The Planning Inspectorate

Appeal Decision

Site visit made on 25 June 2014

by Mrs H M Higenbottam BA (Hons) MRTPI

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

Decision date: 04 August 2014

Appeal Ref: APP/W1715/A/14/2217657
Orchard Lodge, Windmill Lane, Burseldon, Southampton, Hampshire SO31 8BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mrs Samantha Collins (Foreman Homes Ltd) against Eastleigh Borough Council.
- The application Ref F/14/74037, is dated 24 January 2014.
- The development proposed is to erect 4No detached 5 bed houses.

Decision

1. The appeal is dismissed and planning permission for 4No detached 5 bed houses is refused.

Planning Policies

2. The development plan includes saved Policies 1.CO, 18.CO, 59.BE and 169.LB of the Eastleigh Borough Local Plan (2001-2011) (adopted May 2006) (LP).

3. The appeal site is within an area of designated countryside. Policy 1.CO resists new housing development in the countryside unless it is required for agricultural, forestry or horticultural workers. Policy 18.CO resists development that fails to respect or has an adverse impact on the intrinsic character of the landscape.

4. Policy 59.BE requires proposals to take full and proper account of the context of the site. Policy 169.LB requires development to preserve or enhance the setting of a Conservation Area.

5. Paragraph 215 of National Planning Policy Framework (the Framework) explains that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. In respect of LP Policy 18.CO, 59.BE and 169.LB I find no significant conflict with the Framework. I will therefore give them full weight insofar as they are relevant to the appeal.

6. However, one of the core planning principles of the Framework is to proactively drive and support sustainable economic development to deliver, amongst other things, the homes that the country needs. It seeks to boost

significantly the supply of housing. Paragraph 49 specifies that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if a five-year supply of housing land cannot be demonstrated. It is common ground that the Council does not have a 5 year housing land supply. Given the advice at paragraph 49 of the Framework, this undersupply of housing land is of substantial weight in the consideration of this appeal and, in this context, LP Policy 1.CO is out of date.

7. Paragraph 14 states that at the heart of the Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. It goes on to explain that where a development plan is out of date planning permission should be granted unless, amongst other things, specific policies in the Framework indicate development should be restricted. One of the specific policy areas referred to is that relating to designated heritage assets.

8. The Council has referred to the revised Pre-Submission Eastleigh Borough Local Plan (February 2014). This document has been through a number of consultation periods and subsequent revisions. Nevertheless, the weight that can be attributed to this emerging plan is limited at this stage. The plan has yet to be published, examined or found to be sound. This approach follows the advice in paragraph 216 of the Framework.

Main Issues

9. The main issues in this case are:

   - having regard to national and local plan policies regarding the conservation of heritage assets and the delivery of housing, the effect of the proposed development on the character and appearance of the area, including the setting of the grade II* listed Bursledon Windmill and the setting of the adjacent Bursledon Windmill Conservation Area; and
   - whether in the light of local plan policies, the proposals make sufficient provision for community infrastructure, off-site open space and sustainable transport measures in the local area.

Reasons

10. The appeal site is located to the east of Orchard Lodge and on lower ground to the south of the windmill. The A27, Bursledon Road is to the south on higher ground than the appeal site. Windmill Lane has two distinctive forms of development: to the west side of the lane is a row of traditional semi-detached interwar houses; to the east side it has a semi-rural character consisting of a small collection of detached dwellings set in large irregular plots interspersed with tree planting. Further east along the lane are open fields and countryside views. There are sporadic views through a belt of trees and vegetation to the appeal site from the eastern side of the lane and around the junction with the A27 and to the south through the tree belt/vegetation adjacent to the A27. The eastern boundary of the appeal site is demarcated by a tree belt with a gap to allow access to the open field beyond, which is within the Conservation Area.

11. The Council has produced and adopted the Supplementary Planning Document entitled *Bursledon Windmill Conservation Area Appraisal and Management* (CAA). This states that the Conservation Area consists of an area of land incorporating the windmill and its immediate surroundings and settings. The land to the east and the Mill House, to the north of the appeal site, are within the Conservation Area. The immediate surroundings are largely unspoilt by development and contribute to the special character of the Conservation Area and its setting.

12. The windmill is sited on top of a hill and is a landmark when viewed from the A27 to the south and from the west on the A3024. From the east it is hidden by surrounding belts of trees and Windmill Wood. Space is constrained around the windmill and the adjacent unlisted Mill House boundary is within about 1m of it. Views within the Conservation Area are severely limited as a result of the tree screens and woodland. However, in places the views of the windmill from outside the designated area are quite extensive. The CAA states that the windmill can be highly visible when the sails are set and the mill is working. However, at the time of my site visit the sails were not set.

13. The CAA identifies the view from west of the Brookfield Cottages on the A27 (Providence Hill) looking back towards the Conservation Area as important, and the view from the windmill looking south towards the appeal site and the A27 as an important vista. The CAA identifies that the field behind Windmill Wood as part of the extension of the Conservation Area in 2011 and states that it provides important open views through to the windmill from the south and should be retained. The appeal site is to the west of this area.

