



Appeal Decision

Site visit made on 2 August 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2024

Appeal Ref: APP/B1740/W/23/3329460

Rycroft Crow Lane, Crow, Hampshire BH24 3DZ

- 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 and Miss I and A Norcott and Pilley against the decision of New Forest District Council.
 - The application Ref is 23/10759.
 - The development proposed is described as “full planning application to close the existing vehicular access, create a new vehicular access, sever plot and construct 2.no detached bungalows with parking.”
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A draft National Planning Policy Framework was published in July 2024. The proposed changes would not materially affect the main issues in this case, so the parties were not invited to make further comments. As the draft document is currently subject to consultation, it carries very little weight.

Main Issues

3. The main issues in this appeal are:
 - the effect of the proposal on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of the occupiers of 37 Crow Lane, with particular regard to disturbance;
 - whether the proposal would provide acceptable living conditions for future occupiers, with particular regard to the provision of external space;
 - whether future occupiers of the development would be at risk of flooding and whether it would increase flood risk elsewhere;
 - the effect of the proposed development on road user safety, with particular regard to access arrangements; and
 - the effect of the proposal on protected species.

Reasons

Character and appearance

4. The appeal site lies in a residential area, comprising the existing dwelling Rycroft and grassed land alongside and behind the property. Whilst there are different development densities, layouts and plot sizes at Greenfinch Walk and in the wider area, Rycroft is within a spacious row of detached houses with long rear gardens. This gives a green and quiet character to the space behind the properties on this part of Crow Lane. The low boundary fences which separate the rear gardens of properties to the north also create a sense of openness. The front hedge at Rycroft and other roadside planting give this stretch of the lane a verdant character.
5. The site is within the Crow and Hightown Character Area (CA) in the Ringwood Local Distinctiveness Supplementary Planning Document 2013 (SPD). This identifies groups of tranquil garden space behind rows of dwellings along Crow Lane, including the rear garden of the appeal site and the properties either side of it. It also indicates that there are planned cul-de-sac groups of houses, including behind the appeal site. The SPD seeks to avoid backland development which breaks into a peaceful oasis of rear garden land and recognises the importance of retaining identified collective garden areas. The importance of retaining hedgerows and not diminishing them by more vehicular crossovers along the main lanes of this CA are also outlined.
6. The proposal would include two detached dwellings located behind Rycroft, accessed from a driveway to the side of the existing house. Whilst its density would be similar to other developments in the locality and there would be gaps between the existing and new buildings, the introduction of development onto this backland site would harm its green, spacious character.
7. Further, the proposed dwellings would lead to more intensive use of the site, including more activity, comings and goings by residents, visitors and delivery vehicles. This would have an adverse impact on the tranquillity of the space to the rear of houses along this stretch of Crow Lane.
8. There would be some boundary landscaping and the existing and proposed houses would have gardens. However, most of the site would be developed with buildings and hard surfacing, with only a very small gap between proposed unit 2 and the rear boundary. This would create significant urbanisation and a cramped form of development on undeveloped land in a part of Crow Lane characterised by individual houses with long, open gardens.
9. The scheme would include a wide new access onto the lane, close to the existing driveway at the adjacent house Greenbanks. There are other accesses along the lane which create gaps in the front boundaries and roadside verges. Nevertheless, due to the removal of a significant amount of the front hedge, the width of the driveway and its location close to an existing one, the proposed access would harm the green character of this part of the lane.
10. I acknowledge that existing houses at Greenfinch Walk are visible in the distance from Crow Lane through the gap to the side of Rycroft. However, the proposal would infill the space between the two roads, creating a much more urban environment, with unit 1 and large areas of driveway and hardstanding

being particularly evident in views from the lane. This would be detrimental to the undeveloped character and appearance of the rear area.

11. The appellants refer to examples of backland and infill development allowed or where an Inspector found no harm in respect of character and appearance on sites in Ringwood identified as tranquil garden space. Nevertheless, those are in Eastfield Lane, so their site characteristics are not comparable to those of the appeal site in this part of Crow Lane.
12. Therefore, I conclude that the proposal would harm the character and appearance of the area. This would be contrary to Policy ENV3 of the Council's Local Plan 2016-2036 Part One: Planning Strategy (LP1) which requires development to be sympathetic to its context, respecting local distinctiveness and character, amongst other things.

