



Appeal Decision

Site visit made on 24 September 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2024

Appeal Ref: APP/M1710/W/23/3335650

Land South of Greenfield Cottages, Main Road, Bentley, Farnham, Hampshire GU10 5HZ

- 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 Ariel Rainbow against the decision of East Hampshire District Council.
 - The application Ref is 50042/004.
 - The development proposed is creation of vehicular access.
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Decision

1. The appeal is allowed and planning permission is granted for creation of vehicular access at Land South of Greenfield Cottages, Main Road, Bentley, Farnham, Hampshire GU10 5HZ in accordance with the terms of the application, Ref 50042/004, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework) was published in December 2024. In the specific circumstances of this appeal, there is no need to invite further comments on the Framework revisions from the main parties.

Main Issues

3. The main issues are:
 - whether there is a genuine and proven need for the proposed development in the countryside; and,
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Need for the development in the countryside

4. The appeal site comprises a section of land near a row of four terraced dwellings (Nos 1-4 Greenfield Cottages), accessed off Main Road, Bentley. The site is undeveloped, apart from a small greenhouse-style building, and is near to a long and narrow driveway shared with Chestnut Cottage to the north and which does not appear to form a Public Right of Way (PRoW). It is also near to the village recreation ground, but outside of and detached from the Bentley Settlement Boundary (BSB), as set out in the policies map to the Bentley Neighbourhood Plan 2016 (BNP).

5. A previous scheme within the appeal site, for a change of use from agricultural land to residential use to provide access, was refused by the Local Planning Authority (LPA) in 2007¹. The approved plans are not before me but in any event, this decision was made prior to adoption of the current development plan, which must form the starting point for assessing the current proposal.
6. Policy CP19 of the East Hampshire District Local Plan Joint Core Strategy 2014 (JCS) states that the only development allowed in the countryside will be that with a genuine and proven need for a countryside location, such as that necessary for farming, forestry, or other rural enterprises. This policy does not provide a further definition of what would constitute a genuine or proven need.
7. Policy 1 of the BNP states that development outside of the BSB will be considered to lie in the countryside and will therefore only be permitted provided it complies with the provisions of relevant policies. Policy 1 does not define what the other relevant policies are, although its supporting text refers to JCS Policy CP19.
8. The appeal site, along with the dwellings and garden areas of Greenfield Cottages, are outside of the BSB and are therefore in the countryside. Insofar as it is not physically possible to provide additional vehicular access to Greenfield Cottages and within the BSB, a countryside location would be required for such a proposal.
9. A new residential vehicular access does not relate to uses listed under Policy CP19. However, this is not a closed list, and the CP19 supporting text advises at paragraph 7.6 that some development can take place which is beneficial to the countryside and the people that live and work there. Whilst supporting text does not have the force of policy and cannot trump it, it is nonetheless relevant to its interpretation.
10. The proposal would facilitate improvements to the day-to-day living conditions of the Greenfield Cottages occupiers. Whilst the existing access arrangements are historic, and much of the proposed benefits would be matters of convenience or personal preference rather than need, the appellant's justification put forward includes more substantive matters.
11. Following a site visit, it is clear that when the communal parking area adjacent No 1 Greenfield Cottages is fully used, this would require many larger vehicles, including for deliveries, having to reverse back down the shared driveway and out on to Main Road. Presently, vehicles also have to turn a blind corner to park at this communal area.
12. The proposed access would slightly increase the access width at this corner. More significantly, by providing an extended vehicular access to facilitate direct access to the fronts of Nos 1-3 Greenfield Cottages, the proposal would facilitate on-site parking and provide additional turning space within the current communal parking area. This would eradicate the current proximity of parked vehicles to the access bend and would also allow larger vehicles to exit Main Road in a forward gear, which would be an improvement to highway safety.
13. The proposal would also allow for the installation of electric vehicle charging points within the curtilages of Nos 1-3 Greenfield Cottages and without requiring works across the front garden of No 1 Greenfield Cottages. Whilst

¹ LPA Ref: 50042.

such a provision is not a requirement laid down by Government, this would nonetheless facilitate more sustainable modes of transport. Although the precise improvements to access distances from the dwellings to an emergency vehicle would be dependent on the level of residential vehicle parking at the time of service, this would in any event form a further highway safety benefit.

