



Appeal Decision

Site visit made on 27 June 2023

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/W1715/W/22/3308229

Railway Cottage Allington Lane, Fair Oak, EASTLEIGH, SO50 7DE

- 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 David Ford against the decision of Eastleigh Borough Council.
 - The application Ref F/22/93388, dated 7 July 2022, was refused by notice dated 6 September 2022.
 - The development proposed is a new end of terrace 3 bedroom dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the appeal site is a suitable location for the proposed development having regard to relevant local policies relating to new development in the countryside; the effect of the proposal on European protected sites and protected species; and whether the proposal would provide sufficient biodiversity net gain.

Reasons

Location

3. Allington Lane is a linking road between the northern edge of Southampton and Fair Oak. It has some sporadic development along its length, mainly towards the conurbations at either end. The central section of the lane is surrounded by hedge lined fields and trees which create a visual as well as physical gap between the two conurbations. The appeal site is situated within the central section of the lane and is one half of a semi-detached pair of modest 2-storey dwellings. There are no footpaths along this part of the road and the properties are surrounded by fields with established tree-lined boundaries. Thus, they appear visually and physically isolated from the other areas of development along Allington Lane.
4. There is no contention that the appeal site is within the countryside and Policy S5 of the Eastleigh Borough Local Plan (LP) sets out the specific types of development appropriate to the countryside. In relation to residential development it allows for extensions, replacement buildings, and conversions.
5. The proposal would constitute a new build residential dwelling and a single storey rear extension to the existing dwelling, according to the details shown on plan R.C002. Although the proposed single storey rear extension would comply with LP Policy S5, the proposed new dwelling would not.

6. The appellant states that development is creeping along Allington Lane from the north and that the site is a one-off so cannot be duplicated. With nothing before me to show how the development in the north might physically or visually link to the appeal site, nor what specific development is being referred too I am unable to make relevant comparison. The one-off nature of the appeal site does not justify the departure from the local plan's spatial strategy in relation to new dwellings in the countryside.
7. Consequently, the proposed new dwelling would fail to comply with LP Policy S5, and therefore regarding relevant local policy the appeal site's countryside location is not appropriate for that proposed.

European protected sites, protected species and biodiversity

8. LP Policy DM11, amongst other things requires new developments to maintain, protect, conserve, and enhance all protected sites; to demonstrate, through habitat and species surveys, that protected species are not detrimentally affected by that proposed; and seeks a net gain of biodiversity on all development sites.
9. The appeal site sits within the zone of influence for the Solent and Southampton Special Protection Area (SPA) and Ramsar site, the Solent Maritime Special Area of Conservation (SAC) (the Solent SSRs) and the New Forest SPA, SAC and Ramsar sites (the NF SSRs), all of which are European protected sites.
10. The Solent and NF SSRs are important sites for breeding birds which are susceptible to disturbance. The additional dwelling proposed, whilst minimal on its own, would contribute to an increased population in combination with other plans, projects, and developments in the area. Given the proximity of the development to the Solent and NF SSRs, it is likely that its contribution to the increase in population could lead to an increase in visitor and recreational pressure within them.
11. The water environment of the Solent SSRs also requires action to be taken in relation to nutrient neutrality. This is due to excessive nutrient input, which largely comes from agricultural sources and wastewater from residential properties, impacting on its habitats and bird species.
12. Given the susceptibility and vulnerability of the qualifying features of the Solent and NF SSRs, it cannot, therefore, be concluded that the development would not adversely affect the integrity of these protected sites in combination with other projects.
13. The Council, however, state they have a Solent Recreation Mitigation Strategy (SRMS) which is an established process that allows a financial contribution to be paid to offset any potential impact on the Solent SSRs by recreational pressure. The Council, with agreeance from Natural England, can also provide a finite number of offset credits to establish the nutrient neutrality of new development in relation to the nutrient impact on the Solent SSRs. Recently the Council has also developed a Suitable Alternative Natural Greenspace (SANG) to relieve recreational pressure on the NF SSRs, again this is a finite resource and has been developed in accordance with the project housing figures within the LP.

14. It is acknowledged that the appellant has stated they would comply with the SRMS, buy offset credits from the Council, and contribute to the SANG. However, no mechanism to secure such obligations has been submitted and due to the limited nature of the offset credits and SANG contributions, there is not enough detail before me to provide certainty of delivery to rely on a condition. Therefore, without any method to secure this mitigation the proposal would cause significant harm to both the Solent and NF SSRs.
15. During the application process it was identified that protected species were present in the local area, namely great crested newts, and bats. There is no technical assessment before me to identify whether the proposal would affect these protected species, whether that effect would be harmful and how, if harm were identified, it would be mitigated against. As such, taking a precautionary approach, as any harm to protected species is likely to be irreversible, I am not satisfied the limited evidence before me demonstrates that the proposal would not cause harm to protected species. To this effect there is also insufficient certainty or clarity in detail to secure the surveys by condition.
16. However, as LP Policy DM 11 only seeks a net gain of biodiversity and does not require it, I am satisfied that this could be dealt with by condition.
17. In summary, therefore, although the proposal could provide sufficient biodiversity net gain, it fails to satisfactorily show that it would not harm European protected sites and protected species, contrary to LP Policy DM11.

Planning Balance and Conclusion

18. The National Planning Policy Framework (the Framework) seeks to boost the supply of homes and the proposal would provide a net increase of 1 dwelling. Along with the associated economic and social benefits, this contribution to the windfall element of the Council's 5-year housing land supply would attract limited weight due to the low number of new dwellings proposed.
19. No harm has also been identified in relation to drainage, highway safety, parking, design, size standards, living conditions, trees, and, as set out above, biodiversity net gain. Nevertheless, a lack of harm is a neutral factor so cannot weigh for or against the proposal.
20. However, housing provision should not come at the cost of harm to European protected sites and protected species, a position supported by the Framework. Nor is there any justifiable reason to depart from the spatial strategy of the development plan. Consequently, when weighed against the policies in the Framework taken as a whole, I find that the adverse impacts of granting planning permission would outweigh the proposed benefits.
21. Consequently, for the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, dismissed.

RJ Redford

INSPECTOR