1 and NBE1 of the LP, Policy DNP1 of the Dogmersfield Neighbourhood Plan 2019 and Policy 1 of the Crondall Neighbourhood Plan 2020. Among other things, these policies make clear that development proposals within the countryside will only be supported where they are on suitable previously developed land appropriate for the proposal.
29. Paragraph 79 of the Framework establishes that policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Paragraph 119 of the Framework promotes as much use as possible of previously developed land. The policies within the development plan are consistent with the Framework in this regard, insofar as they make provision for growth on previously developed land in sustainable locations in the countryside, subject to acceptable criteria.
30. The appellant refers to Policy SD1 of the LP, but this mirrors provisions in the Framework relating to the presumption in favour of sustainable development, which is not engaged in this case.

Other Matters

31. Whilst the site is located within 5km of the Heath Brow and Bourley and Long Valley SSSI, which forms part of the TBHSPA, I am dismissing the appeal for other reasons, and it is not necessary for me to consider likely significant effects or whether the submitted planning obligations are necessary and suitably provided.
32. The proposal would only make a modest contribution to housing land supply due to its limited scale. Moreover, the Council can demonstrate a five year housing land supply, and there is no heightened demand for additional housing in the area. As such, the socio economic benefits associated with the proposal would be limited and not sufficient to outweigh the harm derived from the main issue.

33. I note the appellant's contentions in relation to the Environment Agency's comments on flood risk and contamination. I also acknowledge the appellant's reference to drawings within transport evidence in response to other interested party comments, and arguments there would be a lack of impact on highway safety. However, as I am dismissing the appeal for other reasons relating to the main contentious issue between the appellant and the Council, it is not necessary for me to probe these other matters further or come to a definitive conclusion.
34. The appellant sets out a number of matters not in dispute, including sustainable water use and broadband provision, among other things. However, these matters have not been determinative in assessing the main issue or balancing the outcome of the appeal.
35. It is contended that the proposal would positively contribute to the overall appearance of the area and the amenity of neighbouring occupiers. It is not clear to what extent this may be the case, as no further details have been provided within the appellant's statement. For example, there are no arguments establishing that the existing nature of the site severely detracts from the character and appearance of the area or the amenity of neighbouring occupiers, or that there would be significant enhancements resulting from the proposal in this regard. Consequently, I can only give this matter limited weight in my decision.
36. There is potential to use land adjacent to the site for biodiversity enhancements in conjunction with biodiversity enhancements on the site itself. However, notwithstanding the dispute over whether the land outside the site is in the appellant's control, there is limited evidence to objectively quantify the potential benefits.
37. For example, notwithstanding the evidence already presented, there is no biodiversity metric calculation objectively quantifying the difference between the baseline biodiversity value and enhanced biodiversity value of the land. Consequently, even if such enhancements could be delivered, it has not been demonstrated that the magnitude of benefits would be sufficient to outweigh the harm identified under the main issue. As such, the matter has not been determinative under the appeal.
38. The appellant argues that the proposed residential land use is more sustainable than a storage use, which generates appreciable vehicle movements by comparison. However, it is not clear that a trip generation analysis has been conducted to support this argument. Furthermore, I am not clear whether storage operations would endure elsewhere in the vicinity, on other parts of the appellant's land holdings. Altogether, I have given this matter limited weight.
39. The site overlaps with land granted planning permission⁸ for apartments. However, the overlap is not significant. Furthermore, the planning permission was granted on the basis of a clear fallback position derived from prior approval⁹.

⁸ 15/01083/FUL

⁹ 14/01136/PNDW

40. Land at Marsh Farm is allocated for housing within the development plan, and development is pursuant to the conversion of existing commercial buildings, some of which benefit from prior approval¹⁰.
41. Land at Little Rye Farm House was granted planning permission¹¹ in 2015 and 2016, and Land at the Acorns was granted planning permission¹² in 2015. However, the proposals related to the demolition of buildings and the erection of one or two dwellings, which is development of a different nature and scale compared to the proposal in this case.
42. Land at Beechwood Farm was granted planning permission¹³ for the construction of two dwellings. Land at Broden Stables was granted planning permission¹⁴ for the construction of thirty dwellings. These planning permissions are of materially different scales compared to the proposal in this case.
43. Land west of Loxwood Road was granted planning permission¹⁵ for 99 dwellings, which is significantly more development compared to the proposal in this case and was also in a different local planning authority under a different local development plan.
44. Altogether, these other examples of development in the locality have very different circumstances. Moreover, and notwithstanding some of the circumstantial differences, in the majority of cases a considerable period of time has passed within which changes in the development plan and the Framework have occurred.
45. Consequently, these other examples are not entirely relevant to the proposal in this case and have carried limited weight in my decision.
46. The application for permission in principle¹⁶ was refused and therefore does not represent a material consideration in the same way as an extant permission may do. Consequently, I have given the application limited weight in my decision.
47. The appeal¹⁷ is in a similar location, subject to the same development plan and version of the Framework. However, was not on previously developed land and had different footway characteristics and distances, among other things. Furthermore, whilst the inspector acknowledges service provision exists, he does not necessarily conclude that the level of service provision is capable of meeting everyday needs. Consequently, I have given it limited weight in my assessment.
48. The previous application¹⁸ at the site was refused and there have been changes in the proposal since then. Consequently, it is not directly comparable and the proposal in this case has been considered in the context of the evidence presented.

¹⁰ 19/00706/PRIOR, 18/02863/PRIOR, 18/02864/PRIOR and 18/02862/PRIOR

¹¹ 14/02157/FUL and 15/02782/FUL

¹² 15/01239/FUL

¹³ 17/00842/FUL

¹⁴ 16/02377/FUL

¹⁵ APP/R3650/W/21/3278196

¹⁶ 20/01472/PIP

¹⁷ APP/N1730/W/20/3246254

¹⁸ 20/02767/FUL

49. Whilst the appellant states they have engaged extensively with the Council and other interested parties, the pre-application process would have been entered into without prejudice to any subsequent decision. Furthermore, lack of objections from some other interested parties is not indicative of the proposal's acceptability, which has been assessed based on its compliance with the development plan and any other material considerations.
50. The courts have determined that the Framework explains in clear and complete terms the circumstances in which, and the way in which, the presumption in favour of sustainable development is intended to operate. There is no other presumption in favour of sustainable development in the Framework either explicit or implicit.
51. It is not necessary or appropriate, therefore, to make a separate assessment of whether or not the development proposal constitutes sustainable development, outside the tests contained in Paragraph 11 of the Framework, which are not engaged in this case.

Conclusion

52. For the reasons given the appeal is dismissed.

Liam Page

INSPECTOR