
Appeal Decision

Site visit made on 14 November 2023

by **J J Evans BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 7 December 2023

Appeal Ref: APP/H1705/W/23/3317257

Land adjacent to Bidden Road and Meadowside, Upton Grey

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Newlyn's LLP against the decision of Basingstoke & Deane Borough Council.
 - The application Ref 20/02888/OUT, dated 11 October 2020, was refused by notice dated 30 August 2022.
 - The development proposed is the erection of up to 16no. dwellings (including 6 no. affordable houses).
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted as an outline with all matters reserved. The drawings submitted with the original application show the position of an access, the layout for sixteen dwellings, and associated landscaping and areas of open space (reference Indicative Site Plan drawing number P04 Rev A). A further layout drawing was submitted for the appeal (reference Indicative Site Plan drawing number P04 Rev B). Both these drawings have been described as indicative by the appellant, and this is the basis upon which the Council have considered these matters. For the avoidance of doubt I have determined the appeal in the same way.
3. The Council's fourth reason for refusal was concerned with the absence of a suitable legal agreement making provision for community and infrastructure contributions in relation to affordable housing, green infrastructure, equipped play and landscape management. During the appeal the appellant provided a completed Unilateral Undertaking (UU), securing amongst other things, affordable housing provision and a contribution to off-site green space. I have taken the UU and also the associated comments made by the parties into account in reaching my decision, and the appeal turns on the remaining refusal issues.

Main Issues

4. The main issues in this case are:

- the effect of the proposal upon the character and appearance of the area, including having regard to the effect upon the setting of the Upton Grey Conservation Area; and
- whether the proposal would make adequate provision for surface water disposal, including reducing flood risk.

Reasons

Character and Appearance

5. The appeal site is a field laid to grazing to the south of Bidden Road. This road is within the bottom of a valley, and the land rises towards the south and north, with large fields often bounded by trees and hedges. To the west of the site is a mix of houses and bungalows with the access road to these forming the boundary of the site, being defined by a mixed species hedgerow, hedge trees, and a post and rail fence.
6. The Upton Grey Conservation Area includes the houses in Woodmanfield, albeit the Meadowside estate and the bungalows at Elder Dell are outside it. A distinct feature of the conservation area is the presence of numerous open spaces within the village, ranging from wide road verges through to large areas of parkland and farmland. The topography has shaped the form of the village, and along the valley bottom are a variety of ages and styles of houses, including some recent housing, such as occurs near the appeal site. Bidden Road is one of the principal routes through the village, and along it the pattern of development is mostly to one side of the road with fields to the other. The form of the village and its response to the topography, along with the presence of fields and parkland within the village and surrounding it, are all part of the significance of the conservation area.
7. Near to the appeal site and extending up either side of the valley are large fields. When approaching the village from either high land or along Bidden Road, the expansive openness of the agricultural land forms a defined contrast to the built-up areas of the village. This open green setting to the conservation area is evident when travelling along Bidden Road from the north, and provides a continuity of open areas into and through the village. The presence of long, continuous hedgerows enhances this continuity, and when viewed from higher land, the dominance of fields, hedges and trees within the village and around it, is legibly apparent.
8. The retention of hedgerows to the rear of the dwellings at Elder Dell, along with the provision of hedgerows and trees to the Meadowside access road and along Bidden Road, all maintain the leafy corridors that frame the edge of the village and provide a verdant delineation of the public highway. Most of the nearby homes in this part of the village are two storey or less in height, and their modest heights and position in the valley bottom maintains the dominance of the open areas, with the houses being subservient to the topography. For these reasons Meadowside, Elder Dell, and the appeal site contribute positively towards the setting of the conservation area as they maintain the response of the village to the topography, as well as the leafy demarcation that exists between the countryside and the village.
9. The provision of up to sixteen dwellings would harmfully extend the linear form of the village into the open countryside, and the approach to the village along a

principal route would become urban rather than rural. The appellant has drawn my attention to the Council's Landscape Sites Sensitivity Study (2021) and the Landscape Character Assessment (2021) within which it considers the appeal site would be capable of accommodating low key development with a robust soft edge. Whilst noting that all matters are reserved, when viewed from public viewpoints of the site, including those from higher land, the introduction of development over such a large area would appear conspicuously intrusive, extending the village for a substantial distance along the valley. Even if a robust landscaped edge and houses of a similar size to those nearby could be provided, the size of the appeal site would be very large, comparable to the area of Meadowside, Woodmanfield and Elder Dell combined. Unlike the piecemeal nature of these developments, the appeal proposal would appear as a large, cohesive residential estate. The presence of up to sixteen dwellings, along with their associated infrastructure and residential paraphernalia, would extend the continuous built form of the village for a significant distance along the valley, harmfully eroding the rural setting of the conservation area by urbanising it with a large residential estate. Moreover, the generous gap that exists between the edge of the village and the business premises along Bidden Road would be lost, thereby compounding the harm.

10. The site relates closely to the countryside as it is mostly surrounded by fields, positively contributing to the expansive open nature and the rural experience of approach to the village that is part of the setting of the conservation area. The appellant has pointed out that long vistas over the houses would be maintained, and that a layout could be designed that provides views through the site. Nevertheless, part of the distinctive nature of the area is the expansive, undulating topography, with both the valleys and the hills being integral to the attractive rolling panoramas that distinguish the locality. Although the houses would mostly be in the valley, some would be on rising land, and even if local views through the development along the valley could be provided, the elevated position of some of the dwellings and the extensive spread of the site would mean that it would be intrusively evident from along the valley and from views across it.
11. Indicative drawings show the provision of new hedgerows along Bidden Road and the retention of hedges and hedge trees to the rear of Elder Dell. This would harmonise with the landscape characteristic of hedges and trees defining field boundaries and roads. However, landscaping cannot be relied upon to screen a development for its lifetime, particularly when future residents may wish to remove it to capitalise on attractive views. It may be the case that the existing trees and hedges could be retained, but this has not been demonstrated, and the loss of the mature trees in particular would exacerbate the intrusive nature of the scheme.
12. The importance of the setting of a conservation area is made clear in the National Planning Policy Framework (the Framework) including the requirement for new development to preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset. In this case the loss of openness and the extension of the village into the countryside for a considerable distance would harmfully urbanise the setting of the conservation area and erode the contribution it makes to the rural approach to the village.

13. The Framework requires that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. In this case the proposal would lead to less than substantial harm because it would detract from a small part of the setting of the conservation area. Nevertheless, this harm carries considerable weight, and the Framework requires that these harms must be weighed against the public benefits of the proposal. I shall return to this matter later.
14. For these reasons the proposal would have a harmful and unacceptable impact upon the character and appearance of the area, and this would include harm to the setting of the conservation area. Consequently, the scheme would fail to accord with the Framework, and would be contrary to Local Plan Policies EM1, EM10 and EM11 (2016) (LP). These policies and the supporting Supplementary Planning Documents, Heritage (2019), and Design and Sustainability (2018) require, amongst other things, high quality development that is sympathetic to the character and visual quality of an area, contributing to local distinctiveness and sense of place, and demonstrating a thorough understanding of a heritage asset and its setting, thereby reflecting objectives of the Framework.

Drainage

15. The appellant's Flood Risk Assessment and Surface Water Drainage Strategies (2021) propose that the access road, private driveways and parking bays would be constructed of permeable surfaces and materials, with the intention being to use a Sustainable Urban Drainage System (SUDs), including infiltration, pipework and catchpits. The strategies refer to the Environment Agency's risk of surface water flooding being between very low to medium across the site, with the recommendation that dwellings should be located away from the medium 1:100 year flood event areas. The appellant considers the possible risks have been identified, that the proposed drainage strategy would manage and mitigate risks, and that a fully detailed drainage strategy, including future management, should be the subject of reserved matters and conditions.
16. Notwithstanding this, the particular circumstances of this case are that a number of uncertainties remain, and it is unclear as to whether these matters could be satisfactorily addressed through reserved matters and conditions. These include that the strategies have made recommendations based on indicative amounts of proposed permeable paving, suggesting that most of the houses could be located outside of the flooding areas. However, the suggested layouts show that the access roads would be affected, and other constraints to the site that should inform any layout, such as the mature trees, currently remain unexplored.
17. In addition, the Council have queried the testing methods and results of the strategies. The land gently rises towards the south and it could be that engineering works would impact upon flow rates. The strategies refer to the need for the SUDs to be managed, and a draft maintenance schedule has been provided, but who will undertake the management has not been addressed, including within the UU.
18. Furthermore, the Council and local residents refer to the site and Bidden Road flooding. Whilst Thames Water have raised no objection to the scheme, numerous residents have referred to the current failings of the sewage

treatment works and the sewers network. The Council have pointed out that the Water Industries Act 1991 imposes a duty to ensure that flows from new development do not cause detriment to the existing public sewerage networks. There is an assumption that connection to surface water sewers would not be used, but it is also the case that a number of significant uncertainties surrounding the surface water drainage of the site remain.

19. In light of these unresolved issues, it cannot be assumed that the proposed approach would be sufficient to deal with surface water run-off on-site and that it would not cause flooding, including to elsewhere. With such uncertainty, imposing conditions and relying on resolution at the reserved matters stage would not be reasonable and would be contrary to the conditions tests of the Framework. Nor would this uncertainty accord with the requirements of LP Policy EM7 which requires amongst other things, that development attenuates surface water run-off so that it is no greater than prior to the development taking place, and that sustainable drainage systems are used unless deemed to be inappropriate. Such objectives reflect those of the Framework, which also requires the incorporation of sustainable urban drainage systems and that flood risk is not increased elsewhere

Other Matters

20. Local residents have raised a number of matters, including highway safety and traffic concerns, and the creation of a precedent. As regards the latter issue, it is the case that each application and appeal has to be considered on its merits. Of the planning concerns raised, following my findings on the main issues, I have no need to consider them further.

Planning and Heritage Balances

21. The Council acknowledges it cannot demonstrate a five-year supply of deliverable housing sites. Consequently, Paragraph 11(d) of the Framework is engaged, whereby planning permission should be granted unless the adverse impacts of the proposal significantly and demonstrably outweigh the benefits.
22. The provision of up to sixteen homes, including six affordable homes would be a significant public social benefit. However, tempering this weight is that the Framework requires that in rural areas planning decisions should be responsive to local circumstances and reflect local needs. Irrespective of the provision referred to in the UU and that the appellant considers the housing would meet local needs, what this need is and how the scheme would meet it has not been demonstrated.
23. There would be a time-limited economic benefit arising from the construction of the housing and from the New Homes Bonus, and future occupiers would make a small contribution to the local economy, including supporting local services. The construction of energy efficient homes, additional landscaping, public open space, and a biodiversity net gain would be other public environmental benefits.
24. Balanced against these benefits would be the substantial environmental harms arising from the scheme. Additional high-quality homes would be delivered, but in doing so the development would cause significant harm to the character and appearance of the area, including unacceptably detracting from the setting of the conservation area. Further environmental harm would arise from the

limited services and public transport within the village necessitating future residents to use private vehicles.

25. Whilst there would be public benefits arising from the scheme, such benefits would not outweigh the significant harm that would arise to the setting of the conservation area, particularly as the Framework makes it clear that proposals within the setting of heritage assets should enhance or better reveal their significance. Furthermore, LP Policies EM1, EM10, and EM11 are consistent with the Framework, as the Framework also requires development to be sympathetic to local character, and maintain a strong sense of place.
26. There would also be other significant environmental and social harms arising from the uncertainties of the drainage of the site. LP Policy EM7 reflects objectives of the Framework, which also requires the incorporation of sustainable urban drainage systems, and that flood risk is not increased elsewhere.
27. Whilst a key aim of the Framework is to significantly boost the supply of housing, when read as a whole the Framework does not suggest this should happen at the expense of other considerations. The adverse environmental and social impacts in this case amount to cumulative harm which carries substantial weight, and this significantly and demonstrably outweighs the environmental and economic benefits, and even the weight that derives from the social benefits when assessed against the policies in the Framework as a whole. It follows that the presumption in favour of sustainable development does not apply.

Conclusion

28. For the above reasons the adverse impacts arising from the proposal would significantly and demonstrably outweigh the aforementioned benefits, and the suggested conditions would not overcome these fundamental and substantial harms. Thus, for the reasons given above and having considered all other matters raised, the appeal is dismissed.

J J Evans

INSPECTOR