



Appeal Decision

Site visit made on 11 April 2024

by R Lawrence MRTPI, BSc (Hons), PGDip (TP)

an Inspector appointed by the Secretary of State

Decision date: 4th July 2024

Appeal Ref: APP/C1760/W/23/3323079

Erlcombe, Butts Green, Lockerley, Hampshire SO51 0JG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr M Blackledge against the decision of Test Valley Borough Council.
 - The application Ref is 22/02814/FULLS.
 - The development proposed is erection of 4-bedroom dwelling with sewage treatment plant and associated soft and hard landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the planning application form omits reference to the construction of a new vehicular access. This is clearly shown on the submitted plans, as such I have considered the appeal on this basis.
3. Since the original planning application was determined, permission has been granted on 08 February 2024 for a single-storey, 4-bedroom dwelling with a flat roof¹. At the time of my site visit, construction ground works were underway on the site. The exact nature of the development under construction was not clear, however, this has not prejudiced my assessment of the appeal scheme which I have determined on the basis of the submitted plans. The relevance of this approval is explored later within my decision.
4. A revised National Planning Policy Framework (the Framework) was published on 19 December and updated on 20 December 2023. The main parties have had the opportunity to comment on the revised Framework in respect of the appeal, and I have determined the appeal in light of the revised Framework.
5. I have been provided with a copy of another appeal decision, relating to the erection of a 4-bedroom dwelling on the appeal site, which was dismissed on 03 April 2023² (the 2023 appeal). The parties have had the opportunity to comment on the relevance of this decision within their statements/representations. I have had regard to the 2023 appeal within my consideration of this appeal.
6. During the course of the appeal, the appellant submitted an executed Unilateral Undertaking (UU) pursuant to S106 of the Town and Country Planning Act

¹ 23/01649/FULLS

² APP/C1760/W/22/3308899

1990, dated 04 January 2024. The UU contains a planning obligation to secure the installation and completion of works to provide Package Treatment Plants on site prior to the first occupation of the new dwelling, and thereafter retain and maintain the plants. The Council has advised that this is sufficient to address its concerns in relation to the second reason for refusal.

7. The Council has also advised that a direct payment of £1,300 has been made towards the provision of strategic alternative recreational open space. In light of this, the Council's concerns in relation to the third reason for refusal are addressed. This is explored further later in this decision.

Main Issue

8. The main issue is the effect of the proposed development on:

- the living conditions of neighbouring occupiers of Bowmans, with particular regard to outlook

Reasons

9. The appeal site comprises the end of the rear garden of Erlcombe. The outlook from the existing dwelling and the gardens of neighbouring properties, is of open space. This results in a spacious, semi-rural character to the rear gardens. The absence of any significant built form above fence level is a key contributory factor.
10. In dismissing the 2023 appeal, the Inspector found that the scheme before them would 'dominate the outlook from within the house and would harmfully erode the existing sense of space that the occupants of Bowmans currently experience'.
11. The proposed ridge and eaves height would be reduced in comparison with the dismissed appeal scheme. Nonetheless, the eaves height, and in turn the overall height, remain consistent with the appearance of a two-storey dwelling. As such, although the scale would be reduced in comparison with the 2023 appeal scheme, the proposal would have a bulky, prominent appearance. The use of a fully hipped roof would slightly reduce the sense of enclosure, but the overall height would nonetheless remain significant.
12. The full roof structure would be visible and prominent over and above the height of the boundary fence, thereby eroding the openness at first floor level and above, and consequently, the sense of spaciousness enjoyed from the garden of Bowmans. The width of the facing elevation, and in particular the first-floor element, would extend across a significant portion of the rear garden serving Bowmans. Given the modest depth of that garden, the proposal would result in loss of openness above the fence line, and in turn an undue sense of enclosure. This is a characteristic key to the enjoyment of that garden, as well as the house, as such, the proposal would result in a detrimental effect upon the amenities of the occupiers of Bowmans.
13. The approved flat-roofed dwelling would be sited closer to the boundary with Bowmans than the appeal scheme, however, the overall height would be much reduced compared with the appeal scheme. As such, although that dwelling would also result in a loss of openness above fence level, given the lower roof height on that scheme, the loss of openness would be much reduced in comparison. As such, I find the effects are not comparable.

