



Appeal Decision

Site visit made on 5 December 2024

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 28 January 2025

Appeal Ref: APP/H1705/W/24/3347871

Paddock of The Spinney, New Road, Pamber Green, Tadley RG26 3AG

- 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 Mrs Pamela Ward against the decision of Basingstoke and Deane Borough Council.
 - The application Ref is 23/02796/FUL.
 - The development proposed is erection of a 4no bedroom dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The National Planning Policy Framework (Framework) was revised in December 2024. Both the Appellant and the Council have been invited to make comments on the revisions to the Framework as relevant to the appeal. I have taken the comments received into consideration in my determination of the appeal.

Main Issues

3. The main issues in this appeal are:
 - The suitability of the site for residential development, and
 - The effect of the proposed development on the character and appearance of the local area.

Reasons

- **Site Suitability**
4. The appeal site comprises a parcel of open grassland on the north side of New Road which runs through the small rural settlement of Pamber Green. Access to the site is from the Public Right of Way footpath (PROW 186/20/1) (PROW) which runs in a north-east direction off New Road along the southeastern side of the appeal site. The appeal site and Pamber Green lie outside of a defined settlement boundary.
 5. The proposal seeks permission for a 4-bedroom detached dwelling designed in an L-shape with open parking to the front and garden area to the rear. Access would be from a private access track off New Road which runs along the PROW.

6. Under Policy SS1 of the Basingstoke and Deane Local Plan (2016) (Local Plan) the site falls within the open countryside outside of a defined settlement boundary where there is a restrictive approach to new development in the countryside. Policy SS6 of the Local Plan addresses new housing proposals in the countryside and sets out the specific situations in which such development will be permitted. There is no dispute between the parties that the majority of the criteria would not be applicable in this case but there is a difference of opinion as to whether the site should be regarded as previously developed land, which is the first scenario under Policy SS6 where new housing may be permitted subject to satisfying three criteria.
7. Both parties have referred to the definition of previously developed land as set out in the Framework. The definition has been amended in the revised version although I do not consider that the amendment affects my consideration. The definition includes *Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed)*.
8. A certificate of lawfulness was granted in 2007 under the Council's Ref: BDB/65151 for this land, which I understand was part of a wider parcel of land extending to some 4.8 ha of land, for the use of the land as equestrian use. An existing small stable block lies to the south of the appeal site and on the land where a new dwelling has been approved to be built. There are no structures on the appeal site and no evidence before me of horses using the land, either currently or previously.
9. The Appellant contends that that the paddock forming the appeal site is an integral part of the equestrian use of the land and is used for the grazing of horses associated with the stables, but there is no evidence before me to support that statement in terms of structures or activities on the land. The Appellant has referred to the appeal site forming part of the curtilage of the stable building, but the certificate of lawfulness extended to some 4.8ha of land and it does not necessarily follow, that all the land should be regarded as falling within the curtilage of the small stable block.
10. On the limited information before me, and particularly taking into account the absence of any evidence of previous or existing activities associated with the stable block on this parcel of land, I am not persuaded that the land should properly fall to be regarded as previously developed land.
11. The Appellant and the Council have drawn my attention to other appeal decisions which considered this issue, including APP/Y0435/W/17/3178790, APP/B3438/W/15/3140510, APP/D3125/W/19/3235474 and APP/A4520/W/19/3223626. Whether or not land falls to be considered as previously developed land is individual to each case on the particular circumstances pertaining to that case. Nonetheless, I have taken these other decisions into account, but they do not persuade me to a different view based on the information available to me in this particular case.
12. On the basis that I have not found that the land would be previously developed land it is not necessary for me to consider the further provisos relevant to previously developed land as set out under Policy SS6 a) of the Local Plan.

13. It is therefore my view that the site falls outside of the limited scenarios which would support the principle of residential development in this countryside location and would conflict with Policies SS1 and SS6 of the Local Plan.