Living conditions – neighbouring occupiers

13. The existing rear gardens have an open and tranquil character. The appeal site wraps around the rear of the property at 37 Crow Lane (No 37) with a low fence along much of the rear mutual boundary.
14. The appeal scheme would include a vehicular access along much of the site length with parking and turning areas in front of the proposed new houses. Proposed unit 2 could only be accessed via a long driveway very close to much of No 37's rear garden and the parking and turning area for this dwelling would abut the neighbouring rear boundary. In addition, the large vehicular turning area for unit 1 would also be close to the adjacent rear outdoor space.
15. I note that drives and turning areas are not unusual alongside existing properties, including those in Crow Lane. Nevertheless, the introduction of two new houses to the rear of the existing dwellings would result in use of the driveway, turning and parking areas by future occupants and visitors to the proposed properties, with vehicles passing and manoeuvring close to the rear garden at No 37. Due to the proximity and extent of the proposed access and parking alongside much of the neighbouring garden, vehicles coming and going from the site would cause harmful disturbance to the occupants at No 37 when using their outdoor space.
16. Consequently, the proposed development would harm the living conditions of the occupiers of 37 Crow Lane, with particular regard to disturbance. This would be contrary to Policy ENV3 of the LP1 which requires new development to avoid unacceptable effects on residential amenity, amongst other things.

Living conditions – future occupiers

17. The houses in this part of Crow Lane generally have long rear gardens though the appeal site has been subdivided so that Rycroft has a smaller outdoor space than other properties in the area. The dwellings on recent developments nearby have smaller but reasonably sized rear amenity spaces.
18. There is no dispute that the private gardens for Rycroft and proposed unit 1 would meet the needs of existing and future residents. However, proposed unit 2 would be sited in the rearmost part of the site with only around 5.2m separating the house from the high close boarded fence on the mutual boundary with properties on Greenfinch Walk.

19. There are no minimum rear garden sizes in the Council's Local Plan policies, and I acknowledge that the outdoor space for unit 2 would be sufficient for garden furniture and drying clothes. Nevertheless, due to its short length and small size relative to other gardens locally and the high rear fence, the external area for unit 2 would be a very small, enclosed space creating an unattractive outdoor environment for future occupants.
20. There is recreation space nearby, on the opposite side of Crow Lane. However, this has a different function to a private space and would not replace the need to provide a garden of sufficient size and quality.
21. Thus, the proposal would provide unacceptable living conditions for the future occupants of unit 2, with particular regard to the provision of external space. This would be contrary to Policy ENV3 of the LP1 where it requires development to create spaces that are visually appealing and enjoyable to be in.

Flood risk

22. The National Planning Policy Framework 2023 (the Framework) sets out that a site-specific flood risk assessment (FRA) should be provided for all development in flood zones 2 and 3. The Planning Practice Guidance outlines that these are areas with medium and high probability of flooding. The Framework states that the FRA would need to consider matters such as flood resilience measures, sustainable drainage systems, and access and escape routes. This is necessary to demonstrate whether the development would be safe for its lifetime without increasing flood risk elsewhere.
23. The flood risk map indicates that most of the site is within flood zones 2 and 3, with the rearmost part within flood zone 1. The proposal would increase the amount of built development and hard surfacing of the site. Although the rear part of the scheme would be within an area at the lowest risk of flooding, much of the proposed access driveway and unit 1 would be within areas of medium and high flood risk.
24. No FRA has been provided and the Environment Agency objects to the proposal on the basis that the flood risks posed by the development are unknown. The appellants state that flood prevention and resilience measures could be incorporated into unit 1 and surface water management measures could be installed. However, in the absence of a FRA, risk to the safety of future occupants and risk of flooding elsewhere cannot be ruled out.
25. Consequently, I conclude that there has been a failure to demonstrate that future occupants of the development would not be at risk of flooding or that the scheme would not increase flood risk elsewhere. Therefore, it would be contrary to the Framework's requirements in respect of flood risk.

