



Appeal Decision

Site visit made on 21 February 2024

by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2024

Appeal Ref: APP/M1710/W/23/3329987

1 and 2 Derby Dell Cottages, Lasham Road, Lasham, Alton, Hampshire GU34 5RX

- 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 Mr and Mrs A J and C Martin against the decision of East Hampshire District Council.
 - The application Ref is 59177/001.
 - The development proposed is described as 'Outline application for two pairs of semi-detached dwellings with all matters reserved except for Access and Layout'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal was made in outline form with access and layout to be considered, and appearance, scale and landscaping reserved for future consideration. Therefore, I have had regard to the submitted Site Layout when determining the appeal insofar as it shows the access and layout proposed.
3. The description in the header above is taken from the appeal form, as the parties advise it has changed from the description given on the original application form.
4. A revised National Planning Policy Framework (Framework) was published in December 2023. The main parties have had the opportunity to comment on these changes. I have taken into account their further comments, evidence and appeal decisions relating to changes in Framework policy on housing supply. Where reference is made to the Framework in this decision, the paragraph numbers are those that appear in the latest version.
5. As the decision maker I am required to have regard to the Conservation of Habitats and Species Regulations 2017 (as amended) (the Regulations), which require consideration to be given to the effects of development on protected species. Therefore, although not cited as a reason for refusal by the Council, I consider that this is one of the main issues in this appeal.

Main Issues

6. The main issues are therefore: whether the appeal site is an appropriate location for the proposed development having regard to local and national policies on the location of housing and the character and appearance of the area; and the effect of the proposed development on protected species.

Reasons

Location

7. Policy CP1 of the East Hampshire District Local Plan: Joint Core Strategy (adopted 2014) (CS) sets out a presumption in favour of sustainable development which reflects the provisions of Framework paragraph 11.
8. CS Policy CP2 directs new development growth for the period up to 2028 to the most sustainable and accessible locations in the District. It seeks to secure sustainable development to maintain the vitality and viability of existing communities and meet the need for new resource efficient housing and economic growth.
9. CS Policy CP10 sets out the spatial strategy for new housing and provides for a minimum increase of 10,060 dwellings in the plan period 2011 to 2028. It directs that housing should be accommodated through development and redevelopment opportunities within existing settlement policy boundaries in the first instance. Housing outside settlement policy boundaries will only be permitted where it meets four criteria, which I consider below.
10. The Housing Outside Settlement Boundaries Supplementary Planning Document (SPD) (adopted March 2023) provides guidance on the application of Policy CP10. The Policy and the SPD set out a sustainable hierarchy of settlements based on accessibility, the availability of a broad range of facilities, their economic role and environmental constraints.
11. CS Policy CP19 sets out a policy of general restraint for development in the countryside, to protect the countryside for its own sake. It allows development in the countryside where there is a genuine and proven need for a countryside location. Policy H14 of the East Hampshire District Local Plan Second Review (adopted 2006) (LP) allows for housing outside settlement policy boundaries where it is essential to house a full-time worker in agriculture, forestry or other enterprise who must live on the site rather than in a nearby settlement.
12. The Framework sets out that in rural areas, decisions should be responsive to local circumstances and support housing developments that reflect local needs; and that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. It notes that where there are groups of smaller settlements, development in one village may support services in a village nearby.
13. The appeal site is outside any settlement policy boundary defined in the CS or LP. Therefore, CS Policy CP10 applies. The proposal would replace two older dwellings with four modern dwellings built to higher standards. While the appellant indicates that they would be 3-bedroom dwellings, this would not be confirmed until reserved matters stage.
14. The proposal would increase housing choice in the area, however I cannot be certain that the new dwellings would be at a price point which would be affordable in the local market. Furthermore, there is no substantive evidence before me that the dwellings would meet an identified housing need for the communities in the nearest settlements, or that it would realise local community aspirations. Consequently, it has not been demonstrated that the proposal meets the first criterion of Policy CP10.