14. The proposal would therefore result in an adverse effect on the living conditions of the occupiers of Bowmans, with particular regard to outlook. The proposal consequently conflicts with Policy LHW4 of the Test Valley Borough Revised Local Plan (2016). This policy requires that development provides for the amenity of occupiers of neighbouring properties. The proposal would also conflict with the requirements of the Framework, which include providing a high standard of amenity for existing and future users.

Other Matters

European Designated Sites

15. The appeal scheme would result in a net increase in residential dwellings within the zone of influence of the New Forest Special Protection Area (SPA), a European designated site. The SPA is under threat from additional visitors creating recreational disturbance to ground nesting birds. The Council's third reason for refusal, sets out that in the absence of mitigation, the proposal would have a likely significant adverse effect on these habitats.
16. My attention has been drawn to a financial contribution of £1,300 made by the appellant directly to the Council, towards the delivery of a new strategic area of alternative recreational open space, to reduce pressure on the New Forest. The New Forest SPA Mitigation – Interim Framework identifies the sum to be paid per residential dwelling. The Council has indicated that the payment was made in connection with the earlier dismissed appeal scheme and is sufficient to overcome its third reason for refusal.
17. Notwithstanding the Council's position, there is no official record of this payment before me, and no evidence of any legal commitment to how it would be spent. As such, there is no guarantee that the contribution would be used for its intended purpose. Furthermore, as the contribution was secured in relation to a different scheme, albeit one that was dismissed, there is a lack of certainty as to whether the payment is directly related to the proposal before me.
18. In addition, the proposal lies within the River Test catchment area. The introduction of an additional dwelling on site and the resultant waste water, could have likely significant effects upon the nearby nutrient-sensitive Solent and Southampton Water European Designated sites, this is reflected in the Council's second reason for refusal.
19. In respect of nutrient neutrality, the submitted UU would secure mitigation in the form of package treatments plants for the existing and proposed dwellings. Both the Council and Natural England have confirmed this mitigation would be sufficient such to offset the additional nutrient loading generated by the proposed dwelling, thereby avoiding a significant effect upon the nearby nutrient sensitive sites. This would in principle address reason for refusal 2.
20. As the competent decision-making authority, I am responsible for undertaking an Appropriate Assessment (AA) of the implications of the appeal scheme on the designated sites in view of their conservation objectives, including the effectiveness of any proposed mitigation. Had I been minded to allow the appeal, it would have been necessary to examine this further. This would have included exploring whether the direct payment provides a suitable mechanism to ensure that the proposed development would not have a likely significant

effect on the integrity of the New Forest SPA. However, as the main issue in dispute between the parties provides a reason for dismissing the appeal, the outcome of the AA would have no bearing on my decision, and so I do not need to consider this matter further.

Social and economic benefits

21. There would be a modest benefit in the delivery of an additional dwelling, which would make a small contribution towards the government's target to significantly boost the supply of homes. The construction of the dwelling would deliver temporary economic benefits.
22. The delivery of a single dwelling would result in additional spending within the area and the proposal would provide financial contributions to local infrastructure in line with the Community Infrastructure Levy, to avoid a burden on local services and infrastructure.

Housing land supply

23. The Council has indicated that it is able to demonstrate a five-year supply of deliverable housing sites, and there is no evidence to the contrary before me. As such, paragraph 11d) of the Framework is not engaged. In this context, I attribute modest weight to the above social and economic benefits.

Conclusion

24. The proposal conflicts with the development plan and the material considerations do not indicate that a decision should be made other than in accordance with the development plan.

R Lawrence

INSPECTOR