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# Appeal Decision

Site visit made on 12 April 2024

**by R J Redford MTCP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 25<sup>th</sup> April 2024**

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**Appeal Ref: APP/L1765/W/23/3323263**

**Land Adjacent Beechcroft, Vicarage Lane, Curdridge, Hampshire SO32 2DP**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
  - The appeal is made by Mr Richard Puddle against the decision of Winchester City Council.
  - The application Ref is 22/02161/OUT.
  - The development proposed is the erection of two dwellings with details of access.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. The application was made in outline with all matters except access reserved. I have considered the appeal and accompanying plans accordingly.
3. The National Planning Policy Framework (the Framework) was updated in December 2023. However, the sections pertinent to this appeal have not changed to such an extent as to affect the matters raised by the main parties. It has not therefore been necessary to seek their views on this matter, however the revised version has been referenced in this decision.

## Main Issues

4. The main issues are whether the appeal site is a suitable location for the proposed development having regard to the spatial strategy of the development plan; and the effect of the proposed development on the character and appearance of the local area, including the impact on protected trees, and European protected sites.

## Reasons

### *Location*

5. The appeal site forms part of a larger field boarded on opposite sides by Vicarage Lane and Botley Road. It is broadly located within the loosely defined countryside settlement of Curdridge.
6. Policy MTRA4 of the Winchester District Local Plan Part 1 – Joint Core Strategy (LP) seeks to guide countryside development and list the types of development which would be permitted. However, the proposal would not fall into any of these development types. Nevertheless, LP Policy MTRA3 deals with development within settlements in rural areas and defines Curdridge as a settlement which has no clearly defined boundary.

7. For settlements such as Curdridge, Policy MTRA3 states that development that consists of infilling of a small site within a continuously developed road frontage, may be supported. It then sets out what form the development should take in relation to the character of the village and that it should not involve the loss of important gaps between developed areas. The supporting text for this policy identifies the need to limit uncontrolled or sporadic development across the district to ensure the overriding countryside characteristics of the spatial area are retained.
8. Policy MTRA3 and its supporting text does not clarify what specifically should be considered a small site. Nevertheless, the policy is clear that the site should be within a continuously developed road frontage.
9. The portion of the field which forms the appeal site is accessible from Vicarage Lane and appears to be covered in vegetation, shrubs, and trees, and surrounded on 3 sides by mature dense hedging. To one side of the appeal site is a large, detached property used as offices and on the other is a detached dwelling immediately followed by 2 semi-detached houses. On the opposite side of the lane and on either side of the afore mentioned buildings are fields. This is characteristic of Vicarage Lane where small sporadic pockets of development are separated and surrounded by fields, hedging and trees. This creates a cadence of built form and open space which, to my mind, does not form a continuous frontage.
10. The proposal would remove the visual and physical gap between the office building and 3 dwellings thus creating a defined and continual frontage where there currently is none. Therefore, the proposal would not constitute infilling within a continuously developed road frontage.
11. My attention has been drawn to schemes at South Winds<sup>1</sup> and adjacent to Springfield<sup>2</sup>. Both are situated some way from the appeal site, located on roads with more development, and where the developed frontage is more defined. I am not persuaded that they are directly comparable to the proposal before me, and these examples merely indicate that what constitutes infilling needs to be determined in the light of the specific circumstances and context of each case.
12. For these reasons I find the appeal site would fail to comply with the spatial strategies set out in LP Policies MTRA3 and MTRA4, therefore, is not a suitable location for the proposed development.

#### *Character and appearance*

13. LP Policy DM16 sets out a series of design criteria and it is accepted that matters relating to the design, layout, style, landscaping, materials, and energy efficiency of the proposal would be dealt with at reserved matters. However, this policy also requires development to respond positively to the character, appearance, and variety of the local environment. This, along with the afore mentioned elements of LP Policy MTRA3, reflect the focus of LP Policy DM15 which requires development to respect the qualities, features and characteristics that contribute to the distinctiveness of the local area.
14. As set out in the first main issue, the development of the appeal site is not characteristic of Vicarage Lane and would constitute the consolidation of

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<sup>1</sup> Planning permissions 16/03003/FUL and 18/01775/FUL