15. The appeal site is within a small cluster of dwellings and is already in residential use, therefore the proposal would not lead to isolated homes in the countryside. As a small-scale development contained largely within the footprint of the existing dwellings it would not change the role or function of this cluster and would reinforce the existing pattern of development.
16. The site is approximately 700m from Lasham, which is defined in the SPD as being within Tier 6 'other settlements in the countryside'. Bentworth is approximately 1km from the site and is classed as a 'rural settlement' with a settlement policy boundary. Lasham and Bentworth both have a pub and place of worship and Bentworth also has community facilities and a primary school.
17. The route to Lasham is along a relatively narrow, unlit lane with no footway, passing a site in commercial use. The road to Bentworth is slightly wider with verges along much of its length, but also unlit. Reaching the village involves crossing the A339, a main road into Alton. Both are therefore unattractive for use by pedestrians and cyclists, particularly outside of daylight hours. The school at Bentworth is also more than 20 minutes walk from the appeal site.
18. Alton provides a wide range of services and facilities, with the larger settlement of Basingstoke further away. There are bus stops located at the A339 junction which provide access to Alton, however I have no detail of their frequency or timings, so cannot be certain that they would provide a suitable means of accessing work, school or other facilities for shopping and day-to-day activities.
19. There are mainline rail stations relatively close to the site, providing access to London as well as other more local settlements. Nevertheless, occupants of the dwellings would most likely drive to them, given the narrow lanes which would make cycling unattractive.
20. It is very likely, therefore, that occupants of the proposed dwellings would be reliant on the private car. This is not an unusual situation in rural areas, where the Framework acknowledges that opportunities to maximise sustainable transport solutions will be different to urban areas. Occupants of the existing dwellings are already likely to be reliant on the car, therefore the proposal would only result in a small increase in traffic movements compared with occupation of the two existing dwellings. Moreover, the distance of such car journeys may not be significant, given the proximity of Alton and Basingstoke to the site. Nevertheless, for the reasons above the site location is not accessible and within a reasonable walking distance to services and facilities, and does not support opportunities to promote walking, cycling and public transport use.
21. Future occupants of the proposed dwellings are likely to support some of the facilities in the local villages and to contribute to the vitality and viability of local services in this cluster of settlements. However, as they are likely to need to use their car to access services and facilities, they may well choose to access a wider range in nearby Alton or Basingstoke rather than the closest villages. Therefore, the contribution of the proposed four dwellings to the vitality of the local communities is likely to be small.
22. Considering these factors together, the proposal would make a minor contribution to reinforcing the role and function of local settlements but, having regard to the guidance in the SPD, would not fully meet criterion 2 of Policy CP10. Furthermore, it would conflict with CS Policy CP2 and Framework policies

insofar as they seek to manage patterns of growth to support sustainable transport objectives and to achieve healthy places and support healthy lifestyles through layouts that encourage walking and cycling.

23. By accommodating additional development within the existing residential plots on a similar footprint, the proposal would contribute to the aim of CS Policy CP19 to protect the countryside for its own sake. There is however no substantive evidence before me that the sequential approach set out in the SPD has been followed and that four dwellings that meet modern building standards could not be achieved within a built-up area or settlement policy boundary, or on the edge of or adjacent to such a boundary.
24. The replacement of the existing two dwellings could potentially be considered to require this countryside location, however in the absence of financial or viability information it has not been demonstrated that two additional dwellings are required on this site to achieve the benefits of the replacements. Nor has it been shown that those two additional dwellings could not be located within or closer to a built-up area.
25. The SPD provides for circumstances where small scale infill development within an existing, well-established cluster of dwellings may be appropriate. However, it appears from the way this guidance is set out that the sequential approach should be followed first, demonstrating that the development cannot be accommodated within the built-up area, rather than that infill development is an option to be considered in isolation. Consequently, criterion 3 of Policy CP10 has not been met.
26. The proposal is not identified in an adopted Neighbourhood Plan and the appellant confirms that there has not been a local consultation process to gain clear community support, as set out in the SPD. Consequently, the fourth criterion of Policy CP10 is not met and the proposal is not development permitted by the spatial strategy for housing.
27. Accordingly, the proposal would conflict with CS Policies CP2 and CP10 and the spatial strategy set out in the development plan, which is fundamental to what the development plan seeks to achieve. There would therefore be conflict with the Framework requirement that the planning system should be genuinely plan-led, and the proposal would not deliver housing in an accessible location or reflect local needs.