- ***Character and Appearance***

14. There is development further to the east and more immediately to the west of the appeal property, primarily on the north side of New Road and interspersed with open farming and equestrian land, together with a farm complex broadly on the opposite side of the road. The individual properties are varied in scale and design. With a few exceptions, where there is some limited backland development, the houses are generally in a linear pattern and set back from the road frontage and there is a verdant and open appearance to the character and appearance of the local rural area, primarily assisted by the set back of houses and generally open frontages and the open fields in between built development.
15. Planning permission exists for a new residential dwelling immediately to the southwest of the appeal site and fronting New Road. A number of permissions have been granted for that new dwelling, the most recent of which was under the Council's Ref: 23/02319/FUL. However, at the time of my site visit, it would not appear that the permission had been implemented and the land remained as open grassland with a small stable block and a mobile home. Whilst I have no reason to doubt that the permitted new house would not be constructed, I have no information to provide certainty in that respect and have therefore assessed whether the proposal before me would respect the character and appearance of the local area, under two scenarios, one without the new house to the south west being built out and the alternative, with that permission having been implemented.
16. In the event that the permission to the south west was not built out, the proposal before me would be set a considerable distance back from New Road and would not relate well to the pattern of development in the local area, whereby there is an almost continuous linear arrangement of houses along New Road. Its siting, set back that distance from the road frontage, with open land all around, would appear visually incongruous and discordant to the predominant pattern of development in the local area. I do not consider that my concerns in this regard would be capable of being overcome through further details in respect of landscaping.
17. Under the scenario whereby the new house to the southwest is built out, the new dwelling would sit directly to the rear, albeit separated by the rear garden to the dwelling to the southwest and the parking provision for the new house before me. Although I have noted that there are a number of examples of backland development within the vicinity, in the majority of cases these developments are set considerably to the rear and are primarily identified from New Road by the vehicular accesses serving them. The houses set back to the rear are generally only glimpsed rather than openly seen from New Road.
18. By contrast the proposed development would be highly visible from the immediately adjacent PROW and would partly be seen from New Road. Its siting in this location would not follow the predominant pattern of development in the local area. The two properties would be sited immediately adjacent each other, with, in the context of the predominant pattern of development in the immediate vicinity, limited open spacing. This spacing and alignment would be harmful to the attractive rural character and appearance of the local area.

19. Under either scenario as considered above I conclude that the proposal would not accord with the predominant pattern of development in the local area. It would protrude into the generally more open land to the rear of the mainly linear development found in this small rural settlement and would harm the rural character and appearance of the local area. This would conflict with Policies EM1 and EM10 of the Local Plan which seek to ensure that development proposals contribute positively to local distinctiveness, as well as the Framework and in particular Section 15 which amongst other matters, seeks to protect the intrinsic character and beauty of the countryside.
20. The Appellant has drawn my attention to other forms of backland development which have been permitted within the same borough, but the harm I have concluded is not to the principle of backland development, but the harm to the character and appearance of the local area in respect of this particular proposal. The existence of other permissions for backland development does not therefore persuade me to a different view.

Other Matters

21. A number of other matters have been raised in representations at the application stage. I have taken them into account, but they do not lead me to a different conclusion in respect of the main issues I have identified.
22. Both the Appellant and the Council have set out alternative understandings of the Council's housing land supply position and have drawn my attention to appeal decisions in this regard, including a High Court Case. However, the revisions to the Framework have amended the basis for calculating the housing land supply and the requirements for that supply. As the appeals provided to me were determined before the Framework was revised in December 2024, they are no longer relevant to my assessment.
23. Taken on its own there is no objection to the design of the proposed dwelling; the issue relates to its effect on the character and appearance of the local area.

Planning Balance

24. With the amended requirements set out in the revised Framework for Councils to be able to demonstrate a five-year supply of deliverable housing sites, there is no dispute between the parties that the Council is unable to meet this requirement and that as a result Paragraph 11 d) is engaged. Accordingly, in line with paragraph 11(d) and footnote 8 of the Framework, the policies most important for determining the application are out of date. Paragraph 11 d) i. is not relevant in this instance and therefore Paragraph 11 d) ii. is engaged whereby planning permission should be granted unless *any adverse impact of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well designed places and providing affordable homes, individually or in combination.*
25. Policies SS1 and SS6 of the Local Plan which set out the Spatial Strategy across the district including in relation to new housing development in the countryside are deemed to be out of date. Accordingly, I reduce the weight attached to the conflict with these policies to moderate.

26. However, the Framework is clear that new development should respect the intrinsic character and beauty of the countryside and to respect local character and distinctiveness. Footnote 9 to Paragraph 11 d) ii. specifically refers to paragraphs 135 and 139 of the Framework which uphold, amongst other things, the importance of high-quality design which is sympathetic to local context and character. As a result, I do not reduce the weight I attach to the conflict with Policies EM1 and EM10 of the Local Plan.
27. There would be a modest social benefit in providing one additional housing unit. Economic advantages would also arise from the construction and occupation of this one dwelling. These benefits carry some weight in support of the proposal. I have also paid particular regard to the paragraphs referenced in footnote 9 of Paragraph 11 d) ii. of the Framework. I have addressed some of these paragraphs above and considering each individually and in combination, given the small nature of the proposal and its location and siting as well as the market form of the development proposed they do not add weight in support of the proposal.
28. I attach significant weight to the principal of housing delivery but the benefits from the provision of one additional unit would be very modest. I have found that the proposed development would harm the character and appearance of the local area and the harm I have concluded would be significant and as a result the environmental role of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.
29. The proposal would not accord with the development plan and there are no other material considerations to override this finding. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that this appeal should be dismissed.

L J Evans

INSPECTOR