



Appeal Decision

Site visit made on 11 July 2018

by Mrs J Wilson BA BTP MRTPI DMS

Inspector appointed by the Secretary of State

Decision date: 31st August 2018

Appeal Ref: APP/W1715/W/18/3194697

Land adjacent to The Roll Call, Woolston Road, Netley Abbey SO31 5FJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr T Masters against the decision of Eastleigh Borough Council.
 - The application Ref F/17/80875, dated 19 June 2017, was refused by notice dated 28 November 2017.
 - The development proposed is the erection of a bungalow with accommodation in the roof space following demolition of existing building, removal of stored vehicles and mobile home and cessation of vehicle storage use (Use Class B8) and cessation of recreational use (Use Class D2).
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Decision

1. The appeal is dismissed.

Preliminary matters

2. The Council has confirmed that a financial contribution has been secured in relation to this appeal in respect of mitigation associated with the Solent and Southampton Water Special Protection Area and as such withdraws the second reason for refusal set out in the decision notice. I therefore give no further consideration to this particular matter.
3. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018 and replaces the first Framework published in March 2012. The main parties have been provided with an opportunity to comment on the revised Framework and its relevance to the determination of this appeal. References to the Framework in this decision reflect the revised Framework.

Main Issue

4. The main issue in this appeal is the effect of the proposal on the character and appearance of the area, having regard to the development plan and national policy and the location of the site within a designated Strategic Gap.

Reasons

Development Plan and the Strategic Gap

5. The site is located within the Southampton – Hedge End/Burlesdon/Netley strategic gap defined in Policy 2.CO of the Eastleigh Borough Local Plan Review (2001-2011) (the Local Plan). This is one of two identified strategic gaps in the borough which perform the function of protecting the identity of these settlements to prevent their coalescence.

6. Section 70(2) of the Town and Country Planning Act 1990 provides that, in dealing with proposals for planning permission, regard must be had to the provisions of the development plan, so far as material to the application, and to any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 provides that, if regard is to be had to the development plan for any determination, then that determination must be made in accordance with the plan unless material considerations indicate otherwise and this is emphasised in the 2018 Framework.
7. The appellant argues that even though the Council can demonstrate a 5 year housing land supply, there are no saved housing policies and therefore the presumption in favour of sustainable development is engaged. Moreover the lack of housing policies means that there is no provision for windfall sites even though the Council rely on them in their figures. However there is no evidence provided to support that the level of windfall sites envisaged by the Council could not be achieved such as would undermine the Council's Housing strategy. The Framework also refers to windfall sites within settlement boundaries which this site is not. I therefore give this matter little weight.
8. The appellant has also argued that reduced weight should be given to Policies 1.CO and 2.CO of the Local Plan suggesting a lack of consistency with the Framework. Moreover Policy 1.CO is argued to be relevant to the supply of housing and out of date. In contrast the Council stress that in the context of the Supreme Court Judgement¹ Policy 1.CO is not specific to the supply of housing and therefore not out of date. A number of appeals² have been referred to by the appellant and the Council in respect of Policy 1.CO within which it has been attributed varying degrees of weight.
9. Taking all these matters into account, even though the Council's housing policies are not saved, I find that Policy 1.CO is relevant as a saved policy which has aims broadly consistent with part 16 of the Framework in recognising the intrinsic character and beauty of the countryside. It seeks to prevent residential development beyond the urban edge but does not apply blanket protection of the countryside allowing for certain forms of development where there is a genuine need for a countryside location. I therefore attribute significant weight to it.
10. The proposal would represent development in the open countryside beyond settlement limits and within the strategic gap. The visual harm would be mitigated only partially by the presence of existing vegetation. Nonetheless piecemeal erosion of the strategic gap would undermine the fundamental purpose of that gap. The Framework underlines the importance of the development plan in decision making. It also stresses a need to significantly boost the supply of housing. However the Framework also makes clear that permission should not be granted where there are clear reasons for refusing the development to protect areas of particular importance.
11. The proposal therefore conflicts with Policies 1.CO and 2.CO, 18 CO and 59.BE of the Eastleigh Borough Local Plan Review (2001-2011) (the Local Plan). These policies seek to protect the countryside and in particular the strategic gaps between specific settlements.

¹ Suffolk Coastal DC v Hopkins Homes Ltd & Richborough Estates v Cheshire East BC [2016] EWCA Civ 168.