Character and appearance of the area

28. The existing dwellings are visible from the road via the access, with some screening provided by hedging. Although scale is reserved, it is likely that the proposed dwellings would need to be taller than the existing as there would be four dwellings on a similar footprint to the existing two. Nevertheless, they would each sit within a reasonable sized plot and the layout would retain views between the pairs to the countryside beyond. The proposed dwellings would also be seen in a cluster with the adjacent properties.
29. The scale, appearance and landscaping of the development would require approval at reserved matters stage, so lie within the control of the Council and would be determined having regard to relevant development plan policies, including on design.

30. Consequently, while the proposal would be a more intensive use of the site, the residential nature of the site and wider rural character of the area would not be adversely affected, and the appearance of the site and surrounding area would stand to be considered further at reserved matters stage. I therefore find no harm to the character and appearance of the area at this outline stage.

Conclusion on first main issue

31. While I have found that the proposal would not harm the character and appearance of the area, it would conflict with CS Policies CP2, CP10 and CP19 and LP Policy H14 and with elements of Framework policy regarding the location of housing. Consequently, the appeal site would not be an appropriate location for the proposed development having regard to local and national policies on the location of housing.

Protected species

32. The appellant's ecology reports identify that the existing dwellings contain day roosts for brown long-eared bat day roosts and common pipistrelle bats. A small amount of reptile habitat has also been identified. Bats and some types of reptile are protected by law.
33. CS Policy CP21 requires development to maintain, enhance and protect the District's biodiversity and protect protected species. The Framework requires that, if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or, as a last resort, compensated for, then planning permission should be refused. As the competent authority I must have regard to the requirements of the Regulations and the Habitats Directive in relation to protected species.
34. The appellant's ecologist concluded that reptiles would not be significantly impacted subject to a precautionary approach to site clearance. Consequently, potential harm to reptiles can be avoided through a planning condition to secure appropriate ways of working.
35. The proposed layout requires demolition of the existing dwellings which would result in complete loss of, and therefore significant harm to, the bat roosts. Consequently, a European Protected Species Licence (EPSL) would be required.
36. Due to the size and layout of the existing site and dwellings, the proposed development could not be achieved without demolishing the existing dwellings. The alternative to demolition would be to retain the existing dwellings, however there would be insufficient space to provide an additional two dwellings on site if the bungalows were retained. Therefore, under this alternative the benefits of providing additional, better-quality housing and supporting local facilities would not be realised.
37. The appellant contends that the existing dwellings are dilapidated, have reached the end of their useful life, are uninsulated and unable to be let due to their poor standard of energy efficiency. When I visited the site I saw that both dwellings were in poor condition externally, but contained furniture and personal effects and appeared to be occupied. The Energy Performance Certificates (EPC) provided by the appellant set out the poor condition of the buildings internally and lack of insulation. The EPCs includes recommendations to improve the energy performance of the dwellings to achieve a rating where

they could be let. These would however involve significant works to the roofs of the dwellings.

