
Appeal Decision

Site visit made on 28 January 2025

by Elaine Moulton BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2025

Appeal Ref: APP/C1760/W/24/3346431

Bracondale, Fyfield Road, Fyfield, Andover, Test Valley SP11 8EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant permission in principle.
 - The appeal is made by Mr Brendan Heenan of BHK Construction Ltd against the decision of Test Valley Borough Council.
 - The application Ref is 24/01056/PIPN.
 - The development proposed is described as 'application for permission in principle development. Proposed 1 to 1 dwellings'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal is for permission in principle. Planning Practice Guidance (PPG) advises that this is an alternative way of obtaining planning permission for housing-led development. The permission in principle consent route has 2 stages: the first stage (or permission in principle stage) establishes whether a site is suitable in-principle, and the second (technical details consent) stage is when the detailed development proposals are assessed. This appeal relates to the first of these 2 stages.
3. The scope of the considerations for permission in principle is limited to location, land use and the amount of development permitted¹. All other matters are considered as part of a subsequent Technical Details Consent application if permission in principle is granted. I have determined the appeal accordingly.
4. A plan has been submitted showing a possible layout, this is considered as indicative only.
5. For the avoidance of doubt, where reference is made to the National Planning Policy Framework (the Framework), the paragraph numbers quoted are those that appear in the latest version that was revised on 7 February 2025.

Main Issue

6. The main issue is whether the site is suitable for residential development, having regard to its location, the proposed land use, and the amount of development.

¹ PPG Paragraph: 012 Reference ID: 58-012-20180615

Reasons

7. Policy COM2 of the Test Valley Borough Revised Local Plan (LP) sets out the settlement hierarchy for the area. It indicates that within the boundaries of identified settlements, development will be permitted provided it is appropriate to other LP policies. It goes on to state that development outside of the boundaries of settlements will only be permitted if it is appropriate in the countryside as set out in specific LP policies, or it is essential that it is located in the countryside.
8. The main parties agree that the appeal site lies in the countryside, outside of the rural village of Fyfield. In addition, it is agreed that the proposed development is neither appropriate in, nor is it essential to be in, the countryside. I concur with such conclusions. Accordingly, I find that the proposal does not accord with LP Policy COM2.
9. It has been suggested that the settlement boundary is incorrect and should include the appeal site. I acknowledge that the boundary for the settlement of Fyfield, as revised after 2012, includes the dwelling, Bracondale, and its immediate surrounds but excludes land which is the subject of a lawful development certificate for use as residential garden, the appeal site. Nonetheless, use of land as garden does not prevent it from being within the countryside even when directly bordering a settlement boundary and there is nothing in the case law² referred to by the appellant that suggests otherwise.
10. I acknowledge that the site is within the Fyfield Conservation Area (CA). Conservation Areas, however, exist to protect the special architectural and historic interest of a place, and serve a very different function to settlement boundaries, which support a strategic approach by directing development to sites within defined settlements. As such, whilst the site is in the CA that does not support the view that the settlement boundary is flawed.
11. Unlike the circumstances of the court of appeal case³ highlighted by the appellant, the appeal site is not in the Green Belt, and therefore, I am not required to consider whether the proposal is inappropriate Green Belt development. Consequently, in this case, it is the defined settlement boundary, and not the situation 'on the ground', that is determinative.
12. Settlement boundaries do change over time, as illustrated in the Wheat Cottage case referred to by the appellant. However, such changes are achieved through the statutory development plan process and not through the granting of planning permission. In the absence of evidence that the settlement hierarchy policies are out of date and considering that the planning system should be genuinely development plan led, LP Policy COM2 should be given significant weight in this decision.
13. Permitted development rights could result in the lawful construction of outbuildings on the appeal site. Such a form of development is far less intensive and not directly comparable to the proposed construction of an independent dwelling. In addition, even if I were to agree that the site meets the Frameworks definition of previously developed land, the appeal site would not meet the criteria for inconclusion on the Brownfield Register as it is not suitable for residential

² *HM Attorney-General ex rel Sutcliffe & Rouse & Hughes v Calderdale BC* [1983] JPL 310

³ *Julian Wood v SSCLG, Gravesham Borough Council* [2015] EWCA Civ 195

development by virtue of it being contrary to policy. Such factors do not, therefore, weigh in favour of granting permission in principle for a new dwelling contrary to policy

14. In conclusion, having regard to the settlement hierarchy as set out in the development plan, I find that the appeal site would not be a suitable location for residential development as it would be contrary to LP Policy COM2.

Other Matters

15. The Council has raised concerns that in the absence of ecological information, it cannot be concluded that the amount of development could be satisfactorily accommodated within the site without harm to protected trees, or protected species and their habitats. Nevertheless, the permission in principle process is high level and does not require the decision-maker to be satisfied about all aspects of the development. Accordingly, the effect of the proposal on protected trees, ecology and diversity, as referred to in the second and third reasons for refusal, are for consideration at the technical details consent stage and do not fall within the scope of this first, permission in principle, stage.
16. Permission in principle must not, however, be granted for development which is likely to have a significant effect on a qualifying European site, such as the Southampton and Solent Special Protection Area (SPA). As the site lies within the zone of influence of the SPA, concerns raised in the fourth reason for refusal are appropriate to this first stage. Nonetheless, as the appeal is to be dismissed, there is no need for me to consider this matter further.
17. Paragraph 73 of the Framework states that small sites can make an important contribution to meeting the housing requirement of an area, and evidence provided demonstrates that windfall sites are a significant source housing supply. However, there is nothing before me that indicates current policy is not providing enough housing to meet the needs of the area or that the development plans aspirations to increase the population of Andover will not be achieved. Therefore, although appreciating that the Framework seeks to boost the supply of housing, I attach limited weight to the provision of a single dwelling as proposed.
18. The Framework highlights, at paragraph 83, that to promote sustainable development in rural areas, housing should be located where it will enhance and maintain the vitality of rural communities. In this case, the site is physically separate from any settlement containing facilities and services required to meet the needs of the occupants. Accordingly, I consider that the benefits of the proposal, due to the support that it would give to services in a village nearby, would be minimal and as such it would not enhance or maintain the vitality of rural communities.
19. As well as being located within the Fyfield CA, the appeal site is close to two Grade II listed buildings, Grange Cottage and Idlewood. The predominant land use in the CA is residential, and the proposed dwelling would be seen in the context of other residential properties. Given this, whilst scale, appearance and siting is not known at this stage, subject to careful design a dwelling would be in keeping with the character and appearance of the CA. Furthermore, the appeal site is largely enclosed and separated from the listed buildings by intervening structures and a shared access. For those reasons, I agree with the Council that the development

would not lead to harm to, or loss of, the significance of the identified designated heritage assets.

20. I acknowledge that the Council is satisfied that proposal would not have a detrimental effect on highway safety. However, this an ordinary requirement for new development, and does not represent a positive benefit that weighs in favour of the development.

Conclusion

21. For the reasons set out above, I conclude that the appeal should be dismissed.

Elaine Moulton

INSPECTOR