² APP/W1715/W/16/3153928; APP/V2635/W/16/3166074; APP/W1715/W/16/3156702; APP/W1715/W/17/3173253 and APP/W1715/W/17/3178540

12. Policies S1, S9 and DM1 of the Submitted Eastleigh Borough Local Plan 2011-2029 are also referred to in the decision notice. Although they have similar objectives to those referred to in paragraph 11 these policies are still in the process of preparation and therefore do not yet carry full weight in decision making at this stage in their evolution.

Character and appearance

13. The appeal site is a parcel of land adjoining the north east edge of the built-up area of Butlocks Heath. The site is essentially rural in character used as a paddock for the keeping of horses including a field shelter. It is bordered by planting including mature trees on two sides beyond which are open fields. A lawful development certificate (LDC) exists in relation to the site specifically for the keeping of four recreational horses within D2 use class. A parcel in the eastern corner also benefits from the same LDC for the storage of one caravan and up to 15 vehicles. This latter element represents less than a quarter of the appeal site.
14. The new building would have a substantial presence on the site far greater than the field shelter and other storage structures combined. It would have a greater height and more significant mass. This, coupled with the position on the elevated part of the site the proposed building would be visually prominent and physically occupy a greater space thereby diminishing the visual openness of the site which is characterised by its lack of buildings. This impact would not be sufficiently mitigated by the existing boundary planting.
15. The appellant challenges the Councils' description of the site and argues it is a very different character than the gently undulating fields described by the Council. He argues it does not function as a physical or visual gap and that the development would create a definitive edge to the settlement. Whilst the site is separated from the larger fields by vegetation and is, to a degree contained, that does not diminish its value or contribution to the strategic gap which is made up of a variety of distinct areas, not all of which are open fields. The change in form which would take place if the development were to proceed would result in a significant physical and visual change on this site which would erode the openness. This would conflict significantly with the principles of protecting the strategic gap.
16. For these reasons the proposal would run contrary to Policies 1.CO, 2.CO, 18.CO and 59.BE of the Local Plan and to the countryside protection aims of the Framework. These taken together seek to protect the countryside from development which would fail to respect the character of the landscape.

Other matters

17. The appellant focuses on the history of the site and contends that it is previously developed land (PDL). However there is no evidence that the main part of the site was occupied by buildings save for a field shelter at the rear. That part of the site which is defined in the LDC as storage is at the rear of the site and the new dwelling would be located on the existing paddock area. Whilst it may be the case that the use of the storage part of the site could intensify, as the appellant suggests, this would not be to the extent of development now proposed. In any event, more than three quarters of the site is lawful only as an outdoor recreational use for the keeping of horses and the terms of the lawful development certificate are narrowly drawn. For these

reasons the bulk of the site is not, in my view, PDL. Therefore the presumption in favour of residential development would not apply.

18. I have taken account of the extent of individual letters of support which have been submitted encouraging the use of the site on the basis it would enhance the area. However a good number of these are qualified support in that they do not support residential development if it were to lead to further development on the adjacent site, and I attach only limited weight to this local support.
19. It is recognised that there is other development close to the site in the form of the public house and as such a dwelling on the appeal site would not be completely unrelated to other buildings. I note there is no specific concern about the appearance of the dwelling itself or how it would fit onto the plot. Therefore with regard to the aims of other policies the appeal scheme may be regarded as being acceptable. Nonetheless these matters do not outweigh my findings in relation to the main issue.
20. My attention has been drawn to an appeal decision³ where a colleague found that development on the edge of a settlement was referred to as a technical breach of the settlement boundary. I do not have the full details of that case though it appears to me from the decision letter that the appeal did not involve the encroachment of development into a strategic gap such that it would represent similar circumstances to this appeal.
21. It has been put to me that the land is not in use for agricultural production and whilst the settlement boundary would be altered the separate identities of Netley, Burlesdon and Woolston would not be materially affected. However the strategic gap boundaries are defined for the specific purpose of preventing erosion of strategically important areas and this development would compromise that intent. The settlement policy review referred to by the appellant highlights suggested changes to the boundaries and the appellant considers some are more prominent than the appeal site. This is not a matter for me, the correct method for any change to those boundaries or the extent of the Strategic Gap is for the Council to consider through the normal local plan process and not through incremental encroachment.
22. The appellant contends that the proposal would involve a series of benefits improving the visual appearance of the site. However three quarters of the site is authorised for outdoor recreation for the keeping of horses and the outdoor storage is limited to the rear corner of the site. However I do not accept that the site is in a condition where the visual change would justify the development or outweigh the harm which has been identified.

Conclusion

23. For the reasons given I conclude that the adverse impacts significantly and demonstrably outweigh the benefit accruing from a single dwelling and having taken all other matters into consideration the appeal is dismissed.

Janet Wilson

INSPECTOR

³ APP/V2635/W/16/3166074