38. Consequently, even if the existing dwellings were retained and improved, benefitting existing housing stock, that alternative is likely to result in the same impacts on bats as the appeal proposal. The harm resulting from the loss of the roosts cannot therefore be avoided, and there is no satisfactory alternative that would cause less harm to bats.
39. The appellant's ecology reports set out means by which impacts on bats can be mitigated and compensated for with replacement roosts in the new dwellings, which are supported by the Council's ecologist. Therefore, the proposal would maintain the protected species at a favourable conservation status.
40. Furthermore, providing four dwellings built to modern energy and thermal standards is very likely to result in a greater improvement to the housing stock than refurbishing the existing dwellings, resulting in public benefit.
41. There would also be a public benefit from increasing housing supply. A recent appeal decision¹ found that the Council could only demonstrate 3.59 years supply of housing land. The Authority Monitoring Report 2022/2023 sets out annual monitoring figures which show that there has been a shortfall in housing provision against targets over the period 2011 to 2022/2023 of 58 dwellings, albeit with significant recovery in performance more recently. This is therefore an area where there is a housing shortfall both in terms of future supply and delivery over previous years. The dwellings proposed would make a modest, but nonetheless valuable contribution to housing land supply given the degree of shortfall.
42. Taken together, I consider that there are clear public benefits from the proposal that in this case form an overriding public interest justifying the harm to these species of bat that would result from the loss of these roosts. I am therefore satisfied that the proposal is unlikely to offend Article 12(1) of the Habitats Directive and is not unlikely to be licensed pursuant to the derogation powers in the Regulations.
43. Accordingly, the proposal would harm protected species, but this harm could not be avoided and would be adequately mitigated and compensated for. Consequently, the proposal would not conflict with Core Strategy Policy CP21 or the relevant Framework policy.

Planning Balance

44. The appellant has referred me to a 2016 appeal decision² where the Inspector considered that conflict with the CS Policies CP10 and CP19 was not sufficient in its own right to refuse the appeal. The Inspector then went on to consider the benefits of the proposal the three elements of sustainable development and reached a balanced conclusion on that basis. Although different to the current situation in that the Council at that time could demonstrate a 5-year housing land supply, it is nevertheless necessary to consider the planning balance in this appeal, as it was by the Inspectors in all of the appeals cited by the parties. The harm, development plan conflicts and benefits in each case are different however, and I have considered this appeal on its own merits.

¹ APP/M1710/W/23/3329928

² APP/M1710/W/15/3129346

45. The proposal would provide additional and better-quality, more energy efficient housing in an area where there is a significant shortfall in housing land supply. Two additional and two better-quality dwellings on a small, windfall site that are likely to be able to be delivered quickly would make a valuable contribution to the identified shortfall. However, in the absence of substantive evidence that these would meet an identified local housing need, I consider this carries only modest weight in favour of the proposal.
46. The proposal would also result in more efficient use of previously developed land (PDL) on an under-utilised site. As the site is not in a settlement it would not benefit from the full support of local and national policy for use of such PDL, but given the 'brownfield first' direction of local policy, this is nevertheless a benefit which I afford modest weight.
47. Additional housing would result in economic benefits from construction and future occupants' spending, and as set out above the occupants are likely to provide some support for local facilities. The social and economic benefits in these respects would however be limited given the small number of dwellings proposed, and carry limited weight.
48. The existing site is well maintained despite the condition of the dwellings, so is not of particularly poor appearance. The detailed design of the proposed dwellings is not before me. Therefore, it has not been demonstrated that the proposal would result in a visual improvement or enhance the setting of nearby dwellings. It would not however harm the overall character and appearance of the area, subject to an appropriate final design, so this is a neutral matter in the planning balance.
49. The access and layout proposed would provide for appropriate access, parking and outside space for future occupants of the proposed dwellings. While concerns have been raised about impacts on the privacy of neighbours, this could be addressed through the detailed design of the dwellings, their orientation and landscaping of the site, to safeguard the living conditions of neighbouring occupiers. No landscape harm has been identified and there has been no objection from the parish council or Lasham Village Association. The lack of harm in these respects is however to be expected in any well-designed development, so is a neutral factor.
50. Accordingly, the proposal would comply with relevant development plan policies in some respects. It would however conflict with the spatial strategy and development plan policies on the location of housing. The appellant suggests that the housing policies of the development plan should be considered out of date because of their age. The housing supply situation also means that, having regard to Framework footnote 8, the presumption in favour of sustainable development in paragraph 11d is engaged. Framework paragraph 225 is however clear that due weight should be given to policies according to their degree of consistency with the Framework.
51. CS Policy CP2 seeks to direct development to the most sustainable locations, and Policy CP10 creates a sequential approach to the location of housing, allowing for development in the countryside in certain circumstances, including where it meets a community need or where there is community support identified through specified processes. These policies are therefore highly consistent with the Framework.