Road user safety

26. The appeal site lies on a bend in Crow Lane, a busy single carriageway road. A footway and narrow grass verges lie between the site and the lane. Entrance to the site is via a gate onto an adjacent road access shared by Rycroft and the adjacent property at No 37. There is an existing roadside hedge, and fences along the mutual boundaries in front of the neighbouring houses.
27. The proposed scheme would include a new access onto Crow Lane which would be shared by the occupants of the existing house at Rycroft and the proposed

new houses. There would be space for vehicles to turn within the site which would enable drivers to exit in a forward gear.

28. However, there is no indication of how pedestrian and vehicular visibility splays would be achieved. The bend in the road makes it difficult for drivers leaving properties in this location to see road users in both directions. The existing boundary hedge and fences would potentially obstruct visibility for drivers egressing the site of pedestrians, cyclists and cars travelling along this busy road without encroaching onto the highway.
29. Given the lack of information on visibility splays, there has been a failure to demonstrate that the proposal would not create an unacceptable risk of accidents and thus harm to the safety of road users. The appellants suggest that this matter could be dealt with by a condition but, in the absence of details, I cannot be satisfied that adequate visibility splays could be provided.
30. Therefore, I conclude that it has not been demonstrated that the proposed access arrangements would not harm road user safety. This would be contrary to Policy ENV3 of the LP1 where it requires buildings, streets and spaces to be safe to navigate.

Protected species

31. The site is largely grassed over, with a hedge and small trees within the adjacent property Greenbanks. Policy DM2 of the Council's Local Plan Part 2: Sites and Development Management 2014 (LP2) outlines that development will not be permitted which would adversely affect protected species or their habitats. The Council considers that the site may offer some ecological value and is concerned that no ecological information has been submitted to confirm whether protected species such as reptiles are present.
32. The Planning Practice Guidance¹ states that local planning authorities should require ecological surveys only where clearly justified. Further, ODPM Circular 06/2005 indicates that developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development.
33. I have not been directed to any habitats or features on the site which may support protected species, nor any other evidence that they may be present in the locality. Therefore, I cannot be satisfied that a preliminary ecological appraisal would be required in this case.
34. Consequently, I conclude that there is insufficient evidence to show that the proposed development could harm protected species. As such, I find no conflict with Policy DM2 of the LP2.

Other Matters

35. The Council considers that the proposed development would be likely to have a significant effect on the New Forest Special Area of Conservation, Special Protection Area and Ramsar site. Nevertheless, given my conclusion below, there is no need to consider the implications of the proposal on the protected sites because the scheme is unacceptable for other reasons.

¹ Planning Practice Guidance Paragraph: 018 Reference ID: 8-018-20240214

36. The Council did not find harm or development plan conflict in relation to several other matters, including the design of the dwellings, heritage assets, trees and carbon reduction. However, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposal.

Planning Balance and Conclusion

37. The Council accepts that it cannot currently demonstrate a five year housing land supply required by the Framework. The Council's current position is that it has a 3.07 year housing land supply. This represents a significant shortfall and therefore paragraph 11(d) of the Framework is engaged.
38. Paragraph 11(d)(ii) of the Framework confirms that, in such circumstances, permission should be granted unless 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.
39. The Framework seeks to boost housing supply and highlights the important contribution small and medium sized sites can make, whilst supporting development which makes efficient use of land. The proposal would make a modest contribution of two additional mixed sized dwellings to the supply of housing, making better use of land within Ringwood with access to services, employment and public transport. It would contribute towards New Forest District's housing supply, making a modest difference to addressing the shortfall, and therefore I attribute modest weight to this benefit.
40. There would also be some economic benefits during the construction phase when the development would provide income for local businesses and once occupied when future residents would support local services. However, given the relatively small scale of the proposal, these benefits would be limited.
41. In contrast, the proposal would harm the character and appearance of the area and result in unacceptable living conditions for existing and future occupiers. Further, there has been a failure to demonstrate that future occupiers would not be at risk of flooding, that the scheme would not increase flood risk elsewhere and that the proposed access arrangements would not harm road user safety. I have concluded that the proposal would conflict with Policy ENV3 of the LP1 and the Framework's requirements in respect of flood risk. These matters combined carry significant weight against the scheme.
42. Consequently, the harm I have identified significantly and demonstrably outweighs the benefits, when assessed against the policies in the Framework taken as a whole. It therefore follows that the proposal does not benefit from the presumption in favour of sustainable development.
43. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Wright

INSPECTOR