14. Orchard Lodge is a discreet dwelling set back within its site. At the time of my site visit I was able to view the garage and cars at Orchard Lodge through the vegetative screen from the A27. The proposed development would be closer to the A27 than Orchard Lodge and would be appreciated from the A27. The form, massing and scale of the development of four dwellings in a cul-de-sac arrangement, would fail to reflect the semi-rural layout of dwellings on the east of Windmill Lane and would introduce an incongruous layout and visual intrusion on what is currently undeveloped land.

15. The visual intrusion of the proposed development would inevitably harm the setting of the Conservation Area and the grade II* listed building as it would be seen in foreground views, albeit intermittently through trees and vegetation, from the south and east. Furthermore, if any of the mature vegetation and tree belts were to be removed from adjacent to the A27 or from the eastern boundary of the appeal site, the proposal would have a much greater and very significant effect on the setting of these heritage assets. I am not satisfied that the presence of the vegetation or tree screens adequately mitigates the effect of the proposals on the setting of the windmill or the Conservation Area, nor am I satisfied that the tree belts and vegetation could be safeguarded in perpetuity. Moreover, even if the vegetative/tree screens were retained this would not result in a development that would make a positive contribution to local character and the distinctiveness of the area as required by paragraph 126 of the Framework.

16. I conclude that the appeal proposals would harm the setting of a grade II* listed building and the Conservation Area. For these reasons it would be contrary to LP saved Policies 18.CO, 59.BE and 169.LB. In addition, it would fail to accord with Paragraphs 126 and 131 of the Framework. Paragraph 131 states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets including their setting.

17. Paragraph 132 of the Framework states that great weight should be given to the conservation of heritage assets, as they are irreplaceable and any harm should require clear and convincing justification. In this case, I consider that the harm identified to the setting of the listed building and the Conservation Area would be notable, although in the context of the significance of those heritage assets, in each case, less than substantial. Paragraph 134 of the Framework requires that where the harm identified would be less than substantial, that harm should be weighed against the public benefits of the proposal.

18. The Planning Practice Guidance states that public benefits may follow from many developments and could be anything that delivers economic, social or environmental progress as described in paragraph 7 of the Framework. Public benefits should flow from the proposed development and should be of a nature or scale to benefit the public at large and should not just be a private benefit. The appellant has identified the benefits of the proposal as the supply of housing land and the enhancement of social and recreational facilities locally through developer contributions. I will deal with these aspects of the proposal below.

Provision of Housing

19. It is common ground that the Council does not have a 5 year housing land supply. Furthermore, the appellant states that it is understood that there is only a 2.7 year land supply. Although, it is accepted that the land supply position is improving as a result of recent decisions at Boorley Green and Pylands, in the appellant's view there would still not be a 5 year housing land supply in the borough.

20. In addition a recent appeal decision (APP/W/1715/A/13/2207851) has granted planning permission for up to 150 homes on land at Hamble Lane, Bursledon. However, the circumstances of that case are not directly comparable to the current appeal and, in particular, the appeal site at Hamble Lane was not within the setting of any designated heritage assets.

21. The proposal would provide four new dwellings to meet the needs of the Borough and help meet the shortfall in housing land supply. There is no evidence that the development would not be deliverable or viable. Thus, noting that relevant LP housing policies are out of date, and the importance given to provision of housing in the Framework, this is a matter which weighs significantly in favour of the appeal scheme. It would also be a public benefit of the scheme.

Community Infrastructure, Off-Site Open Space and Sustainable Transport Measures

22. The appellant has submitted a signed Unilateral Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) (S106) with respect to the payment of contributions for infrastructure (£8,400); off-site public open space and play provision (£4,614.52); district park/playing fields (£2,823); special protection area mitigation project (£680); sustainable integrated transport contribution (£21,828).

23. The contributions are in accordance with LP saved Policies 101.T, 147.OS and 191.1N SP8 and SP12, and the Council's 'Planning Obligations' Supplementary Planning Document (2008). I am satisfied that the contributions meet the three tests for planning obligations set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.

24. However, the S106 is undated and therefore is not a completed obligation and does not secure the justified contributions. I therefore find that in the absence of a completed obligation that the proposal fails to make sufficient provision for community infrastructure, off-site open space and sustainable transport measures in the local area.

25. Moreover, in relation to public benefits of the proposal the contributions are directly related to the development being proposed. They are not benefits of the scheme but mitigation for the effect of additional residential development. As such, even if the obligation had been satisfactorily completed, the contributions for social and recreational facilities are not, to my mind, a public benefit to weigh against the less than substantial harm to the setting of the listed building and the Conservation Area.

Conclusion

26. The need for housing weighs heavily in favour of the scheme. The relevant housing LP policies are out of date in terms of the Framework. I am also satisfied that the scheme would be reasonably sustainable. However, the proposals would harm the setting of the Conservation Area and a grade II* listed building. The benefit of the provision of four housing units would not outweigh the harm to these designated heritage assets.

27. For the reasons set out above and having regard to all other matters raised I conclude that the appeal should fail.

Hilda Higenbottam

Inspector