52. I am however mindful that the SPD sets out that the Council is currently re-evaluating its spatial options for growth through the emerging Local Plan, which is undergoing further consultation. There has also been a shortfall in housing provision against targets over the plan period to date, but that the shortfall is now relatively small against the total housing target. It is significantly smaller than the shortfall considered by the Inspector in appeal APP/H1705/W/23/3326191 in the neighbouring authority, to which the appellant has referred me.
53. Furthermore, housing targets are currently to be calculated according to the standard method set out in the Framework, which was found in appeal APP/M1710/W/23/3329928 to give a lower annual target figure than the development plan. The figures provided indicate progress has been made towards meeting the shortfall, but with the local plan under review and some uncertainty about future national policy, future prospects are uncertain.
54. Accordingly, the housing figures given in Policy CP10 are not up-to-date and the evidence before me is that the spatial strategy has not delivered the target housing numbers over the plan period so far. Therefore, I find that Policies CP2 and CP10 are out-of-date. Nonetheless, due to their consistency with the Framework in terms of the focus of development on sustainable locations and meeting community needs, and the relatively small shortfall across the plan period, I find that the conflict with those policies is still a matter which carries substantial weight.
55. The proposal would not be the type of development allowed for in the countryside by CS Policy CP19 and LP Policy H14 as it is not necessary for a rural enterprise or rural worker. No restrictions on occupation are proposed, therefore while the dwellings may be attractive to people working in rural industries there is no guarantee that they would be occupied by such workers or local people. The proposal would therefore conflict with these policies. However, these are restrictive policies which are not wholly consistent with current Framework policies on rural development, which are more flexible. Furthermore, given my finding above that the proposal would not harm the rural character of the area, there is limited conflict with the countryside protection aim of Policy CP19. Consequently, in this case I afford the conflict with these policies only limited weight.
56. Collectively therefore, the proposal would comply with some development plan policies but would conflict with others. Housing policies and the spatial strategy are very important to what the development plan seeks to achieve in terms of locating development where it is sustainable, accessible and where it is needed. Moreover, the Framework reinforces the importance of the plan-led system. Therefore, on balance I find that the proposal would conflict with the development plan when read as a whole.
57. The balancing provisions in Framework paragraph 11d and CS Policy CP1 are engaged due to the current housing supply position. None of the Framework policies listed in footnote 7 apply in this case. For the reasons set out above, the proposal would contribute to the social and economic objectives of the Framework and the environmental impacts could be avoided, mitigated or compensated for. It would also use PDL and make more efficient use of land as supported by the Framework. Given the small number of dwellings proposed, however, overall these benefits would be modest and carry modest weight.

58. Balanced against this, the proposal would conflict with the Framework policies which seek to direct housing to the most sustainable and accessible locations and promote sustainable transport. Given the importance of these policies to the Framework aim to achieve sustainable development, I give the conflict with these policies very substantial weight.
59. Consequently, I find that the adverse impacts of granting permission for additional dwellings in this location would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal does not therefore benefit from the presumption in favour of sustainable development set out in the Framework and CS Policy CP1.
60. Overall, therefore, taking account of the Framework and the above considerations, including the benefits of the development, I find that there are no material considerations that indicate that planning permission should be granted for the development, which conflicts with the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR