The Planning Inspectorate

Appeal Decision

Hearing held on 12 November 2014
Site visit made on 12 November 2014

by Cullum J A Parker BA(Hons) MA MRTPI AIEMA

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

Decision date: 22 December 2014

Appeal Ref: APP/W1715/A/14/2219572
Pylands House, Pylands Lane, Bursledon, Southampton, Hampshire, SO31 1BH

- 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 Southcott Homes Ltd against the decision of Eastleigh Borough Council.
- The application Ref F/14/73880, dated 5 January 2014, was refused by notice dated 9 May 2014.
- The development proposed is described as 'Proposed residential development consisting of the erection of 4No. four bedroom detached dwellings with garages and car parking with use of existing access and creation of a new access following removal of commercial use and buildings.'

Decision

1. The appeal is dismissed.

Procedural Matters

2. During the appeal process, the appellant submitted drawings 02 Rev. A, 08 Rev A, PY/CP/001 Rev A and PY/CP/002 Rev A. Put simply, these have exchanged garages with car ports for plots 1, 2 and 4, with a garage retained for plot 3. At the Hearing, the Council confirmed that in their view the drawings did not address its objections, but that they could be taken into account. I also note that drawing 09 was amended showing a line of sight but does not have a revision number. Given that these were submitted in August 2014, notification of the Hearing has been undertaken and the issue was discussed at the Hearing itself, I am content that there has been an opportunity for interested parties to consider these drawings. For the avoidance of doubt I have taken the amended drawings into account as those for which permission is sought.

3. I note that originally a unilateral undertaking, dated 7 August 2014 was submitted. However, at the Hearing a supplementary version, dated 28 October 2014 was submitted. The latter secured the contributions sought for two local cycle projects only, whereas the former secured all the contributions sought by the Council. The appellant made clear at the Hearing that they now wish to rely on both. The Council had an opportunity to consider the undertaking at the Hearing. For the avoidance of doubt, I have therefore considered the unilateral undertakings dated 7 August 2014 and 28 October

2014 as those which the appellant seeks to secure planning obligations for local infrastructure.

4. At the Hearing it was brought to my attention by a local resident that for part of the site (to its rear) there is an existing lawful use for the storage of equipment and material used in the construction industry ref U/05/55202. The Council obtained copies of the Certificate and attached plan, which was circulated and copies provided for the parties.

Application for costs

5. Prior to the Hearing, an application for costs was made by Southcott Homes Ltd against Eastleigh Borough Council. This application is the subject of a separate Decision.

Main Issues

6. The main issues are:

- The effect of the proposed development on the character and appearance of the area, and whether the proposal would constitute a sustainable development and;
- Whether the proposal would make adequate provision in respect of local infrastructure.

Reasons

Character and appearance/ sustainable development

7. The appeal site is located to the east of Pylands, which is a detached dwelling facing Pylands Lane with a large grassed area to its front. The appeal site itself is characterised by a large overgrown area to the front, with an area of informal hardstanding on the rearmost part of the site. Pylands Lane itself is characterised by a verdant border on its southern side, with large dwellings located in generous plots located on its northern side. Beyond the rear boundaries of the appeal site is open agricultural land, for which there is outline planning permission for 249 dwellings under ref: O/12/71522.

8. At present, the main parties agree that the site lies within countryside as defined by Policy CO1 of the Eastleigh Borough Local Plan (EBLP). Whilst I understand that an emerging local plan is currently under examination which may alter this position and include the land within the urban edge, given the verdant and generally more open nature of the Lane, I see no reason to disagree with the position that the site currently lies within an area that has the character of a countryside location.

9. In terms of the built environment, existing development along Pylands Lane takes the form of generally large dwellings located centrally within their plots, with significant gaps between the dwellings. More specifically, directly adjacent to the site both adjoining dwellings, Fairview and Pylands, are centrally located in their plots with large landscaped areas to the front of the plots. The appeal scheme would introduce two full height houses to the front of the site, with a car port forward of these. There would be a small gap between the two dwellings. However, due to their proximity to each other, height, bulk and mass the two dwellings would be read together and appear as a suburban addition to the street scene. By failing to respect the layout and spaces

between the built form in Pylands Lane, the dwellings to the front of the site would appear out of character with the prevailing pattern of development along this part of Pylands Lane.

10. I acknowledge that planning permission was granted in 2014 by the Council for a scheme of three dwellings on the site under reference: F/14/74507. In that scheme, two dwellings would be located at the rear of the site on a similar footprint to that proposed in this case. The main difference is that to the front of the site, the approved scheme has one dwelling with a detached garage to its side. In my mind, this would more readily replicate the pattern of development within the locality, with a single focal point dwelling to the front of the site, with large areas of separation between dwellings maintained.

11. In terms of sustainable development, the main parties agreed that it is within a sustainable location, with regard to access to services and facilities. However, my site visit confirmed that occupiers would have to journey considerable distances along Pylands Lane, which is narrow and mostly unlit, and beyond before being able to access day to day services. Whilst I acknowledge that the site would be served to the south by Manor Farm Country Park and a there is a bus route nearby, day to day facilities are located further afield and are unlikely to be attractive to residents on foot or cycling, especially those with young children or the elderly. As a result, the proposal would be unable to ensure that future occupiers of the four dwellings would benefit from accessible local services.

12. The appellant indicated at the Hearing that I should specifically consider Paragraph 14 of the National Planning Policy Framework (the Framework). As it is a material consideration, I have considered the whole of the Framework in relation to the proposed development. In this case, the appellant considers that the single additional property to the front of the dwelling is the main difference between the approved scheme referred to above, and that before me. Moreover, the harm arising is not significant and the benefits of the scheme include a modest, but valuable addition to the Council's housing land supply, improvements to landscaping and provide some benefits to biodiversity. The scheme would also remove the opportunity of the site's historical use for storage of construction industry materials and equipment recommencing.

13. Both parties agree that the proposal would provide a modest benefit in terms of the provision of four dwellings to the housing supply. However, they disagree as to whether the Council can demonstrate a five-year supply of deliverable housing sites or not. At the hearing, the main parties agreed that the relevant policies in this case, being 18.CO and 59.BE, related to the character and appearance of proposed development, rather than to housing land supply. Moreover, the principle of residential development on the site was accepted. Given the wording of the relevant policies, as agreed by the main parties, I see no reason to disagree. Indeed, irrespective of whether there is, or is not, a five year supply of housing land, the proposal turns on relevant development plan policies which relate to character and appearance, and which are not out of date.

14. In terms of biodiversity, there is no conclusive technical evidence before me that demonstrates that a landscaped and maintained residential site would provide any greater benefits to local biodiversity than the current overgrown

nature of the site. Indeed, it is more likely that a residential use would provide fewer opportunities for biodiversity due to the high maintenance regime normally associated with such areas. I therefore afford such benefits minimal weight in favour of this proposal.

15. In terms of the former use of the site, to its rear there is an existing lawful use for the storage of equipment and material used in the construction industry (ref U/05/55202). However, my site visit confirmed that at present no such use appears to be operating at the site. Whilst it is not for me to determine the present lawful use of the site, being a matter for the Council, it appears clear that the rear part of the site could be used for the storage of building materials. Nonetheless, with permission for three dwellings having recently been granted, and nothing before me indicating that the former storage use would be likely to resume, the former use of the site is afforded little weight in favour of the proposed development.

16. The Framework explains that at its heart is a presumption in favour of sustainable development. Paragraph 7 of the Framework details the mutually dependent roles of sustainable development as economic, social and environmental. I acknowledge that there would be some benefits from the scheme in terms of the economic and social roles, by providing job opportunities and housing. I am less satisfied that the benefits in terms of a new use and biodiversity would only be realised by this development. However, even if the Council did not have a five year housing land supply, the adverse effects of the scheme in relation to character and appearance and accessibility to local services would demonstrably outweigh the benefits. The proposal would therefore be unable to achieve the social and environmental roles of sustainable development. Accordingly, the proposed development would not constitute sustainable development as defined by the Framework.

17. I therefore conclude that the proposed development would result in material harm to the character and appearance of the area and would not constitute sustainable development, as defined by the Framework. It would therefore be contrary to Policies 18.CO and 59.BE of the EBLP, and the Framework, which, amongst other aims, seek to ensure that development proposals take full and proper account of the context of the site including the character and appearance of the locality and are appropriate in mass, scale, layout, design and siting in relation to adjoining buildings and spaces.

18. I also note that the proposed development would be contrary to the provision of emerging policy DM1 of the pre-submission consultation Eastleigh Borough Local Plan 2011-2029 (PSEBLP). However, given its unadopted status I afford this policy more limited weight than those of the EBLP. In any case, it does not alter my conclusions in light of the adopted development plan policies.

Local infrastructure

19. The Council considers that financial contributions are required towards the provision of strategic infrastructure, including for public open space and play provision, community infrastructure, the Special Protection Area Disturbance Mitigation Project (SPADMP), wildlife sites and sustainable transport. The appellant has confirmed a willingness to provide contributions along these lines by providing a signed and dated planning obligation prior to the Hearing; however all contributions are contested by the appellant, and to this effect the appellant submitted a signed and dated obligation at the Hearing relating only

to contributions for two local cycle paths, which is a supplementary addition to the originally submitted obligation.

20. Paragraph 204 of the Framework indicates that obligations should only be sought where they meet three tests, which echo those of the Community Infrastructure Levy Regulations, 2010. Put simply, the planning obligations should be necessary to make the development acceptable in planning terms, directly related to the development and, fairly and reasonably related in scale and kind to the development. In local planning policy terms, this is achieved principally through Policies 191.IN, 100T, 101T and 147OS of the EBLP, which indicate that appropriate proposals for development will be permitted provided that the developer has made arrangements to contribute towards the early improvement of existing infrastructure, services, facilities and amenities which will increase as a direct result of the development proposed.

