



Appeal Decision

Site visit made on 13 January 2025

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

Appeal Ref: APP/H1705/W/24/3344124

Hogdigging Cottage East, Boswood Lane, Whitchurch, Hampshire RG28 7SA

- 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 Mrs J and K Maxwell against the decision of Basingstoke and Deane Borough Council.
 - The application Ref is 23/00278/FUL.
 - The development proposed was described as 'new 4 bedroom dwelling on land adjacent to Hogdigging Cottage East'.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. A revised National Planning Policy Framework was published in December 2024 and altered by minor amendments in February 2025 (the NPPF). This does not materially affect my determination of the appeal.

Main Issue

3. The main issue is whether the dwelling would be in a location justified by the development plan spatial strategy for new housing in the countryside.

Reasons

4. The site is in the countryside. It is a parcel of essentially undeveloped grassland adjacent to Hogdigging Cottage East, which is one half of a pair of semi-detached cottages formed with Hogdigging Cottage West. A detached dwelling would be erected on the site.

Spatial strategy

5. Policies SS1 and SS6 of the Basingstoke and Deane Local Plan, May 2016 (the LP) include a spatial strategy for the provision of new housing. It supports new housing in the countryside only as justified exceptions to restraint. It is common ground that the exception at LP Policy SS6(a) is relevant in this appeal and no others are relied on by the appellants. This exception applies to sites which are previously developed land and is subject to three criteria, with criterion (i) in dispute which must not result in an isolated form of development.

Previously developed land (PDL)

6. I have not been informed that the LP defines PDL. The NPPF does and it includes 'land which has been lawfully developed and is or was occupied by a permanent

structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed)¹.

7. The site currently flows seamlessly into similar grassland closer to Hogdigging Cottage East, towards a more obvious prescribed garden area which includes an outbuilding, patio, seating area and pergola. It is not my remit in these s78 appeals, about applications for planning permission, to determine conclusively whether the site has been lawfully developed, including if enforcement action could still be taken. This can only be formally established by an application under s191 for a certificate of lawfulness of existing use or development. I have, though, considered the evidence that is before me so far as it is material to this appeal. This does not prejudice a future application for a lawful development certificate.
8. The appellants claim that the site has been used as a garden 'for the period of recorded history' thus it is PDL and/or that it is part of the residential curtilage of Hogdigging Cottage East (though 'curtilage' is not a use of land for planning purposes). It is also said that 'the lawful use' is 'residential garden land forming part of the planning unit of Hogdigging Cottage East'. There is no lawful development certificate, statutory declaration or other objective evidence before me to that effect, including to show that this alleged use is immune from enforcement action.
9. The Council considers that 'the lawful use of the site is residential garden derived from the planning unit of Hogdigging Cottage East as a permanent structure which is not located within a built-up area'. PDL status is not disputed by the Council, but other than what the appellants have also suggested to it, it is not clear to me on what objective basis the Council reached this position about lawful use of the site, as opposed to what might otherwise be a historic or current use.
10. The evidence, such as it is and on the face of it, is largely speculation or assertion. It is not sufficiently robust to establish to my satisfaction that the site has been lawfully developed as a garden to Hogdigging Cottage East. As opposed to, for instance, simply used as such in more recent years including placement of an ornamental metal obelisk/trellis, replacing a boundary fence or re-opening a vehicular access. I therefore give it little weight. The PDL status of the site is an important fundamental consideration in this appeal so cannot be dealt with in such cursory fashion. In these circumstances it has not been demonstrated that the site is PDL.

Isolated form of development

11. The LP contains a definition of 'isolated' and is in essence about whether development is well served by public transport (within 500m) or services or facilities (within 1km). I have also been referred to generally accepted relevant caselaw in this regard, albeit that there is no evidence the dwelling meets any of the circumstances set out in NPPF paragraph 84.
12. The dwelling would be a small-scale development and not isolated in the sense that it would be proximate to Hogdigging Cottage East and Hogdigging Cottage West. But both of these cottages are sporadic development in the countryside. They are also visually and spatially discrete from other scattered residential development in the area, including that referred to by the appellants as 'hamlets' (though not specifically identified) and well beyond the defined settlement policy boundary for

¹ NPPF Annex 2: Glossary

Whitchurch town, which is over 1.5km distant by road. St Mary Bourne is roughly twice as far away. Though next to each other, the resulting three dwellings would therefore have insufficient gravitas of buildings, population or other features to suddenly render a built-up area or meaningful settlement ('place') in this location, including as experienced on the ground. Consequently, the dwelling would be physically separate and remote from a settlement.