<sup>2</sup> Planning permission 21/00362/FUL

- 2 traditionally separated pockets of development. This would have an urbanising effect on the otherwise rural character of the lane. Consequently, it would be detrimental to the character and appearance of the local area.
15. However, from the evidence before me it has not been clearly shown that the appeal site would constitute a key open space within Curdridge's morphology, and this is supported by the Council's landscape team who do not consider it an important gap. Nevertheless, this is looking at the proposal within the context of the wider landscape and a lack of harm at that scale does not overcome the harm identified at the more local level of Vicarage Lane.
16. The trees protected by tree preservation order are clustered in one corner of the site, and the indicative plans clearly show that the site could be developed without their removal and with buildings and hard standing located some distance away. As site layout is a reserved matter so within the Council's control, in this instance, details relating to the trees protection and management could be conditioned. Therefore, the proposal could comply with LP Policy DM24 as far as it seeks to ensure the longevity of protected trees and to maintain their positive impact within the district.
17. Although the proposal may not have a detrimental impact on the landscape character of the wider area nor the protected trees, this does not outweigh or mitigate the harm identified in relation to the character and appearance of the local area. Consequently, the proposal would fail to comply with LP Policies MTRA3, DM15 and DM16.

#### *European protected sites*

18. The appeal site lies within 5.6km of the Solent Special Protection Areas (SPA), all of which are European protected sites. These are sensitive areas providing unique often water-based habitats for a variety of species susceptible to predation and disturbance, including over wintering waders and wildfowl.
19. The Conservation of Habitats and Species Regulations 2017 (Habitat Regs) requires that the competent authority (CA), in this case me, must decide if the integrity of the protected sites, would be affected by that proposed. It is noted that the appellant considers, that due to the outline nature of the proposal, this could be dealt with during reserved matters. However, Regulation 70 of the Habitats Regs requires that outline permission must not be granted unless the CA is satisfied that the development is not likely to adversely affect the integrity of the protected sites.
20. The proposal would create 2 additional dwellings which whilst minimal on their own, would contribute to an increase in population in combination with other plans, projects, and developments in the area. Due to the proximity of the development to the SPA, it is likely that its contribution to the increase in population could lead to an increase in visitor and recreational pressure within the SPA, and an increase in wastewater generation which could result in a release of nutrients into the watercourses relevant to the SPA. Given the susceptibility and vulnerability of the qualifying features of the SPA to such uses, it cannot be concluded that the development would not adversely affect the integrity of the protected sites in combination with other projects causing a likely significant effect on the SPA.

21. In relation to recreational pressure the Council has a long-standing strategy whereby a financial contribution can be paid to mitigate against the recreational impact of new development, or a section 106 agreement entered into to ensure that contribution is calculated and paid later. Whereas with the impact of nutrients a bespoke scheme of mitigation would be required.
22. There is nothing before me to confirm that any financial contributions have been paid, that suitable mitigating obligations have been secured, by section 106 agreement or other mechanism, or that any alternative mitigation strategies could be employed. Nor is there anything before me which further clarifies or could clearly alleviate these matters. As such, it cannot be shown that the proposal could provide adequate mitigation for the adverse effect it could have on the integrity of the SPA.
23. The appellant has suggested the use of a condition to secure the required mitigation. However, in this case, without specific details of any mitigation measures nor how those measures would be actioned, there is insufficient certainty or clarity in detail to ensure the reasonable use of a condition, negatively worded or otherwise.
24. Therefore, I am unable to conclude that the proposal would not have a harmful effect on the SPA. Consequently, the proposal would fail to comply with LP Policies CP15 and CP16 which amongst other things, seeks to protect European designated sites.

### **Other Matters**

25. The Framework seeks to boost the supply of homes and the proposal would provide a net increase of 2 homes in a moderately accessible location. This contribution to the windfall element of the Council's five-year housing land supply does not however outweigh the harm identified in relation to strategic policies, character and appearance, and European protected sites.
26. Whilst it is appreciated that the appellant and their friend, both with local connections to Curdridge, would live in the proposed dwellings thus securing their future in the village. This does not outweigh the harm identified.
27. Objections were raised in relation to access and drainage, but as I am dismissing the appeal, I have not pursued these matters further. Concerns were also raised in relation to the future development of the rest of the field. I am required to determine the appeal in relation to the scheme before me, which does not include the whole field.

### **Conclusion**

28. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

*RJ Redford*

INSPECTOR