14. I have therefore found that in the particular circumstances of this case, there is a genuine and proven need for the proposed development in the countryside. In this respect, the appeal proposal complies with Policy CP19 of the JCS and Policy 1 of the BNP.

Character and appearance

15. The appeal proposal would form a change of use and alteration to the existing undeveloped land. However, in spatial terms the encroachment in to the countryside would be relatively limited in comparison to the dwellings and garden areas of Greenfield Cottages. The scheme also comprises an extension of an existing vehicular access to serve existing dwellings, which also limits the additional scale and impact of the development.
16. The proposal is supported by a tree survey, arboricultural impact assessment and arboricultural method statement. The Council's Arboricultural Officer has raised no objection, subject to a condition requiring all work to be carried out in accordance with the tree survey report. Following a site visit, I am satisfied that this survey report has identified and assessed all trees that would be impacted by the proposal.
17. The tree survey report advises that the proposed development requires removal of six individual trees and one group of eight trees forming a hedgerow. Another dead tree adjacent the driveway bend is recommended for removal for separate safety reasons. All but one of the trees to be removed are graded by the report as being of low quality and value, and one tree to the south of the communal parking area is graded as medium quality and value.
18. The submitted evidence demonstrates that views of the proposal from Main Road, and from the village recreational ground and the PRow route running diagonally through these grounds, would be sufficiently restricted by mature trees and vegetation beyond the site to the south and west, even during winter. The proposal would therefore not be visually intrusive or harmful to the wider local landscape and rural character of the area. The amenity values of the trees to be lost and to be retained adjacent the development are therefore only experienced within the immediate area around the proposal.
19. Tree protection measures are proposed for the adjacent trees retained immediately south of the proposed access, including protective fencing and no-dig construction methods. These protection measures can be controlled by means of a suitably worded planning condition.
20. The proposed development therefore complies with Policy 29 of the JCS and Policy 2 of the BNP. Collectively, these policies require development to, amongst other things, respect the character, identity and context of the district's countryside and the buildings and landscape features of Bentley Parish, to be of appropriate scale, design and layout, and to safeguard the character, use and amenity of existing footpaths and bridleways.

21. A precise and detailed landscaping scheme is not before me. This can also be secured by means of planning condition, to include full details of the proposed post and rail timber fencing and the precise surface material specification for the proposed vehicular access. This will ensure that the fencing and surface materials are appropriate for the rural location of the site.
22. The landscaping scheme could include some new planting within the front gardens of Nos 1-3 Greenfield Cottages. Given the garden sizes and the space required for private vehicular access, this space is unlikely to be sufficient to fully mitigate the proposed tree loss. In this regard, the proposed development conflicts with criterion e) to Policy CP20 of the JCS, which requires new development to incorporate appropriate new planting to enhance the landscape setting of the new development. The weight to be attached to this harm is set out in the planning balance below.