21. In terms of the open space and play contribution sought, the Council's *Supplementary Statement – The Council's approach to developer's contributions* [Undated] indicates that these would be used for local schemes including improvements to Dodwell Pond, Manor Farm Country Park and Pilands skate ramp. Moreover, with regard to community infrastructure, the evidence before me suggests that this would be used for seating at Dodwell Pond, Bursledon Village Hall, the vicinity of Bursledon Station and manor Farm Country Park. All of these open space or community facilities are either within a short drive, cycle or walk from the site. As such, it would be very likely that future occupiers would use and benefits from these open space and play facilities. These schemes would therefore meet the tests of the Paragraph 204 of the Framework.

22. The Council's statement goes onto to explains that the contribution sought towards the SPADMP relate to the Solent and Southampton SPA. The aim of the project is to use measures to mitigate recreational disturbance of birds through various methods listed in the evidence. The appellant considers that the nearby Manor Farm Country Park would satisfy the need for walking and dog walking on a day to day basis, and would represent the most obvious choice for residents. However, given the internationally recognised status of the SPA, and its intrinsic beauty and significance to the natural environment, I cannot see how residents would not want to utilise this local resource, even though this may be on a less than daily basis. The contribution sought would help to mitigate harm to the SPA from recreational use, including use by occupiers of the proposed houses. I therefore consider that the contribution sought for the SPADMP would meet the test of Paragraph 204 of the Framework.

23. In terms of wildlife sites, the appellant points to the fact that the lack of harm identified by the Council in this respect means that there is no need for the contribution. However, at the Hearing the Council explained that the contribution relates to a site at Bursledon Woods, including a windmill and the area adjacent to this, and would allow the provision of areas at that site free for wildlife. Given that the appeal site is currently overgrown, it is likely to provide some local value as a habitat for various animals, which would be lost through the development of the site and its replacement with managed and manicured gardens. The contribution in this case would therefore enable the Council to offset this harm by providing enhanced wildlife facilities relatively close to the appeal site. I therefore find that in this case the contribution

sought towards wildlife sites does meet the tests of Paragraph 204 of the Framework.

24. With regard to sustainable transport, this is sought to contribute towards five projects; the Botley Road re-opening (TSI 639), the Windhover roundabout (TSI 636) improvements, the Windhover to Dodwell Lane cycle route (TSI 150), the Dodwell Lane to Bridge Close cycle route (TSI 151) and the Bridge Close to Borough Boundary cycle route (TSI 152). The latter two projects are not contested by the appellant as meeting the provision of Paragraph 204. With regard to the other three the appellant considers that these are not required as they would be funded by the development for 249 dwellings to the rear of the site. Nevertheless, I have had regard to all the contributions sought in relation to sustainable transport infrastructure. In this case four dwellings would result in further pressure on what is a publically accessible road network. Moreover, given the proximity of these schemes to the appeal site, and the fact that they are intrinsically linked to the nearest major settlement, I consider it to be likely that future occupiers would use and benefit from these various transport infrastructure projects. I therefore consider that the tests of Paragraph 204 would be met in terms of sustainable transport.

25. In light of the above considerations, I therefore find that the submitted unilateral undertaking would accord with the aims of the Policies 191.IN, 100T, 101T, 147OS and 25.NC of the EBLP and comply with the tests of Paragraph 204 of the Framework. In these circumstances, I have taken the submitted unilateral undertakings into account but they do not overcome the harm I have identified arising from the proposed development in terms of character and appearance or sustainable development.

26. I have also taken into account unadopted policies MD9, DM23, DM32, DM 37 and S11 of the PSEBLP. However, given its unadopted status I afford these policies more limited weight than those of the EBLP. In either case it does not add or detract from my considerations of the development contributions sought against the adopted EBLP policies.

Conclusion

27. For the reasons given above I conclude that the appeal should be dismissed.

Cullum J A Parker

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr David Neame	Neame Sutton
Mr Simon Carter	Southcott Homes

FOR THE LOCAL PLANNING AUTHORITY:

Mrs Clare Martin	Eastleigh Borough Council
Mr John Slater	Planning Consultant for Eastleigh Borough Council
Ms Nicki Moorhouse	Eastleigh Borough Council

INTERESTED PERSONS:

Parish Councillor Mr R Nichols	Bursledon Parish Council
Mr D Jones	Nearby resident

DOCUMENTS SUBMITTED AT THE HEARING

1 Copies of Policy 25.NC of the Eastleigh Borough Local Plan Review 2001 – 2011

2 Copies Policies DM9 and S11 of the Revised Pre-submission Eastleigh Borough Local Plan 2011-2029 (February 2014)

3 Illustrative only drawing showing site layout with approved scheme overlaid

4 Statement of Common Ground (October 2014)

5 Copy of Certificate of Lawfulness of Existing Use or Development U/05/55202 relating to land at Naomi Farm, Pylands Lane, Bursledon, Southampton, Hampshire, SO31 1BH (including attached plan)

6 Updates to appeal statement for Hearing, Eastleigh Borough Council

7 Signed and dated supplementary unilateral undertaking by David Jones and Norma Perks, dated 28 October 2014