13. The site is connected by road to Whitchurch and to a surrounding network of local, regional and national roads. Whitchurch is a district centre and contains a wide range of facilities and services, including bus and train services to settlements elsewhere. However, Blosswood Lane on one side of the site is a reasonably busy, fast (60mph) road that meanders (with some blind bends) and undulates (with some blind crests) into Whitchurch. There are no pavements, narrow, vegetated verges and no street lighting near the site or for most of this stretch of road. Notwithstanding the significant distance on foot to Whitchurch, bus stops or a public right of way (a bridleway), it is a dangerous, hostile environment for even ambulant or determined pedestrians as well as cyclists, notwithstanding a relatively short ride. It is much the same on the other side of the site using The Harroway, which is furthermore a mostly single track lane interspersed with vehicle passing places.
14. While opportunity to maximise sustainable transport will vary between urban and rural areas, the NPPF also sets out that the planning system should actively manage patterns of growth in support of sustainable transport objectives, such as to promote walking, cycling and public transport. Consequently, although the occupants of the dwelling would likely support local services in Whitchurch or settlements elsewhere they would mainly be reliant on the private motor vehicles to meet most day-to-day and longer term needs.
15. The appellants' narrative on an appeal decision for housing development in the countryside, elsewhere in the Council's borough, refers to some characteristics similar to Blosswood Lane and The Harroway but not all ². That site was also, on the face of it, closer to a bus stop than the site in this current appeal. That decision is not therefore directly comparable.
16. The Council's decision to grant planning permission elsewhere in the countryside was for a 'lifetime home' and the site was PDL³. Neither circumstance applies in this appeal. The minutes of the planning committee meeting do not explain why Members believed that site was not in an isolated location despite, it appears, officer advice to the contrary. I have not been provided with a copy of the officer report, but having regard to the site location plan provided by the appellants, the officer advice in that case would otherwise appear to have been consistent with the Council's decision in this current appeal on effectively the same issue.
17. NPPF paragraph 89 provisions about location and public transport are not 'within policy on rural housing', as the appellants suggest, but under a heading 'supporting a prosperous rural economy' and are about meeting local business and community needs. NPPF paragraph 84 includes 'subdivision of an existing residential building' which is not the proposal in this appeal.

² APP/H1705/W/23/3321532

³ 23/01750/FUL

Conclusion on spatial strategy

18. Taking all the above into account, I am not satisfied that the site is PDL. But even if it is PDL, I find that the dwelling would be an isolated form of development, so not in a location justified by the development plan spatial strategy for new housing in the countryside. As such, it does not comply with LP Policies SS1 and SS6, nor with the presumption in favour of sustainable development in LP Policy SD1.

Other Matters

19. The Council did not fail the latest Housing Delivery Test. Nonetheless, albeit a snapshot in time, in this appeal the Council agrees that it cannot currently demonstrate a 5 year supply of deliverable housing land. It did not comment on the precise shortfall but its published document before me explains a 2.94 years supply⁴. This important consideration is significant in the planning balance.
20. Including subject to some conditions the Council did not object to the dwelling for any other reason. The absence of other harm is a neutral factor in my decision.
21. The site is in the North Wessex Downs National Landscape (the NL)⁵. Amongst others, these areas have the highest status of protection in relation to conserving and enhancing landscape and scenic beauty. The NL includes an undulating patchwork of arable fields interspersed with woodland creating a semi-enclosed landscape generally unspoilt, remote and rural in character. The dwelling would cause a localised change in these regards and some adverse visual impact. However, the wider landscape is not devoid of built form, such as farmsteads and sporadic dwellings, so it would not unduly erode the overall integrity of the NL. Subject to conditions for new landscaping and to control lighting in this dark night sky, the main parties agree that nestled against Hogdigging Cottage East and Hogdigging Cottage West, and into the slope of the site with tall, mature tree backdrop, the dwelling would conserve or enhance the landscape or scenic beauty of the NL. I have no reason to disagree.
22. The site is within the catchment of the River Test which ultimately drains to the Solent. High levels of nutrients generated by wastewater from development is causing harmful eutrophication to the Solent Water Special Protection Area and Special Areas of Conservation which are important for habitat and bird species. A significant individual or in-combination adverse effect on these European Protected Sites would be likely to occur if wastewater from the dwelling exacerbated eutrophication. As the Competent Authority in this appeal, it would ordinarily be necessary for me to undertake Appropriate Assessment⁶. But as I intend to dismiss the appeal for other reasons, even if the dwelling did not adversely affect the integrity of these sites, so not provide a clear reason for refusing the development, there is no need for me to consider this matter any further. This is because it would not affect my decision or therefore alter the outcome of the appeal.

Planning Balance

23. Given the Council's housing land supply position, by virtue of footnote 8 the Council's housing policies are deemed to be out-of-date and NPPF paragraph

⁴ Basingstoke and Deane Borough Council: Five-year Housing Land Supply Position Statement, December 2024

⁵ Formerly known as an Area of Outstanding Natural Beauty

⁶ The Conservation of Habitats and Species Regulations 2017 (as amended)

11(d)(ii) is engaged in this appeal. The starting point is that planning permission should be granted.

24. The dwelling would be aligned with development plan aims to meet the Council's housing requirement and be consistent with objectives of the NPPF to significantly boost the supply of homes to help meet people's accommodation needs. This small site could be built out relatively quickly by a small housebuilder and subject to conditions the dwelling would also be water and energy efficient and ecology enhancement at the site would result in biodiversity net gain. There would also likely be employment locally during a construction phase. These outcomes would be consistent with relevant development plan policies and help to achieve objectives of the NPPF for climate change, to conserve the natural environment and support economic growth. The contribution of a single dwelling in these regards, though important, would be small so these benefits each have limited weight.
25. Notwithstanding the current housing land supply position and notable scale of shortfall, which is not delivering the required amount of housing, LP Policies SS1 and SS6 are the most important policies for determining this appeal. Though also more than five years old, these policies were nonetheless prepared in the context of a previous NPPF and are still broadly consistent with equivalent provisions of the NPPF for housing distribution and type in rural areas. As such, I consider that they have marked weight in these respects. The dwelling would undermine and significantly harm the Council's objectives for these policies.
26. The adverse impacts of granting planning permission would, therefore, significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. Accordingly, the presumption in favour of sustainable development does not apply in this appeal. In reaching this judgement I have had 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.

Conclusion

27. The proposal conflicts with the development plan. Other material considerations do not indicate that the appeal should be determined otherwise than in accordance with the development plan taken as a whole⁷. Consequently, for the reasons given above the proposal is unacceptable so the appeal does not succeed.

Robin Buchanan

INSPECTOR

⁷ Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended)