



Appeal Decision

Site visit made on 29 November 2016

by **David Cliff BA Hons MSc MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 9th January 2017

Appeal Ref: APP/M1710/W/16/3156459

The Glebe House, School Lane, Bentley, Farnham GU10 5JP

- 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 Chris Gwilliam against the decision of East Hampshire District Council.
 - The application Ref 28021/003, dated 14 December 2015, was refused by notice dated 4 March 2016.
 - The development proposed is 'the development of land to the rear of Glebe House to provide 12 detached dwellings with associated landscaping'.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by East Hampshire District Council against the appellant. This application is the subject of a separate decision.

Preliminary matter

3. The Council's reasons for refusal include objection to the lack of provision for public open space and community facilities. However, in its appeal statement the Council has confirmed that it has subsequently adopted its Community Infrastructure Levy (CIL) which would include both public open space and community facilities provision. On this basis, notwithstanding that the Council also says that it is not in receipt of a relevant CIL form, I have given no further consideration to these matters.

Main Issues

4. The main issues are:
 - 1) Whether the site is a suitable location for residential development having regard to the development strategy for the area;
 - 2) The effect of the proposed development upon the character and appearance of the area;
 - 3) Whether or not the proposal makes appropriate provision for affordable housing;
-

- 4) Whether or not adequate arrangements are made for surface water drainage;
- 5) The effect of the proposed development on biodiversity, with particular regard to Great Crested Newts;
- 6) Whether the proposal would safeguard the living conditions of the occupiers of neighbouring properties and would provide for appropriate living conditions for future occupiers of the proposed dwellings, with particular regard to noise and disturbance.

Reasons

Location of development and development strategy

5. The proposed residential development would be located in the countryside outside the identified settlement boundary. Policy CP19 of the East Hampshire Joint Core Strategy 2014 (JCS) is applicable to development outside of the settlement boundary and generally restricts development in the countryside for its own sake. The proposal is not one of the stated exceptions in the policy. Policy H14 of the East Hampshire District Local Plan: Second Review 2006 (DLP) also restricts development outside of defined settlement boundaries to that with a genuine and proven need.
6. Policy CP10 of the JCS sets out the Council's spatial strategy for housing, generally directing new housing to sites within the settlement boundaries where it is consistent with maintaining and enhancing character and the quality of life. Policy CP10 goes on to say that in addition to allocated sites, housing outside the settlement boundaries will only be permitted in accordance with stated criteria, including where it has been identified in an adopted Neighbourhood Plan or has clear community support.
7. The site is not an allocated site for housing and has not been identified for development in the Bentley Neighbourhood Plan (BNP) which was formally made on 12th May 2016. The proposed dwellings would be located outside of the settlement boundary defined in the newly made BNP and the site is not included within the proposed changes to the settlement boundary identified in the East Hampshire District Local Plan Part 2: Housing and Employment Allocations (Site Allocations Plan and Policies Map) 2016.
8. Although the development is within proximity of local services and facilities within the village, and is served by bus services, this does not overcome the harm arising from it being contrary to the Council's development strategy for the area, including a substantial amount of residential development proposed on land outside of the settlement boundary.
9. The appellant argues that the site could be developed to the extent now proposed within the provisions of permitted development. However, from the evidence before me, it is not clear whether the entirety of the site falls within the curtilage of the existing dwellinghouse. Even should it be within the curtilage, permitted development would not allow for the construction of new independent dwellinghouses. Furthermore, no detailed information has been provided of how the site could be capable of being developed under permitted development and I am not persuaded that there is a reasonable likelihood of the site being developed, through permitted development, in the manner

suggested by the appellant. I have therefore given minimal weight to the suggested fall-back position.

10. The proposed development, outside of the settlement boundary, would be contrary to the Council's development strategy sought by policies CP1, CP10 and CP19 of the JCS, policy H14 of the DLP and Policy 1 the BNP.

Character and appearance

11. Whereas existing development closer to the centre of the village is denser and includes cul-de-sac development, School Lane in the immediate surrounds of the appeal site is located at the periphery of the village and is of a more spacious and linear character with most properties fronting the road. The site comprises predominantly open land, including gaps between existing buildings, which makes a significant contribution to the rural character of both the site and its immediate surroundings.
12. Whilst there is an existing hedge on the front boundary of the site, this would not screen the entirety of the proposed development from the road. The site is also visible from the footpath adjacent to the rear boundary.
13. The proposal would introduce a cul-de-sac form of development which would be significantly out of keeping with the existing form of development prevailing in this location. The proposal would infill the existing open space and would include new dwellings located to the rear of additional frontage development. Furthermore, the proposed dwelling on plot 12, and its rear garden, would back on to School Lane. This pattern of development would be at odds with the overall character of development along this part of School Lane and would introduce an unacceptably intensive form of new residential development at the rear of the site to the detriment of its rural setting.
14. The impact of the proposed development would be exacerbated by the design of the dwellings. Existing development in the vicinity of the site is of a mixture of different forms, providing a less regimented and less uniform form of development than the appeal proposal. Whilst I acknowledge that the appellant has sought to vary the design of the proposed dwellings, each proposed dwelling shares the same eaves and ridge levels and each would utilise brick at the lower level with render above. The design approach would result in the overall development being regimented in appearance and more akin to a suburban rather than a countryside location.
15. I have noted the residential development to the north of Honeywood. Nevertheless, I have not been provided with the circumstances of the approval of that development and have determined the current appeal proposal on its individual merits. Whilst the spacing between the proposed dwellings would be similar to this other development, the context of the appeal proposal in relation to its surroundings appears to be significantly different, including the provision of a cul-de-sac of new dwellings in the rear half of the site.
16. The proposed development would unacceptably detract from the rural character of the area to the detriment of its countryside setting. It would be contrary to the relevant design and landscape protection aims of policies CP20 and CP29 of the JCS, policy 2 of the BNP and the National Planning Policy Framework ('the Framework').

Affordable Housing

17. The Council seeks the provision of affordable housing pursuant to policy CP13 of the JCS, comprising the provision of four affordable dwellings along with an additional financial contribution. Although the appellant's Planning, Design and Access statement indicates that four affordable dwellings would be provided, and his subsequent appeal statement says that a suitable unilateral undertaking would be submitted, no such undertaking is before me. On this basis the proposal has not made satisfactory provision for affordable housing and is therefore contrary to policy CP13 of the JCS.

Surface water drainage

18. The appellant has provided some initial details of how surface water drainage and flood risk would be dealt with and says that such matters may be subject to conditions. The information provided by the appellant in support of the application recommends that further work is undertaken to confirm the suitability of the site for infiltration and that, if not feasible, detailed design of drainage with swales and underground storage may be required. The Council has raised several concerns regarding the level of detail provided.
19. From the evidence before me, and taking account of the evidence regarding the high water table in the area of the site, it appears that there remains some uncertainty as to the how surface water would be appropriately disposed from the site. Furthermore, the need for further information could potentially result in implications for the design and layout of the site and is consequently in this case a matter that should be considered in more detail as part of the application proposals rather than left pursuant to a condition.
20. On this basis, I am not satisfied that the proposed development would accord with the relevant drainage and flood risk aims of policy CP25 of the JCS and policy 6 of the BNP.

Biodiversity

21. The Council considers that the site has the potential to offer a terrestrial habitat for Great Crested Newts, given their previously recorded existence at the nearby Bentley Pond. The appellant's Preliminary Ecological Assessment (PEA) states that the development would result in the loss of this habitat and that site clearance would result in high potential for the killing or injury of this protected species. It recommends further surveys of four ponds within 500m of the site in order to inform a European Protected Species Mitigation licence application and design mitigation.
22. Whilst the appellant states that further surveys could be carried out pursuant to a condition, Circular 6/2005 advises that surveys should only be required by condition in exceptional circumstances. Although the PEA suggests types of mitigation likely to be appropriate, it appears that full mitigation details cannot be proposed without the further recommended surveys. From the information provided, taking account of the three tests that the licencing authority must consider, I cannot be certain that there is a reasonable prospect of a license being issued. The proposed development would therefore be detrimental to preserving the population of the protected species and I do not consider that it has been demonstrated that the need for and benefits of the development clearly outweigh the harm.

23. The proposed development is therefore contrary to the biodiversity aims of policy CP21 of the JSC and paragraph 118 of the Framework.

Living conditions

24. The Council has raised concerns regarding the potential for noise and disturbance from vehicle movements to the garden areas of both the proposed and existing frontage properties.
25. Whilst some noise would be audible from vehicles using the access road, I do not consider that the likely number of traffic movements or the speed of vehicles would be so great to result in any unacceptable impacts upon the residential living conditions of the occupiers of either the existing or proposed residential properties adjacent to School Lane.
26. The proposed development would therefore accord with the relevant amenity aims of policy CP29 of the JCS and the Framework.

Other matters

27. In its appeal statement, the Council states that it is satisfied that there is sufficient scope within the curtilage of each of the proposed dwellings to provide for appropriate parking spaces. I concur with this and consider that, in the event of the appeal being allowed, the details of the required parking spaces could be secured through a condition.
28. The Council states that there is doubt as to whether the proposed dwelling on plot 12 could be constructed due to its location in proximity to a public sewer which runs along the site's northern boundary. I note from its consultation response that the separate approval of Thames Water may be required in this respect. I have considered the aims of policy CP32 of the JCS regarding infrastructure, but from the evidence before me this is not a matter which I consider to be of significance to my determination of this appeal.
29. The appellant states that the proposal represents a preferential location in terms of the green field development that has previously taken place in Bentley. Nevertheless, given the harm I have identified above, I do not consider such an argument to be persuasive in my determination of the appeal.
30. The proposals would not meet the criteria to be considered as a rural exception site. There is no evidence provided to support the appellant's claim that the development would free up more affordable dwellings elsewhere in the area. Furthermore, from the information before me the Council is able to demonstrate a five year supply of housing. Whilst the Framework seeks to boost the supply of housing and the appellant says that the proposed development could be delivered in the earlier years of the JCS, the moderate benefits of the housing proposed in this case would not outweigh the harm I have identified above in the context of the development plan.

Conclusion

31. The proposed development would be contrary to the development plan and other material considerations do not outweigh the harm arising. Having had regard to all other matters raised, I conclude that the appeal should be dismissed.

David Cliff

INSPECTOR

Richborough Estates