Other Matters

23. The LPA alleges that allowing the proposal would set a harmful precedent for other similar development, which would cumulatively alter the character of the area to a significant extent. I have assessed the proposal on its own planning merits having regard to the submitted evidence and the relevant planning policies and material considerations. Such an approach can also be taken for any other countryside development proposal across the Parish and District. A cumulatively harmful impact has therefore not been demonstrated.
24. My attention has been drawn to a development of five dwellings along the opposite site of Main Road, which was refused by the LPA² and then allowed on appeal in 2015. I saw these dwellings during my site visit, but there is no intervisibility with the appeal site due to intervening mature trees and shrubbery. Another more recent permission is referred to³ for a replacement dwelling and new access, and Bentley Parish Council also referred in their consultation response to a proposal in the Parish that was similar to the current appeal proposal and refused for the same reasons. The plans for these schemes are however not before me and they have therefore not had a bearing on my determination of this appeal.
25. The owner of the land encompassing the appeal site has objected and raises concerns regarding the appellant's lack of contact prior to submission of the proposal. Any land owner consent that may be required would be a separate legal matter that would not be prejudiced by the grant of planning permission.
26. The appeal submission also refers to a covenant on the land dated 1983. This also forms a separate legal matter and does not in itself indicate or give weight to the acceptability or otherwise of a planning application. The covenant has therefore also not had any bearing on my determination of this appeal.

Planning balance

27. I have found compliance with JCS Policies CP19 and CP29 and BNP Policies 1 and 2, as a genuine and proven need for the proposal in the countryside has been demonstrated, and which also avoids a harmful impact on the buildings and landscape features of Bentley Parish. The harm I have identified relates to insufficient new planting to enhance the immediate landscape setting of the

² LPA Ref: 55233

³ LPA Ref: 60146

new development, contrary to JCS Policy CP20 e). Paragraph 136 of the Framework states that trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change.

28. In light of the above, the proposal conflicts with the development plan as a whole. However, given the mainly low quality and value of the trees to be lost, and the lack of harm to the wider local landscape and rural character of the area, limited weight is afforded to this conflict.
29. Para 135 f) of the Framework states that planning decisions should ensure that developments create places that are safe, inclusive and accessible, amongst other things. The proposal would avoid larger vehicles reversing on to the highway and would allow for improved emergency vehicle access to Nos 1-3 Greenfield Cottages, the installation of electric vehicle charge points within their curtilages, and would provide a minor improvement to highway safety adjacent the shared access driveway bend.
30. In the particular circumstances of this appeal, cumulatively the above benefits are afforded moderate weight and outweigh the limited conflict with JCS Policy CP20 e).

Conditions

31. A condition imposing the standard time limit for commencement (condition 1) is necessary, in the interests of certainty. I consider it necessary to impose a condition to confirm the approved plans (condition 2), in the interests of clarity. I also consider it necessary to impose a condition requiring compliance with the tree protection measures as set out within the submitted tree survey report (condition 3), in the interests of the character and appearance of the area.
32. The Council suggested a condition requiring submission of a landscaping and planting scheme (condition 4), which I consider necessary in the interests of the character and appearance of the area. I have included reference to a hard and soft landscape scheme and proposed fencing details. I have amended the trigger point to prior to commencement of development, given the nature and location of the appeal proposal. I have also deleted the suggested references to "or other recognised codes of good practice" and "or first occupation of the development, whichever is earlier", in the interests of precision.

Conclusion

33. The proposed development would conflict with the development plan but material considerations, including the Framework and the benefits arising from the development, indicate that a decision should be made other than in accordance with it. The appeal should therefore be allowed.

R Cahalane

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
Proposed site plan (Drawing No MLP/02); Tree Protection Plan (dated 24 July 2023).
- 3) All tree works shall be carried out in accordance with the tree protection measures as set out with Sections 4 and 5 of the Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement dated 02nd August 2023 (Martin Dobson Associates; Reference T27).
- 4) No development shall commence until a fully detailed hard and soft landscape and planting scheme (including any proposed fencing details) is submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details and in accordance with the recommendations of the appropriate British Standards. These works shall be carried out in the first planting season after practical completion, unless otherwise first agreed in writing by the Local Planning Authority.
Any trees or plants which, within a period of 5 years after planting, are removed, die or become seriously damaged or defective, shall be replaced as soon as is reasonably practicable with others of species, size and number as originally approved unless a suitable alternative species are otherwise agreed in writing by the Local Planning Authority.